

FIGHT FOR FAIR

Pay-off package among the worst

TERMS

AT MGN

MGN members voted strongly for industrial action on February 17 over the poor terms paid to 39 redundant colleagues. But, unfortunately, the ballot majority was not quite high enough for action to be authorised under BAJ rules. BAJ negotiators immediately called on the Company for fresh talks on improving the poor redundancy terms.

They urged the Company to respond to the depth of feeling shown in the ballot on the issue.

MGN's redundancy terms are the worst in Fleet Street other than among newcomers at The Independent.

The secret, postal ballot was organised by the official independent scrutineer, Electoral Reform Ballot Services.

In favour

Ballot papers were issued to 136 MGN members. The result was:

In favour of a strike: 49. Against 37. Total: 86.

In favour of action short of a strike: 67. Against 17. Invalid papers 2. Total: 86.

Under BAJ rule 15(d), the result must show at least a two-thirds majority and the majority must constitute a majority of those eligible to vote.

The vote for a strike did not reach either total in the rule. The vote for action short of a strike easily reached the two-thirds majority, but fell just two short of a majority of all MGN members.

It's puzzling that 50 MGN members did not vote despite numerous email reminders during the ballot period. BAJ officials are trying to find out why.

However, the 63% turn-out was extremely good, according to the Electoral Reform Ballot Services. An official said the usual participation in industrial-action ballots was between 40% and 60%.

BAJ's turn-out rule was put in place to deal with the situation which all

recognised unions face in most Fleet Street offices these days. The number of members in the recognised union is usually considerably less than the number of employees.

This is so at MGN. BAJ represents around 500 full and part-time journalists in the official BAJ bargaining unit on the Daily Mirror, Sunday Mirror and The People. However, the law says only BAJ's present 156 members can vote in any BAJ ballot for industrial action.

The BAJ rule on industrial action acknowledges that it would be morally wrong to take industrial action of any kind unless the majority of BAJ members at MGN voted overwhelmingly for the action.

BAJ has an agreement with MGN that issues of dispute will be settled peacefully by independent arbitration. However, it has refused to honour that agreement in regard to redundancy terms.

As MGN wouldn't budge an inch on improving the poor redundancy terms, BAJ had no alternative but to contemplate industrial action.

It remains to be seen how the dispute over MGN redundancy terms will be

settled. Another strike ballot is possible.

The present MGN terms are notice money plus two weeks' actual salary, subject to a minimum of four months' money and a maximum of 18 months' money.

The MGN Chapels' claim is for notice money plus three weeks' actual salary, subject to a minimum of five months' money and a maximum of 21 months' money (This will still leave MGN terms below most Fleet Street offices).

Double

At News International, for instance, the terms paid during recent redundancies were six months' notice money plus a month's salary for every year of service, subject to a maximum of 21 months' money. In many cases, double MGN's terms.

BAJ negotiators held nine meetings, lasting more than 20 hours, with Company reps during December and January over the redundancies and terms, but the Company hardly budged on anything.

Production of the Scottish Daily Mirror in Glasgow was ended with 19

redundancies. Another 20 colleagues were made redundant on the Daily Mirror, Sunday Mirror, The People and Magazines in London, Manchester and Belfast. Most were compulsory.

BAJ is taking legal advice as to whether it is possible to obtain a protective award in the employment tribunal for MGN's failure under the law to consult properly.

If the claim is made, many redundant colleagues could receive extra compensation, ranging from one week's pay to 13 weeks' pay.

BAJ is also likely to pursue litigation on behalf of several members who were unfairly selected for redundancy.

General Secretary Steve Turner said: "It's appalling that colleagues have lost their jobs and have received poor redundancy terms. It is also dreadful that a lot of extra work has been dumped on remaining journalists.

"Unfortunately, it seems MGN is determined to manage decline through cost-cutting rather than investing in journalists to achieve growth."

New legal team for BAJ

BAJ has a new legal team to handle litigation involving employment and freelance disputes for members.

