House of Commons

Public Accounts Committee

Oral evidence: The BBC and personal service companies, HC 1522

Wednesday 30 January 2019

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Watch the meeting

Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Chris Davies; Chris Evans; Caroline Flint; Nigel Mills; Shabana Mahmood; Layla Moran; Stephen Morgan; Anne Marie Morris; Bridget Phillipson; Lee Rowley; Anne-Marie Trevelyan.

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, Louise Bladen, Director, National Audit Office, and Richard Brown, Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1-162

Witnesses

I: Lord Hall, Director-General, BBC, Anne Bulford, Deputy Director-General, BBC, and Jennifer Henderson, Group Tax Director, BBC.

House of Commons

Reports by the Comptroller and Auditor General

The BBC's use of personal service companies (HC 1522)

Examination of witnesses

Witnesses: Lord Hall, Anne Bulford, and Jennifer Henderson.

Q1 **Chair:** Welcome to the Public Accounts Committee on Wednesday 30 January 2019. We are here today to question the BBC on two important subjects. The first is the BBC's engagement with personal service companies, with which this Committee has some history, because we first raised it in 2012, when we were concerned that people were avoiding tax. Since then, because of evidence to the DCMS Committee and in a lot of work that we and the National Audit Office have done, we have become increasingly concerned about how the BBC has mishandled this situation. It has mishandled staff relations and caused a lot of misery and hardship. A lot of presenters went public with that to the DCMS Committee last March. The NAO Report underlines how muddled the BBC has been in its approach, and we have also had a lot of evidence about the poor management of communications, Lord Hall, with a lot of the staff and the inconsistency in the BBC's approach. When we finish that session, we will move on to the issue of the E20 set.

I would like to introduce our witnesses. Our hashtag today is #BBCstaff for the first session. From my left to right, our witnesses are Jennifer Henderson, the group tax director at the BBC—I will ask you to introduce yourself more fully in a moment—Lord Hall, the director-general of the BBC—welcome back, Lord Hall—and Anne Bulford, the deputy director-general of the BBC. Anne Bulford, I should note that it has been announced that you are leaving the BBC. Do you have any plans for the future?

Anne Bulford: Yes, but nothing to share with the Committee at the moment, thank you.

Q2 **Chair:** Okay, but are you just retiring or—

Anne Bulford: I am retiring from full-time executive roles, yes. I am a non-executive director of the Army Board and I will do a little bit more with them—may do a bit more with them.

Q3 **Chair:** But you are retiring from full-time employment.

Anne Bulford: That is right, yes.

Q4 **Chair:** Ms Henderson, we have not met you before and we want to be clear on what exactly the group tax director is responsible for at the BBC.

If you could explain a bit about your role, that would be very helpful.

Jennifer Henderson: I lead a team of 10 people. We are all based in the UK and we are predominantly responsible for UK tax. I have a corporate tax compliance manager and VAT, expat and employment tax teams. So we undertake the corporate tax compliance and the VAT compliance for the BBC. We also provide advisory services to the BBC group as a whole—I talk about the BBC as both the public service side of the BBC and the commercial side of the BBC. We also advise the business on international tax affairs, because obviously our commercial subsidiaries are based overseas and we have overseas compliance requirements. So we help to manage those and advise the business on setting up in new jurisdictions, both for the commercial entities and for the news bureaux, primarily.

Q5 **Chair:** So you advise on employment tax as well. How many of your team of 10 are involved in that?

Jennifer Henderson: We have three employment tax managers, two of whom are part time and one full time.

Q6 **Chair:** Do you also use outside tax advisers? In the past you have had advice from Deloitte. Are they your outside tax advisers?

Jennifer Henderson: We work with Deloitte primarily on the employment status arising from IR35 issues, but we also engage with EY on a regular basis as well.

Chair: On employment.

Jennifer Henderson: On employment tax.

Chair: Thank you for clarifying your position. It is helpful to have you here, given the issue we are discussing. We remember having you here, Lord Hall, to discuss this not long ago. We are glad that the NAO has looked at it at the behest of our sister Committee.

Q7 **Caroline Flint:** Lord Hall, the Treasury has expressed concerns, as far back as the late 1990s, that personal service companies could be abused in order to avoid paying proper tax by creating disguised employees. Were concerns, to your knowledge, ever expressed that by choosing to use these schemes so extensively, the BBC ran the risk of bringing not only itself but its staff into disrepute?

Lord Hall: What the NAO Report makes really clear—it is a very clear Report—is that PSCs are both legitimate and also commonplace. Deloitte, in work for us in 2012, also added that in their view what had happened before 2012 was not a mechanism for avoiding tax. I found the NAO Report, if I could turn to figure 8's timeline on page 21, really helpful. There are three stages to this. There is before 2012, which—

Chair: We are abreast of the timeline. If you can comment on it rather than describe it.

Q8 **Caroline Flint:** My question—

Lord Hall: I was going to say that I cannot really comment on before 2012 because I was not there, but post-2012, the chart in figure 10 on the following page describes what we were doing properly within advice from HMRC on PSCs in the various parts of the corporation. We moved in 2012, after the changes then, after evidence given to your Committee, after our working with Deloitte. To be clear, in television and radio news we moved people there from PSCs, because of the relationship they had with us, into what are called OAT contracts.

Q9 **Caroline Flint:** May I stop you there? I understand you have not been here through the whole time of this. I have spoken to people who in the early 2000s were moved from staff contracts to freelance contracts and subsequently on to these PSCs. Although you were not there, I am interested in how much you have endeavoured to find out. I want to establish why the BBC wanted to move to personal service companies for staff, particularly presenting staff. What was the motivation behind that if it was not about reducing your tax bill?

Lord Hall: It is not about reducing the tax bill. It is about being absolutely clear on the employment status for tax purposes of our staff. If you go back to the noughties, there has always been and always will be in the media and in the BBC a culture of freelance working among presenters and others. We have figures later in the Report saying how many are currently doing that at the moment. So that is the culture. The BBC—this is controversial from the point of view of staff who have raised concerns with us over the last couple of years—moved people on to PSCs to be clear about the employment status for tax purposes as defined by them, because they might be working for a number of different employers and they were best placed to do that. We were running a system with people who were on the staff, and with the freelancers they were either a sole trader or employed through a PSC. There is nothing in the NAO's Report—they must answer for themselves, not for me—that says this is an illegitimate way of running your freelance staff.

Q10 **Caroline Flint:** I am sure my colleagues will ask further questions. What the Report does highlight, though, is not a sense of transparency and clarity about the sorts of employment contracts you put people on. Also, consequently, there was a huge mess later on to determine whether these people should have been on the staff payroll as opposed to one of these contracts. So it has not been a clear-cut, transparent process in terms of employing people for a generation now. Do you agree?

Lord Hall: When I came back to the BBC and to working with Anne in 2013, we wanted to make sure that we had clarity across the piece on what was happening with the tax status of freelancers: either they were with PSCs or were sole traders. Looking back at the history, which the NAO Report puts very clearly, there has never been enough clarity between HMRC and ourselves about the nature of the employment status of some of the people we have had.

Q11 **Caroline Flint:** Who is responsible for that?

Lord Hall: We have to work with HMRC, as we did. The chart I referred to earlier showed how in 2013 we moved news presenters from PSCs to OATs contracts. We recognised that we had to do that. At the same time we had a new test, the ES test, which covered about 1,000 people in television, of whom 900 were determined to be self-employed. On top of that, we had the radio industry's guidelines, which the Report states very clearly, on which we were running non-news radio freelancers. There was absolute clarity on that. I go back: there was nothing that was not proper about the way people were employed then, in PSCs or as sole traders.

Q12 **Caroline Flint:** We have received a considerable amount of evidence and have spoken to a number of people who have worked for the BBC, in some cases over decades. There is a continuing thread through their testimonials that they were presented with the option of becoming personal service companies as an offer they could not refuse. I am interested about what seems to be coercion for people who were on staff contracts or freelance contracts to go on to PSCs. What is your knowledge of that?

Lord Hall: If you go back to 2008—I think the Report draws that clearly to our attention—there is no doubt that if you earned more than £10,000 a year and were working for more than six months, you were told, or urged, to be employed through a PSC. One of the issues that the Report makes clear but I cannot confirm whether this happened, is that you were also asked to take independent financial advice. Sadly, going back and trying to find records of how the PSCs were set up and people's correspondence with the BBC about them, we cannot find records that point one way or another. But the evidence from the people I have talked to is of the policy but also that they were asked to take up PSCs.

Q13 **Caroline Flint:** To unpick that a little, I have heard testimonies of people who were told, sometimes by their line manager and sometimes from a talent manager, "If you want a career in presenting, you're going to have to move on to a PSC. There is no other choice. If you want to develop your career, if you want to be a shining star in the BBC, you are going to follow this course of action." There were no other choices given to them. Do you acknowledge that?

Lord Hall: Yes, I acknowledge that. In fact, we have said that publicly to those presenters. But it is very difficult when you get down to individuals. Some people were content with that: others made it clear to us later that they were not.

Q14 **Chair:** Sorry, Lord Hall there is a difference between doing it and being content with it. Let me give you some examples of people who shared their experiences with me: "When I was asked to signed the OATs contract, I was shown a list of other presenters who would be asked to do the job if I said no." So there was not really an option there. Another said, "If we renew your contract, you will be required to set up a PSC." That was someone who had worked in local radio for 10 years without a contract, and was offered their first contract but were told that they had to do it that way.

Another said, "I was a freelancer, working for BBC local radio. In July 2011, I joined a new local radio station but was told by the producer that I could only work in a PSC, or not get the job." There is a difference between people taking it on and saying at the time that they are not happy with it, but they were given no choice.

