

Employment Tribunal Fees

In July 2013 the Coalition Government introduced fees for presenting a claim to the employment tribunal or the Employment Appeal Tribunal, for example for unfair dismissal or sex discrimination. Whereas it had previously been free to present a complaint to an employment tribunal, it now costs £160 or £250 to do so, depending on its complexity, and a further £230 or £950 if the case goes to a hearing. The total fee for bringing a typical unfair dismissal claim is now £1,200.

Since the introduction of fees, the number of tribunal cases has plunged by some 70 per cent overall, according to official figures. In some areas such as sex discrimination, it is down by 85 per cent.

More than 80% of clients seeking help from Citizens Advice say they would be put off going to an employment tribunal by the level of fees.

From the point of view of employers, the introduction of fees has had the beneficial effect of stemming the seemingly relentless year-on-year increase in employment tribunal claims, some of which the Government and employers groups had argued were unmeritorious and were crippling employers, particularly smaller employers. Other groups such as trade unions and some employment lawyers claim that fees deny workers access to justice because many workers cannot afford to pay the fees, particularly at a time when many of them have lost their jobs. Critics also point out that while there is a system of fee remission in place, most claimants do not qualify for remission because it is available in only very limited circumstances.

Shadow business secretary Chuka Umunna has said that a Labour government, if elected in May, would overhaul the whole system, making it free again but also quicker than the present system.

The trade union Unison brought judicial review proceedings challenging the introduction of fees on the basis that they prevented access to justice. However the application for a judicial review was dismissed in February 2014 because the High Court felt the case had been brought prematurely and lacked the evidence needed to persuade it to overturn the fees regime.

As a result Unison launched fresh judicial review proceedings which were heard by the High Court in October 2014. Again the application was rejected, this time on the basis there was no evidence that any specific individuals had actually been prevented from bringing a claim. However, the High Court gave permission for this decision to be appealed. The union has vowed to appeal, with general secretary Dave Prentis calling the High Court ruling a "missed opportunity" to restore access to justice for employees.

The Government has pledged to conduct a review into the effect of the fees, but has yet to undertake this review. In the meantime it seems that the current fees regime will stay, at least until the general election in May or until Unison compiles the necessary individual evidence to appeal the latest High Court decision.
