

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT CIVIL PROCEEDINGS, FIRST-TIER TRIBUNAL, UPPER TRIBUNAL AND EMPLOYMENT TRIBUNALS FEES (AMENDMENT) ORDER 2016

Thursday 7 July 2016

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Monday 11 July 2016

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The Committee consisted of the following Members:

Chair: MR DAVID NUTTALL

- | | |
|--|---|
| † Aldous, Peter (<i>Waveney</i>) (Con) | Redwood, John (<i>Wokingham</i>) (Con) |
| † Bridgen, Andrew (<i>North West Leicestershire</i>) (Con) | Sharma, Mr Virendra (<i>Ealing, Southall</i>) (Lab) |
| † Burgon, Richard (<i>Leeds East</i>) (Lab) | Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| Crawley, Angela (<i>Lanark and Hamilton East</i>) (SNP) | † Smith, Mr Andrew (<i>Oxford East</i>) (Lab) |
| † Doyle-Price, Jackie (<i>Thurrock</i>) (Con) | † Stephens, Chris (<i>Glasgow South West</i>) (SNP) |
| † Drummond, Mrs Flick (<i>Portsmouth South</i>) (Con) | † Vara, Mr Shailesh (<i>Parliamentary Under-Secretary of State for Justice</i>) |
| † Hayman, Sue (<i>Workington</i>) (Lab) | † Wood, Mike (<i>Dudley South</i>) (Con) |
| † Jenrick, Robert (<i>Newark</i>) (Con) | Gail Bartlett, <i>Committee Clerk</i> |
| † Mann, John (<i>Bassetlaw</i>) (Lab) | † attended the Committee |
| † Milling, Amanda (<i>Cannock Chase</i>) (Con) | |
| † Parish, Neil (<i>Tiverton and Honiton</i>) (Con) | |

Sixth Delegated Legislation Committee

Thursday 7 July 2016

[MR DAVID NUTTALL *in the Chair*]

Draft Civil Proceedings, First-tier Tribunal, Upper Tribunal and Employment Tribunals Fees (Amendment) Order 2016

11.30 am

The Parliamentary Under-Secretary of State for Justice (Mr Shailesh Vara): I beg to move,

That the Committee has considered the draft Civil Proceedings, First-tier Tribunal, Upper Tribunal and Employment Tribunals Fees (Amendment) Order 2016.

May I say what a pleasure it is to serve under your chairmanship this morning, Mr Nuttall? The purpose of the draft order is to make changes to the fees payable in proceedings in the civil courts and tribunals. Specifically, the order will uplift a number of fees charged in the civil and magistrates courts by 10%.

Mr Andrew Smith (Oxford East) (Lab): The Minister says that the fees are being increased by 10%. How does he justify such a large increase over and above inflation? Does that not put at risk the process of, and access to, justice?

Mr Vara: The right hon. Gentleman asks a good question, but he will be aware that running the courts and tribunals system costs a lot of money. Given the economic difficulties that the country is in, we have found it necessary to impose fees that will contribute towards the cost of keeping Her Majesty's Courts and Tribunals Service operating.

As I was saying, the order will uplift a number of fees charged in the civil and magistrates courts by 10%. That will include all the fees that are currently at full cost recovery levels including, for example, the fees for judicial review proceedings, but the uplift will not apply to fees in civil proceedings that are already set above cost. The uplift will also apply to judicial review proceedings heard in the immigration and asylum chamber of the upper tribunal to ensure that the fees in judicial review proceedings are consistent across jurisdictions.

The order also introduces a new, consistent fee-charging approach across the property chamber of the first-tier tribunal. The current structure that operates in the tribunal is complex and inconsistent, with a range of different fees charged for some application types and no fees charged for others. Our changes will simplify and standardise the approach, reducing the burden on the general taxpayer by raising the overall recovery rate in the tribunal from about 4% to about 10% and sharing that burden more equally between all those who use the tribunal.

As we announced in our consultation response last December, the target is to recover about 25% of cost from fees in the property chamber. Achieving that aim will require us to revisit our specific proposals relating

to leasehold enfranchisement cases, and we will make an announcement on our plans for fees in those proceedings in due course.

