

NUJPhoto *Update*

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NUJPhoto Update is a monthly bulletin keeping NUJ photographers abreast of action taken by their union following debates on the NUJPhoto email list.

Other features on NUJPhoto *Update* include listings of forthcoming events, training programmes and meetings. Also, there will be a monthly conversation between two of your union representatives. This month Pete Jenkins, NUJPhoto list owner and Vice Chair of the NUJ Photographer's Sub Committee, talks with the Union's Freelance Organiser, John Toner.

AUGUST ISSUES

To discuss **police attitudes towards photographers** following the London Bombings, John Toner with Jeff Moore and Paul Stewart of the British Press Photographers' Association (BPPA) met Brian Cox of the Metropolitan Police Press Office and Dep. Assistant Commissioner Brian Paddick who immediately organised a meeting with BT Police and City of London Police colleagues to agree unified guidelines. These guidelines will be presented to the NUJ and BPPA for comment before being distributed by the three forces and circulated to NUJ members. That officers should not obstruct photographers was accepted.

Nottingham Branch are meeting with Nottinghamshire Police Press Officer Margaret Kirk on 5 September, when it is hoped new **Nottinghamshire Police Guidelines** will be ratified. These guidelines are due to be the pattern for the entire country.

The post of **Assistant Organiser for the Freelance Sector** has been advertised within the NUJ. Deadline for applications

is 12 September.

Jeremy Dear, General Secretary of the NUJ was **invited to join** the NUJPhoto list, but declined. Union officials on the NUJPhoto list remain at two, Freelance Organiser John Toner and Regional Organiser for North of England and Wales, Miles Barter.

Pete Jenkins **resigned** as NUJPhoto Moderator after posting a moderators only mail to the full list. Simon Chapman and Dan White were **elected** to join existing moderators Andrew Wiard, Alan Lodge and Graham Harrison, who were re-elected.

NUJ support for photographer Chris Tofalos helped win £45K in an out-of-court settlement over copyright infringement. Notes on the Scotsman Publications victory are being finalised, but reveal **Copyright Law** remains toothless while infringements only reflect loss, and punitive fines are not imposed. Contracts are the best solution. NUJ solicitors Thompsons have one solicitor specialising in copyright, a job created at the request of the NUJ. But it is understood legal firms FSI and Simkins have greater experience on copyright issues. Law firm web sites are <http://thompsons.law.co.uk>, <http://www.fsilaw.com> and <http://www.simkins.co.uk> .

NUJ Guide For Charging For Digital Imaging is available at http://www.nujphoto.co.uk/nuj_guide_to_charging_for_digital_imaging.htm

Grass roots concern over **Citizen Journalists** providing work for free to the BBC and others was not reflected by the Union's National Executive Council. A synopsis of thoughts expressed on NUJPhoto is to be sent to Jeremy Dear, and perhaps to NEC members, and a campaign to raise public awareness of copyright issues was suggested. BBC Editorial Guidelines at <http://www.bbc.co.uk/guidelines/editorialguidelines/edguide/impartiality/personalviewaut.shtml> have no mention of copyright or payment.

In reply to a letter from Pete Jenkins the BBC said their policy was to use amateur images on a non-exclusive royalty-free licence, and that amateur suppliers were free to decide who they supplied.

Free downloads of the previous seven days radio and TV programmes are expected from the BBC next year.

NUJ democracy works by all members having two representatives, one for their sector (Freelance, New Media, etc.), and one their region (London, Midlands, etc.). NEC seats are elected annually with nominations in November and elections in December, these seats are taken up after the Annual Delegate Conference (ADM) held each spring. Policy is made by resolutions being put to conference and voted on. Resolutions have to come through a Branch, Industrial Council or the NEC. This year the closing date for resolutions is **7 November 2005**. The minutes of NEC meetings, and details of how representatives on the NEC vote is not generally available to Union members.

Virtual branches for far flung colleagues and busy photographers, was thought a good idea with speed of communication giving immediate help to members when necessary, plus debates and voting, but it was pointed out there was a danger if all photographers are grouped together as they would lose influence among non-photographer members at branch level. Membership of two branches was suggested, with voting only allowed in one branch. The need for a **Photographers Industrial Council**, with authority to act on behalf of photographers, was also suggested, as was the need for more photographers meetings such as the one held in Nottingham on 24 April 2005.

Seemingly in contrast to the NUJ, Britain's biggest trade union UNISON plans to have 50 virtual branches funded by the government's Union Modernisation Fund. For details see http://www.unison.org.uk/actavists/pages_view.asp?did=2267.