They are five young barristers - Oliver Assersohn, Edith Coakley, Eleanor Davison, Naomi Ling, and Michael Uhermi at Outer Temple Chambers in London.

They replace our part-time solicitor Glyn Jones who has, sadly, left to take up a full time appointment with a law firm.

BAJ is paying the new team £20,000 a year, inclusive of VAT, to look after our employment and fees cases and to advise on legal issues day by day.



Oliver Assersohn

Please use the enclosed form to recruit a member

BOSSSES JUST WON

Your finances

BAJ's finances remained healthy throughout 2005, as the accounts below show. You'll see BAJ had income of £119,685 and expenditure of £112,751, leaving a surplus for the year of £6,934. The books are now being audited.

Our management accounts from January until December 31 are:

INCOME

Advance/arrears subs	5,322.00	Subs received	
Donations	5,245.00	January	8,820.25
Bank interest	211.52	February	8,812.75
Legal fees for compromise agreements	1,000.00	March	8,892.75
Recovered court charges	175.00	April	8,862.75
Recovered legal fees	340.00	May	8,748.00
Dividends	0.70	June	8,837.75
BT refund	136.25	July	8,895.25
Mobile phone refund	105.00	August	8,945.25
Inland Revenue online inducement	250.00	September	9,062.75
		October	8,927.75
		November	9,000.25
		December	9,095.25
		TOTAL	119,686.22

EXPENDITURE

Legal expenses/Helpline premium	17,359.68	Mobile telephone	438.85
Legal advisers retainers	19,980.25	Computer support	1,023.01
Legal advisers expenses	421.29	Equipment fund	40.98
Legal advisers insurance	1,504.70	Website	583.94
Legal adviser practising certificate	-95.00	Photocopying	297.58
Legal bills/court charges	5,243.61	Postage	731.67
Books, mainly legal	1,646.80	Stationery/printing	1,931.76
Tax Helpline	1,175.04	Audit fees	1,850.62
BAJ Press Cards	171.39	Bank and BACS charges	440.00
UK Press Cards	566.82	Office rent	4,338.72
Student Press Cards	15.58	Rates	1,347.75
Company search fees	240.26	Service charges	265.12
BAJ NEWS	2,972.38	Water rates	582.01
Conference	288.89	Building insurance	194.26
Bounty payments	350.00	Office insurance	604.05
MPA/LRD affiliation fees	300.00	Sundry expenses	1,443.57
Pay/NIC (S.Turner)	18,657.01		
Pay/NIC (D.Thomas)	17,817.38	TOTAL	112,751.38
Keyman insurance	439.32	TOTAL INCOME	119,686.22
Secretarial	2,172.88	TOTAL EXP	112,751.38
Bookkeeping	955.00	IN HAND	6,934.84
Telephones (4)	3,528.21	2004 surplus	10,816.00
Families (2)	640.00		

TOP media groups have given "two fingers up" to BAJ's Conference resolutions on improving freelance fees and provincial pay.

BAJ painstakingly sent the resolutions to all the big groups and asked them to implement them or meet BAJ officials for discussions. The response: Silence.

Despite the current downturn in advertising and pressures from the internet, the profits of most groups are still excellent. They could well afford to treat journalists generously.

But the inescapable conclusion from the brush off from the bosses is that they want to keep the money for City institutions, other shareholders and themselves.

The two conference resolutions are:

● Conference is concerned that freelance fees, which have been in decline for some time, have worsened dramatically in the past two years. As a result, many freelance members are having to work long

Silence and we

hours and miss holidays to scrape a living. Media companies seem not to realise how much time and effort freelancers put into preparing material for publication or broadcasting.

Freelance journalism seems to be the only sector of self-employment where the customer sets the price and claims the moral right to cut the price at will.

Freelancers are the lifeblood of the media and deserve much better treatment for their enterprise, flexibility, commitment and hard work. Conference therefore urges media employers to double their rates to allow freelancers to have a reasonable standard of living. ●

● Conference again deplores the fact that weekly provincial journalists continue to receive poverty wages despite most

HOLIDAY WIN BUYS

WHEN is a holiday not a holiday? That was the question. The answer is - when it's due from an independent TV production company, writes a BAJ member.