Finally, the order will change the default classification of two new appeal rights that have been created in the employment tribunals from a type B claim, which attracts the higher fee, to a type A claim, for which the fee is lower. The normal rule is that when those who use a public service are charged a fee to access them, the fee should be set at a level designed to cover the full costs of the service. The civil and family courts have operated on that basis for a number of years.

Section 180 of the Anti-social Behaviour, Crime and Policing Act 2014 provides the Lord Chancellor with the power to prescribe fees above cost, but requires that those fees are used to

“finance an efficient and effective system of courts and tribunals”.

That power was used for the first time in March last year to increase the fees for money claims, and again earlier this year to increase the fees for possession claims, general applications in civil proceedings and applications for a divorce or dissolution of a civil partnership. The power will be exercised again in this order to increase the fees in a range of civil proceedings by 10%, which will take those fees above cost recovery levels.

The fee changes that affect the property chamber of the first-tier tribunal and employment tribunals will be made under section 42 of the Tribunals, Courts and Enforcement Act 2007, given that even after these changes, the fees will remain well below cost recovery levels.

The case for revisiting the fees that we charge in courts and tribunals is based firmly on the need to ensure that Her Majesty's Courts and Tribunals Service is properly funded to protect the vital principle of access to justice.

Chris Stephens (Glasgow South West) (SNP): Can the Minister confirm that the fees recovered in the last year were about 12.5% of Ministry of Justice income?

Mr Vara: I am not familiar with the precise figure and I am keen to ensure that the hon. Gentleman gets it, so I am happy to write to him with the details of whether the figure is 12.5% or more or less than that.

A fully functioning and properly funded justice system is the cornerstone of our democratic society. It should provide everyone with the ability to redress their problems in an efficient and effective forum, and it should also underpin our economy. The Government have committed to an historic, once-in-a-generation investment of more than £700 million to transform our courts and tribunals system. The scale of that investment and the ambition of our reform plan will enable us to build a justice system that is simpler, swifter and more efficient, using modern technology.

In a tough financial climate, there is only so much that can be delivered through spending cuts and efficiencies. That is why we have had to look again at the balance between what users pay towards the overall cost of court and tribunal services and the financial burden that falls on the taxpayer. We estimate that the measures set out in the order will generate about £6 million per annum in additional income, with every pound collected being spent on providing our system of courts and tribunals. I recognise that no one will ever welcome an

increase in fees, but I hope that right hon. and hon. Members will recognise that increases are required so that we can ensure that the courts and tribunals are properly funded and access to justice is protected.

May I take this opportunity to congratulate the hon. Member for Leeds East on his appointment as shadow Lord Chancellor and Secretary of State for Justice? I look forward to having debates with him on many occasions, and I hope that the debates will be constructive for the benefit of all those who need access to justice.

11.37 am

Richard Burgon (Leeds East) (Lab): It is a pleasure to serve under your chairmanship, Mr Nuttall. I thank the Minister for his kind remarks, and I look forward to having many a constructive conversation and debate with him and his colleagues.

This is our second opportunity this week to debate court and tribunal fees, following the debate on Monday in the Chamber, during which we had the opportunity to discuss the Select Committee on Justice's recent report on the issue. Hon. Members will recall that although it was an estimates vote on Monday night, Labour decided to treat it as a vote on tribunal fees in order to make clear our opposition to the Government's policy on employment tribunal fees, so strong is our belief that they are a barrier to justice. Today we have an opportunity to make another clear statement on barriers to access to justice, as we discuss the proposed increases in court and tribunal fees set out in the order.

On Monday, I made it clear that I see it as my priority in my new role as shadow Justice Secretary to speak up for all those whose access to justice has been deliberately obstructed by this Government and the coalition Government who preceded them. We will assess the order on two grounds: affordability in providing access to justice and the Government's evidence base for the proposals.

In principle, we can be in no doubt whatever that civil litigation fees discourage claims, particularly from those least well placed to afford them, such as people in receipt of benefits, whether unemployed or on low pay, women, black or minority ethnic individuals, the disabled and those seeking asylum. The introduction of fees in employment tribunals has coincided with an enormous fall of 70% or thereabouts in claims being brought, particularly those relating to sex discrimination, pregnancy or maternity rights, race discrimination and disability discrimination.