Anne Bulford: There are three different groups; some people overlaps across those groups. For a very long time, it was a widespread practice in news for people who either joined as presenters or moved across into presenting roles to move to freelance status, and that happened for decades. It was very common: people came—

Q15 **Chair:** We know the history.

Anne Bulford: Post Hutton and the Neil report—

Q16 **Chair:** We know the timeline.

Anne Bulford: You know all that. As everyone around the table knows from the testimony and the NAO Report, while there are disputes around facts on individuals, so far as we can tell, what should have happened at that point was that people whose employment status in news as freelancers was questioned as a result of that change had an option between coming on to staff at reduced fees, or going into PSCs. As I say, there are disputes about the facts on that, but that is that.

Q17 **Chair:** I have to say, I cannot believe that everybody I spoke to has made it up. I have just given you some direct quotes from those conversations.

Anne Bulford: No, no, I am not suggesting—

Q18 **Chair:** The idea that they were offered staff jobs as an alternative is just—

Anne Bulford: But some people were, and they—

Q19 **Caroline Flint:** Ms Bulford, you have no trail to corroborate that.

Anne Bulford: There is some trail to corroborate that with some people, but everybody's position was different—

Q20 **Caroline Flint:** But not with everyone.

Anne Bulford: No, but it is a long time ago; we are talking about 20-plus years. That is that situation. Then for the second group of people, which will cover some of the testimonies you have received, from around 2008 onwards the policy was introduced for radio and television presenters that if they were earning more than £10,000 a year or working for longer than six months, they were asked to work through PSCs.

Q21 **Chair:** We know what the policy is. What you are just demonstrating in your answers, Ms Bulford, if I may say so, is the muddled approach of the BBC, which I am sure Ms Flint will be digging into. There were different regimes at different times—

Anne Bulford: There were different regimes.

Q22 **Chair:** It was very confusing, and different people working in the same job were on different structures.

Anne Bulford: There were also different approaches to assessing employment status through that period, and that contributes to it—and that is not specific to the BBC; it is industry-wide.

Q23 **Caroline Flint:** Okay, but would you accept that, irrespective of what you have said, some presenters felt they had no choice but to accept they had to set up a PSC against their will, because they wanted to carry on working for the BBC?

Anne Bulford: Yes. They have said that. Yes.

Q24 **Caroline Flint:** You have already displayed what a muddled era for employment policy there has been at the BBC for decades now, regarding how you employ people and the status you assign to them. I understand that most people were just told, "Get some independent financial advice; your tax affairs are your own affair." There was a case of one woman I spoke to who was on a schedule D contract and, while on maternity leave, was told she would have to go on a PSC, and if she did not, "Don't bother coming back to work." Bear in mind that she was paying for her own maternity leave while she was away. Do you think enough was done, Anne Bulford, to support staff through the process—including staff who were actually on staff contracts and gave up their pension benefits and everything else?

Anne Bulford: I don't know what advice people were given or what advice they took. We are talking, in many cases, about people making decisions about their careers a very long time ago. It was very common across the whole industry for people who moved into presenting roles to move to freelance roles. The PSC issue is about freelance people trading either as sole traders or through a PSC. People moving from staff roles into freelance roles is a part of that journey for some people, but not for all. The vast majority of people moving into PSCs had been freelancers—had always been freelancers. They were presenters in radio and television, often in the entertainment space, and they included radio DJs and those kinds of people.

Q25 **Caroline Flint:** I understand all that, but there has been a process of human resource decision making in which BBC presenters, radio or broadcast, were told that they had to go on to a certain contract to continue working in that field and continue their career, and then down the road they are being held liable for mistakes that seem to have been made in assigning them as freelancers or PSCs rather than staff, and they have paid the price. Would you agree with that?

Anne Bulford: For people who operate as freelance and operate through PSCs or as sole traders, what has happened, as the Committee is aware both from the Report and from previous evidence and, I am sure, from testimony you have heard, is that the Revenue have challenged their employment status in a number of cases and some people are already being looked at by the Revenue. As a result, working through a PSC or working as a sole trader makes a huge difference, because if the Revenue challenges the employment status of a freelance worker who is working as a sole trader, that is a matter for the employer to deal with and we are responsible for that tax as the employer. If they are in a PSC, potentially it is for them.

Now, that employment status challenge is hugely difficult and very complex, because the guidance around the different groups of people who we have spoken about has altered. We recognise that that is hugely difficult for the individuals and potentially very unfair if the sorts of circumstances that you have described have led to this decision. So, a whole series of steps that have been taken over a number of years have finished up with people in that position.

Q26 **Caroline Flint:** Do you believe that these individuals are blameless in terms of what happened down the road?

Anne Bulford: I don't think they have done anything wrong, no.

Q27 **Caroline Flint:** So why has the BBC not supported them more?

Anne Bulford: We are supporting them. Originally, when we spoke about this, we said that what we would do is that where people were being assessed retrospectively, because of this employment status, if they thought that the BBC bore some responsibility for that, we would deal with it through a proper mediation process and listen to that material, and look at all the sort of material that you have seen.

Subsequently, when we understood the scale of the challenge that the Revenue was looking at and the number of people involved—the Report describes 100 people who we looked at, but we identify around 800 people whose employment status has shifted and who are potentially at risk of that, of whom around 300 are PSCs—what we said we would do was to seek to reach a global settlement with the Revenue, which sorted all this out and gave people certainty, and moved away from looking at, "Are you in a PSC or are you a sole trader?", because it is about employment status.

We have used the guidance, as we understood it over these years; radio industry guidelines were used; the test that we developed from 2013 was used; and then, when we applied the CEST, these employment statuses shifted and that is what caused the problem.

Therefore, what we are seeking to do as the BBC is to take responsibility for that and deal with it with the Revenue, so that everybody can move on through, and it is taking much longer than we would like. It is very difficult and complicated to get that settlement sorted out, because it is three-way. We are not contractually responsible for it, but that is what we are seeking to do, because we do not think it is fair that two people who effectively relied on the same rules in the same way find themselves in quite different positions. We also think that it is very, very time-consuming and very, very stressful and very, very difficult for everybody involved to go through that assessment and then judge.

That is what we are seeking to do and that is our objective, and the NAO referred to that.

Q28 **Caroline Flint:** I think some of my colleagues will go further into what happens next and what you're doing.

Anne Bulford, by requiring people to be paid through PSCs, how much have you been able to save or avoid paying in employer's national insurance contributions?

Anne Bulford: These are people who were freelance and that was their employment status, in which case national insurance is not due. Of course that does not answer your question, because you want to know—

Q29 **Chair:** Sorry, just to be clear—not all of them were freelance. Some of them were staff and some of them had to go on PSCs.

Anne Bulford: There may be people who went straight from staff to PSCs—

Caroline Flint: There are.

Anne Bulford: There may be.

Caroline Flint: There are.

Chair: Sorry—there are.

Anne Bulford: Okay—that is fine. But that is because of the employment status under these tests of the roles that they were doing, as judged at that time—

Q30 **Chair:** Just to correct things, to make it clear for the record: there are people who were staff and who were told they had to go to PSCs to—

Anne Bulford: The majority operating through PSCs were freelance and they were asked to move into PSCs and stop being sole traders. That is the majority.

The total national insurance bill of the BBC in a given year is over £100 million—something like £110 million. Of the 800 or so roles that we identify as shifting status, either post-2012 or as a result of the introduction of the CEST, if you just took those fees and applied the percentage to them, you are talking about £2 million to £3 million a year. That £2 million to £3 million is split between both sole traders and people trading through PSCs. It is not the motivation of this.

Q31 **Caroline Flint:** Earlier, you mentioned offering mediation and sitting down with individuals. Does that conversation include looking at the situation where people were moved from a staff contract—looking at the benefits that they gave up and the worth of what they have lost—compared with one of the two tiers of the OATs contracts that they are being put on to? Are you doing a comparison of that, in terms of what they gave up or were asked to give up, and where that has left them today, in terms of pensions and everything else in the future?

Anne Bulford: The primary focus of the mediation, which we have not pursued because we are trying to deal with this globally with HMRC, was around tax status and the very significant retrospective bills, primarily for National Insurance, that people are either already facing or are at risk of facing. That was the primary purpose.

We can look at the mechanics of other issues. If we were asked to look at people's status in the round—what they are being paid and what has happened to them—of course we would do that. But the primary purpose of the CEDR was to deal with this specific issue, which is the biggest single issue that most people are concerned about, around either facing a tax bill for the past or being at risk of facing a tax bill for the past.

Q32 **Caroline Flint:** From November 2013, the BBC began to use a new test, which I think you have outlined, for assessing employment status of freelance television presenters and radio news presenters. It also continued to use the radio industry guidelines for non-news radio presenters. Why did the BBC's new policy in 2013 result in only 90 news presenters moving on to the new employment contract, and not any other types of presenter?

Anne Bulford: Because that's the way the test worked. We developed the test and we used Deloitte to support us. We developed it in collaboration with HMRC. That test went through a series of tests, and it looked at duration, editorial arrangements and all the rest of it. Unsurprisingly, the majority of people who went through that test—we were looking at around 1,000 roles in a year—continued to come out with self-employed status. As the Committee is aware, because we have said this before, around 90 people, predominantly news presenters and radio presenters, came out as employed, and they were moved on to staff contracts, as their contracts came up.

Q33 **Caroline Flint:** And in terms of non-news presenters on radio, were they not offered the option of an employment contract? Why was that?

Anne Bulford: The radio industry guidelines were still there, still in place and still operating. Nothing had changed on that, so that continued as it was before. The change to that came in in April 2017.

Q34 **Caroline Flint:** Lord Hall, given what we have heard so far, would you like to apologise to staff who have been affected detrimentally, not just in terms of their status and their role within the organisation—and the feeling that that has been undermined—but the personal stress it has given to people who have found themselves, in some respects, hounded for not paying tax, when it is clear that they didn't really have much choice about what employment status they were employed by?

