



### **NUJ briefing to the DCMS session on pay at the BBC on Wednesday 31 January**

1. Publication of the list of on-air staff earning more than £150,000 last summer put the spotlight of the problem of equal pay at the BBC. Of the list only one third were women, and of the 96 named only 10 were from black or minority backgrounds.
2. For many NUJ members at the corporation this came as confirmation of something that they had suspected for many years – that women were being paid less than male colleagues doing the same or similar roles, or jobs of equal value.
3. An NUJ survey of our women members, carried out to inform the union's submission to the Lords Communications Committee inquiry into women in broadcasting (in 2015, and a further survey carried out in 2017) highlighted existing concerns regarding pay parity amongst the corporation's workforce. This flies in the face of the Equality Act 2010 which gives women - and men - a right to equal pay.
4. It is regrettable that it took the forced publication of a list of high-earners and the resultant outrage amongst staff and licence fee payers to start to get action on a longstanding problem of the BBC's own making.
5. It is important to note that the BBC is not a solitary offender – the scourge of unequal pay is a problem in all parts of the media sector and broader creative industries. The NUJ is currently working with members in a number of different workplaces to gather data and set about dismantling unlawful pay disparities that have no place in 21<sup>st</sup> century organisations. However the NUJ also believes that the BBC, as our public service broadcaster, has a particular responsibility to ensure the values that it is supposed to embody are put into practice in the way in which it treats and remunerates its staff.
6. The NUJ has called the BBC's attitude to such inequalities as one of 'wilful blindness' and for a long time the BBC did little to remedy its opaque and inconsistent approach to pay.
7. As one of the joint unions the NUJ is engaged in collective bargaining in the graded areas of staff at the BBC. There has been no union recognition agreement for the many presenters and on-air staff who were outside of these grades, with many working on a range of contracts.
8. Unnecessary secrecy, a lack of transparency and widespread misuse of managerial discretion has

enabled a culture which has clearly normalised an approach to pay that the NUJ believes to be discriminatory and unlawful. The NUJ has also complained of so-called "cappuccino appointments", especially in BBC News, where staff were taken on with none of the usual appointment procedures, seemingly at the whim of individual managers.

9. In December the NUJ lodged a collective grievance to the BBC on behalf of 121 members – several more have since joined the grievance, which also includes complaints of related discriminatory practices, such as unlawful pay disparities on grounds of race, discrimination against women returning to work after periods of maternity leave, and discrimination against part-time workers and/or those who request flexible working. The union has agreed a process with the BBC to investigate the cases. The NUJ is also representing a number of other women in individual grievances, all at differing stages of the process. It is important to note that these are women working in all parts of the BBC in a wide range of journalistic and on a broad range of salaries – in the graded areas and in the on-air cohort. This is a much bigger problem than a small number of cases at the higher end of the pay scale.

10. An important factor in the fostering of this problem has been the BBC's broader approach to pay. A significant frustration for the NUJ and its members over many years has been the two-faced attitude to remuneration. In the same negotiations, BBC management describe public sector pay constraint and austerity as justification for pay stagnation for the vast majority of staff, whilst citing market forces and claiming senior executives working at the BBC do so on a significant discount to their commercial comparators.

11. The NUJ believes that, particularly in light of the last two licence fee settlements which have severely constrained the BBC's finances and caused damaging cuts to budgets for journalism and programming, that a more radical restructure is necessary that approaches pay through a genuinely public sector prism. We do not believe that market forces are a justification for excessively high levels of executive or talent pay nor is such an approach sustainable.

12. Worse than the routine secrecy over pay, is the fact that many NUJ members were deliberately misled by BBC management over their salary levels, in some cases despite explicitly querying whether they were being paid equally to male comparators. In numerous cases, women were given assurances that their earnings were on a level pegging with men doing work of equal value, colleagues carrying out a commensurate role or even presenters they were sharing the same sofa with. In her TUC blog, Michelle Stanistreet said: "In the months since, I have lost count of the women journalists who say they have been lied to, misled and let down by the organisation they have committed their careers to." The lack of transparency has been compounded by the system of pay scales, which mask whether more men than women were at the top of the band/grade and there continues to be a lack of clarity about how staff progress within their band/grade. For the past 16 months the joint unions have been in negotiations with the BBC over its proposals to change terms and conditions, and the NUJ believes it is important that in future much greater transparency is achieved with individuals not just knowing what their own salary is within a pay band, but that they can see how they compare with others and can see the salary ranges for other roles that they may progress into in the corporation.

13. There are also issues that add to pay inequity within the organisation. The NUJ has long campaigned about discriminatory pay in the World Service, and welcomed last year's pay review for

off-air staff which acknowledged that salaries were not commensurate with other parts of the BBC, and included pay rises in a number of job categories. The cases of presenters and correspondents now need to be addressed, and ensure that roles within all the language services are rewarded fairly.

