Joint Council for the Welfare of Immigrants
Campaigning for justice in immigration, nationality & asylum law & policy since 1967

JCWI response to the consultation on proposals for the First-tier Tribunal (Immigration and Asylum Chamber) and Upper Tribunal (Immigration and Asylum Chamber)

3 June 2016

Introduction

1. JCWI is an independent national charity established in 1967. We work to ensure justice and fairness in immigration, nationality and asylum law and policy and we provide direct legal advice and assistance to those affected by UK immigration control. Our solicitors provide representation in the Immigration and Asylum Tribunals.

2. We note that the Secretary of State for Justice mentions the importance of access to justice in the foreword to this consultation. All in all, the phrase 'access to justice' appears eleven times in the consultation document, five times in the first two pages alone. Yet, despite recognising in the second paragraph of his foreword that the courts and tribunals service needs to be one that '*protects access to justice for all*', the Secretary of State has put forward a set of fee increases that will reduce rather than protect access to justice.

Question 1: Do you agree with the fee charges proposed in the First-tier Tribunal as set out in Table 1? Please give reasons.

3. We disagree completely with these proposed fee increases in the Immigration and Asylum Chamber of the First-Tier Tribunal ("FTT"). In summary our reasons are that:

    a. Such a large increase in fees will render appeals unaffordable, thus reducing the concept of access to justice to a nullity for many people;

    b. The anticipated reduction in cases brought on appeal, will inevitably include a large proportion of cases that had merit and would have won. It is unconscionable for the Government to seek to protect itself from challenge by radically increasing the cost of justice;

    c. The level of costs recovery to be expected from these changes is far less than these proposals assume, and therefore they cannot be justified on any sound financial basis.

    d. The proposals fail to take into account the many recent changes to immigration appeals following the Immigration Acts 2014 and 2016. Many of the underlying assumptions made in these proposals, the Impact Assessment, and Equality Statement are fatally flawed;

    e. We consider these proposals as currently formulated to be incompatible with Article 47 of the Charter of Fundamental Rights of the European Union ("EU Charter") and in breach of the general European law principles of effectiveness and effective judicial protection;

    f. These proposals present a disproportionate barrier to access to justice;

    g. Given the greater effect on black and ethnic minority communities, EEA nationals, and non-EEA foreign nationals of this fee increase, it is unjustifiable to expect the FTT and the Upper Tribunal ("UT") to recover at 100% costs level in immigration matters, when no other tribunal does so.

Context and Nature of the Rights Implicated

4. It is very important to remember the context in which these proposals are being made. Unlike many other courts and tribunals, the Immigration and Asylum Chambers of the First-

tier and Upper Tribunals ("IAT") deal specifically with appeals to decisions made by the Home Secretary and her staff. The quality of Home Office decision making has been the subject of repeated and grave criticism for many years, and shows no sign of improvement. The success rate on appeal in the IAT is correspondingly high.[1]

5. With recent changes denying appeal rights to the majority of immigration decisions, the routes of appeal to the FTT are now limited to a narrow range of issues. Following the Immigration Act 2014 appeals may only be brought with respect to:

    a. Requests for international protection or appeals against revocation of such protection;

    b. Human rights claims;

    c. EEA claims.

6. Thus the entire caseload of the FTT and UT will in future comprise cases touching on the most fundamental rights of the individual. Rights to protection, human rights and fundamental rights guaranteed by EU law. The consequences to the individuals caught up in these claims of a wrong decision will be at best life-changing, and at worst life-threatening. An uncorrected wrong decision will leave the UK in violation of international law, and will cause serious harm. In such circumstances, it is completely unacceptable that anyone, let alone up to 40% of appellants should be deterred from pursuing appeals, particularly when the success rate of such appeals is so high. As we set out below, the evidence suggests that even the figure of 40% is an underestimate.

Flawed Assumptions

7. The Impact Assessment to this consultation does not adequately address these issues.[2] First, the estimate of a 20% drop in appeals following the introduction of these fees is not evidenced and likely to be highly inaccurate. The data we provide on affordability below shows that the majority of people will be unable to afford these fees. Moreover, the predictive analysis carried out in the Impact Assessment is inadequate to say the least. With very little reasoning or evidence to support such an approach, the Impact Assessment takes two figures 0% and 40% and assumes that the reduction in appeals to the Immigration and Asylum Tribunals ("IAT") will fall between the two.