Lord Hall: I think what happened after April 2017 and the meetings we have had with people who have been directly affected, have allowed me to apologise directly to as many of those people as we could. I am very happy to repeat that again today.

I really think now, as Anne has just outlined, what we have been trying to do over the last two years, since April 2017, is to work with those people. We have had some very tough and hard meetings with some of the people who are affected by IR35—very hard meetings. We have been dealing with individual cases. In the papers you put before us yesterday there are cases that we recognise and have been dealing with. My aim and Anne's aim—and Jenny's aim too—is to get these things sorted. I put a huge amount of impetus on trying to sort this with HMRC because I think that will allow these people to get on with their work and us to have a proper relationship with our presenters. To add to that, I take no joy at all from being at odds with people who are our frontline to our viewers and listeners—none. I want to repair that relationship.

Q35 **Sir Geoffrey Clifton-Brown:** Ms Henderson, can you tell us how long you have been in your role?

Jennifer Henderson: In my role as head of tax, almost two years. Before I did that, I was head of employment tax.

Q36 **Sir Geoffrey Clifton-Brown:** For how long?

Jennifer Henderson: For two years. I joined the BBC in May 2015.

Q37 **Sir Geoffrey Clifton-Brown:** So you would, at that time, presumably have looked very carefully at the advice you received from Deloitte, and would also have looked very carefully at the collaboration you had had with HMRC, to see if this test actually met their then regulations. How is it that, between those two bits of advice, the whole thing went so wrong?

Jennifer Henderson: Between the—sorry, just to clarify—

Q38 **Sir Geoffrey Clifton-Brown:** A very well respected set of accountants, Deloitte, would have given you one set of advice. You would then have applied that advice, presumably, to your discussions with HMRC, who would either have said that the test was right or that it was not right. Having been through that detailed process, how has it gone so wrong?

Jennifer Henderson: I was not at the BBC when the Deloitte test came into place; that was all in place when I started.

Q39 **Chair:** And they did the review in 2012—again, before you started. Nevertheless you had professional responsibility for this, as Sir Geoffrey said.

Jennifer Henderson: Yes, absolutely. I am not denying that. When I started at the BBC in 2015, HMRC had started to ask the BBC various questions about some of the presenter cases, for the investigation work they were doing. I obviously became concerned that there was a potential mismatch between how output from the employment test, where we had been assured by our CRM in 2013 that they considered that to be low risk—so if we applied the test as devised by the three parties, the employment status would be low risk—and, moving forward, seeing the types of cases that were coming through the investigation.

I was obviously very concerned about that, so we did meet HMRC a number of times during 2015 to understand where that mismatch had arisen. We had a number of conversations about that. I think HMRC had envisaged—this comes through in the tax tribunal cases, where they are looking very heavily at editorial control. We had those conversations during 2015.

During 2016, we also had conversations about the radio industry guidelines, because some people felt that they fell within the radio industry guidelines, and they also had concerns about HMRC questions.

Taking all that together, when HMRC announced a change to the off-payroll working from April 2017, I was very keen to make sure that when we moved to the new test—because the BBC test had only ever been stated as temporary—we understood fully what the questions were, what the intentions behind the questions were, so that if we relied on the output from the CEST, as it is now called, or check employment status for tax, in an audit going forwards, we would be clear on what our position was. So, yes, I did take into account that there were mismatches in potential understanding, but we tried to use that to make sure that going forward we did not have similar problems.

Q40 **Sir Geoffrey Clifton-Brown:** So what action did you take? The moment you started having these concerns from HMRC, what action did you take?

Jennifer Henderson: By the end of 2015, we all recognised that there would be a change to the legislation, and that turned into the off-payroll working, for public sector. So it was agreed between both the BBC and the HMRC that we were going to continue with those conversations, because, as part of the new implementation, they were planning to roll out a new employment test. That is what they did. They rolled out the CEST, and, as I say, as part of our implementation we worked closely with the Revenue to understand the questions and make sure that we implemented it as they were expecting.

Anne Bulford: What this describes is a set of iterations, in iterative meetings with HMRC, where they were asking questions, for example, about levels of editorial control being exercised over individuals, and we were spending time explaining to them how that works. So there was no conclusion that this test does work or doesn’t work. That was carrying on.

Q41 **Sir Geoffrey Clifton-Brown:** So having had these discussions with HMRC, and having understood where they were coming from, what actions did you take with your staff to actually warn them that there was a potential problem coming up—and possibly looking at a change in their employment status?

Jennifer Henderson: As the Committee will be aware, we submitted a consultation response in August 2016. Between August 2016 and late January 2017, we engaged heavily with HMRC to get an understanding—

Chair: We know that bit. Sir Geoffrey was asking about staff—

Jennifer Henderson: Sorry. We did all that, but until the actual test was released, there was not a great deal that we could do in terms of actually planning for the different cohorts of people, because we did not know which people would fall into the categories of being treated as employed or as self-employed. So we had done a large amount of planning internally, we had considered what training, systems and communications we might need, and we had a lot of communication within the business so that the business all understood—so it was not just being dealt with at a head office-type level, but information was filtering through. We communicated with agents' groups in January 2017, to warn them that this change was coming, although we didn't yet know exactly what it would look like. Then we started to have more conversations with staff and, for the people impacted—not the people implementing—we did a series of presentations in May and June 2017.

Q42 **Sir Geoffrey Clifton-Brown:** Did you continue to retain Deloitte all through this period? In what period do Deloitte have a role in all this?

Jennifer Henderson: Deloitte supported us in 2013. When we had the discussions with HMRC in 2015, they supported us then. When we were looking at rolling out the changes to IR35, it presented the communications to the affected groups; we ran a series of seminars in our major hubs and Deloitte undertook those presentations for us. Then we have subsequently engaged with it to talk through matters and to engage with HMRC since then.

Q43 **Chair:** What was Deloitte's role in developing the internal BBC test that you introduced, the predecessor to CEST?

Jennifer Henderson: I wasn't involved—

Anne Bulford: They worked with us to take existing guidance and radio industry guidelines to design a questionnaire that was in fact a forerunner of the CEST. Obviously we took responsibility for that, as the BBC, but Deloitte was supporting us, and it helped us to iterate that with HMRC. In fact, in answer to your question about whether we could see the problems coming up, there are two things.

First, we were aware that HMRC was going to review the radio industry guidelines at some stage, because it told us that, but that was something it was anticipating doing right up until the discussions with us in 2017, as the NAO Report explains.

In relation to the employment status check that we developed internally—because there is no specific guidance for on-air TV presenters—when we talked to the Revenue about early iterations of the CEST right back in 2016, from August in that run-up to the change, the initial iterations were giving very similar results to the EST. The challenge with the CEST, which we are using now, is that because it is not one size fits all, some of the subtle questions—how much work do you do, how much control is there, can you substitute—don't work properly, so it was an unexpected number of people impacted.

Q44 **Chair:** May I go back to you, Ms Henderson? You had Deloitte advising on setting up the system. You always had Deloitte—I remember when this Committee looked at this in 2012-13 and did a report, which we will go into in a little while. You developed this in-house test, it was cascaded out to a lot of people and—from the evidence we have heard—that was sometimes the manager of a radio station, sometimes an editor or producer, telling presenters, "This is how you have to join, or you don't get the job", or, "This is how you have to give up, or you might have to give up your staff role." The advice was for a range of people. What assurance had you put in place—or your previous colleagues, if you weren't there—to make sure that that advice was properly delivered to personnel?

Jennifer Henderson: The policy—I don't have any evidence that this wasn't followed through—was that after the test was implemented in November 2013, every time a new contract was entered into with a presenter or a contract was renewed, that role had to be put through the test that we had designed with Deloitte and HMRC. If the output from the test—

Q45 **Chair:** How did you make sure that the test was applied properly and fairly? I am not being rude about station managers, producers or editors, but not all of them will have the same skillsets.

Anne Bulford: Sorry, Jenny. The process that they are assessing is done through a central team, who are trained and have the skills to apply it properly. The conversation with the on-air artist is generally, you would expect, through their line manager.

Q46 **Chair:** There already seems to be muddle there. The person who knows best about how someone works and all the subtleties of any test, whether the pre-CEST or the CEST, is the person or manager on the ground, but they have a varying range of skills. You have then got your small team of 10 people—

Jennifer Henderson: It would not be my tax team.

Q47 **Chair:** It would be the HR team?

Jennifer Henderson: It would be the business affairs team. We have a team called business affairs, and they are the people who do the contracting with the talent. If there is a new contract coming up for a new programme or a renewal of a contract, they would speak to the production teams to understand how that programme was pulled together. They would then complete that test.

Q48 **Chair:** Did they talk to the staff who were affected?

Jennifer Henderson: Yes.

Q49 **Chair:** You can be sure from your records that they had a conversation with every member of staff affected?

Jennifer Henderson: Yes. They would be making sure that they understood how the programme was being made when they ran the test.

Q50 **Caroline Flint:** You are not quite answering the question, if I may say so. We are trying to understand how many people are in the process to determine the final assessment. Did you have a central team that basically held it all together, if you like, but that expected a line manager or someone to interview the staff, and would the line manager then relay that back to the central team? Who spoke to the person on the ground with the contract, and how was the information from that conveyed back to complete the assessment that would be the basis for their HMRC tax purposes?

Anne Bulford: Maybe I can help with this. As you would expect, there is a central group responsible for contracts and responsible for running the tests. On the questions, there is proper automation, so it is all recorded and all the rest of it. The business affairs team is very embedded in the business and works alongside line managers, so the truth is that a combination of people could speak to individuals. If there is an unexpected outcome from a test, you would expect there to be more conversation. Where the system struggled—and we subsequently had problems in 2017 when the new test came in—was that in some parts of the organisation, bad or inappropriate conversations, which were not properly dealt with, could have happened.

