Written evidence from the Odysseus Trust

1. The Odysseus Trust\(^1\) promotes good governance and the effective protection of human rights, and is directed by Lord Lester of Herne Hill QC, together with two Parliamentary Legal Officers, Zoe McCallum and Clare Duffy, and a Legal Researcher, Caroline Baker.

2. This submission responds to the Justice Committee’s call for written submissions to their inquiry into the effects of the introduction and levels of courts and tribunals fees and charges. We respond to two questions asked by the Justice Committee: (1) How have increased court fees and the introduction of employment tribunal fees affected access to justice? (2) How have they affected the volume and quantity of cases brought?

3. When these proposals were announced, the head of the judiciary, the Lord Chief Justice of England and Wales, wrote to the Minister of Justice warning that the government had made ‘very sweeping and…unduly complacent assumptions’ about their likely effect on access to justice.\(^2\) He pointed out the paucity of research evidence for the proposals. His concerns, which we share, went unaddressed.

4. Most people who claim between £10K and £20K must now find 5% of that amount up-front as a court fee. This makes the justice system too expensive for traders, small businesses and the victims of personal injuries. Some have to choose between paying the court fee and paying for a lawyer, so they end up with no legal assistance. Access to justice should be open to all and not based on ability to pay.

5. The charges imposed on criminal defendants are higher if they plead not guilty, which encroaches on the rights of the defence.

6. The introduction of employment tribunal fees in July 2013 has greatly reduced the number of cases being brought before employment tribunals. ‘Employment tribunals received 32,671 fewer single claim cases during October 2013-September 2014 compared to the previous year, a 64% decrease. The number of multiple claim cases was down 3,527, a 67% decrease’.\(^3\)

7. Employment tribunal cases include cases for unpaid wages, sexual harassment, bullying, discrimination and whistleblowing. Fees for discrimination or whistleblowing cases are £1200. Research by the Citizens’ Advice Bureau\(^4\) found that employees with legitimate grievances are being deterred from pursuing claims in employment tribunals following their introduction, and four in five potential claimants are deterred by the fees. Research also found that nearly half of people with an employment claim would have to save for six months to afford tribunal fees of £1,200. There has been an 83% drop in sexual discrimination claims and a 77% drop in equal pay claims.\(^5\)

---

\(^1\) For more information about the work of the Trust, please visit our website [www.odysseustrust.org](http://www.odysseustrust.org).


\(^5\) The Law Society, *Parliamentary Brief on Baroness Turner of Camden’s oral question ‘To ask HMG what assessment they have made of the ability of individuals who are dismissed to invoke their employment rights when they cannot afford tribunal costs’*, 25 June 2015.
8. We strongly oppose the introduction of court and tribunal fees. They are a tax on justice imposed to enable HM Treasury to profit from people seeking to enforce their legal rights. They act as an effective barrier to justice, deterring those with legitimate claims. Access to justice is a constitutional right that should be enjoyed by everyone.

30 September 2015