Chris Stephens: Is the shadow Secretary of State aware that there has also been a 70% drop in workers pursuing claims for non-payment of the national minimum wage?

Richard Burgon: The hon. Gentleman makes an important and alarming point. The reason for the drop in claims, whether those for enforcement of the national minimum wage or the other claims that I have outlined, is not that bad employment practices have suddenly become much rarer since the introduction of employment tribunal fees; it is that the fees are deterring people from making claims. That is not good for anybody, because employment tribunals deter bad employers from following bad practices and even protect employees who would never dream of making a claim themselves.

Today, the Government are proposing a 10% increase in civil litigation fees across the board. When did anyone who has to pay those fees have a 10% pay rise? I know from my previous brief as shadow City Minister that there are some people who might expect a 10% pay rise, but which council worker, health worker or factory worker—which of our constituents—last received a 10% pay increase? We need to be clear: this inflation-busting increase will lift access to justice further out of the reach of ordinary people on ordinary pay who receive ordinary pay awards. My right hon. Friend the Member for Oxford East put that point well in his intervention.

Today's debate is also about the principle of court fees and how the legal system is increasingly used, in the words of the Law Society, as "a profit centre". On Monday, I highlighted in the Chamber how concerned I was that litigants are increasingly treated as customers. As I said, I remember the first time, as an employment lawyer, I assisted a claimant to make a claim following the introduction of employment tribunal fees. I was sickened to see the following words on the Employment Tribunals Service website: "Customer, please enter your credit card details". I was shocked and saddened to see that we are not treating people as citizens trying to assert their statutory rights; we are increasingly seeing them as consumers or customers. That shows the wrong priorities on the Government's part.

We also need to be clear that the fee remission system in employment tribunals often requires people to provide a humiliating level of detail. I remember receiving remission forms requiring bank statements, and on one claimant's remission form the Employment Tribunals Service had highlighted the fact that in December they had received a bank transfer of £12 from a relative. They were asked to explain what that £12 was for and why it was sent to them. If I remember correctly, it was money relating to a Christmas present, but that is the kind of intrusion that people are subjected to. It is almost as though the service did not want people to apply for fee remissions. Of those who do apply, only about 3.7% get any joy.

So why are the Government doing this? On Monday we discussed employment tribunal fees, which contribute something like £7 million of the £70 million-plus that it costs to run the Employment Tribunals Service. Today we are discussing a measure that the Government's impact assessment says will bring in £5.9 million, but which will see fees leap up in a way that will make individuals think twice before applying. Some of those increases are as follows. A request to reconsider at a hearing a decision on permission in the immigration and asylum chamber will increase from £350 to £385; the High Court fee will increase from £480 to £528; and the fee for a contested hearing in the magistrates court will increase from £515 to £567. In the civil court, the fee for permission to proceed with a judicial review will increase from £700 to £770. Those increases are simply unfair and will deny access to justice.

The Government are clearly concerned enough by the fall in applications to employment tribunals that they have agreed, correctly, to initiate a review of the impact of employment tribunal fees. They are yet to produce or publish that report, five months after it was given to the Minister. Now they wish to push ahead with increasing civil litigation fees in a number of areas—including the property chamber, the immigration and asylum chamber and others—without publishing

[Richard Burgon]

their review of employment tribunal fees or carrying out a further review of the affordability of civil court fees and the fee remission system. Such a review should take place, and it is not just those on the Labour Benches saying that. A number of stakeholders advocated that approach in response to the Government's consultation. I am sad to say that the Government do not seem to be listening to those stakeholders.

The Government conducted a consultation on the increases in court and tribunal fees, following which they concluded that they still wished to impose a general 10% increase in civil litigation fees. That decision flies in the face of the submitted evidence. I would argue that the key question in that consultation was the one that asked:

"Do you agree with the proposal to uplift all civil fees not affected by one of the other specific proposals by 10%?"

The Government's response noted that of 82 responses to that question, four agreed and 78 disagreed, and stated:

"Those who disagreed raised a number of opposing arguments," including that

"it would deter people from bringing claims" and

"prevent people from accessing justice".