Q51 **Chair:** You are saying that they could have happened?

Anne Bulford: That they may have happened. But it was especially challenging. We know that in the English regions in particular, where there is not necessarily the sort of business affairs expertise on the ground, a big burden was placed on some of the managing editors to explain to individuals what was going on. That was not good enough and did not work well enough. As we went through 2017, we supplemented that to improve it.

Q52 **Chair:** We will move on to Mr Rowley, but I have to say, this is extraordinary. The BBC is a big organisation; you are the national broadcaster; you have doing this for years; and you deal with all those staff all the time. Whatever the ins and out of this particular issue, which we are obviously delving into today, it seems a bit muddled that you have got heads of tax, business and HR, yet people on the ground, you are saying, are not well supported. How can that have grown up like that over time?

Anne Bulford: What happened on this occasion is that, because the new CEST test came to us in beta form in February. We then had it, along with everybody else—

Q53 **Chair:** Sorry, you are saying it is the timings of HMRC—

Anne Bulford: No, it is two things. It is the timings of HMRC and the volumes of people who we were then dealing with, which we were not expecting, particularly in relation to radio. That was compounded by the fact that the contracts of many people in radio come to a review or renewal point at the end of our financial year, so we have many people who are out of contract, uncertain of their tax status and who need to be spoken to individually. That was what put the strain on it.

Q54 **Lee Rowley:** Specifically on the tool, prior to CEST coming in: you have said in your evidence that you felt that a burden was placed on a number of people around the organisation, and it may not have been used in the way it should have been. What sample checking was undertaken—

Anne Bulford: Sorry, I did not say that at all. I was talking about the quality of the conversation. I was not talking about a problem with the test.

Q55 **Lee Rowley:** The process includes the conversation. What sample checking was undertaken centrally, of regional and local conversations, in order to ascertain whether it was correct or not?

Anne Bulford: The application of CEST would have gone through the central team and would have—

Q56 **Lee Rowley:** No. What sample checking? What proportion of sample checking?

Anne Bulford: I don't have those numbers to hand, but yes, there was some—

Q57 **Lee Rowley:** What compliance reports were written?

Anne Bulford: The sample checking—

Q58 **Lee Rowley:** No. How many compliance reports were written?

Anne Bulford: I don't have that information.

Q59 **Lee Rowley:** How many times were internal audit engaged on this?

Anne Bulford: I don't have that information, but—

Q60 **Lee Rowley:** Could you write to us with that information?

Anne Bulford: Of course we could. The problem was not that the answers were wrong. The challenge that we face is that the CEST places different weight on different things versus the EST. It is not that there are errors in the assessments.

Chair: That does not negate anything Mr Rowley said. We are coming to the CEST in a moment.

Q61 **Lee Rowley:** We will come to the CEST. I am interested in the process. I just want to go back to the point. I am glad that you have accepted that there was a compulsion here on a number of contracts being signed that they had to go to PSC. Could I give you the opportunity to place on record that the statements that your predecessors, or representatives of your organisations, made when they were here previously were incorrect?

Lord Hall: I looked at statements by one of the people who gave evidence here, the then CFO Zarin Patel, and it seems to me that a number of things were said, including—

Chair: We know what she said.

Q62 **Lee Rowley:** Yes, I know what they are. Could you tell me whether they were incorrect?

Lord Hall: If you are asking me to say, "She got it wrong," or whatever, I have seen statements where what she said was policy and she got it right.

Q63 **Lee Rowley:** Let me try one then: "It has…been suggested that we have forced people to set up service contracts rather than being a full-time employee. Again, this is not the case." That is from an internal BBC blog on 11 July 2012. That is incorrect, right?

Lord Hall: We have said—

Q64 **Lee Rowley:** No. Binary answer: yes or no.

Lord Hall: Yes, we have said that people were pushed into these things.

Q65 **Lee Rowley:** A second one, here at PAC on 16 July 2012: "we work with HMRC to follow their guidelines really carefully…to ensure that we put ourselves in a position where we can be sure that personal service companies are used appropriately". That was incorrect, because there was compulsion involved. Correct?

Lord Hall: No. I think the statement you just read to me was saying that the PSCs were used appropriately, and I have no evidence to say that they were not used appropriately.

Q66 **Lee Rowley:** If people are compelled, if they have absolutely no other option, how can that be wholly appropriate?

Lord Hall: Because what we are looking at, and what that statement would probably refer to, although I cannot answer for her, is—

Q67 **Lee Rowley:** But she was representing your organisation, so you can answer for your organisation.

Lord Hall: Can I go back to the figure I pointed you to about how PSCs were used? We were using them very clearly as a way to allow the individual to be the arbiter of their employment status for tax purposes. I think that is a proper use, and the NAO in its Report keeps saying that PSCs are a proper form of hiring people.

Q68 **Lee Rowley:** That is not contested.

Lord Hall: But I think you're implying—

Chair: Let Mr Rowley finish his line of questioning.

Q69 **Lee Rowley:** I am asking you to make a statement about a number of previous statements that appear incorrect from what you have said to this Committee today.

Lord Hall: Statements by others before my time.

Q70 **Lee Rowley:** You are here, corporately representing the BBC. Those statements were made corporately representing the BBC. I do not expect a discrepancy between the two, and I am asking you about those.

A third one: "The Deloitte report—the independent review—found that we did not force any member of staff to go freelance and on to a personal service company." That is from evidence to PAC on 22 November 2012. That statement is incorrect, right?

Anne Bulford: No, that statement is correct. They sampled and they did not find any.

Q71 **Lee Rowley:** But you have identified that people were compelled. If you want to play with words that is fine, but that is the statement you have given.

Anne Bulford: No, I am trying to be really precise. We know that people who moved into presenting roles were moved to freelance status if they moved from a role that previously was not a presenting role. If somebody moved from a role in planning, for example, to be a presenter, they moved from a staff role to a freelance role, for many years. Then those freelance people were asked to move on to PSCs.

If we go back to 2012, this was in the context of lots of questions about—

Q72 **Lee Rowley:** That is a delightfully interesting narrative, but the statement says: "The Deloitte report—the independent review—found that we did not force any member of staff to go freelance and on to a personal service company." Either that statement is incorrect, or the Deloitte report was insufficient because it did not identify things that you have subsequently found. Which one is it? It is a binary choice. I do not mind which one. You need to choose one of them.

Anne Bulford: We have absolutely not found any evidence of people in accounting roles, legal roles, or staff roles being asked to move into PSCs, which was the context at the time. Those were the questions that were being asked. If we remember, this was across the whole of the public sector, and it came from examples of chief executives being contracted through PSCs. I really think we have tried to be clear. We know presenters were moved to freelance contracts—

Lee Rowley: I would not be asking the questions if I thought you had been clear.

Chair: We are not clear, as Mr Rowley says.

Q73 **Lee Rowley:** If we are not going to get answers to those questions, perhaps we could try a different one. You have stated that you are trying to support the individuals caught up in this.

Anne Bulford: Yes.

Q74 **Lee Rowley:** You have therefore accepted some responsibility. Is that correct?

Lord Hall: Yes.

Q75 **Lee Rowley:** What proportion of responsibility do you think you should accept? Give me a ballpark figure between one and 10.

Lord Hall: I think we are saying that we are accepting responsibility, and that is not a zero to 10, that is full responsibility. Yes, of course we are.

Q76 **Lee Rowley:** Okay. Fine. So how did we get in this mess?

Lord Hall: First, there is a broad issue of the difficulty of dealing with freelance contracts between sole traders and PSCs—PSCs being purely legitimate. I think there has been an issue since 2012 or 2013 where we have tried to refine what we think is the right way to employ people, and we have been through all of that.

In 2017, there was clearly a really bad issue for us, and more importantly our freelance staff, which I would say was due to two things. One is the rush at which the new test was made. As I think we have said in evidence so far, we asked for it to be delayed for six months while we tried to work through some of the inadequacies of the test. The second thing I would say is that, looking back over a couple of decades as well, the test is too general. It is not just us saying that. Others have said that as well. I think the NAO Report says that. Those two points would be my comments on what has happened.

Q77 **Lee Rowley:** You have just identified that this has been a problem for a while, of varying degrees. Who was the single owner of the problem in the organisation?

Lord Hall: If you want a single owner of any problem within the organisation, it is the director-general, so in so far as things that have happened since 2013, then obviously it is myself.

Q78 **Lee Rowley:** Who did you devolve day-to-day responsibility to?

Lord Hall: Well, we have the team in front of you here.

Q79 **Lee Rowley:** Ms Henderson was not here until 2015, so it couldn't have been Ms Henderson.

Lord Hall: Before Ms Henderson was here, obviously it is Anne and myself. It is a team and we work as a team but, in the end, I am responsible.

Q80 **Lee Rowley:** What was the categorisation of this problem on your overall risk register?

Lord Hall: It was a serious problem from 2017 onwards, and before 2017 it was a serious problem too. In the executive board, we reported on this regularly—that was the old form of governance. As the unitary board, we have also taken reports on this almost every month for various periods of this. It has been scrutinised and dealt with very openly with the board.

Q81 **Lee Rowley:** If you accept full responsibility, are you saying that it will be for the BBC to pick up any costs associated with that responsibility?

Lord Hall: The reason why Anne and Jenny are talking to HMRC is because we want to seek a resolution to this. We want to come to a global agreement with them, which reflects the fact that PSCs have been an issue and we take responsibility for that going backwards. But, also, every case is different. We put on hold looking at the disputes resolution idea that we had. Rather than doing individual cases, which would take time and put a lot of stress on the people involved, we wanted to see whether we could have one unified agreement with HMRC. I am still hopeful that we can get there.

