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Adverse impact of tribunal fees

Access to justice has been damaged by courts and tribunals fees charges, according to MPs.

A House of Commons Justice Committee report into court and tribunal fees says major changes are urgently needed to restore an acceptable level of access to the employment tribunals system. The introduction of issue fees and hearing fees for claimants in employment tribunals in July 2013 has led to a drop of almost 70% in the number of cases brought.

The number of employment tribunal cases brought by single individuals declined by about 67% to around 4,500 per quarter from October 2014 to June 2015, and the number of cases brought by more than one person (multiple claims) declined by 72% from 1,500 a quarter in the year to June 2014 to around 400 per quarter since October 2013.

Statistics provided by the TUC and public services union UNISON comparing cases brought in the first three months of 2013 and 2015 showed the following reductions in the number of cases for the most common types of claims: Working Time Directive, down 78%; unauthorised deductions from wages, down 56%; unfair dismissal, down 72%; equal pay, down 58%; breach of contract, down 75%, and sex discrimination, down 68%.

The Discrimination Law Association argued that reduced access to tribunals had fallen disproportionately on women and those from traditionally disadvantaged groups. And Rosalind Bragg of Maternity Action said that since fees had been introduced there had been a 40% drop in claims for pregnancy-related detriment or dismissal.

The government comes in for criticism over the lengthy delay in the publication of the government's post-implementation review of the impact of employment tribunal fees. This aims to assess their effect against the three main objectives of transferring some of the cost away from the taxpayer and towards those who can afford to pay; encouraging parties to seek alternative methods of dispute resolution; and maintaining access to justice.

The committee said it was unacceptable that the government has not reported the results of its review one year after it began and six months after it said it would be completed. And the committee slated Shailesh Vara, a junior minister at the Ministry of Justice, over his evidence.

The committee said: "In coming to a judgment about the impact on access to justice of employment tribunal fees, we consider, on the weight of the evidence given to us, that Mr Vara's heavy reliance on the figure of 83,000 cases dealt with at Acas early conciliation to support his contention that access to justice has not been adversely affected by employment tribunal fees was, even on the most favourable construction, superficial. Those cases cannot be

simplistically assumed to represent displaced cases which were settled satisfactorily otherwise than by being taken to tribunal. In many cases the existence of fees erects a disincentive for employers to resolve disputes at an early stage. The arguments presented to us by the government in this inquiry, limited as they are for the reasons we have previously set out, have not swayed us from our conclusion, on the evidence, that the regime of employment tribunal fees has had a significant adverse impact on access to justice for meritorious claims."

The committee recommends that the government should publish immediately the factual information which they have collated as part of their post-implementation review of employment tribunal fees. It says that without this information having been made available to it, its recommendations in relation to employment tribunal fees should be taken as indicating options for achieving the overall magnitude of change necessary to restore an acceptable level of access to justice to the employment tribunals system.

The committee agrees with the assessment of Sir Ernest Ryder, senior president of tribunals, that the type A and type B categorisation of employment tribunal claims is too simplistic and should be replaced.

The committee offers three options: a single fee; a three-tier fee structure, as suggested by the Sir Ernest Ryder; or by a level of fee set as a proportion of the amount claimed, with the fee waived if the amount claimed is below a determined level.

And among other recommendations, the committee says that further special consideration should be given to the position of women alleging maternity or pregnancy discrimination, for whom, at the least, the time limit of three months for bringing a claim should be reviewed.

UNISON has been fighting a legal battle over the introductions of fees. General secretary Dave Prentis, commenting on the committee's report, said: "Over the last three years tribunal fees have prevented many people who have been wronged at work from taking their employers to court.

"Unscrupulous bosses can hardly believe their luck. They can pretty much treat their staff as badly as they choose, safe in the knowledge they are never likely to be taken to a tribunal."

'Reckless' to scrap NHS bursaries

Plans to scrap bursaries for student nurses and other NHS staff in England are reckless, unions and charities say.

The government plans to overhaul the system in September 2017 and charge those studying to be front-line health workers for their degrees. But in a letter to the prime minister, more than 20 groups led by the non-TUC union, the Royal College of Nursing (RCN), said it could put people off working for the NHS.

Currently student nurses, midwives and other staff, such as physiotherapists, are entitled to bursaries of £4,500 to £5,500 – on top of a grant of £1,000 each year during their training. Their course fees are also covered.

But the government has proposed scrapping these and introducing university fees to bring health staff in line with other students.

Those studying for advanced roles, such as district nurses, could also be affected.

Government ministers argue that the move will lead to an increase in nurse students – of about 10,000 – as applicants for courses currently outnumber the places available by two to one. This is because there is a cap on places.

But the letter, which has been signed by the BMA and the Patients Association, warned it was an "untested gamble" and urged the government to halt the plans to properly consider their impact.

The letter continues: "Under these plans, the government has failed to allocate any funding for extra clinical placements and mentors, vital in giving students real, practical experience. Healthcare students can spend up to 50% of their studies in clinical settings, so the quality of their education experience could be significantly affected.

"These plans are a short-sighted attempt to solve a long-term and complicated problem. They have not been properly risk-assessed, and continuing with them as they stand would be nothing short of reckless."

RCN general secretary Janet Davies said that as nurses spent about half of their degree course

working in the NHS it amounted, in effect, to “asking people to pay to go to work”.

