

**RESPONSE**  
**by**  
**THE FACULTY OF ADVOCATES**  
**to**  
**CONSULTATION BY STUART MCMILLAN MSP**  
**on a**  
**PROPOSED RECOVERY OF MEDICAL COSTS FOR INDUSTRIAL DISEASE**  
**(SCOTLAND) BILL**

**Aim and Approach**

1. *Which of the following best expresses your view of the proposed Bill?*

Neutral (neither support nor oppose)

*Please explain the reasons for your response:*

Unlike the Recovery of Medical Costs for Asbestos Diseases (Scotland) Bill, proposed in 2015, the draft proposal does not seek to retrospectively impose liability on compensators and their insurers. We do not, therefore, anticipate any difficulty in respect of compatibility with Article 1, Protocol 1, of the European Convention on Human Rights. Further, in principle we consider that a Bill arising from the draft proposal would be within the legislative competence of the Scottish Parliament.

It would however be inappropriate for us to comment on matters of policy in this case.

2. *What do you think would be the main practical advantages and disadvantages of the proposed Bill?*

On the basis of the information contained within the draft proposal we are not in a position to respond meaningfully to this question.

3. *What is your view of my preference for the recovery of medical costs for the treatment of industrial disease in Scotland to be incorporated into the Injury Costs Recovery scheme and administered by the Compensation Recovery Unit, part of the UK Department for Work and Pensions?*

Fully supportive

*Please explain the reasons for your response:*

We do not have a knowledge of the detailed working and structures of the Compensation Recovery Unit ('CRU'). However, broadly speaking, subject to adequate resourcing, we see no reason in principle why the recovery of medical costs for the treatment of industrial diseases in Scotland could not be incorporated in to the Injury Costs Recovery scheme currently administered by the CRU.

### **Financial implications**

4. *Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:*

- (a) Government and the public sector

Broadly cost-neutral

- (b) Businesses

Some increase in cost

(c) Individuals

Broadly cost neutral

*Please explain the reasons for your response.*

We do not consider that these are questions we can meaningfully respond to. We have offered our views to the best of our knowledge from the information relating to costs contained within the draft proposal.

5. *Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?*

We would suggest that consideration could be given to excluding those conditions for which the treatment costs are likely to be relatively minor.

**Equalities**

6. *What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, race, religion and belief, sex, sexual orientation?*

We do not consider that this is a question we can meaningfully respond to.

7. *In what ways could any negative impact of the Bill on equality be minimised or avoided?*

We do not consider that this is a question we can meaningfully respond to.

## **Sustainability**

8. *Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?*

We do not consider that this is a question we can meaningfully respond to.

## **General**

9. *Do you have any other comments or suggestions on the proposal?*

No