Q82 **Lee Rowley:** To your point that says every case is different, your board minutes from October 2012 state that: "The board agree that it was important to establish a clear policy and apply this consistently." You cannot have it both ways.

Lord Hall: I'm sorry, but if you go to figure 9, I think, or 10, in the NAO Report, you have the policy as it was then, clarified after the issues that came up in 2012. What I am also talking about is what has happened in 2017, where the situation has changed dramatically and we have been seeking to make sure that we comply with that.

Q83 **Lee Rowley:** Just so that I am clear, you are saying that the policy was applied consistently, but the policy was applied wrongly, or you are saying that you have insufficient confidence that the policy was applied consistently in your organisation. Which one?

Lord Hall: What I am saying—I will use my own words, if I might—is that we had clarity about our policies, and I go back to the evidence of figure 10 in the NAO Report, of how we were dealing with freelance staff, which is an important part of the mix of the BBC. From 2017 onwards, we were surprised, as both my colleagues have said, by the way that the results of the tests that we had been applying, perfectly legitimately and properly before, were changed by the new CEST. That was the issue that led to some of the situations that I have already talked about and, regrettably, some of the issues that we have had with our presenters.

Q84 **Lee Rowley:** To be clear, when CEST came in, you are stating explicitly, given that HMRC will be in front of us in a number of weeks' time, that it was HMRC's changes that caused the problem. Therefore, HMRC wholly bear the responsibility for the changes in CEST that have caused you so many problems.

Lord Hall: It is HMRC's right to introduce tests. I am saying that the way in which that was done caused us great difficulties. I have mentioned time and I have mentioned the general nature in which CEST was written, which was difficult to apply. It is not just me saying that; the NAO Report makes it clear that it is industry-wide. We still do not have some of those things resolved. That meant it was very hard for us.

You have had evidence, Mr Rowley, that the number that came out as staff, as opposed to self-employed, from CEST was much higher than we thought, given that we had been applying the radio industry guidelines on radio presenters, which had been agreed with HMRC beforehand. If you ask my view about this, trying to manage something, more time to work those things through would have been a good thing.

Q85 **Lee Rowley:** IR35 did not come out of the sky. It had been mooted for years. What preparation did you do as an organisation to ensure that when it came—it was likely to come—it would be implemented properly?

Lord Hall: Ms Henderson can talk about that, but she has answered it already.

Anne Bulford: IR35 is the mechanic, as everyone knows, that is running through the PSC to determine who is liable for what under the contractual arrangement. The issue that we are dealing with here is employment status and that, with the introduction of CEST, answering both sets of questions in a proper way gave different results. The Revenue was clear that we need to use CEST to have a reliable future employment status—not all the people we work with agree with that outcome and many still want to challenge it. We are applying that, however, because that is our job. Once you change the status going forward, the concern is that that opens up the risk to a retrospective application.

Q86 **Lee Rowley:** Forgive me, but the BBC is in a place where, for a number of years prior to CEST coming in, it advised—inadvertently or advertently—incorrectly. Then CEST came in and something changed. Either it was a failure of the scope, definition and implementation of that tool, for which the responsibility lies with the BBC and its contractors, or it was the responsibility of HMRC for changing the system.

Lord Hall: It is not binary.

Q87 **Lee Rowley:** It has to be binary, because that is how these things work. You have to accord responsibility somewhere.

Anne Bulford: It could be binary by taking lots of cases through tribunal to establish whether it was right to rely on the radio industry guidelines that were introduced in 2006 and used across the whole industry. That would take a long time, cost a lot of money, and be very wearing for the individuals concerned.

In dealing with all the things that we are speaking about this afternoon, we think that would take too long and be too wearing, and that the right thing to do is to try to reach an agreement with the Revenue. That will mean that we have certainty in future about how we deal with people, and that they have certainty in terms of dealing with the risk of being called up for tax in the past, whether they are operating through PSCs or not.

Q88 **Lee Rowley:** The inference of that statement is that you think HMRC are applying it incorrectly.

Chair: Use the opportunity, Ms Bulford. We have them coming in front of us in six weeks' time.

Anne Bulford: I do not have anything to add. I think we were entitled to rely on the radio industry guidelines from 2006 onwards—everyone has. That is where it is in the commercial sector as well.

HMRC made it clear to us in the run-up to the implementation of the new CEST that it preferred CEST to the radio industry guidelines and that if we wanted to have confidence in the assessment, that is what we needed to do. That in itself, going forward, is something we can manage and deal with.

The transition was very difficult, as you may want to go on and ask questions about, but the challenge for our people is that even if they agree with that—and not all of them do; many people feel passionately that they are freelance, and want to make that case to the Revenue themselves—they are concerned, as are we, that because of the mirroring that the Revenue feels strongly about, if you change the future, the past is wrong. That opens up this risk of investigations, and the cost of resolving that and the time it will take is too big a strain on the organisation, hence we are trying to reach agreement with the Revenue and avoid the binary—

Q89 **Lee Rowley:** I am terribly sorry, but you have been looking at this for a number of years, on top of a problem that you have been aware of for coming up to a decade now. I am asking you, in a single sentence, to tell me your balance of opinion as to where you think the responsibility lies. It has to lie somewhere. This is what you guys are paid for; this is why you get the big bucks.

Chair: I think what Mr Rowley is saying is that clearly, HMRC's rules can be complicated, but your job as an employer is surely to interpret them so that they are easy and consistent for the people who you are contracting to understand.

Anne Bulford: Look, we wrote to HMRC in August 2016 and said this was coming in too quickly, and that it would cause huge difficulty for us; it would be particularly difficult for us because it impacted us in this sector, and nobody else. They disregarded that, and we think that was wrong. Secondly—

Q90 **Lee Rowley:** But your Deloitte report said in 2013 that you had a problem with governance and controls in this area. You knew three years before 2016 that you were supposed to invest in this area to improve it, so that you had greater understanding and transparency of what was going on.

Anne Bulford: We did invest in this area, and we did invest teams in this area. We were not expecting the Revenue to ask us to set aside the RIG and deal with assessed, and that caused problems late and caused huge difficulty for us. That is the principal reason why so many people are switching employment status. I cannot take responsibility for foreseeing that, because I was not expecting it.

Q91 **Lee Rowley:** Moving on to my last point, explain recoupment to me.

Anne Bulford: Okay. Responsibility for accounting for tax—responsibility for getting this right—fell to the BBC from April 2017. When the test first came, first of all, we could not determine a large number of people: we did not have a stable test until August, so we could not judge with any confidence who needed to go on to payroll and have tax taken off them. Therefore, what we did in that period was make estimated payments on account to the Inland Revenue in order to protect our position against the Revenue coming back and assessing us for tax on people who we subsequently established may, or should, have been taxed in that period.

Q92 **Lee Rowley:** Is it correct for me to understand that somebody could have been happily working away on a previously signed contract for a good proportion of that financial year, exchanging services under that contract, and then a representative of the BBC rings them to unilaterally inform them that that contract has been changed multiple months after the tax year begins, and they are now liable for additional tax that they will subsequently pay back? Yes or no is fine.

Anne Bulford: No, that is not true.

Q93 **Lee Rowley:** Okay. Where is it wrong?

Anne Bulford: Sorry?

Lee Rowley: Whereabouts is it wrong? Which bit of the statement is wrong?

Anne Bulford: We wrote to people and explained the position as to where we were and what we were doing. As the test became clear, we dealt with individuals, putting them through the test and talking to them about their new contract.

What is right in what you have said is that the period from August through to October was very difficult and very chaotic for some people. The one-on-one communication with them was not good enough, and some issues arose around lack of clarity and lack of understanding. People transitioning from self-employed status—paying tax in one way—and coming into PAYE put financial strain on them, resulted in double tax, and all that sort of stuff. We were not good enough or quick enough to deal with individuals at an individual level and get that right.

Q94 **Lee Rowley:** I am slightly confused by that answer. You are accepting it was chaotic; you are accepting it was problematic; you are accepting that people were probably not treated in the right way and did not have the right information—

Anne Bulford: Some people.

Lee Rowley: Some, fine—they probably didn't have the right information in the right place. But you are telling me it is absolutely not correct for me to have been potentially told that people were working for a number of months without the knowledge that you were arbitrarily changing contracts, and then telling them that contract was changed and charging them the tax as a result of that. Those things do not reconcile, so tell me which one is wrong.

Anne Bulford: I think the NAO Report sets out what happened really clearly.

Q95 **Lee Rowley:** I'm asking you, not the NAO Report.

Anne Bulford: And I have done my best to answer your questions. I do not actually disagree with anything that is set out in the NAO Report. I think it is really clear in here—the sequence of things that happened.

Q96 **Lee Rowley:** I am quite capable of reading an NAO Report. I am asking you to tell me where those two statements don't align.

Anne Bulford: I think the Report is clear.

Q97 **Lee Rowley:** I am not interested in the Report; forget about the Report. Tell me which parts of the statements—

Anne Bulford: I can read the Report out to you. I think that is a fair reflection of exactly what happened, and I have described it.

Q98 **Lee Rowley:** Why will you not answer this question?

Anne Bulford: I'm sorry; I have answered the question twice already and you are asking me the same question again.

Q99 **Lee Rowley:** Those statements are irreconcilable—totally irreconcilable.

Anne Bulford: I am afraid I do not think that's true. I think I have been really clear.

Lee Rowley: Thank you for now.

Q100 **Chair:** Can I go back to Ms Henderson, first of all, on the Deloitte advice and this relationship—this moving from freelance contracts to PSCs? There was a fear in the BBC, wasn't there, that you had too many freelancers and were therefore falling foul of the rules? But what was the particular advantage of moving people into PSCs? They would still not be employed on the staff. Why was the pressure to put them on PSCs?