“It feels very wrong,” she added.

www.bbc.co.uk/news/health-36561619

www.unison.org.uk/news/article/2016/06/health-workers-and-charities-unite-to-urge-rethink-on-nhs-bursaries/

Missing out on pensions and benefits

The government is to write to more than 100,000 people who are set to miss out on the new state pension owing to a lack of contributions.

A rule imposed in April means people need at least 10 years of National Insurance contributions in order to start qualifying for the pension.

MPs on the Work and Pensions Select Committee had complained that many would have been unaware of the change.

Now the Department for Work and Pensions (DWP) has decided to write to those most at risk “as a one-off exercise” before the end of the year.

The letters will go to individuals within nine years of state pension age whose records suggest will have fewer than 10 qualifying years of contributions by the time they retire.

“This will test whether direct mail is more effective for this group, given we can identify them and we believe it is possible to formulate a clear message and call to action,” the DWP said.

The 10-year rule was introduced alongside the new state pension which is being paid to those who reached pension age from April. So it is going to men born after 6 April 1951 and women born after 6 April 1953.

It is paid at a flat rate of £155.65 a week to those with a full 35 years of contributions. Those with contributions of between 10 and 35 years will receive a proportion of this total.

The previous basic state pension, which is still being paid to existing pensioners, is worth about £120 a week, plus top-ups such as the state second pension for those who qualify.

While the move is to be applauded, it begs the question why the DWP does not do more to make

sure that pensioners get the benefits they are entitled to.

Around £3.7 billion worth of vital benefits intended to help low-income pensioners is going unclaimed each year, according to an analysis last year by Age UK.

Official figures show that around 1.3 million people entitled to Pension Credit – which tops up the income of the poorest pensioners – did not take up this benefit in 2013-14, missing out on an estimated £2.86 billion in total – or an average of £2,132 per person per year, Age UK said.

Meanwhile, around 260,000 pensioners missed out on Housing Benefit during the same period, sacrificing £820 million in total or around £3,224 each a year.

www.bbc.co.uk/news/business-36596172

www.ageuk.org.uk/latest-press/archive/pensioners-miss-out-on-billions/

Call for 14-day self-certification period

Workers should be able to self-certify sickness for up to two weeks to help reduce the number of unnecessary GP appointments, doctors say.

Doctors at the British Medical Association (BMA) conference have backed an extension to the period in which a sick worker does not need to get a doctor's certificate.

At present, workers must give their employer a note from their doctor if they are off sick for more than seven days in a row, including non-working days.

BMA GP committee deputy chairman Dr Richard Vautrey said writing so-called “fit notes” for people who only need to be off work for a couple of weeks takes away appointments from patients who need to see a doctor for medical reasons.

“It's about empowering patients and trusting patients and reducing unnecessary appointments with GPs,” he said.

“If you've got a patient who very clearly has an illness that is going to last 10 days to two weeks, why do they need to make an appointment with a GP just to get that note to tell their employer what their employer probably knows already and what the patient should be trusted to be able to pass on?”

"This is just a motion that is trying to do something to reduce the unnecessary appointments that GPs have and thereby increase the number of appointments that are available for people who genuinely do need to see a GP."

Dr Vautrey said that if someone was to abuse the system it would be an issue between them and their employer, adding: "We just have to trust people to do the right thing."

"The vast majority of people want to work. They don't want to be off work for significant amounts of time."

www.morningstaronline.co.uk/a-2bfc-BMA-Conference-Doctors-make-case-for-patients-14-day-sick-note
www.gov.uk/taking-sick-leave

Fathers missing out on paternity pay

One in five new fathers didn't qualify for paternity pay, a TUC analysis finds.

There are nearly 600,000 working dads around the UK who have had a child in the past 12 months. However, over a fifth (22%) of them – more than 131,000 working dads – did not qualify for two weeks' statutory paternity pay.

The main reason is that they were self-employed – this affected nearly 99,000 working dads.

More than 32,000 dads didn't get paid paternity leave because they hadn't been working for their companies long enough. This is because the law as it stands requires employees to have at least six months' service with their current employer by the 15th week before the baby is due to qualify for paternity leave.

The TUC is concerned that so many dads are missing out on the chance to spend valuable time at home with their partners and babies, and fears many more fathers do not take paternity leave because they cannot afford to.

Some fathers benefit from fully-paid paternity leave from their employer, in particular those who are higher-paid and in professional jobs. However, many, especially those at the lower end of the income scale, struggle to afford to take the time off because statutory paternity pay works out at just £139.58 a week.

This is around half what someone earning the minimum wage would receive over a 35-hour week (£252) and less than a quarter of male full-time median weekly earnings (£567.20).

The TUC called on the government to introduce a paternity allowance for dads who are not eligible for statutory paternity pay. This would be similar to the maternity allowance which self-employed mothers and mothers who haven't been with their employers long enough can claim.

The TUC also believes that employees should be entitled to statutory paternity leave from their first day in the job, in the same way that maternity leave is a day one right, and that paternity pay should be increased.

TUC general secretary Frances O'Grady said: "All fathers should be able to spend time with their families when a new baby comes along."

"Paid paternity leave and shared parental leave have been important steps forward, but many families are missing out on these benefits – or simply can't afford to use them."

[www.tuc.org.uk/sites/default/files/TUC%20KYR_Paternity_LO%20\(spreads\).pdf](http://www.tuc.org.uk/sites/default/files/TUC%20KYR_Paternity_LO%20(spreads).pdf)

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