There were 46 responses to the question:

"Do you agree with Government's proposal to increase the fees charged for proceedings in the First-tier Tribunal (Immigration and Asylum Chamber)?"

Some 37 of those responses disagreed with that proposal, saying that

"people seeking asylum in many cases were vulnerable and would be unable to afford the fees",

and that

"the fees would prevent access to justice".

The Justice Committee report, the words of which should weigh heavily on Members from all parts of the House, highlighted considerable concern at the Government's proposals to set immigration fees at a cost recovery level.

I wish to highlight some of the arguments that the Law Society set out in opposition to the increase in fees in its submissions to the Government consultation and the Select Committee inquiry. I will quote the Law Society at some length, because it is worth listening to. It said:

"It is wrong in principle for the court service to be treated as a profit centre—the courts have a vital social function which it is for the State to provide, and should not be treated as a commercial activity to subsidise other work... The Government's decision will discourage people from bringing legitimate cases, thus reducing access to justice... The proposals are not supported by any evidence or concrete proposals to indicate how the Government will use the money gained to improve the court service ... The research on which the decision was based is inadequate."

The submission says that there is limited evidence of the impact on the poor in society, particularly in the immigration field.

The submission continues to say that

"fee increases will shift the burden of responsibility and costs onto innocent parties, deterring individuals from seeking redress and creating another barrier to access to justice... The income level at which fee remissions is available is far too low to be of any

assistance to the majority of individuals—it is below the threshold for eligibility for civil legal aid... Increased fees could lead to the prospect of clients having to take out loans to fund court fees. This will only serve to create a further barrier to justice as many clients will not want to take out a loan or will not meet banks' lending criteria. Those who do take out loans will have to pay interest... The process of applying for the remission of court fees is also highly complicated, designed seemingly to deter ordinary people from applying and in urgent need of simplification."

I apologise for quoting at such length, but it is important that the Law Society's comments are heard, heeded and put on record. They are damning words from a respected body of professionals who keep our legal system running.

I will also take a moment to highlight the concerns of the Immigration Law Practitioners Association. It highlighted the fact that the Immigration Act 2014 dramatically reduced rights of appeal in immigration and asylum cases. It said to me that in many cases, access to judicial review

"will provide the only remedy to challenge the certification of a case as one in which the appeal may be conducted from outside the UK without leading to a breach of human rights including serious and irreversible harm".

It said that access to judicial review

"will therefore be an essential safeguard against poor quality decision-making in this context and the risk of removal leading to breaches of human rights breaches."

It concluded that in many cases, applicants

"will be facing imminent removal. Finding the funds to pay court fees or completing complicated applications for remission of the fees"

is complicated by the urgency of their cases. It also blames the Home Office for creating those court costs through

"poor decisions with (high overturn rates on appeal), to create delays in immigration proceedings and to fail consistently and timeously to give effect to the decisions of the courts."

On the back of those concerns, we also have the latest proposal to increase immigration and asylum chamber fees, but I will leave that point there.

The one positive item in the order is the proposal to reclassify posted workers' claims against employers in the employment tribunal as type A rather than type B claims, meaning that a lower fee will be payable. But one swallow does not make a summer, and in any event we remain committed to the abolition of employment tribunal fees under a Labour Government.

The Law Society has advised me that

"in light of the damning report from the Justice Select Committee on the impact of fee increases, the Law Society believes that any further increases should not be implemented until at the very least the MoJ has responded to that report, and preferably until a proper review has been carried out of the impact."

I agree. I therefore ask the Minister the following. Will he listen to stakeholders from across the legal profession and conduct a review of the impact of civil litigation fees? Since it is three days since our last debate, is there any news on when he will publish the review of employment tribunal fees?

Given the evidence that court fees are a barrier to justice and given that the Government have refused to conduct or publish sufficient reviews of the impact of court fees, I confirm that we will divide the Committee to demonstrate the Opposition's commitment to access

to justice and to oppose the across-the-board, inflation-busting increase of 10% that my right hon. Friend the Member for Oxford East so eloquently described.

11.54 am

Chris Stephens: It is a pleasure, as always, to serve under your chairmanship, Mr Nuttall. I welcome the hon. Member for Leeds East and congratulate him on his new role and responsibilities.