Jennifer Henderson: As I understand it, in 2008, when the radio industry guidelines came into play, there was a lack of clarity about what HMRC intended about longer term contracts; and therefore, to protect the financial position of the BBC—that was when it was decided that if your contract was for more than six months and/or more than £10,000, you should be engaged through a personal service company.

Q101 **Chair:** I think you have acknowledged in that answer that it was to protect the financial position of the BBC: it puts the liability for any retrospective tax on the individual, rather than on the BBC. That was a definite part of your policy, as advised by Deloitte.

Jennifer Henderson: That was the intention. It was to protect the licence fee from retrospective tax liabilities, and—

Q102 **Chair:** I have to say that this was in 2008; it is interesting timing.

Whatever was happening with the radio industry guidelines or whatever else, I think those of us who were here in that period were aware that there was a big debate about the licence fee, Lord Hall—about what would happen to that, what Government decisions would be made about that. Was the BBC running scared of the publicity and the accusations that you were spending licence fee payers' money in inappropriate ways? Was this a way of getting off that hook by limiting your backward liabilities?

Lord Hall: Well, I can't tell you: I was not there in 2008. I was in a different place, so I am afraid I cannot speculate about that.

Q103 **Chair:** But you are here corporately to answer for the BBC. Who was there? Ms Bulford?

Lord Hall: She was not there, either. I don't think we can answer corporately for what the policy was in 2008.

Q104 **Caroline Flint:** But are there board minutes, for example? There must have been discussions at board level about a policy shift to move people from freelance contracts. I get all that—across the sector, across the industry, that is commonplace. But as you have outlined, Ms Henderson, there was a fear that maybe the freelance contracts were not separate enough and, down the road, those individuals would be defined as having more of an employee status with the BBC and then you end up liable for a tax bill, so it was a case of, "Let's look for a vehicle that creates more distance on that." Because you have been so involved in this project, Lord Hall, you must have said to someone, "Bring me the minutes of the board meeting. I want to see what discussions were had, what reports were put up there, to justify that."

Lord Hall: We have done that, but we—

Q105 **Chair:** And what did you find?

Lord Hall: We cannot find minutes. That is part of the issue we have been dealing with. We cannot find minutes.

Q106 **Caroline Flint:** So all the chairs of the governing bodies and everything else—

Lord Hall: We cannot find reference back to this. We had wanted to, but we cannot.

Q107 **Chair:** You are the national broadcaster. Okay, you did wipe a few tapes of "Doctor Who" and things back in the day, but generally speaking, I would have thought you—

Caroline Flint: You can get "Dad's Army" tapes back up.

Chair: Well, let's leave that for one moment. I am sure you have an archive, somewhere, of important things.

Lord Hall: I repeat: we cannot find records of this going back beyond the time that Anne and I have been there, and let me assure you that in the time that Anne and I have been there, these issues have been—

Chair: Okay, what is your policy on destroying documents? Do you have a definite policy that you destroy documents after a certain number of years?

Lord Hall: I cannot answer—

Anne Bulford: The board minutes—they have been gone through.

Lord Hall: But they do not refer to—

Anne Bulford: We have looked through them. We have provided them to the NAO. There is no—

Q108 **Chair:** You provided them to the NAO. Let's go back, then, to the NAO Report, which you are clearly pleased to go back to regularly. What was interesting about all these discussions was that HMRC had some vague records, limited records, of meetings and discussions they had had with you, but at the BBC end, there really wasn't much of a record about the decisions made or the conversations you had had with HMRC. Given the significance of this, and what Ms Henderson said about the impact on the licence fee payer, why was that not, as Ms Flint said, recorded more clearly? Surely you keep all board minutes, just as part of your normal archiving. That would just be a normal thing for a public sector body to do.

Lord Hall: The specific question you asked was whether I can find out anything about PSCs and the policies there in our board minutes going back beyond our time in the BBC. I cannot. Have these issues been dealt with at executive board level before the change, when the trust was abolished, and at the unitary board now? Yes they have—extensively.

Q109 **Caroline Flint:** But Ms Henderson outlined the policy shift and the reasons why. Ms Henderson has only been in the organisation since—

Jennifer Henderson: Since 2015.

Caroline Flint: Four years, okay. Who informed you, Ms Henderson, about this policy shift and the reasons why?

Anne Bulford: It is outlined, actually, in the evidence—

Chair: We asked Ms Henderson, so perhaps Ms Henderson could answer first.

Jennifer Henderson: It would have come to me via discussions with the business affairs teams who do the contracting. I would like just to add one further point—

Q110 **Caroline Flint:** There has been a tax department for some time, I understand.

Chair: Yes, it wasn't invented when you took it on. The tax department, or the head of tax, was there before you.

Caroline Flint: It existed before you arrived. Is there a document somewhere that you have been able to read, or is it all verbal?

Jennifer Henderson: I came across it through discussion with my business affairs colleagues who do the contracting. Can I just add one further point to the £10,000, six-month point? This is outlined in the NAO Report. It was not just about a limit—a £10,000 limit and a six-month limit. It was about the fact that if somebody has multiple engagements, they are best placed to determine their employment status. Obviously there was a protection of the licence fee on our part, but the presenter and their accountant and agent were able to make a better decision about their employment status, taking into account all their other work.

Q111 **Caroline Flint:** But it was not working that way around, was it? Presenters were not coming to the BBC and saying, "I'd really like to be under a personal service company." It was directed by the organisation that they should go on to that from a freelance contract of a type that was probably used then, now and in the future across the broadcasting sector.

Anne Bulford: But, Chair, if I may, the policy around the use of personal service companies for radio and television presenters was described in evidence to this Committee in 2012.

Q112 **Chair:** Let me just go back to that, then. There was also that internal email that Mr Rowley was quoting from earlier, where Ms Patel said: "We are not aware of any instance where someone who is eligible to be a staff member has requested this status and has been denied it." We now know that that was at the same time as the BBC was taking people off staff and putting them on personal service contracts. They had it and they wanted it, but they were told they could not keep their job if they did not, so the complete opposite is the case. Some of the testimony to that Committee rings a bit hollow now. This was an internal memo, not the actual evidence to the Committee.

Anne Bulford: This goes back to what I said at the outset about the custom and practice at that time being that these presenter roles were freelance roles, and if people moved from a different sort of role into those roles—they were moved from freelance into PSCs later on.

Q113 **Chair:** Sorry, there were people who were on staff who were presenting who were told they had to come off staff on to personal service contracts.

Anne Bulford: We are talking a very long time ago in some cases, but custom and practice was to move people in presenting roles across on to freelance at different times in the history of the BBC.

Q114 **Chair:** I think this just underlines the muddle. Can I go back to the issue around HMRC? You have said that you pressed them in 2016 that there was not long enough to deal with this, and you pushed them again when they came up with their proposals.

Anne Bulford: Yes, and we wrote to them again in—

Q115 **Chair:** What records do you have of those conversations with HMRC? Were you just hitting a brick wall? Did you link up with other broadcasters about this?

Anne Bulford: We did.

Q116 **Chair:** Can you just talk through what you did to try to provide some protection to yourselves but also to those presenters who were going to be affected? What were you getting back from HMRC?

Anne Bulford: We wrote directly to HMRC asking for a number of things. Partly our presenters asked us to do this, but we were doing it anyway. We asked for more time, for clarity across the whole industry around the status of the radio industry guidelines, which still has not been provided, and for more support in managing this.

Q117 **Chair:** What did you get back from HMRC?

Anne Bulford: I had correspondence back saying that they were unable to help us with that.

Q118 **Chair:** Are you able to share that with us, in confidence if not in public?

Anne Bulford: I would need to check, but I cannot see why not.

Lord Hall: In principle, yes.

Anne Bulford: There is our response to the consultation and then there is an exchange of correspondence.

Q119 **Chair:** It would be very helpful if you could share in confidence with the Committee—this Committee is very aware of its constitutional position, and we would maintain that confidence—any documents that refer to the discussions about encouraging the establishment of PSCs, particularly around the liability for the BBC and the licence fee payer.

Anne Bulford: If there is material to share with you, of course. I do not want to pretend that there is a great deal.

Chair: Can I move on to where things are going now? You talked about the mediation process, Lord Hall. I think I am right in saying you have paused that for now while you are trying to have this global discussion with HMRC. Can you give us a timeline for when you think this might be resolved and when the people—in some cases low-paid local radio presenters—who are worried about whether they can pay their mortgage will have certainty? *[Interruption.]* We will have to pause there. You are not off the hook for long, but we need to go and vote.

Sitting suspended for Divisions in the House.

On resuming—

Q120 **Chair:** Welcome back to the Public Accounts Committee on Wednesday 30 January. Lord Hall, before the bell interrupted us I was asking where you are at with the negotiations with HMRC. Do you have a timeline for when matters might be resolved?

Lord Hall: To be quite honest with you, it is taking longer than we thought, but that is fine so long as we get to a good conclusion. Anne has been in the last set of meetings with HMRC. I hope we can bring this to a conclusion in the next month or so.

Q121 **Chair:** A month or so? So you think possibly within this financial year?

Lord Hall: We would really like to have it done within this financial year. I just want this sorted on behalf of the BBC, but also on behalf of the people directly affected.

Q122 **Chair:** I think we all see the advantage to doing it in this financial year, rather than cutting across another. On recoupment, which Mr Rowley raised earlier, you gave HMRC an £8.3 million settlement. We have heard testimony from people who then found that money was being taken out of their payslips, which they often did not know was happening and were very concerned about. Ms Bulford, you touched on that earlier in your evidence. Can you explain not only the settlement with HMRC—we understand that there may be some logic to that—but why you then recouped that money from staff without communicating with them that you were doing so?