After finishing a long contract with a minor TV company, they refused to pay me any holiday pay even though I was employed by them exclusively for almost 40 weeks.

I ran a large project for them for several broadcasters, worked across bank holidays and weekends and did up to 18 hours a day.

To say I was unhappy was an understatement. I felt mistreated and used. To add insult to injury they accused me of disloyalty for asking for my legal requirement of holiday pay.

Over my contract period I had accrued, according to the working time regulations, a total of 18 days' leave. I duly invoiced the company for the sum before my contract ended giving them time for me to take my leave within the contract. They said I was too busy to take the leave and turned my

request down. So I went from an employee to a mo

As soon as the Turner at the BA Steve passed my quickly and effecti

my case. Initially, Glyn decided the best way to settle

A tribunal date w However, two w employer agreed t

less than I had orig Both Glyn and naming the new l for, after the BAJ former employer

LEGAL BRIEFING

PART-TIME Journalists have long struggled to assert their rights. A House of Lords' ruling should change all that. Barrister Naomi Ling explains:



Naomi Ling

A JUDGMENT* from the House of Lords two weeks ago paves the way for a much more 'broad-brush' approach to part-timers' contracts which will make it easier for them to enforce their rights.

A majority of the five Law Lords said that tribunals should consider only whether the work carried out by part-timers and full-timers was 'the same or broadly similar' rather than considering each and every difference between their roles and the practical impact on the terms and conditions of employment.

Since 2000, part-time workers have had the right not to be treated less favourably than full-time workers. The difficulty that part-time workers have had in seeking to enforce this right is finding a full-time worker with whom to compare themselves exactly. By the nature of their working hours, part-time workers often have

Law Lords make

different sorts of duties from full-timers. Employers sometimes seek to fill more senior roles with full-time workers and assign the more peripheral tasks to those who work only part of a week.

The House of Lords' judgment concerned thousands of part-time or retained firefighters in England and Wales. Their whole-time counterparts carry out ongoing compliance and community fire safety work, have more training, more stringent entry and probation standards and occupy more senior positions.

But the retained firefighters carry out all of the fundamental firefighting roles. More fire stations throughout the country are manned entirely by retained firefighters

than are manned entirely by whole-time firefighters.

The Law Lords have referred the case back to the employment tribunal which rejected the claim from the retained firefighters to be treated no less favourably than whole-time firefighters. The tribunal must now judge the case on the Law Lords' broad-brush approach.

To enforce a right not to be treated differently, a part-time worker has to show that he works under the same 'type contract' as his full-time counterpart. This means that if you are an apprentice or a fixed-term contract, you cannot compare yourself with a full-time staff employed with an open-ended contract. True casual workers also cannot compare themselves

'T ANSWER BACK!

Over fees weekly pay

employers enjoying good profits over the years. Weekly journalists are probably the lowest paid of all professional people.

Conference believes that the decline in provincial circulations is linked to the decline in the employment of well-paid senior journalists and the decline in properly staffed offices.

Conference asserts that weekly journalists are educated people, usually with a degree, who deserve to be much better paid for their contribution to society and company profits.

Conference, therefore, urges weekly provincial employers to implement the following minimum scale in everyone's interest: A starting rate of £15,000 for 21-year-old trainees, rising by £1,500 a year to a minimum senior rate of £28,500 at the age of 30. ●

BATHROOM

in weeks I had gone from being a valued v-grabbing pariah.

Company refused to pay I contacted Steve who said I almost certainly had a case. Iails on to BAJ lawyer Glyn Jones who y made contact with the company stating y refused to pay any of the money owed. an employment tribunal would be the e matter. Glyn also got ACAS involved. dly set.

s before we were due in court, my former ay up £4,000. The agreement was slightly ally invoiced for, but, nonetheless, a result. ve were fantastic. I am torn between throom suite, which the money will pay a celebration for their help or after my all the grief they gave me!