At a time when maternity discrimination and the number of workers being made redundant are on the increase and, according to the National Audit Office, 209,000 workers were not paid the minimum wage last year and a further 56,000 are awaiting payment of national minimum wage arrears, an above-inflation increase will price low-paid workers out of justice. That is exactly what has taken place since employment tribunal fees were introduced.

The Trades Union Congress report “At what price justice?” shows that the introduction of fees in July 2013 has led to a 79% fall in the overall number of claims being taken to employment tribunals. Women are already the biggest losers: there has been an 80% fall in the number of women pursuing sex discrimination cases. Just 1,222 women made such claims between January and March 2014, compared with 6,017 in the same period in 2013. In addition, race discrimination and sexual orientation claims both fell by 60% in that timeframe, and there was a 46% year-on-year reduction in disability claims.

The TUC also argues that workers are being cheated out of wages. There has been a 70% drop in the number of workers pursuing claims for non-payment of the national minimum wage, and in many cases claims for unpaid wages are lower than the fees themselves. That is another barrier to workers pursuing justice. Working time directive claims are down 78%; unfair dismissal claims are down 72%; equal pay claims are down 58%; breach of contract claims are down 75%; and as I said earlier, sex discrimination claims are down 68%.

I think I misspoke slightly when I asked the Minister about the Ministry of Justice accounts. I understand from a Unison report that the introduction of fees has contributed a net 12.5% gain in revenue: income from fees is £9 million, compared with the Employment Tribunals Service’s total budget of £71.4 million.

On tribunal fees, as has been said, the order adds claims under the new Posted Workers (Enforcement of Employment Rights) Regulations 2016, but there is evidence in the Justice Committee’s recent report on access to employment tribunals that there has been a drop in access to justice in that regard. The Committee agreed with that evidence. The fact that there is sometimes no automatic financial award for successful tribunal claims also does not seem to have been taken into account. Some claims that are lodged—for example, those relating to written pay statements and written statements of reasons for dismissal—do not attract such a monetary award.

Statutory employment rights exist to ensure minimum standards of treatment in the workplace. Rights such as the minimum wage, paid annual leave and paid time off for maternity, paternity or parental reasons, and the rights not to be discriminated against or unfairly dismissed, are important and have social and economic benefits. If

observed, they help to ensure decent standards of living, stability of income, job security and equality of opportunity. They can also contribute to the creation of a committed and engaged workforce, help to reduce sickness absence and support the retention of skilled workers—all things that boost productivity.

We are also concerned about the proposed increase in fees for the immigration and asylum chamber. As the hon. Member for Leeds East pointed out, the Immigration Law Practitioners Association has consistently argued that there should be a “polluter pays” approach, and in its view, the Home Office

“continues to make poor decisions (with high overturn rates on appeal), to create delays in immigration proceedings and to fail consistently and timeously to give effect to the decisions of the courts. If the Home Office were to bear the costs of these myriad failings, not only would court costs (and legal aid payments) be reduced but there would be a strong incentive for immigration and asylum decision-making to improve, and thus for savings in all cases.”

The cases that we are talking about are challenges to the lawfulness of detention; challenges to the validity of legislation, including incompatibility with the Human Rights Act; and challenges relating to the inclusion of sponsors on the register of sponsors for the points-based system and to nationality law and citizenship.

The Scottish Government will be removing employment tribunal fees in Scotland. I agree with that, and the trade union movement, the citizens advice service and many other organisations share that view. It is our view that the order will have an impact on the most vulnerable in our society and therefore does not deserve our support.

11.59 am

John Mann (Bassetlaw) (Lab): We all know who is behind this order: a Chancellor of the Exchequer who is totally discredited. All his proposals should be taken off the table now. He has failed to introduce his promised emergency Budget that he said was necessary, and now he is punishing the most vulnerable people in society, probably because of the way that they voted in the referendum.

I am no lawyer, but I take employment tribunal cases for constituents like Alan Hardwick, who has spent 15 years working for the same employer. He gets locked out and then finds that some new agency workers who happen to be new migrant workers in the country are taking his job. They are there the next day, being paid a lot less, and he has to go to a tribunal to try to get anything out of it. The law is already far too weak for people like Mr Alan Hardwick.