Anne Bulford: The objective was not to do it without communicating with people. We did communicate with people, but as I explained earlier to your colleague, that communication with some people was not good enough. One thing we learned in that first period was that the nature of what we are dealing with meant that individuals had to be spoken to by individuals with appropriate expertise. We had to understand their circumstances and understand in quite a lot of detail their tax position—when they were paying and when they were not. Some people had paid corporation tax on the old basis, and then this had come through.

We stopped recoupment while we spent much more time talking to people and working out what to do. We will deal with that in due course and sort that remaining balance out. The communication was there, but it was not strong enough.

Q123 **Chair:** Given that tax is personal, it seems extraordinary that money was being taken away from people, when under their previous tax arrangements they would have had their own direct relationship with HMRC.

Anne Bulford: Yes, but it goes back to the statutory responsibility of an employer to deduct tax where it— Once you assess somebody and you need to deduct tax, you need to do it. We did communicate—we did not just deduct the tax—but that communication was not good enough. Critically, it was not personal enough to take into account this complex transition period.

Q124 **Chair:** Although you paid that payment on account to HMRC, I suppose to mitigate future liabilities, did you do so believing that that was what you had to pay, or did you expect to get any of that back from HMRC?

Anne Bulford: We made an estimate and made that payment. Some of it actually came back from HMRC when some categories of employment roles moved back to self-employed. One thing that happened through this period is that, as the test was settling down, groups of roles were moving in and out of employment statuses. Some has come back from HMRC because roles have been clarified, some has been recouped, and the balance will be dealt with as we get to our final settlement and sort things through.

Q125 **Chair:** I think you and Lord Hall both mentioned earlier supporting some of the individuals involved, and paragraph 10 of the NAO Report summary talks about the money that was paid: bridging loans to three people, totalling £2,550, and money for 33 people for bookkeeping fees, totalling £12,000. That was then; what have you paid out now to support people who are stuck in this difficulty?

Anne Bulford: We have paid a few more people for accountancy costs; there is a sum of money for people who are paid less than £45,000 to deal with that.

Q126 **Chair:** Can we just be clear, because I have heard this a number of times: only people earning less than £45,000 gross will get anything to help them?

Anne Bulford: We have helped them with the bookkeeping costs. We have also looked at expenses for the 2017-18 transition year, and agreed a mechanism for that, because in transition people were potentially paying tax but not being able to claim expenses alongside the BBC expenses policy—those sorts of things.

Q127 **Chair:** We have also heard that some people, when they were asked to sign new contracts, chose not to and then did not get paid for some time. We have also heard about contracts that include taking on any future liabilities for tax, and that has caused problems where people have said they do not wish to sign a contract on staff on that basis, and they then have not been paid. That may be okay for people on megabucks, but for lower paid members of your staff, whether they are freelance or whatever, that is a big issue. What are you doing to deal with that? That is a very big issue.

Anne Bulford: It was. We stopped that straight away and paid people. Our contracts have always had indemnities in them; indeed, those indemnities were strengthened following a recommendation from this Committee in 2012. When we set up the new contracts, we moved those across, but they were not familiar to people and people did not like them or feel comfortable with them. So we took those out and carried on paying people, and then we revisited—

Q128 **Chair:** So you took those out of all contracts, or just the ones who objected?

Anne Bulford: No, we carried on with the old contract form, with the arrangements that people were used to, and then we had quite an extensive period of consultation where we looked at the overall contract form and agreed a new contract arrangement, which has all the necessary protections in.

Q129 **Chair:** Okay, so you don't think you have any staff currently on a contract with that clause in it?

Anne Bulford: Not that clause that was there. The historic indemnity clauses that we have always had in our contracts, which were part of it, are still there in old contracts, but for people who have moved on to new contracts, it is in the new form that we have consulted on, and that form of words is the form of words that has been agreed with people and that they feel comfortable with.

Q130 **Chair:** Agreed with people. Is that BECTU, NUJ—?

Anne Bulford: It is both trade unions and the representative group of people impacted by the IR35 and the employment status changes, who we speak to on a fortnightly basis. We also speak to agents' groups. There is quite a range of consultation; it is not just through the unions, although that is absolutely our main channel of communication because that is our recognised way of working.

Q131 **Chair:** One of the puzzling things when you are going back and making these settlements with HMRC is that the PSCs were supposed to have sorted out their own arrangements; it was not your responsibility, before 2017, to make sure that the right money was being paid. How much of that £8.3 million is covering the pre-2017 era?

Anne Bulford: None of it.

Q132 **Chair:** None of it—so it was all CEST?

Anne Bulford: No, that was a payment on account. It was all the CEST period, it was all current and it works its way through in our annual return to HMRC.

Q133 **Chair:** Can I ask what is happening now with new staff? What kind of contracts are they being put on? If someone were to join the BBC today as a presenter, what kind of contract would you expect them to go on?

Anne Bulford: We would put them through the CEST as it is running at the moment, and depending on the outcome of that, they would either be contracted as a freelancer—there are different sorts of contract for that depending on the term of the engagement—or, if they came through the employment test as staff, they would be employed on that basis.

Q134 **Chair:** And CEST is throwing up about 90% of people as staff, so more of them are coming in as staff?

Anne Bulford: Well, it is throwing up 95%-plus of this group, but it still remains the case that the vast majority of our freelancers have freelance status.

Q135 **Chair:** In terms of the settlement, one of the things that has rubbed with a lot of the people we have spoken to is that they set up PSCs and they are now being told they should have been on staff and they are being asked to pay employers' national insurance contributions. Where are you on negotiations, Lord Hall, with HMRC—what you can share with us, because we recognise you are in negotiations—about employers' national insurance contributions? Do you think it is reasonable for these people to have to pay it themselves, when it was the BBC that pushed them on to those contracts in the first place?

Lord Hall: That is part of the negotiation that we are having with HMRC.

Q136 **Chair:** So it is possible that you may take on that liability for the people in PSCs.

Lord Hall: That is part of what we are negotiating with HMRC.

Q137 **Chair:** That is helpful to know, and I appreciate that we would not want to jeopardise the individuals.

This has all been very muddled. Can I be clear about the different types of contracts? We have employed for tax purposes only. Are some of your staff still on that basis? Some presenters are employed for tax purposes only, so you take their tax and pay it to HMRC, but they do not have other staff benefits.

Anne Bulford: We have a worker contract, which is designed for people on a short-term contract. They would have tax deducted at source and statutory benefits.

Q138 **Chair:** That would be on-air talent, perhaps, on a short contract who could be sacked at a moment's notice if their face did not fit. Is that the sort of category of person?

Anne Bulford: They would have their contractual arrangements in their contract. Sacking people at a moment's notice is not what we do.

Chair: Then you have on-air talent S and on-air talent B.

Anne Bulford: Yes. When we moved the predominantly news people on to staff contracts, to help with the transition because, obviously, some people had their own arrangements in place for pensions, health and things, we offered an option of OAT S, which had statutory benefits, or OAT B, which had BBC benefits. We have left those in place for people who want them, but our objective is to transition people who are on staff all to the same staff contracts over time, and we have said that to all the individuals involved.

Q139 **Chair:** That will not be an OAT contract.

Anne Bulford: Having given people the option of OAT S, we are very reluctant to move people off that arrangement if it suits them, and it does suit some people.

Q140 **Chair:** The other thing about a retrospective aspect of this is that people who went off staff, or were never allowed to be staff and were encouraged to establish PCSs, will have taken out a private pension rather than a BBC pension, and got no sick pay. Is there any recompense for those back issues that you are looking at in the settlement?

Anne Bulford: As I explained earlier, at the moment we are concentrating on dealing with HMRC and the tax aspects. Moving from role to role, with different employment status, is a very complex area. If we need to look at that as a second stage, we will have to do that.

Q141 **Chair:** So there will be a stage two.

Anne Bulford: Yes, but this is not straightforward, because you would normally expect freelance rates to be higher than staff rates, because people are responsible for their own benefits.

Chair: We appreciate there is a lot to unpick.

Anne Bulford: It is not a straightforward thing that one follows.

Q142 **Chair:** But Ms Flint and I have both spoken to people who had to make decisions about everything from short maternity leave to going in when they were sick, because they had been taken off staff contracts in some cases and put on PSCs. So they had the benefits and lost them.

Anne Bulford: They had then been in a different role, a freelance role, and had a different fee structure.

Chair: It was not always a different role, actually, but I will not go back over that.

Anne Bulford: That would have to be looked at role by role, individual by individual.

Q143 **Sir Geoffrey Clifton-Brown:** Ms Bulford, can you clarify what the global arrangement with HMRC is that you are trying to achieve?

Anne Bulford: We are trying to achieve a settlement that provides certainty for everyone looking back at employment status and taking a different view. It is primarily about agreeing with the Revenue a financial settlement that means we do not all spend a huge amount of time arguing about who was right and who was wrong on employment status; we make a financial settlement to deal with that, which fits within our requirements to achieve value for money and the Revenue's regulatory requirements to settle. Broadly, it means looking back and saying, "Okay, if these roles had a different employment status, what would be the tax liability associated with that?" without going through all the tribunal stuff.

Q144 **Sir Geoffrey Clifton-Brown:** Can I summarise what I think you are answering, to see if I have it right? You are trying to negotiate with HMRC a global figure for anybody who worked for the BBC in any capacity under any arrangement, such that you pay a negotiated global figure at the end of it, so the Inland Revenue will not go back and retrospectively investigate any individual's tax affairs.

Anne Bulford: Yes.

Q145 **Sir Geoffrey Clifton-Brown:** Does that include national insurance, corporation tax and income tax?