The freelance resolution was sent to: Express Newspapers, News International, Telegraph Group, The Independent, Mirror Group Newspapers, the Newspaper Publishers Association and the Periodical Publishers Association.

No-one deigned to discuss the issue of dwindling fees for freelances.

The resolution on provincial pay was sent to Newsquest, Northcliffe Newspapers, Trinity Mirror Regional, Johnston Press, Midlands News Association, Guardian Regionals, Archant and the Newspaper Society. The response: Another deafening silence.

In the case of both freelances and staff journalists, Management seems to think of only one thing: How cheap can we get you?

Greedy

Market forces are the maxim of the greedy classes. They have little concept of fair play. They are unmoved by the sight of journalists in threadbare clothes.

So let's retaliate. Freelances should demand more for every article. Livery exclusive should be exploited to the full. It's a truism: He/she who demands most, gets most.

Staff journalists should ask for a pay rise every time they have the front-page lead in their provincial paper.

They should ask for a pay rise whenever there are staff shortages through resignations or sickness. They should not be content with their lot.

Rise up in any way you can. The BAJ office is ready to help with advice and support. Journalists must stop being the ragged trousered philanthropists of the 21st century.

● Seven Conference resolutions on employment law, another on pension rights and one on protection of sources, were sent to Government Ministers. The replies were chummy, but made no concessions. At least they replied.

I'm never alone - thanks to BAJ

By BAJ member

ISOLATION is one of the most distressing factors when you experience difficulties at work, but as a member of BAJ, you need never face an employment problem alone.

These days, it is imperative to be armed with ample knowledge on how to protect yourself at work, for, sadly, it seems to be a question in many jobs of 'when' you will be in the firing line, rather than 'if'.

Recently, I encountered a very difficult situation at my newspaper when, suffering immense stress because of a bombastic line manager at the same time as trying to cope with a serious health problem, I saw red and left the office.

Conflict

I did not raise my voice or cause a scene. I just informed my boss, by email, that my line manager was making it impossible for me to do my job properly, that I was very upset and I needed to remove myself from the area of conflict, for now, and cool off, so was going home.

Despite my clearly emotional state and their knowledge of my health problem, I was asked if I was going to resign. I declined to answer, instead visiting my doctor on my way home, being diagnosed with stress, on top of my existing medical condition and being advised to take some time off to recuperate.

As soon as I left the GP, I called Steve Turner, explained what had happened and asked what I could do now.

Apart from the relief at having an experienced Fleet Street journalist to

talk to, who fully understood the situation I was in, advised me that I would not be sacked and empathised, totally, it was a huge comfort to know that I had sound legal advice and union backing, literally, a phone call away.

Various options were given to me by Steve, including starting a grievance action against my line manager, as a final straw, to ensure that I was adequately compensated, financially, if I feared I would be forced out.

As an immediate measure, he helped me to word an email to my boss, explaining that I had been signed off by my doctor and making a degree of amends for my behaviour, without weakening my case against the line manager, should I wish to pursue further action.

Alerted

Fortunately, when I returned to work, there were few obvious repercussions, mainly, I believe, because the wording of my email was carefully constructed. I think this subtly alerted my employer to the fact that I had probably taken professional guidance.

Thanks to the advice I received from BAJ, I not only had the courage to go back, but also knew I had a right to stand my ground and that I still had the option of starting a grievance procedure if the situation became intolerable.

Without BAJ support and advice, I would probably have felt under pressure to resign, without any pay-off and would now be unemployed, sick and despondent.

it easier for part-timers

with staff workers. I understand, though, that many media employers try to treat part-time journalists as casuals and do not give them contracts. But if they work regularly for a publication or broadcasting network for at least one day every week, working under the direction and instructions of an executive, they are part-time employees working under an implied open-ended contract. They are then entitled to the same staff benefits, pro-rata, as full-time colleagues and entitled to other employment rights such as, after a year's service, the right not to be unfairly dismissed.