Or there is Michaela Lake, who is 16 years old. She and her colleague are in their first ever job, working in a hairdresser’s. They work for four weeks and do not get paid. The owner disappears, and they have still never been paid. I track him down on a Tory website, because he is a Tory donor and activist in Gosport, but what can Michaela and her colleague do? How can they pay the fees? Michaela Lake had not been paid; that was why she was going to a tribunal. Not a penny was paid in her first job—welcome to flexible labour market Britain. Welcome to fairness Britain. And some people wonder why there is a bit of a people’s rebellion going on at the moment. Why should she have to pay anything? Why should she have to pay more to go to a tribunal?

[John Mann]

What about John Anderton, a driver with Eddie Stobart, or Brian Jackson, or 50 others who were slung out as the company was restructured? Every one of them has to pay a fee to go to tribunal to get the money they are owed, never mind compensation or the redundancy they have not been given. They have to pay a fee to get their holiday pay and their wages from the last week they worked. Stobart is not a tiny little employer like that Tory from Gosport, but employers like that still do the same thing. The balance of power is wrong.

The law is too weak, yet Parliament chooses not to listen to what is going on out there and not to get a glimmer of inspiration from the people. Many of them have never voted before, but they are now participating in politics in this country, and look at how they voted. Brian Jackson had a big poster up when I went past his house in Langold village, which voted 85% in a certain direction.

Tory Members voted in different ways, so I am just appealing to those of them who want to remain in contact with the wider public. I say to them, vote with your conscience. Here is an opportunity to knock back the Chancellor of the Exchequer, who hits the wrong people in the wrong way. Let us make a little mark by standing up for the little man, the little woman and the 16-year-old who has not been paid. Let us stand up for people's rights and for empowerment, because that is what this is about.

Of course the money matters, but this is about empowerment and what we say to people about how they are being forced to pay, and then pay more, for their basic human rights. There are people who work at 16 years old and do not get paid at all. What kind of country are we living in where it is not automatic that their employer should be jailed, never mind taken to a tribunal? That 16-year-old should be paid to go to a tribunal, never mind having to pay fees to go to it. That goes for Alan Hardwick too, and for Brian Jackson, John Anderton and many more of my constituents. Those are just the ones I have represented in tribunals. Sometimes nobody bothers turning up, or sometimes there are fancy lawyers there who are paid lots of money to defend the indefensible, minimise the situation, talk about the technicalities of how the forms are filled in and grab back the money that is due to decent people from my constituency. That is why this is so important.

I see that heads are down on the Conservative Benches, but I want to look into the eyes of the Tories who want to stay in touch with the world. There could be an election coming up; they have to be careful. My advice is to listen to what the people are saying and, on this occasion, vote with the Opposition parties.

12.5 pm

Mr Vara: I start by thanking the hon. Members for Leeds East, for Glasgow South West and for Bassetlaw for their contributions. Much of what was said is not relevant to the debate, because the order is about the narrow confines of the order, but I will take a moment or two to reply to some points that have been raised, for the sake of balance in *Hansard*.

On the need for fees, which the shadow Lord Chancellor raised, I reiterate that we live in difficult times and it is necessary to take measures to deal with the economic and financial climate in which we are living. The total cost of the courts and tribunals system in 2014-15 was £1.8 billion and the fee income was £700 million, leaving a net cost to the taxpayer of about £1.1 billion. I hear loud and clear the criticisms that have been made about fees, but there is a deafening silence on Opposition Members' alternative for getting the money to meet the £1.1 billion shortfall. I suppose that the luxury of opposition is the ability to make grand promises and be critical without having to take the tough decisions that government requires.

Chris Stephens: The Minister would surely concede that the Scottish Government have taken a more enlightened approach, and have indicated that they will abolish employment tribunal fees. At least one part of the United Kingdom is taking a different approach, and the Scottish Government will find that in their budget.

Mr Vara: The hon. Gentleman is right that the Scottish Government have taken a different approach. However, there has been a distinct lack of any mention of where they will get the money from. From which other budget will they take it? Until that response is given, the promise of scrapping one set of fees is somewhat hollow, commendable though it is. There is an element of balancing budgets here.

