

SPEAKING OUT FOR CHANGE

Winning equal pay for NHS speech and language therapists

In 1986, these women launched an equal value case that took fifteen years to resolve.

Baroness Turner of Camden, then Assistant General Secretary of the union ASTMS/MSF (now Amicus) supported the equal value claim of Professor Pam Enderby, then head of the speech therapy department at Frenchay Hospital in Bristol.

Baroness Turner of Camden (Former Assistant General Secretary of the union ASTMS/MSF)
Hello there. How nice to see you. It's been a long while.

Pam Enderby (Professor of Community Rehabilitation, Sheffield University)
I'm Pam Enderby. Yes indeed. That time we went into the terrace and you gave us tea. This will remain in my memory forever, and you were so encouraging. Thanks a lot.

Pat Canty (Manager (retired) - Speech and Language Therapy Services, North Devon)
Hello. I've not met you before. I'm Pat Canty from North Devon.

Margaret Evesham (Manager (retired) - Speech and Language Therapy Service, North Herts)
Hello. I'm Margaret Evesham. I was at that dinner.

Baroness Turner
Wonderful, yes wonderful to see you all again.

Other speech therapists joined in – 1500 in all.

Because of the implications for Health Service pay, the government fought tooth and nail against the claim that speech therapists (mainly women) should be paid the same as clinical psychologists and hospital pharmacists (mostly men).

Pam Enderby
We had such great fun going over the memories. Everyone has got a slightly different memory.

Baroness Turner
Yes, I know.

Sara Leslie (Solicitor acting for union)
How this all began was that the MSF and the officer Donna Hayburgh was very concerned because she felt you were underpaid in comparison to the male dominated professions, and she had pursued over two or three years pay claims to try and get you a better pay package, pay deal and she failed.

Margaret Evesham
You know, I've been managing the service. I've seen speech therapists poorly paid. Some of them were all right because they've got rich husbands, and some of them didn't go into the union because of that but when they were looking after a family, single parents for instance, and they've got a mortgage and they've got children and they had to find childminders, they were very poorly off.

Pam Enderby
At that time heading quite a large department that was doing quite a lot of research, a lot of personal clinical responsibility and my psychology friend, my psychologist friend, great chap but he's had much limited, much less of a portfolio.

Sara Leslie

Do you know how much difference in pay in those days?

Pam Enderby

I think, now you'll probably correct me, I think it was something like £7,000.

Sara Leslie

You were all on about £11,000 at the time.

Pam Enderby

Yes, that's right.

Sara Leslie

And your comparator was on £17,000-£18,000 something like that.

Pam Enderby

Yes, yes. And he never bought the drinks.

Sheila Wild (Equal Opportunities Commission which supported and part-funded the case)

What we had in Pam Enderby as the lead applicant was the most articulate spokesperson for her profession which was a way of disarming the opposition. You know when you support an equal pay case you get the official opposition which is the respondent defending the claim, but you can also get quite a lot of opposition from the media. If they think you are trying to threaten male status and male earnings or so on and if they think, you know, it's completely out of order. The scare stories around equal value when equal value came in was that you would get the cleaner in the bank claiming equal pay with the chief executive you know. The media is always ready to leap in, you know, and ridicule what you're doing and with Pam Enderby as the lead spokeswoman there was absolutely none of that, you know. There was no question but this was a highly professional woman doing a very important job.

Sara Leslie

I think, looking back on it, we were all fairly naïve really. You have to put it in its political context in the time 1986 Margaret Thatcher had been in power for seven years, and from her point of view and the Tory government point of view there was actually no question that this case could be successful because of the knock-on consequences for other female dominated groups within the health service. But I think we were naïve about the extent to which the government would defend the claim and indeed when it started off in 1986 there were three test cases. There were no other cases other than these test cases. Eighteen months down the line when we realised that even though we had a first victory in the divisional court over a technical issue on the claim. Even though we realised we were having success the government showed absolutely no sign of wanting to negotiate or talk to us about the claim whatsoever. And so at that stage we thought the way to put pressure on them would be to launch lots of claims and then leave them in the pending the outcome of the test cases and we thought that this would really put pressure on the government. Looking back, I think, it was quite naïve but 1500 claims, further claims were put in and the government said well, that's all very interesting and fascinating. We're going to carry on doing what we're doing, which is to defend this case and that's what they did.

Pam Enderby

My husband kept on saying are we going to lose the house over this. Because despite assurances you know that law costs a lot of money. The union were not the biggest union in the world, the speech therapists were not a large union group within that. So I constantly had this fear of am I going have to pay an awful lot of costs.

Sara Leslie

The unions at this stage was suffering enormously from loss of membership, so they were all in great financial difficulties and in particular MSF at this time was in financial difficulties. So from

their point of view it would have been easy to say well you've lost at the tribunal, you've lost at the next stage at the Employment Appeal Tribunal. We've put a lot of money into this. We had a real go but we can't afford to do it anymore. That would have been a very simple thing for them to do.

Baroness Turner

It was one of our key note cases. It was an important case to the union. So we didn't wobble because it was important to us, and also because we got the EOC's backing and if there had been a wobble I would be able to say the EOC would be terribly disappointed if you withdrew.

Sheila Wild

They did an excellent job of bringing those women together in the first place, an excellent job of never losing them throughout the entire fifteen years, and I think from starting off from the position where it was a cause for a small group of women it became a cause for the entire profession, and that's down to the union that was not down to the EOC. We could not possibly have done that.

The employers and the government argued that because speech therapists' pay was governed by a separate collective bargaining agreement from that of clinical psychologists and hospital pharmacists, they weren't discriminated against as women.

Lord Lester QC (Barrister acting for the union)

To us it seemed pretty simple that here was a whole category of female-dominated work being paid less than male-dominated work for the same employer, and the only justification that the employers could put forward was not really market forces though they tried that a bit. It was separate collective bargaining and we couldn't see how the fact that the employer of the trade unions had separate watertight compartments in bargaining could justify by itself the pay difference.

But UK courts agreed with the employers. After seven years of being defeated at home it was finally the European Court of Justice in Strasbourg that upheld the speech therapists' claim.

Lord Lester QC

I think that people don't understand sufficiently that the European Court of Justice and actually the European Court of Human Rights together have empowered women and men in cases involving discrimination.

Sara Leslie

They said that where you have a predominantly female group undertaking equal work to a predominantly male group or male groups in this case and the female group is paid less than the significantly less than the male groups. That is a classic case of sex discrimination in pay.

But it took more years in court, and a change of government, for the speech therapists' claim to be settled.

Lesley Cogher (Head, Sheffield Speech and Language Therapy Agency)

In fact when the settlement came through, I don't know if you remember this Sara, when the settlement came through and there was a bit of a quibble about the amount. To me it was a huge it was a vast amount of money. It still is, and I wobbled about it and I said I feel really guilty about taking this, you know, this wasn't for this, it was for the profession and you said shut up and take the money, you can't run the health service on the backs of underpaid women.

Sara Leslie

It led to the first fundamental review of pay in the health service based on equal pay. This was the first time the government had tackled the question of equal pay within across the whole of the health service and it led to agenda for change which has had enormous benefits for female-dominated groups within the health service.