The CBI welcomes the opportunity to submit evidence to your inquiry into court and tribunal fees and charges. As the UK’s leading business organisation, speaking for some 190,000 businesses that together employ around a third of the private sector workforce, the CBI believes we need an employment tribunal system that delivers quick and efficient dispute resolution. Retaining a fee for employment tribunals is part of this, and broader reform is necessary.

Fixing the tribunal system remains critical to businesses of all sizes. We need a system that is more efficient and cost effective, currently delays and unnecessary bureaucracy stifle the system. Business supported the introduction of fees in 2013 as a mechanism to incentivise dispute resolution outside of a tribunal and deter weak claims. The tribunal should only ever be the last resort – where a dispute is resolved through dialogue within the workplace it is more likely that the outcome will be viewed positively by both parties.

It is important to understand why the number of cases going to tribunal has declined and we look forward to the conclusions of the government’s review. Fees should encourage mediation and conciliation, while discouraging weak or misguided claims, and protecting access to tribunal as a last resort. If the review concludes that fees have restricted access to justice then the balance of fees and remissions should be recast. Their primary objective should be to improve the resolution of workplace disputes rather than to raise revenue. Business believes all claimants should have to pay at least a contribution towards the fee to submit a claim to an employment tribunal and that fees should be charged per complaint, rather than per claim, to deter unsubstantiated complaints within claims.

Fees for employment tribunals will not, however, overcome the failings within the system. A broader review is necessary, looking at how the system can be simplified so that it serves the parties rather better than it currently does. Despite a reduction in the number of cases going to the tribunal, two fifths of businesses (41%) have reported that the time taken for a claim to be resolved has increased over the past 12 months. (CBI/Accenture, Employment Trends Survey, 2014). The growing culture of legalism needs to be reversed and judges need to adopt a more pro-active and inquisitorial approach. As a first step, the CBI would like to see responsibility for employment tribunal policy and administration under the control of a single government department, BIS.

2 October 2015