8. The first figure of 0% is taken from what is claimed to be a negligible drop in claims following the introduction of fees to the First Tier Tribunal in 2011. The second figure of 40% reflects the drop in cases after the introduction of a new fee structure for money claims. The profile, income levels, and motivations of those considering pursuing a claim for money in the civil courts are not remotely comparable to those of the people forced to appeal decisions made against them pertaining to their immigration status, right to remain with their family, their physical safety and their future life in this country or elsewhere.

9. We cannot understand how this figure can be considered relevant without further analysis and explanation. The figure fails to take into account the 79% drop in claims immediately

[1] https://ukaji.org/2016/04/28/allowed-appeals-and-initial-decision-making/

[2] https://consult.justice.gov.uk/digital-communications/first-tier-tribunal-and-upper-tribunal-fees/supporting_documents/impactassessment.pdf

following the introduction of higher fees to the Employment Tribunal.[3] More recent figures from the House of Commons library suggest an average 73% decrease in claims.[4] The proposed fee increases are far more comparable to those in the Employment Tribunals, and yet this consultation's Impact Assessment does not take them into account.

10. Most remarkably the Impact Assessment fails to undertake any credible analysis or present any evidence to support the assumption made that '*there will be no detrimental impact on tribunal case outcomes, on access to justice and on the legal services used to pursue or defend claims from the increase in fees.*' In our view, every aspect of this assumption is flawed. It is clear that with individuals having to spend such a large amount more on fees, many who would otherwise have been able to afford a certain level of legal representation will be forced to devote that money to paying the fees. They will either appear as litigants in person (which in itself will likely cause increased costs and delays in proceedings before the tribunal), or will have to cut costs in their legal representation and preparatory work. Both of these could affect outcomes and the legal services used.

11. The assumption that there will be no detrimental impact on access to justice is particularly hard to defend, as the most pertinent evidence directly contradicts it. In written evidence to the Justice Committee's inquiry on Courts and Tribunals Fees and Charges the Tribunals Judiciary says this about the effect of the introduction of the employment tribunal fees on access to justice (NB. These comments were made anticipating a much smaller increase in fees than that currently proposed) :[5]

> *"We consider that the introduction of fees has had a damaging effect upon access to justice. The overall reduction in numbers across all employment jurisdictions, following the introduction of fees, is most starkly seen in the areas of unpaid wages, notice pay, redundancy pay etc, where cases are now rare. The clear inference is that a combined fee of £390 represents a considerable investment, compared with what may often be the sum at stake. Unfair dismissal claims attract a combined fee of £1,200, which, again, compares badly with the amount of many awards made in such claims.*
>
> *Improvements in the remission process have not served to moderate these adverse impacts upon access to justice. The overall conclusion is that the fees regime and its attendant remission process have acted as a very clear disincentive to bringing a significant number of claims, which could not be categorised as obviously weak. The conclusion is supported by the following. If fees were discouraging only (or mainly) potential claims that would be weak ones, the percentage of successful claims could be expected to rise, following the introduction of fees. In fact, that percentage has declined slightly."*

[3] TUC Report: At what price Justice? p. 3
https://www.tuc.org.uk/sites/default/files/TUC_Report_At_what_price_justice.pdf
[4] Employment tribunal fees, House of Commons Library Briefing Paper, 7081, 13 May 2016
[5] Justice Committee Inquiry on Tribunal Fees 2016, Written evidence from the Tribunals Judiciary: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/court-fees-and-charges/written/22960.html

12. Later on in this written evidence, the Tribunals Judiciary goes on to say:[6]

> *"In the light of the experience in the employment tribunals, following the introduction of fees, it is very doubtful whether it is appropriate for the proposals in Cm. 9123 to be founded on the assumption that the introduction and raising of tribunal fees will result in no change in demand for access to the tribunal. In employment, the net income generated by fees, having taken account of remission and the costs of collection, has fallen considerably short of realising the proportion of running costs that the Government set itself. The current proposals likewise risk harming access to justice without delivering the anticipated financial benefit."*

13. We agree fully with this analysis by the Tribunals Judiciary. The Impact Assessment is wrong to assume that there will be no reduction in access to justice. There is no evidence that a higher fee will only affect unmeritorious cases, and the reduction in success rates at the Employment Tribunal from 79% to 62% provides solid evidence to the contrary.[7] The Impact Assessment should have considered this evidence and concluded that **access to justice will be affected.**

Flawed Costs Recovery Analysis

14. The fee proposals for the First-tier Tribunal are to increase the fee for a decision on the papers from £80 to £490 while fee for an oral hearing has changed from £140 to £800. This is an increase of around 500%. New fees are to be introduced to applications for permission to appeal in the UT of £350, and the appeal to the UT will now cost £455. An application for permission to appeal to the UT in the FTT will cost £455.