So once it has been established that the part-timer works under the same type of contract as a full-timer who is being treated

more favourably, it is necessary to show that they are engaged in 'the same or broadly similar work.' A tribunal will consider levels of qualifications, skills and experience. A part-time general reporter, sub-editor, artist, photographer, specialist, feature writer or executive will have to show that he/she does broadly similar work to a full-time equivalent colleague.

Following the House of Lords' judgment, a tribunal should not focus on the extra tasks that a full-timer performs, often simply by virtue of his full-time status. It should look at how important the work done by the part-timer is to the work of the enterprise as a whole.

This is a broad-brush approach which will prevent an employer relying on

cumulative differences that are not particularly significant in themselves. It is a decision emphasising the 'spirit' of the legislation rather than technical matters which so often characterise the law.

Finally, a worker has to show that any less favourable treatment is on the ground that he is a part-time worker, and that the treatment is not justified on objective grounds.

Baroness Hale, giving the leading judgment, recognised that the Part-Time Workers Regulations which provide these rights, and the European agreements which underpin them, were intended to help workers, employers, and the economy as a whole.

She said the Regulations are to ensure

that part-time workers are treated equitably and without discrimination.

● BAJ NEWS reported a year ago that employees working abroad for British employers could not bring claims for unfair dismissal in the UK under British law. This had serious implications for foreign correspondents who would have had to seek legal advice and pursue cases abroad on termination of their employment even after returning home.

A recent House of Lords ruling provides reassurance to BAJ members. While it is the exception rather than the rule that workers based abroad fall within the scope of British labour legislation, the example of a foreign correspondent living abroad but working for a British newspaper was specifically given as an exception.

"In the legal system, judgment is spelt with only one's".

Freelance forum

By Jane Furnival

LAST issue, I promised to investigate the 'pay on publication' habit that seems to be creeping in through the back door. The only response came from IPC who seemed frightfully puzzled, vowed to investigate and did not call again.

Many of us have tales of new magazines which suddenly fold, leaving commissions unpaid. However, I was heartened when the BBC's *How to Be Better Off* magazine closed the day after I filed a piece. (No connection, I hope).

I had only just made a reasoned appeal for double the fee (and words) which the editor had agreed to. He honoured that, and paid in full.

"If you have time and a strong constitution," comments one member, "books are a reasonable source of extra income." The member cites a flat fee from £15,000 upwards for 80-90,000 words of sporting celebrity autobiography.

One journalist, negotiating a book deal, encountered our old friend, the clause that tries to get you to indemnify the publisher if someone sues. She turned down the deal as the book would have been about things to make and she felt that anyone could prick themselves with a pin, then sue.

Whacky

Always strike this clause out – you never know who might sue for what whacky reason. In the States particularly, there's no time limit, and you could lose your house.

Chitchat about celebrities can be a nice little earner if you call the diary sections of newspapers quickly, especially as small stories can be taken up by news or features the next day.

Stipulate that you want payment before telling them your news, but they will normally only pay if they use it.

If a story is taken up by feature sections, and they call for more information, haggle about the price first. I once made £50 from a diary tip-off, followed by £300 for facts needed urgently by a feature writer for next day's paper.

RATEWATCH

Celebrity features fetch £900 at the *Daily Mirror* (1200 words). *That's Life* paid £400 for a 500-word first-person case study and £200 for 200 words of similar. *The Evening Standard* paid £500 for 900 words. *The Sunday Times* managed £400 for the same word count. *My Weekly* paid £250 for a 1200-word celebrity feature, *The Belfast Telegraph*, £150 and *Wales on Sunday*, £120.

The Sunday Mirror paid £175 for 250 words, the *Daily Express* paid £200 for a Diary lead story and £50 for a small diary piece.

Bella offered only £75 for a small weekly column. The journalist rejected the offer because it takes as long to think of an idea for a small column as for a large one.

Health features continue at the same rates as for about the last ten years, someone remarks, with *Real People* paying £250-£300 for 1000 words. *ITN* offered a £50 token fee for a TV appearance giving expert advice.

Ruthless Mail flouts the law

BAJ is busy helping several BAJ members who are among more than 25 journalists made redundant at the Daily Mail and Mail on Sunday.