Anne Bulford: It certainly includes national insurance. One of the things we have to work through is what is appropriate and what is not to include in that settlement. That is where it is very challenging. With sole traders, the responsibility is with us. For PSCs, the contractual relationship is between the Revenue and them. We have to find a way through that. If, for example, there was something else going on in someone's personal service company, either with another engager or something about their tax affairs, that would not be appropriate. We have to find a practical way of doing it, but the vast majority of the people we are talking about do not earn a great deal of money. They have simply had their fees, put them into their PSCs and taken dividends out. There should not be anything else going on, in which case the settlement should deal with it. That is what we are seeking to achieve.

Q146 **Sir Geoffrey Clifton-Brown:** That is what I hoped you would answer. Lord Hall, having come up with that global arrangement, if any individual working for the BBC in whatever capacity is not covered by that global arrangement and can prove to you that they have been financially disadvantaged in any way—whether that be in their pensions, sickness pay, being in the wrong tax band or whatever—will that cover your earlier statements that you will take full responsibility?

Lord Hall: I think what we were saying to the Chair just now is that we want to deal with these issues to do with retrospective action directly with HMRC now. There is a second stage where we will have to look beyond that, but we are not at that stage yet.

Q147 **Sir Geoffrey Clifton-Brown:** But it is the second stage that I am talking about. It seems to me that this is so complicated that there will inevitably be some that this global settlement does not cover.

Anne Bulford: In relation to tax, if for whatever reason the global settlement does not cover it, we will have to agree something that is fair and reasonable on an individual basis. However, our objective is to try to give certainty to as many people who work with us as possible by dealing with them as quickly as possible in one go.

Q148 **Sir Geoffrey Clifton-Brown:** Okay. I want to examine your response, Lord Hall, in relation to the records. You said that you have searched extensively for the records relating to this incident. I find that answer hard to believe. This is an organisation that prides itself on keeping every aspect of things in archives since the BBC was founded, so I find it hard to believe that you cannot find the records.

Lord Hall: We can find minutes of meetings and all those sorts of things, and I am grateful for the opportunity to be clear about that. What we cannot find is the point where policies about PSCs were discussed, debated and defined. That is the bit we cannot find.

Q149 **Sir Geoffrey Clifton-Brown:** Are you telling me that you cannot find board records? For example, when your predecessor came before this Committee in 2012, inevitably this matter was raised at that time. Did it not go into board minutes?

Lord Hall: We cannot find board minutes that refer to the issues or papers that refer to the issues. That was my point. Of course we have ample records of minutes and board papers and all that going back. We cannot find, in answer to your earlier question, a point where the policy on PSCs was debated, discussed and approved.

Q150 **Sir Geoffrey Clifton-Brown:** Have you been back through all your internal auditors' records to try to find the information?

Lord Hall: We can redouble our efforts. I certainly wanted to find the papers, but I could not find them. We can go back through internal audit as well.

Q151 **Sir Geoffrey Clifton-Brown:** It seems extraordinary that an organisation like the BBC would not have kept records on the subject. Doesn't it seem strange to you and make you wonder where some of those minutes and records have gone?

Lord Hall: I don't think anyone is saying for one moment that things were destroyed. I don't know, I suppose I have a tidier view of the world that when these big things come up, they are properly discussed at a board and you decide and then communicate. To go back, of course the minutes of the boards and sub-committees and so on are there, but we cannot find the point, to answer your question, where the policy about PSCs was discussed and debated. *[Interruption.]*

Chair: Okay. I'm afraid we are going to have a break, otherwise we will be late for the vote. We have another vote. We have another couple of tiny things to finish off on this, then we will be moving on to E20. If anyone needs a comfort break, now would be the moment.

Sitting suspended for a Division in the House.

On resuming—

Q152 **Chair:** Welcome back to the Public Accounts Committee on Wednesday, 30 January 2019. We were—hopefully—finishing off our session with the BBC on service companies. I want to finish off about the communications you have had with different staff. The consistency of message seems to be a bit vague. We talked earlier about the assurance you had. We have had written evidence—you have seen some of it—of different messages being sent to different people at different times. Different people were sending out emails from the talent team, the HR team and so on. How did you assure yourself that people were being given the same, clear information? I don't know who would take that—Ms Bulford, I suppose it is you.

Anne Bulford: We did send out consistent messaging. I think what happened was that the individual conversations did not necessarily always take place as we wanted. We brought in some additional resource and had people who had the time and resources to go out and visit teams or individuals and talk on a local basis, to ensure that people understood what they had received and to answer any further questions they had.

Q153 **Chair:** So a lot of this was verbal and not in writing? I'm talking about the consistency of the written messages.

Anne Bulford: The consistency of written messaging should have been going out in standard format. If anything went wrong with that and it came back through the verbal conversations, we corrected that and dealt with it.

Q154 **Chair:** But there were basic things—for instance, Liz Kershaw's evidence went to the DCMS Committee, and we presented that to you. We have had others as well that we could not share. That had a factual inaccuracy in it, and in your response to the DCMS Committee you said, "Well, that was wrong." There was no consistency or an assurance on the policy.

Anne Bulford: I'm sorry, we are talking about slightly different things. The material that we shared with DCMS and the material that you sent to us, which we have of course seen and dealt with, deals with different time periods and different issues at different stages.

Q155 **Chair:** But the fact that wrong messages were going out does not fill us with confidence. The other thing was about the number of times you meet different people. For clarity, can you just run through how regularly you meet the trade unions or the staff team that you spoke about earlier?

Anne Bulford: We meet the trade unions on a regular basis—at least monthly—to discuss a range of issues, and this is one of them. I have just been corrected: we have been meeting the presenters' group fortnightly. That has not been as regular since Christmas, but it will pick up again now that we are making more progress with HMRC, as Lord Hall has described. We also see individuals and have regular meetings with the agents' groups on a similar pattern.

Q156 **Sir Geoffrey Clifton-Brown:** I apologise, Lord Hall—having been caught out once, I did not want to come all the way back and find that we had another vote. I want to go back to the vexed question of records. Are all your records kept in one depository?

Lord Hall: As far as I am aware, yes.

Q157 **Sir Geoffrey Clifton-Brown:** So you don't think, as a result of my probing, that there might be a secret place where these records are found, but which you have not yet been able to find?

Lord Hall: No. Sorry, but I don't think there is a secret place that I have not found.

Q158 **Sir Geoffrey Clifton-Brown:** Under Inland Revenue rules, are you now required to keep all relevant documents for six years?

Lord Hall: Yes, but I think your questions go back beyond that.

Q159 **Sir Geoffrey Clifton-Brown:** Well, six years from the last financial year would be 2012, so are you possibly in breach of Inland Revenue rules in not being able to find these documents?

Jennifer Henderson: Can I just step in here? HMRC does require that you keep records going back for six years. That is correct, but they would not expect you to keep a board minute that referenced what the policy was for engaging personal service companies.

Q160 **Chair:** HMRC require you to keep personal records.

Jennifer Henderson: Yes, so they expect you to keep records of expenses, pay, benefits and so on.

Q161 **Sir Geoffrey Clifton-Brown:** One final question on this subject. Lord Hall, can you have another look for these records, including the records of all your advisers and internal audits, and then perhaps write to this Committee with the findings of your further inquiries?

Chair: Further to Sir Geoffrey's point, it seems incredibly sloppy that such a major change that had such a huge impact on so many people was due to conversations rather than its actually being properly recorded. Lord Hall, you have just said that you like things neat and tidy, recorded and kept. Has the BBC's approach to this changed since you took over? Will a future PAC be asking questions about something where records are mysteriously not there? Or is it better now?

Lord Hall: I think you will find full reports of the executive who report to the executive board and now to the full board. You will find full minutes of those. Papers dealt with at the executive board and now the full board are also there, but the most important thing that you are both pointing towards is that the agendas of those boards are things that are substantial and proper and material to the running of the BBC. I think you would find that, too.

Q162 **Chair:** Okay. Can I just finish with what we have had from a number of staff that Ms Flint and I—well, a number of us—spoke to? A key message came across that people are very loyal to the BBC. Whatever contract they had been on, they felt they worked for the BBC. They had put their life into it. They were passionate about it. The messages were very clearly that an apology was wanted. These are just some of the things that people have said: "The BBC has lied to us." "Ten years ago the BBC made the decision to do this"—in other words, required them to do it—"and the idea that it has been presented therefore as a choice was wrong." "People would have more respect if they would admit what it did." "The BBC should say, 'We accept that and we apologise to those who did what we asked in good faith'." Lord Hall, before we finish this session, what have you got to say to your staff?

Lord Hall: I will repeat what I said earlier to you: I have met with the IR35 presenters groups and said that I am sorry for the way in which these matters have been dealt with. I am happy to repeat that now. But let me also say, regarding the events of 2017 onwards and in answer to an earlier question, of course we are responsible for making sure that the changes that were brought about then were handled properly, and we have learnt lessons from that. Equally, I would say to you that HMRC should think very hard about the difficulties created by them by rushing into something that was too global in nature, and we still haven't worked through the consequences. I am sure that both of us need to look and reflect on what happened in that year and thereafter.

Chair: Thank you. We have got HMRC in partly for that reason, to put some of these points to them. Overall, I think I can speak for the Committee when I say that what we have heard from you has not really reassured us. It was a dog's breakfast: a mix of multiple, complicated contracts with people being moved on and off different types of work, which left very big confusion for them and a certain lack of clarity in the BBC. But we will leave that for now.

We will produce our Report once we have spoken to HMRC, so it will be some weeks away. We now want to move on. Ms Henderson is off the hook for now. Richard Dawkins is going to join the panel.

Jennifer Henderson: May I interrupt, Chair? Is it okay to leave?

Chair: Yes, Ms Henderson, you may leave. If you wish to stay in the room, that is entirely up to you. For anyone who is interested, the transcript will be on the website, uncorrected, in the next couple of days. As I say, our Report will be out once we have had a chance to talk to HMRC.