15. As the Impact Assessment shows, the majority of cases FTT involve an oral hearing and are not decided on the papers. This proportion is only likely to increase owing to the change in the makeup of cases that will be before the IAT in future. Human rights, protection and EEA appeals tend to be more factually and legally complex and a fair hearing is often only possible with an oral hearing. The majority of people will have to pay a minimum of £800 just to appeal to the FTT. The situation is even worse for those who are forced to appeal

16. It is clear that many people simply will not have the cash available to pay the fees. For those that are able to do so, it will nevertheless represent a significant proportion of their income. The Impact Assessment is simply wrong to suggest that this will have a negligible cash flow impact on individuals. The majority of people will find that paying even £490 will create cash flow difficulties, while having to find a more typical fee of £800 is far more burdensome.

17. We deal with the subject of exemptions in the questions below, but we must point out here that the position taken by this consultation on costs recovery is incoherent and contradictory. It does not take into account the huge changes made to the makeup of cases in the IAT since the Immigration Act 2014, and as we say above it underestimates the likely reduction in appeal rates.

18. Moreover, it entirely fails to take into account the further reduction in appeal rates that the expansion of out of country appeals brought in by the Immigration Act 2016 will cause. We found a drop in appeal rates of 82% following the adoption of out of country appeals under

[6] Ibid.
[7] http://lawactually.blogspot.co.uk/2015/09/latest-employment-tribunal-statistics.html

the Immigration Act 2014.[8] Even if we assume the drop in appeal rates will be less amongst the population affected by the 2016 Act, as they are not only foreign national prisoners, and so may have access to different financial and social resources when appealing from abroad, it is clear that the out of country appeals process creates significant barriers for individuals. The Impact Assessment does not take into account the cumulative impact of these measures on future numbers of appeals.

19. As mentioned above, the nature of cases reaching the IAT has changed substantially since the entry into force of the Immigration Act 2014. Before this, the IAT would hear cases on a whole range of migration issues, including business visa cases. The individuals using the IAT had widely varying incomes, and many would have had to meet financial requirements. The reliance placed on 2014 -2015 figures in the Impact Assessment fails to take into account this changing demographic. A far greater proportion of the cases before the IAT will in future involve those on lower incomes, or with exempt categories of case. No credible analysis can be done on the proportions of people who will be entitled to fee remissions or exemptions without looking at data from 2015 – 2016, and indeed from 2016 – 2017 given the number of old cases still working their way through the system.

20. The Government cannot have it both ways. The cohort of cases that will be heard in the IAT will comprise exclusively of human rights cases, protection claims and other cases involving issues of fundamental rights. The majority of appellants will not be wealthy, and it is very likely that a far higher proportion will be entitled to waivers and exemptions. The proposals will either deny adequate access to justice to individuals who currently are entitled to exemptions or waivers, or they will not recover anything like the costs assumed in the Impact Assessment. It is hard to see how these proposals can be justified on the basis of enhanced recovery of costs.

Legality

21. Where these fees relate to the ability of EEA nationals to access the IAT we consider that they are unlawful, because the level at which they are set is a disproportionate bar on rights of free movement and other fundamental rights.

22. An appeal against a decision to remove a person under r.19(3) Immigration (European Economic Area) Regulations 2006 will be exempt, but there are many situations in which the proposed fees may affect the exercise of EU law rights. For example:

    a. an appeal in a *Zambrano* type case;

    b. an appeal against a refusal of an EEA family permit

    c. an appeal against a refusal of leave to enter to an EEA third country family member

    d. An appeal against the cancellation of a right of residence of an EEA national or his or her family member

[8] Deportation: Appeals: Written question' - 11080, 07.10.15, available at: http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-10-09/11080 with FOI release 28027, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271659/28027_-__Foreign_criminals_successfully_appealed_against_deportation_16-01-2014.pdf

3 http://www.parliament.uk/business/publications/

23. Article 47 of the EU Charter provides that '*Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article*. *Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented*.'