The two papers have regularly fired people unfairly over the years but the redundancies are probably the first among journalists since the Seventies.

True to form, Management has done little to comply with the law.

The Company is required to hold elections for employee representatives in the absence of any recognised union when proposed redundancies exceed 20.

Avoided

The point of electing representatives is so that collective discussions can be held to see whether the redundancies could be avoided or reduced or the effects of them could be mitigated.

The Company has made no attempt to have elections. No doubt it regards elections as getting in the way of what it wants to do.

The Company is also required to set up selection pools and establish selection criteria where it proposes to make one or more journalists in a group compulsorily redundant. It has not done so.

It has just targeted individuals and told them to go home, pending "consultations." It claims to have looked for alternative jobs for them, but not one suitable job has been found.

The Company is also trying to reduce redundancy terms. Documentation shows that the terms should be notice money plus a month's salary for every year of service without any ceiling.

The Company says the old terms are no longer valid although it has not

produced any paperwork to justify its contention. It is offering only notice money plus two weeks' salary for every year of service without any ceiling.

BAJ has taken legal advice from one of our new legal team, barrister Edith Coakley. She advises that the old terms are valid unless the Company can produce compelling evidence to the contrary.

BAJ and affected members are now considering legal proceedings against Associated Newspapers in regard to a protective award for failure to consult properly, unfair selection for redundancy and a declaration that the terms should be a month's salary for every year of service.

The Company claims that cost-cutting has been forced on it by a downturn in advertising, lower circulations and smaller papers. These problems are no doubt happening as elsewhere, but the Company is hardly short of a few bob. It could well afford to weather the

adverse conditions. Quite apart from bulging reserves, the latest accounts for the year ending 2nd October, 2005, show that Associated Newspapers' operating profits were up 5% to £95.1 million.

Daily Mail Editor Paul Daer is shown to have received a remuneration package of £997,000 plus 32,974 shares. He has two years' notice in his contract.

General Secretary Steve Turner said: "The Mail titles are obviously excellent places to work. They are successful and the pay and conditions are generally pretty good."

"But my experience over the years is that Management is ruthless when it wants to be. It then has no regard for the law in getting rid of the person. We are seeing the same with the redundancies."

"However, BAJ will do everything possible to help affected members enforce their legal rights."

"BAJ doesn't begrudge bumper pay packets for editors, bosses or shareholders in good times, but they are unacceptable when staff are losing their jobs. The money should then be shared out much more fairly."



Partner: Aamir Kazi

TAX RETURN CHARGES

FEES remain unchanged in 2006 for members' tax returns handled by our chartered accountants Civvals of London W1.

The unchanged fees are: Freelance return £495 + VAT (a discount of £85 off the normal charge). Staff return £230 + VAT (£35 off). Spouse's return £185 + VAT (£24 off).

Members can, of course, still ring Civvals' Tax Helpline free of charge on 0207 258 3461 over any tax query. Just ask for Aamir Kazi or Sanjay Jhulla.

Members are obviously under no obligation to have their tax returns done by Civvals. The discounted rates can obviously be used as a benchmark with which to compare the charges of other chartered accountants.

Fee doubled within hours

I WAS commissioned to write a feature for a national newspaper. The piece was fine – but following the arrival of a new executive, the paper sat on it for six months, writes a BAJ freelance.

It then had the gall to suggest I try to sell it elsewhere! On complaining, I was offered a somewhat derisory "kill" fee of £100.

However, after telling Steve Turner about the situation, he put in a call to the paper and, miraculously, within hours the "kill" fee had doubled to £200.

It's not the first time the BAJ has fought my corner and I always strongly urge fellow freelancers to join the union – if only for the backing, legal or otherwise, they can offer in such situations.

MEMBERS' NEW BOOKS

Smart Spending with Jane Furnival is published by Hay House, £8.99. You CAN save £1,000 in four weeks. BAJ members' special offer: £6.99. Ring 0208 962 1230.

ANY members who have new books on sale are free to give details in this book column. Just email 25 words of basic information to: office@bajunion.org.uk