It is not unreasonable to charge people who use the courts and tribunals system so that they make a contribution for that use. The order is not about profit—it is simply wrong to say that it is. In fact, it shows a complete lack of understanding of how the courts and tribunals system operates. It is abundantly clear that the fees will be used to help run the courts and tribunals system and will go towards the additional £700 million that the Chancellor has made available to ensure that we have a 21st-century, first-class courts system that is the envy of the world. There is simply not a bottomless pit of money, and we must remember that we are talking about taxpayers' money.

The issue of employment tribunal fees is not relevant to this debate, but I will briefly make one or two comments to rebut some points that have been made. As the hon. Member for Glasgow South West said, the latest figure for the cost of employment tribunals was £71 million a year. It is therefore not unreasonable that the public should contribute towards the use of those tribunals. What has not been taken note of, however, is that some 83,000 people have used the ACAS early conciliation scheme, which is free.

It is ironic that some Members here claim to represent the public, given what they have said today. Indeed, the hon. Member for Bassetlaw said that we are not in touch with the public. He is the one who is not in touch with the public, because he is seeking to scrap fees. We are instead encouraging people to use a system that is absolutely free, with no lawyers' fees, no court fees—no anything. We have the irony that these people are standing up and advocating a system of people going to employment tribunals, which would necessitate cost.

John Mann: Irony? The irony is that people are required to go to ACAS. Does the Minister think that in the cases that I take, we do not go to ACAS? The employers, like that Gosport Tory, refuse to answer the phone calls

and letters from ACAS. Of course we go through ACAS. These bad employers do not settle in ACAS. I do not suggest that the taxpayer should be funding the service—of course the taxpayer should not be funding it. There should instead be proper fines for employers that break the law. That is how the tribunal system ought to operate, and that—enforcing and strengthening the law—would be easy to do.

Mr Vara: The hon. Gentleman said that he was not a lawyer, but he does not have to be a lawyer to know that people who go to employment tribunals and win are entitled to have their costs repaid, including the cost of the fee.

Chris Stephens: As the hon. Member for Bassetlaw indicated, settlement in ACAS relies on the employer also joining ACAS and playing ball. In many cases, rogue employers do not play ball. ACAS is one route, but that relies on the employer going to ACAS and joining the discussion, which does not happen often enough.

Mr Vara: I repeat to the hon. Gentleman that where it is necessary for cases to go to the tribunal, people can recover their costs if they win.

Richard Burgon: On the subject of lawyers, which my hon. Friend the Member for Bassetlaw mentioned, I have been thinking about what the Minister said earlier. He said that to say that fees were about treating courts as a profit centre showed—I think these were his words, as *Hansard* will show—“a complete misunderstanding” of the court system. If I remember correctly, the quote to which he was responding was from the Law Society. Is he saying that the Law Society has a complete misunderstanding of the court system?

Mr Vara: There are various stakeholders involved in this debate and there are a variety of views. I disagree with the views that have been put forward, and that

is why these fees are being introduced. I simply say as far as fees are concerned—this applies to employment tribunal fees as well as all the other fees that are relevant to the order—that a remission process exists. Subject to meeting the right criteria, people can apply for remission of the fees.

The Government estimate that the measures in the order will generate about £6 million per annum in additional income, with every pound that is collected being spent on providing an efficient and effective courts and tribunals system. The purpose of these reforms is to increase fee income and so reduce the costs of the courts to the taxpayer, and to ensure that access to justice and to the Courts and Tribunals Service is protected. I commend the draft order to the Committee.

Question put.

The Committee divided: Ayes 9, Noes 5.

Division No. 1]

AYES

| | |
|---------------------|-------------------|
| Aldous, Peter | Milling, Amanda |
| Bridgen, Andrew | Parish, Neil |
| Doyle-Price, Jackie | Vara, Mr Shailesh |
| Drummond, Mrs Flick | Wood, Mike |
| Jenrick, Robert | |

NOES

| | |
|-----------------|---------------------|
| Burgon, Richard | Smith, rh Mr Andrew |
| Hayman, Sue | |
| Mann, John | Stephens, Chris |

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Civil Proceedings, First-tier Tribunal, Upper Tribunal and Employment Tribunals Fees (Amendment) Order 2016.

12.15 pm

Committee rose.