24. In addition general principles of EU law apply to national measures which restrict the fundamental freedoms guaranteed by the Treaties (*Elliniki Radiophonia Tileorassi AE (ERT) v Dimotiki Étairia Pliroforissis (DEP) §43*). The principle of effectiveness is a general principle of EU law: national rules governing actions intended to ensure the protection of rights conferred by EU law must not render the exercise of Community rights virtually impossible or excessively difficult (see for example *Peterbroeck*, *Van Campenhout & Cie SCS v Belgian State*). Specifically the right to effective judicial protection has been declared by the Court of Justice to be a general principle of EU law, see for example *Case C-222/84 Johnston v Chief Constable of the Royal Ulster Constabulary*, where the exclusion of access to the national courts on a matter within the scope of EU law was contrary to the principle of effective judicial protection.

25. More generally, in all cases there are legal obligations to preserve access to justice. Fees must be proportionate to preserve access to justice under the ECHR, EU law and domestic law.[9] Because of the evidence presented above, we believe that the fee increases proposed are not proportionate and will not be lawful.

Question 2: Is there merit in us considering an exemption based on the Home Office visa fee waiver policy? If so, do you think there should be a distinction between in country and out of country appellants? Please provide reasons.

26. No and no.

27. We do not consider that any exemption regime can fully address the deterrent effect of such a huge increase in tribunal fees. We note the evidence of the Tribunals Judiciary at paragraph 12 above on the failure of remissions to preserve access to the employment tribunals. With so many individuals unable to afford any or any adequate legal advice litigants in person find it very hard to navigate the current Home Office visa waiver scheme. It is also not particularly clear even for practitioners.

28. The visa waiver policy is too arbitrary and uncertain to work as an adequate system for dealing with such potentially ruinous fees as are being proposed. The financial assessment process operates on the basis of an individual case by case determination on whether there would be a breach of an individual's rights. We have seen that these assessments are often wrong and may be successfully challenged through ancillary litigation.

29. Thus the complexity and uncertainty created by the visa waiver scheme acts to reduce access to justice, and is not a sensible or proportionate way to operate a fee remissions and exemptions scheme. The scheme that is used should be designed to avoid human rights

[9] *R (Unison)* v *Lord Chancellor* [2015] EWCA Civ 935, see summary of the legal position by Underhill LJ

breaches from the ground up, and should not encourage additional and costly litigation to get to the right answer.

30. This is amply demonstrated by the following exchange during oral evidence given by Sir Ernest Ryder, Senior President of Tribunals, during the Justice Committee inquiry into Tribunal Fees:[10]

> *"Q327 Marie Rimmer: Looking at the immigration and asylum chamber, how navigable is the current fee remission system for both unrepresented claimants and legal practitioners?*
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> *Sir Ernest Ryder: I go back to what we said earlier. It is better, but complex, and the language is complex. No matter what we put in place to assist litigants in person—and we do—I echo what the president of the family division has said. There are some huge incentives in play with the Civil Justice Council to try to improve access to justice for litigants in person: the remission system and its explanation is not a way of guaranteeing access to justice. It is a pragmatic enhancement, but no more than that."*

31. Any exemption and remission scheme must include all those who currently qualify for a fee remission under the Home Office fee waiver policy. In that respect we fully agree with the proposal in the consultation paper that this should be so.

32. Agreeing that the exemptions proposed in the consultation should all be adopted, we think the following categories must be added to the list of exemptions from fees:

    a. Where an appeal is brought on grounds that the removal of the appellant from or requirement to leave the UK would breach the UK's obligations under the Refugee Convention or EU Qualification Directive 2004/83/EC). We do not understand what is meant by the statement that a fee can be 'deferred'. This is not an adequate safeguard as it raises the risk that a fee will be imposed at a later date. Where an appeal raises a risk of such a serious breach of the UK's obligations, and concomitant harm to an individual it is right that payment of a fee should not stand in the way of access to justice under any circumstance.

    b. For the same reasons an exemption should be in place for any appeals against removal arguing a breach of Article 3 or Article 2 of the ECHR. The UK's international obligations under the ECHR, the Convention against Torture, the ICCPR and the principle of *non-refoulment* are all engaged in such circumstances.

    c. To all removal cases. It is an integral part of EU and ECHR case law that the proportionality of any bar to access to justice is to be looked at in the context of the importance of the matters at stake.[11] Removal raises urgent and significant issues of personal importance, and the rights of the individual. We see no reason why all removal cases should not be treated in the same way as removal cases involving EEA nationals, which are exempted.