14. The casualisation of work has also played an important role with a grossly unfair approach to the way in which contracts have been offered and negotiated. As part of a BBC-led move to make presenters work on a freelance basis via a personal service company, it is very concerning that many women were pressured into leaving staff jobs, and told that otherwise presenting work would be withheld from them. Many presenters were told in writing that future offers of work would be contingent on them operating as a freelance, through a personal service company. Yet at the same time, it is clearly the case that many male presenters were allowed to continue on staff contracts and associated benefits. A large number of women currently pursuing complaints over equal pay have not only been earning significantly less than male comparators in terms of their salary, they have also been on inferior contracts - denied sick pay, holiday pay, access to pension, maternity leave and pay. Some have had to take out their own costly insurances to cover themselves on deployments in hostile environments abroad.

15. The treatment of freelances over contract renewals is also a major source of concern. Many women have been subjected to undue pressure to sign up to contracts despite being unhappy with the terms on offer, and told that their presenting work will be cut or end if they don't agree. Routinely letting contracts expire before meaningfully negotiating the next, has also meant that those discussions are taking place in the context of real uncertainty and consequential stress and anxiety for the individuals concerned. There have also been cases where payments have been withheld as a tactic to pressure individuals to sign contracts, or presenting shifts reduced. All of this is wholly inappropriate behaviour for any organisation, least of all a public body. The use of "creative refresh" clauses has also added to this anxiety – the knowledge that the BBC could end your work if it deems your face no longer fits make it hard for individuals to put their head above the parapet. In ongoing consultation as part of the On Air Talent, the joint unions have secured agreement from the BBC that such clauses will no longer be used.

16. The strength of feeling amongst those affected is running very high – it is also an important collective issue for the NUJ's elected representatives throughout the BBC. In a recent edition of the union's publication, NUJ Informed, Samira Ahmed, an experienced BBC journalist and presenter of the Radio 4 arts programme Front Row, said: "I can only describe the feeling of being kept on much lower pay than male colleagues doing the same job for years as feeling as though bosses had naked pictures of you in their office and laughed every time they saw you. It is the humiliation and shame of feeling that they regarded you as second class, because that is what the pay gap means." <https://www.nuj.org.uk/documents/nuj-informed-november-2017/>

17. The NUJ has also challenged the BBC's pay audit and review, overseen by Sir Patrick Elias, a former Court of Appeal judge and conducted by consultancy firm Price Waterhouse Cooper (PwC) and legal firm Eversheds, as a flawed document. The report revealed a 9.3 per cent median gender pay gap and a 10.7 per cent mean pay gap and concluded that within this group of employees (broadly speaking those who are not senior managers, on air editors, presenters or correspondents), there was "no systemic discrimination against women" in its pay arrangements.

18. An analysis of the review carried out for the NUJ found the results were vague, did not include data on the average basic pay and total average pay for women and men in each equal work group and excluded a large number of job categories for the purposes of analysing data on equal pay.

19. The corporation's review was carried out in a very short space of time, a matter of several weeks, in which pay-data relating to 18,000 employees was analysed, and evaluations made of pay differences relating to 600 employees – it is hard to believe that sufficient detail was paid in order to be able to conclude that in 91 per cent of those cases the explanation for the pay differential was genuinely due to a material factor that was not the difference of sex.

20. The review did disclose that by looking at both base salary and allowances in mean or median terms within the corporation's grading system, there is a pay gap in favour of men from grade 5 and above and by looking at base salary only in mean or median terms, there is a pay gap in favour of men in all grades above grade 7.

21. The Elias review did acknowledge that senior and higher-paid roles are likely to be the roles where there is greater discretion over pay. At lower levels, there is likely to be less management discretion over pay. It is the NUJ's legal advice, therefore, that the results of the report are strongly indicative of a discriminatory pay culture.

22. It was also particularly concerning that the audit excluded the On-Air population of staff, given that there were obvious issues in this group that the high-earners list had revealed.

23. The NUJ has been actively engaged in a consultation process with the BBC and joint unions over the ongoing Review of the On Air Talent group. Our priority is to achieve greater transparency, a clear framework that covers all roles and genuine collective bargaining that covers all staff and freelancers. Significant work has been put in to addressing the issues that exist on contracts and on pay parity and as a result of the joint union's input we are hopeful that progress will be made on these important issues. The BBC have now agreed for this consultation to be opened up to all staff affected and in the coming weeks there will be opportunities for staff to participate.

24. A key challenge for the BBC now, in tackling equal pay, is how it resolves the cases of those women who have been demonstrably unfairly treated – losing pay and benefits over many years. An acknowledgement that mistakes have been made and a practical commitment to righting these past wrongs – not just implementing token pay rises – is a critical first step. All NUJ members are well aware of the BBC's role as a public service broadcaster, its financial constraints and limitations. No-one wants to be put in a position of having to take legal action against the employer that they, in many cases, have dedicated their careers to. The NUJ wants the BBC to engage in a constructive dialogue to resolve these cases properly, at the same time as working jointly to ensure a better, more transparent, process is put in place to ensure that equal pay becomes a reality at our public service broadcaster.

## **References**

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