Written evidence from by Stephen Francis MSc

How will the increases to courts and tribunals fees announced in Cm. 9123, "Court and Tribunal Fees", published on 22 July 2015, and the further proposals for introducing or increasing fees included for consultation in Cm. 9123, affect access to justice?

A. Executive Summary

1. The effect of court and tribunal fees should not be considered in isolation of other factors.
2. The factors include a wide range of personal, external aspects and uncertainty that affect a personal decision to access justice.
3. However, given all the issues having a bearing on my situation paying a fee at a level of anything like £1200, would have been out of the question.
4. If this level of fee had been in existence in 2012 it would have definitely stopped me making a claim for unfair dismissal in 2012.
5. Tribunal fees should be removed completely to allow the independent private claimant to get access to justice especially in unfair dismissal situations.

B. Introduction

1. I have worked in private industry and public service for a total of over 32yrs. In private industry I held the post of Senior Technical Officer responsible for manufacturing production specifications, experimental orders and designing products that included aircraft refuelling hose.
2. I subsequently moved into a public service role within a Parks Police Service and gained experience in community policing with rank of Inspector and responsibilities of Relief Deputy Chief Officer. During this time I obtained a Master of Science in the Study of Security Management from Leicester University.
3. On 01 April 2012, I was compulsory retired from full-time employment. Since then I have become a self- employed training consultant and author. My reason for submitting evidence is to put forward my views about fees from the perspective of a user of the tribunal service in an employment case concerning failing to consult and unfair dismissal.
4. I have been prevented from obtaining my right to an independent legal review of the facts of my dismissal and a review of failing to consult with UNISON in this matter. The case concerns a local authority that took up Boris Johnson’s ‘Buy One Get One Free’ (BOGOF) offer to dismiss staff and is in the public domain. It is however continuing today, over three years later.
C. Observation/Comments

1. On 23 June 2012 I electronically submitted a personal tribunal claim for unfair dismissal at no financial cost. It is easy to think that only the desire for justice played a part in my decision to access justice. At this time there was no fee to get access to the tribunal service but a lot of other factors had a considerable bearing on my decision.

2. The first issue at this time of the decision was that UNISON was preparing a case for failing to consult in respect of all affected members but my colleague and I were advised to protect our own interests in respect of the unfair dismissal.

3. This further impacted on the decision because of the amount of time (I subsequently spent 175.75 hrs on case preparation) that would be taken up. I knew that this would adversely affect the time available to apply for a new job.

4. At over 60 years of age my prospects of finding re-employment were much reduced especially with the downside of a making a prospective employer aware of the continuing legal action.

5. I had been dismissed from a well-paid job and my income had plunged. I had a wife and two teenage sons in education and the bills to pay. In the worst case the redundancy money and pension had to stretch (This appears to be coming true) until I was 65yrs of age.

6. Another personal financial risk of making a claim was in taking on a local authority with significant legal resources and public money putting them in a position to fund a long drawn out legal case. This was all the more so because public money had subsidised the BOGOF deal and enabled my dismissal. Financially the system is already weighted against a victim and in favour of large corporations and public bodies.

7. In representing ourselves it also exposed us to the risk of tribunal costs. This scenario became reality after a Court of Appeal ruling. Thankfully, UNISON reappraised our situation and represented us on all claims from the 06 September 2013.

D. Recommendations

1. I recommend that the effect of court and tribunal fees (It noteworthy that in 2016 the Scottish Government is planning to remove tribunal fees in Scotland.) is not considered in isolation but how it combines with a whole range of personal, external factors and uncertainty that affect a personal decision to access justice.

2. In my case all I wanted to do is to obtain an independent review of the reasons for my dismissal and failing to consult with my Union. In 2012 I would have been prepared to pay a small administration fee to get access to justice if it had not been free. However, given all the factors having a bearing on my situation, paying a fee at a level of £1200 would have been out of the question. If this level of fee had been in existence in 2012, it would have definitely stopped me making a claim for unfair dismissal in 2012.
3. I recommend that tribunal fees are removed completely to allow the independent private claimant to get access to justice especially in unfair dismissal situations.

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