[10] Oral evidence. Courts and tribunal fees and charges inquiry: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/courts-and-tribunals-fees-and-charges/oral/28990.html

[11] E.g. *DEB Deutsche Energiehandels- und Beratungsgesellsshaft mbH* v *Bundesrepublik* Deutschland C-279/09

33. For reasons of simplicity, efficiency and fairness there should be no difference between in country and out of country appeals.

34. Given the changes brought in by the Immigration Act 2014 and the Immigration Act 2016 many appeals will have to be brought from out of the country in future. Appeals must be lodged within 28 days of a person having left the country. In that time period, and given the costs associated with relocation to another country the vast majority of people will find that their financial situation, if anything, has changed for the worse. In light of that, and in light of the costs associated with implementing a more complex out of country assessment process, we believe that anyone who qualified for a fee remission at the point of their departure should do so afterward.

35. However, in order to ensure access to justice and to recognise the fact that moving to another country can cause serious financial difficulties, there should be a route whereby those whose circumstances have changed for the worse should be permitted to submit evidence that they can no longer afford fees, even if they were able to do so at the point of departure.

Question 3: Do you believe that there are alternative options that the Ministry of Justice should consider in relation to the fee exemptions scheme in the Immigration and Asylum Chamber of the First-tier Tribunal?

36. Yes, though as we state above any such scheme should preserve all current exemptions.

37. Any fee exemption scheme should have the following characteristics:

    a. It should be clear, simple to understand for any individual, and easy to use. Otherwise there is a significant risk that individuals will be deterred from pursuing meritorious claims simply because they are uncertain as to whether or not they qualify or are deterred by the complexity of the process;

    b. Families where multiple individual are pursuing an appeal on the same set of facts and issues must not be charged multiple fees. This would be disproportionate to the practical costs to the IAT of considering the case.

    c. If, as is claimed, the purpose of increasing the fees is to cover the costs of the Tribunal, then the timetable for payment should reflect the incremental nature of such costs. The payment for the initial application should be small, with the rest being payable before the hearing. The very high level at which the fees have been set create serious cash flow problems for all but the wealthy and this would alleviate this problem. Moreover the long delays between making an application and the hearing of an appeal will provide appellants with an opportunity to save up for the fees. It is unjust to expect appellants to pay up front for a service that will be delayed for many months.

    d. Anyone with a pending application for exceptional case funding under legal aid should be permitted to defer payment of the fee until a decision has been made.

    e. Assistance and advice given to an individual in filling out any remissions application should be explicitly removed from the scope of regulated immigration work. This will allow people to access a wider range of cheap or free advice in navigating the fees

scheme and improve access to justice, without affecting the quality of immigration casework.

38. In our view the most sensible starting point for a remissions scheme is that used by the civil courts as set out in form EX160. For the reasons given in our answer to question 2 we disagree that appeals from abroad pose any significant difficulty to the application of the scheme. Given the appeal time limits, the vast majority of cases can be fairly decided on the basis of income at the point of departure from the UK.

39. This EX160 scheme has significant advantages both in terms of clarity and simplicity, and also in reduced costs of operation. It is the scheme that is used in other tribunals and courts, and thus the costs of training staff, processing applications and updating guidance and forms will be greatly reduced.

40. In order to account for circumstances where income has drastically changed for the worse on departure from the UK or other unforeseen circumstances arise, there should be a residual discretion to waive fees if it would cause undue hardship.

41. This approach is endorsed by the Senior President of Tribunals:[12]

> *"Q328 Marie Rimmer: I have one final question. It has been put to us that the fee remission system used across HMCTS could be extended to cover the immigration and asylum chamber, albeit with some modifications. Do you believe that that would be practicable?*
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> *Sir Ernest Ryder: That would bring the immigration and asylum chamber into line with other tribunals. In general terms, yes, I would be in favour of one set of principles and one procedure, not just for all tribunals but—moving slightly outside my arena, into the modernisation programme—for all courts and tribunals. After all, if you have a digital system, it ought to be one that is explicable to all, with one set of terms and conditions."*

Question 4: Do you agree with our proposal to introduce fees at full cost recovery levels in the Upper Tribunal? Please provide reasons.