Some **branches disappear** leaving members disenfranchised. Especially those living abroad.

Secondary use of images on the internet can be covered by the 'comment and criticism' clause in Copyright Law, however Thompsons' Kate Fox says if the original agreement was for print use only, secondary use would be an infringement.

Nick McGowan-Lowe's *Confirmation of Booking* form, a good template for photographer/client **contracts**, is available from the Editorial Photographers U.K. (EPUK) web site at

<http://www.epuk.org/site/downloads/bookingform.pdf>

AUTUMN EVENTS

NEC Policy Committee Meeting : 29 Sept 05
NEC Development Committee Meeting : 30 Sept 05
NEC Finance Committee Meeting : 6 Oct 05
NEC Full Meeting : 4 & 5 Nov 05

DEADLINE for submitting motions for ADM 2006 : 7 Nov 05

AUTUMN TRAINING

- Getting Started as a Freelance, £55 : 1 Oct 05
- Pitch and Deal, £55 : 7 Oct 05
- Adobe Photoshop CS, £ 205 : 22/3 Oct 05
- Getting Started as a Freelance, £55 : 17 Nov 05
- Pitch and Deal, £65 : 18 Nov 05
- Freedom of Information Act, £ 55 : 21 Nov 05

To book, and for a full list of NUJ training courses see
http://www.nujtraining.org.uk/show_courses.phtml?category=calendar

FREELANCE ORGANISER JOHN TONER talks with PETE JENKINS about his Union career and issues debated on NUJPhoto in August

PJ Hi John. Thanks for agreeing to be interviewed for the benefit of NUJ members. Many of us know that you are the Freelance Organiser of the National Union of Journalists, and that you have sorted out many problems that photographers and freelancers in general have, but many Union members still don't fully understand what the Freelance Officer and Freelance Office do. Could you give a better idea of what you might consider your average day?

JT The Freelance Office is the main point of contact for freelance members on a daily basis. Apart from me, there is Pamela Morton and Sylvia Pedder. Pamela has worked in the Freelance Office for a number of years and has considerable experience of pursuing late payment, payment for lost

transparencies and compensation for breach of copyright. Pamela also works for the Minutes Department, so is not working on freelance matters full time. Sylvia works part of the week for the Membership Department, but can help advise on rates, will write to late payers, and looks after the Freelance Directory.

I do all of those things, too, of course. But I also advise on employment rights and entitlement to holiday pay, as some workers who are nominally freelance might acquire such rights. I read contracts for members, and advise on what clauses are and are not acceptable.

A few companies are prepared to negotiate with me over freelances rates and rights, and I attend meetings with them. I also represent the NUJ on a variety of bodies to which the Union is affiliated - Creators' Rights Alliance, British Photographers Liaison Committee, Alliance for the Protection of Copyright among them.

Where freelances are prepared to be organised then I will organise them, and approach a company on their behalf to seek talks.

As you would expect, I am the servicing officer of the Freelance Industrial Council, the body that oversees the freelance work of the union. FIC is vital for the freelance sector, as it is the voice of freelances within the NUJ. It is elected (every two years now) on a geographical basis. FIC is effectively my line manager. I report to them on what I have done since the previous meeting, and inform them of issues that are developing, seeking their guidance on what my response should be. FIC also advises the NEC on matters relevant to the freelance sector. Under NUJ rules, FIC has the power to ratify any agreements that I might negotiate with a company. In other words, it is not a done deal until FIC says so!

FIC is looking much healthier this year. There are only two vacant seats, and there is a crop of new faces, bringing enthusiasm and energy to those who have served for a number of years.

Those long-established freelance activists are vital, too, as collectively they are the repository of the NUJ's knowledge and experience in relation to freelancing. In the past 10 years

there have been three freelance organisers - but some of our activists have been involved for more than a quarter of a century. They are indispensable, and have educated me on aspects of freelancing that I knew nothing about when I came into the job.

I don't know if there is an average day in the Freelance Office. The routine work of the Office is responding to members queries over the telephone or by email. The most frequent questions on an average day are: can you suggest a fee? : can you help me get paid for work I have done? : could you look at a contract for me? : someone has used my picture without permission, what should I do? : can you tell me if I am entitled to holiday pay? These are 'normal' questions. As you can imagine, it is the nature of the industry that people can work in atypical ways, and unique problems crop up regularly.

