

Open Agenda

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Memorandum for Executive Council

SUBJECT

Public Solicitor's Fees

Memorandum by Chief Secretary

ADVICE SOUGHT

1. Executive Council is asked to consider and advise whether the fees proposed by the Public Solicitor (Annex A) as to the charges for legal services by his office, should be published in the St Helena Government Gazette, subject to the approval of the Chief Justice.

BACKGROUND & CONSIDERATIONS

2. Section 30 of the Legal Aid, Assistance and Services Ordinance, 2017 reads as follows:

(1) The Public Solicitor may provide legal services to any person who requests or requires such services.

(2) Legal services may be provided by the Public Solicitor in accordance with a scale of fees specified by the Public Solicitor by notice in the Gazette, after consulting the Executive Council, and with the approval of the Chief Justice.

(3) For the purpose of this Part, "legal services" means legal assistance and advice provided by the Public Solicitor to any person not eligible for or seeking legal aid under Part V and excludes any services provided as legal aid."

3. The Public Solicitor's Office is currently charging for legal services but no evidence can be found as to whether the fee structure was properly approved and published by notice in the Government Gazette in accordance with section 30 (2) of the Ordinance. The fees that are currently charged are as follows:

Household Income:	Charge out rate:
Below £10,000	No fee
£10,001 - £12,500 pa	£20 per hour
£12,501 - £15,000 pa	£25 per hour
£15,001 - £20,000 pa	£30 per hour
£20,001 - £25,000 pa	£35 per hour
£25,001 - £30,000 pa	£40 per hour
£30,001+	£50 per hour
Commercial clients or overseas clients	£75 per hour

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4. As can be noted from Annex A, no fees are charged to any person in any matter for the purposes of a 30 minute first appointment. Fees are not charged to non-St Helena tax payers for Police Station representation. Similarly, fees are not charged to St Helena tax payers for:

- (1) Police Station and criminal court representation
- (2) Public Children law matters
- (3) Clinical or Medical Negligence matters

Reasonable disbursement fees apply to any matter. Fees for a straightforward Will, or amendment to a Will, is charged at £15 (subject to any dispensation that the Public Solicitor considers reasonable). For more complex Wills, fees are charged at the rates set out in the table at paragraph 3 above.

5. In seeking to ensure compliance with Section 30 (2) of the Ordinance, the Public Solicitor would also like to charge expatriate workers, businesses and individuals/businesses off Island up to a maximum rate of £150 per hour rather than the current rate of £75 per hour. The Public Solicitor is looking to have all the necessary approvals in place so that this increase can become effective from 1 January 2020. See letter from the Public Solicitor (Annex B)

FINANCIAL IMPLICATIONS

6. The attached fee structure and the proposal to increase the maximum hourly rate for expatriate workers, businesses and individuals/businesses off Island from £75 to £150, will contribute to meeting the running costs of the Public Solicitor's office.

7. The fee structure and proposed increase will not cover the running costs of the PSO and the PSO will continue to require funding support from St Helena Government.

ECONOMIC IMPLICATIONS

8. The provision for effective independent legal advice and furtherance of the rule of law within St Helena does have a positive economic implication for economic policy and activity. It is suggested that the detail of fees charged does not itself carry any economic implications provided those fees are not a barrier to legal advice

CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES

9. This paper supports the following Investment Policy Principles:
- (1) Make Saint Helena a desirable and competitive destination to do business by removing barriers to investment.*
 - (2) Support an economy which is accessible to all potential investors and promote investments across the economy.*
 - (3) Support the locally based private sector to compete in an open economy but, where possible, avoid being overly protective.*

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PUBLIC / SOCIAL IMPACT	10. The proposed fee structure is specifically designed to protect against any negative social impact. Those on a household income of less than £10,000 per annum are not charged fees and this is to ensure that the most vulnerable are provided access to justice and not discouraged from approaching the Public Solicitor.
ENVIRONMENTAL IMPACT	11. No environmental impact is envisaged.
PREVIOUS CONSULTATION / COMMITTEE INPUT	12. None.
PUBLIC REACTION	13. Apart from the proposed new maximum hourly rate the fee structure is already in place. Therefore no adverse public reaction is anticipated.
PUBLICITY	14. Council's decision will be covered in the media briefing following the meeting. The fee structure will be published in the Government Gazette as required by the Ordinance and in the Public Solicitor's own publications.
SUPPORT TO STRATEGIC OBJECTIVES	15. This paper supports the <i>Altogether Safer</i> goal and Strategic Objective 4.2 <i>Care for vulnerable and disadvantaged groups in society such as people with disabilities, children, elderly people and low income earners.</i>
LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS	16. This paper indirectly supports SEDP Goal 10 <i>Reduce Leakage of Income.</i>
OPEN /CLOSED AGENDA ITEM	17. This paper is suitable for the Open Agenda.

SOB

Corporate Support
Corporate Services
9th December 2019

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