42. No. We fully disagree with these proposals, repeating the reasons and evidence provided in our answer to Question 1 above.

43. In addition, we note that in the Government's response to the consultation 'Introducing fee charges for appeals in the Immigration and Asylum Chambers of the First-tier Tribunal and Upper Tribunals' there was a unanimous disagreement with these proposals.[13] The arguments made by the respondents to that consultation retain their full force today. It is inimical to the proper administration of justice to require appellants to pay for the UT to correct the errors of the FTT. Cases heard by the UT are extremely important in the development of the law, and the speedy correction of errors that may otherwise spread

[12] Ibid.
[13] http://webarchive.nationalarchives.gov.uk/20111121205348/http://www.justice.gov.uk/downloads/consultations/appeals-fee-charges-consultation-response.pdf para 16

within the system. There is a strong public interest in maintaining the current level of access to the UT.

Question 5: Do you agree with our proposals to introduce fees for applications for permission to appeal both in the First-tier Tribunal and the Upper Tribunal? Please provide reasons.

44. No. Please see our responses to questions 1 and 4.

Question 6: Do you believe that alongside the fees proposals in the Upper Tribunal, the Government should extend the fee exemptions policy that applies in the First-tier Tribunal to fees for appeals to the Upper Tribunal? Please provide reasons.

45. Yes. We do not agree with the introduction of fees to the UT, but if this happens the exemptions regime should be extended to the UT.

46. In addition, in order to ensure that the UT is not deprived of the opportunity of addressing issues of importance, the UT and the FTT should be permitted to waive any application fee, or hearing fee pertaining to an appeal to the UT if it considers it is in the public interest to do so.

Question 7: We would welcome views on our assessment of the impacts of the proposals set out in Chapter 1 on those with protected characteristics. We would in particular welcome any data or evidence which would help to support these views.

47. We are concerned by the failure of the Impact Assessment to address the potential for a discriminatory impact by gender. One of the most disturbing results of the changes to the Employment Tribunals has been a significant impact on women, with sex discrimination claims falling by 80%.[14] It is extremely important that whatever exemption policy is put in place it does not disadvantage women by including an assessment of the partner's income. This provides a perverse incentive for those in abusive relationships to remain in them in order to be able to afford court fees.

48. The Impact Assessment recognises that the proposals have a disproportionate impact on BME groups. However, it fails to properly evaluate the facts. In our view it is unjustifiable to require a tribunal that concerns itself with dealing with issues of fundamental rights concerning non-British EEA nationals and foreign nationals, many of whom are from BME groups to operate at 100% costs recovery (though we dispute that this level of costs recovery is in any way realistic), when other tribunals are not. For example, the 2015 costs recovery figures for the courts and tribunals show that the Employment Tribunals only recovered 17% of costs, despite the dramatic fee increases of 2013. The same figures show that the IAT was next at 11%, while the other tribunals lagged behind at 9%.

[14] https://www.tuc.org.uk/sites/default/files/TUC_Report_At_what_price_justice.pdf

49. This is supported by the written evidence of the Judicial Executive Board to the Justice Committee's inquiry on Tribunal fees which says:[15]

> "*The current set of reforms has not taken an even-handed approach. While the Government has accepted that the client base for many tribunals (for example in the Social Entitlement chamber, with many benefit recipients pursuing claims) is such that the prospect of large scale remissions reduces the case for introducing fees, in other areas, such as immigration and asylum, a more aggressive approach to fees is being taken. There is a lack of consistency in the costs being sought for recovery from tribunal fees across the different jurisdictions, and with different pricing – e.g. a £500 fee for General Regulatory Chamber cases, but £200 for Property.*"

50. The arbitrariness of these changes, combined with the clear evidence that the costs justification underpinning these proposals is deeply flawed, makes it impossible to justify their discriminatory impact.

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[15] Justice Committee Inquiry on Tribunal Fees 2016, Written evidence from the Judicial Executive Board: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/court-fees-and-charges/written/22881.html