

24th May 2011

ALL MEMBERS NEWSLETTER

# Bank Ordered To Disclose Information

Following a hearing at the CAC (Central Arbitration Committee) Lloyds Banking Group has been found guilty of failing to disclose detailed pay information to which LTU is legally entitled. In a comprehensive judgement, the 3 strong Tribunal ruled that "the Union has established an entitlement to the information. The Employer has not established that they are not required to disclose the information" and goes on to say "...it would accord with good industrial relations practice for the Company to disclose the requested information." The Bank has been given up to 8 weeks to disclose the information.

Members will be aware that LTU wrote to the Bank asking for detailed pay information, details of which are set out on page 3 of this Newsletter, in order to formulate our 2011 pay claim and, more importantly, to determine whether the Bank's new salary and grading structure, which had been accepted by Accord and their junior partners Unite and the GMB, was tainted by either direct or indirect sex discrimination. We also wanted to determine whether the Bank was discriminating against staff by refusing to award pay increases or moving staff to the minimum of the new salary scales.

When the new terms and conditions were introduced the Bank refused to carry out an Equality Impact Assessment before they were introduced, something which is essential in a large organisation. In fact the Panel, in its most telling passage detailed below, says that it was impossible for the Unions to respond to the Bank's harmonisation proposals

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without first understanding the effects of those proposals on their members. That didn't stop some Unions accepting the new terms and conditions and nor did it stop them agreeing to the Bank's pay proposals.

The Bank repeatedly refused to provide the information we had requested and the information it said it would provide was so general as to be meaningless. The Bank also sought to impose its own version of the super-injunction, much favoured by celebrities, telling us that we could never publish any of that information to our members. The Tribunal accepted LTU's arguments both that we were legally entitled to the information we had requested and that the Bank could not seek to impose any conditions on what we did with the information once it has been disclosed. The information once we have received it will form part of our ongoing negotiations with the Bank on pay, performance and equal opportunities.

**"The Panel is of the view that the Union would be impeded to a material extent by the Employer's failure to provide the information requested. It would not be possible to make an informed response to harmonisation proposals without an understanding of the implications for its members. Nor would it be possible to enter meaningful discussions." (CAC, 20th May 2011)**

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## Pay Discrimination in Lloyds Banking Group?

LTU has been concerned for a long time that the Bank's remuneration practices are discriminatory and that it is in breach of equal pay legislation. **We believe that the decision by the HR Leadership Team to try and blackmail staff into signing the new contracts of employment by not undertaking salary reviews, withholding pay increases and not moving staff to the minimum of the new salary scales is itself discriminatory.**

The Bank says that it "supports the principles of equal pay and the elimination of any policies or practices, which may discriminate against men and woman either solely or partly on the grounds of sex." Those are just cheap words and the Bank needs to show for everyone to see that its remuneration practices are not discriminatory. Its repeated refusal to provide the information we had requested and the fact that it sought to gag LTU from publishing any information would seem to indicate that it has got something to hide. LTU is determined to find out what that is and the ruling of the CAC Tribunal should go some way to shining a light on those aspects of the Bank's reward policy which it would rather remain in the dark.

In a recent report into the Financial Services Sector, which the CAC found persuasive in our case, the Equality and Human Rights Commission (EHRC)

concluded that the reasons for the pay gaps were the lack of transparency and the culture of secrecy operating in the Finance Sector when it comes to areas like pay. It said:

**"A lack of transparency and, indeed, a culture of secrecy around pay create the conditions within which gender pay inequalities can flourish. Lack of transparency allows women and men on the same job titles and therefore on the face of it doing equal work, to receive markedly different pay. Consequently, many of those who gave evidence to the Commission noted that requiring companies to be more transparent in relation to payment systems and outcomes would help uncover discrimination and represent an important first step in addressing it".**

The facts speak for themselves. The EHRC reported that in 89% of cases there is a significant gap between the average annual pay of men and women. And the gender pay gap is not just historical but is being reproduced. In 86% of cases, new female staff earned significantly less than their male counterparts.

So the questions for the HR Leadership Team is what is it scared of and why did it require an external Panel to make it disclose the information we had requested?

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## LTU v Lloyds Banking Group - The Case Continues

In a previous Newsletter we said that LTU's legal advisers had written to the Bank informing it that we intended to initiate breach of contract claims on behalf of all those staff who have been denied salary reviews and salary increases simply because they refused to sign the new contracts of employment. In that same letter we also told the Bank that we intend to also challenge the legality of the 2% cap on pensionable salaries imposed last year.

Our legal advisers also wrote to the Chairman of the Lloyds TSB Group Pension Scheme asking the trustee to confirm that it would treat all basic salary as pensionable salary for the purposes of calculating pensions. **The trustees was also asked to confirm "that it will not agree to an amendment to the definition of pensionable salary without obtaining the sanction in writing of not less than three quarters of the members".** We expected that the trustee would be seeking their own independent legal advice in order

to ensure that it was administering the schemes in accordance with the trust deeds.

We received a response from the Bank's Solicitors but that said everything we expected it to say and given the potential ramifications of our legal action on the Bank and Project Verde then we expected nothing less than a robust response.

**What is more interesting is the fact that we have received nothing at all from the trustee of the Lloyds TSB No 1 Pension Scheme. LTU's Solicitors have been instructed to write again seeking an urgent response. Once we have got both responses from the Bank and the trustee those will be reviewed by Counsel before deciding the next steps in our campaign.**

**Mark V Brown**  
General Secretary

## **LTU Requested The Following Information:**

- 1) The number of staff who signed the new contracts of employment broken down by business unit, grade, sex, full time, part time, ethnicity and disability.
- 2) The number of staff who refused to sign the new contracts of employment broken down by business unit, grade, sex, full time, part time, ethnicity and disability.
- 3) Of those staff who chose not to sign the new contracts of employment how many are below the minimum of the new salary scales? Can we have that information broken down by business unit, grade, sex, full time, part time, ethnicity and disability.
- 4) The total number of staff in each grade broken down by business unit, sex, grade, full time, part time, ethnicity and disability.
- 5) The total number of staff in each pay zone broken down by business unit, sex, grade, full time, part time, ethnicity and disability.
- 6) Current salary positions in 2.5% ranges for each business unit broken down by grade, sex, full time, part time, ethnicity and disability.
- 7) In respect of out of cycle pay reviews in 2010, can we have details of the number of staff receiving such awards broken down by business unit, grade, sex, full time, part time, ethnicity and disability.
- 8) Can we have details of time in role, broken down by years for example less than 1 year, less than 2 years etc, for all staff covered by our negotiations broken down by business unit, grade, sex, full time, part time, ethnicity and disability.
- 9) Can we have average staff salaries for each business unit covered by our negotiations broken down by grade, sex, full time, part time, ethnicity and disability as at the 1st April 2010.
- 10) Can we have average staff salaries for each business unit covered by our negotiations broken down by grade, sex, full time, part time, ethnicity and disability as at the 1st October 2010.
- 11) The average Group bonuses paid in 2010 broken down by business unit, grade, sex, full time and part time and ethnicity.
- 12) What, if any, exceptions are there to the Group's Pay Policy? Where there are exceptions who is responsible for setting pay in that office/area/department/business unit?
- 13) Can we have the 2009 performance ratings broken down by business unit, grade, sex, full time, part time, ethnicity and disability.
- 14) Can we have the 2010 half-yearly performance ratings broken down by business unit, grade, sex, full time, part time, ethnicity and disability.