



ASLEF's Response to the Ministry of Justice Consultation on Fee remissions for the courts and tribunals

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train drivers' union representing approximately 18,000 members in train operating companies and freight companies as well as London Underground and light rail systems.
2. ASLEF are highly concerned by the Government's plans to charge upfront fees when beginning Employment Tribunal proceedings. ASLEF firmly believes that this is a tactic to reduce access to justice for many workers. Only those with the financial means will feel comfortable in taking the risk of pursuing the claim. Those with little income may simply be priced out of justice.
3. There are several things to consider when looking at the introduction of upfront fees. Firstly, many ET claims come about following an individual being made unemployed. Yet due to redundancy pay or pay in lieu they may receive they may not be covered by the remission policy.
4. By the very nature of employment tribunals, many claimants are not legally represented or do not have access to legal advice meaning that they will feel uncertain about making a financial outlay in order to seek justice. Additional, there are shorter time limits to file claims. An overly complex fees and remission scheme will also mean that some are barred from tribunals.

5. ASLEF believes that complex and expensive fees will prevent a lot of individuals with strong cases from pursuing them. This will be of great relief to exploitative employers.
6. ASLEF are concerned that some claimants could be barred from an employment tribunal due to the short time limit for filing claims and the requirement that remissions from fees must be approved before a claim can be admitted by an employment tribunal. The proposals are likely to increase the need for Pre-Hearing Reviews to determine whether time limits should be extended. This will incur costs for employers, claimants and the tribunal service.
7. Additionally, the fees and remissions policies are very complex and will be difficult for unrepresented claimants to understand and navigate. This is likely to lead to some claimants paying fees which exceed the cost of processing their claim which is not consistent with Treasury Guidelines for the charging of fees.
8. The proposals are not likely to be cost effective as they will entail additional administrative processes and bureaucracy for employment tribunals. They are also likely to generate extensive satellite litigation which will delay proceedings and incur additional costs for employers, workers and the tribunal service.
9. The fact that there appears to be no refund policy if disputes are resolved after hearing fees are paid will be an obstacle to settlements taking place before tribunals.
10. ASLEF are concerned that these measures are simply a cost cutting exercise that prioritises savings at the expense of preserving access to justice and maintaining an effective system for the enforcement of employment rights. In difficult economic times efficiency and cost-cutting

always becomes a priority, however the social cost of these measures is simply too much.

11. It should be remembered that Employment Tribunals are already very difficult places for claimants to succeed. In 2011/12 there were 46,100 unfair dismissal claims with the vast majority of these settled, withdrawn, dismissed or struck out with only 11,200 proceeding to a hearing. Of those cases the majority lost with only 5,100 being upheld. Of the 5,100 cases which were upheld, 2,600 claimants were awarded no compensation at all. That means that the majority of cases that were upheld by a tribunal received no redress. Only about 1 in 10,000 cases see employees reinstated. The odds are already against the workforce, this will make justice for many even harder to achieve.

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