

Sweeping the board



Belfast cleaners win equal pay victory



a TUC oral history project on equal pay,
in association with the Wainwright Trust

RECORDING WOMEN'S VOICES

TUC 

Mary McAuley and her colleagues fought a long equal pay battle at a Belfast hospital...

The background to their equal pay claims lies in the history of pay structures in the National Health Service (NHS). Following the establishment of the NHS in 1948, pay was negotiated in a series of what were known as Whitley Councils (after the civil servant who invented them after the first world war) under an umbrella General Whitley Council. Each occupational group had its own Whitley Council, composed of representatives from the employing organisations, the Department of Health and relevant trade union officials. Because there are many occupational groups in the health service, there were eventually more than 20 Whitley Council groupings. Domestic assistants, and the comparator porter and grounds maintenance worker groups, were covered by the Ancillary Staffs' Council (ASC).

female groups were paid less than the male groups, but even where men and women did similar work, for example, in laundries and catering, there was a male rate of pay and a female rate of pay.

In 1948, it was common practice for women to be paid less than men, even where they were doing the same job. However, over the following years equal pay, in the sense of the same rate for the same job, was negotiated for most 'white collar' groups in the public sector in the UK, including the health service, but not for 'blue collar' workers, so not for the Ancillary Staffs' Council employees in the NHS.

Most health service ancillary jobs were heavily gender segregated. Domestic assistants were invariably female and porters were always male. The female groups were paid less than the male groups, but even where men and women did similar work, for example, in laundries and catering, there was a male rate of pay and a female rate of pay.

This situation prevailed until 1970, when the Equal Pay Act was passed (see *The Story of the Ford Sewing Machinists*, in this series). This provided for equal pay to be implemented by 1975 for 'like work' and 'work rated as equivalent' under a job evaluation scheme (see below). The Ancillary Staffs' Council, like other public sector negotiating bodies, agreed to move to equal pay in five equal annual steps.

THE BACKGROUND – THE ANCILLARY STAFFS COUNCIL JOB EVALUATION SCHEME

So, by 1975, female and male ancillary workers in the health service received equal pay - if they were doing the same job, but this did not deal with the relative value of different ancillary jobs. This issue had been addressed by a job evaluation system introduced in the late 1960s, following a recommendation by the National Board for Prices and Incomes that job evaluation should be used as the basis for grading for all the major 'blue collar' groups in the public sector.

The ASC Job Evaluation System (JES) was developed with the assistance of consultants Urwick Orr (the same company who devised the Ford job evaluation scheme), who were appointed by a sub-committee of the GB Ancillary Staffs Council in 1967. The consultants produced their report and it was adopted by the Council in December 1968.

Employees in 10 selected health board regions in Great Britain were interviewed about their

work and a system devised to measure it under a series of factor headings. The resulting grading structure placed domestic assistants in lower grades than porters and grounds staff.

The ASC JES was reviewed on a number of occasions during the 1970s and 1980s, but this made little difference to the grading structure as it impacted on the great majority of ancillary workers.

As was common at the time, the scheme, although developed on the basis of jobs in 10 of the 29 regional health boards in Great Britain, was subsequently negotiated to also cover ancillary workers in Northern Ireland on a pay parity basis. This point becomes significant later in the story.

THE EQUAL PAY CLAIMS

Mary McAuley and her colleagues believed that their work as Domestic Assistants – cleaning operating theatres, corridors, wards, kitchens, toilets, serving teas and coffees to patients – was of equal value to that of a domestic porter, who primarily undertook wall washing duties (above head height) and operated cleaning equipment for corridors, large areas of floor and incidents such as flooding; and a groundsman, who cleared, swept and maintained the external areas of the hospital site.

The Domestic Assistant roles were similar to those which had been evaluated in Great Britain (GB). However, the comparator jobs were in some respects different from their GB equivalents. Nevertheless, all the jobs were graded on the basis of the GB job evaluation outcomes.

Following the implementation of the Equal Value Amendment to the Equal Pay Act from January 1984, five domestic assistants submitted claims, in December 1984. Over the years until a settlement was agreed in 1995, their numbers swelled through grass-roots activity to more than 900. It should be remembered that this was during the times of the ‘troubles’ in Northern Ireland and the claims were an important focus for united and constructive action at an otherwise dark period of bombings, shootings and roadblocks, which affected everyone.

The first hurdle for the claims was the job evaluation study defence to the equal value claims. If their cases were to proceed, the claimants had first to show that the job evaluation scheme, as it impacted on their and the comparator jobs, was fundamentally flawed. At the first hearing, the claimants’ lawyers and expert, Robin Beddoe, argued that the scheme itself was defective and, in any event, that it did not apply in Northern Ireland, because all the investigations for it had been undertaken in Great Britain.

claims were an important focus for united and constructive action at an otherwise dark period of bombings, shootings and roadblocks, which affected everyone.

The Tribunal rejected the argument that the scheme was defective – they were convinced by the case put by the civil servant responsible for administering the job evaluation system, Reg White – but accepted that it had not been developed for health service jobs in Northern Ireland. The Tribunal noted that “there was no evidence...to suggest that any job evaluation study was employed to evaluate the jobs of the applicants here in Northern Ireland in accordance with the legislation which applies only in Northern Ireland.” They concluded that “the job evaluation study was never applied in Northern Ireland.”

The Tribunal referred the case to a member of the panel of Independent Experts for Northern Ireland, but the work of the Independent Expert was stayed pending appeals by both sides. The Northern Ireland Court of Appeal decision in 1991 dealt only with the applicability or otherwise of the ASC JES to Northern Ireland and confirmed the decision of the Industrial Tribunal.

In relation to the point on whether the scheme applied in Northern Ireland, Judge Sir Brian Hutton said:

“A job evaluation study does not apply to employees unless they are employees in the undertaking or group of undertakings in respect of which the study was undertaken.” [1991] IRLR 467 NICA].

The Court of Appeal recommended that a job evaluation study be speedily undertaken in Northern Ireland to ascertain the relative worth of claimant and comparator jobs.

THE OUTCOMES OF THE CASES

Following the NI Court of Appeal decision, the Independent Expert was allowed to proceed to investigate the claims, although these were by now more than 6 years old. However, the investigations dragged on. Eventually, in 1995, the parties agreed to a settlement of the claims.

By 2000, the domestic assistants were receiving the same rate of pay as their comparators. The settlement is estimated to have cost the NI Eastern Health and Social Services Board more than £1million.

THE IMPLICATIONS OF THE CLAIMS

One of the important lessons from the RVH equal pay claims is the significance of grass roots organisation and activity in generating support, amongst comparator as well as claimant groups, for the claimants in equal pay cases and the opportunities for increasing union membership and activism in this way.

The significant legal point arising from the claims is that job evaluation schemes should be designed on the basis of investigations into the actual jobs to be covered by the scheme. This had impact on development of the NHS Agenda for Change Job Evaluation Scheme, where the benchmark sample of jobs included a range of jobs from Northern Ireland and testing of the scheme was undertaken in a number of Northern Ireland trusts (in both catholic and protestant communities), as well as in the other countries of the UK.

Published by the Trades Union Congress, London WC1

Text © Sue Hastings

Filmed interviews on the Belfast cleaners case are available from TUC publications on 020 7467 1294. Further information on the TUC oral history project on equal pay is available from September 2007 at www.unionhistory.info



supported by

THE WAINWRIGHT TRUST