In non-payment cases, we will write to the company seeking payment. That usually works. If not, we will threaten legal action. If that fails, I will represent the member at the Small Claims Court, or refer it to Thompsons if the fee involved is more than £5000. It is also worth pointing out that a member who wishes advice from Thompsons should first contact the Freelance Office. Very often I will be able to answer the question myself. If not, I will arrange advice from Thompsons.

PJ You are a member of the union yourself John, aren't you? Before you became a full time union official, what did you do and where did you work?

JT Before I was Freelance Organiser, I was Northern Organiser for four-and-a-half years. Before that I worked on newspapers in Scotland, first as a writer then as a sub-editor, latterly as chief sub on the smallest daily in the UK.

PJ Before becoming the Freelance Organiser you had other union posts, what were they?

JT Other union posts - where to start? I was an activist for 16 years, starting as FoC in my second week in the job while still a trainee! This was a mixture of ignorance and recklessness, and I would not advise anyone to do this now. It was July 1980 - and we had no way of knowing just how bad things would get for trades unions in this country. I became chair of Lanarkshire Branch and was on the NEC between December 1987 and September 1996. I held the

positions of vice president, president and treasurer. At the same time I sat on the Scottish Council, and was chair in the early 90s.

PJ John, you have been meeting with the Met Police, British Transport Police and City of London Police along with Paul Stewart of the British Press Photographers Association, how did you feel this meeting went?

JT Paul Stewart, Jeff Moore and I met with The Met. The meeting went well, but the fact the meeting was necessary meant that the meetings over the previous 18 months had achieved almost nothing. The Met recognised this and were both apologetic and embarrassed by it. I think this embarrassment will spur them on to change their behaviour towards photographers. I also believe we need regular meetings to engage in constant dialogue, and that we should work with the BPPA on this.

PJ The Assistant Freelance Organiser post has now been advertised, and hopefully the position will be filled in the not to distant future. What is the remit you will be giving to your new assistant?

JT It is not really a question of my giving a remit to the new assistant. A job description has been advertised, and the successful candidate will be expected to fulfil those duties. A lot, though, will depend on who is successful. I have learned a great deal over the past four years, and I must assume that whoever is appointed will also have much to learn. I will have to discuss with the Assistant Organiser his/her strengths and weaknesses, allowing him/her initially to take on work he/she can handle whilst providing the opportunity to learn about other areas that are unfamiliar.

PJ Chris Tofalos getting £45K from the Basketball Association must have pleased you this month. How long had you been working on the case, and what sort of work did you have to do?

JT It is important to understand that most of the work on the Chris Tofalos case was done by Kate Fox of Thompsons. When I was still in the Manchester office, I helped Chris draft the contract that became the basis of his case. I wrote to English Basketball's solicitors and spoke to them on the 'phone, but when it became clear they would not budge I

realised we had to issue proceedings, and Kate took over from there. Kate also briefed the barrister who advised us on the case.

PJ The NEC dismissing the Citizens Journalism issue and its subsequent highlighting in the *British Journal of Photography* and *Press Gazette* by another organisation, must have surprised you as it did many Union members. What can be done now to get the Union back on the case?

JT On that one day the NEC had a particularly fraught debate. I believe it will now deal with the issue of Citizens Journalism and arrive at a considered policy. The NEC always listens to views expressed by Branches, and my advice would be that branches should discuss the issue and let the NEC know their views. Apart from anything else, the more members we have discussing this issue, the more likely we are to arrive at a position that covers all the angles.

PJ The members have been discussing the idea of virtual branches, especially for those regions where a conventional branch has proved difficult to maintain - ie Devon and Cornwall, and overseas photographers/members who are thousands of miles away from London Freelance. We understand that Unison is launching 'virtual' branches. How close do you think the NUJ is to following suite?

JT I realise that the Devon and Cornwall Branch proved difficult to sustain after Ian McInnes moved to Canada. It is not the first branch to go this way. On the other hand, Highland Branch meets in Inverness and covers not only the Western Isles but also Orkney and Shetland! I do recall that a number of years ago the NEC agreed to pay the travel costs of a member who wished to travel from Lewis to the branch meetings. Perhaps that would help Devon and Cornwall - although that still does not help with the time taken to travel to and from the meeting.

I do not believe 'virtual' branches are imminent within the NUJ simply because they have not been discussed within an NUJ body. I am sure there would be some support from the idea - but we won't know until we actually get members talking about it.

PJ Thank you, John.

We hope you found the first edition of **NUJPhoto Update** a useful supplement to NUJPhoto, and that it will become a catalyst for further debate on list. NUJPhoto *Update* was produced by the moderators and list owner of NUJPhoto.

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