

What if there's a problem?

When you have a problem on a production, there are a few protections you have and steps you can take to rectify the situation.

1. Firstly, there is employment law.

For example, the EU working time directive requires an 11 hour break between when you walk out of the door and when you walk back in again the next day. In effect, this means that your day should normally (there are exceptions!) never exceed 13 hours in total.

2. The law also protects contracts.

The law enforces contracts, except where parts or all of the contract contravene what the law considers fair. It's likely that any bad contract offered to you will be to your detriment (but not necessarily and it's possible you could offer an unfair contract to an engager!), so the law will probably be on your side in any dispute. A contract does not have to be a formal document - any record of an agreement that both parties are aware of can count (e.g an email stating timings and rate). If there is no formal contract, you can send a summary or deal memo to the engager. They then have an opportunity to reject your interpretation. If they don't, acceptance is usually assumed.

If your contract is breached by production, you can ask union officials to get involved and if necessary, call the lawyers and take it to court. However, it is important to remember that if you have agreed to certain terms, as long as they comply with the law, you cannot complain those terms later.

3. Union agreements.

Where an agreement between BECTU and another organisation (e.g. PACT) exists, both parties should make contracts that comply with it's terms.

Any production working under the PACT / BECTU terms should issue you with a deal memo detailing the basic terms so you know what you are agreeing to beforehand. No subsequent contract should alter the terms in the deal memo. You can see a list of members on PACT's website. Any company wishing to benefit from UK tax breaks needs to register with PACT and you should ask for compliant terms regardless. Copies of all current agreements relevant to the camera department are on our website. In some cases we have quick reference guides, but it is worth reading each agreement in full at least once.

Though some agreements are with single entities (e.g. BBC), where an agreement is with an umbrella body or covers a specific production sector, we strongly recommend asking for the same terms with any individual production entity that wishes to operate in that area. If different standards are applied to the same area, it is usually erodes terms (though it's not impossible that you could get a better deal from a company not covered by an agreement).

It's important to emphasise that as a union member, you should support the agreements that have been democratically approved by the membership just as PACT members should support what their organisation has approved. If either party attempts to undermine what has been agreed, they are undercutting their colleagues or fellow organisations. These situations almost always erode rather than improve terms. If you agree to something worse than the agreement, this will likely affect you and your colleagues in the future.

In addition, you can set out your own terms and conditions – especially if there is no current agreement in your sector. Make sure they comply with the law and that you have evidence of having sent them to the client..

When there are issues.

1. You may be unhappy about something, but is it actually a problem? Some things are easier to define than others. There are basically three kinds of problem.

- A. Personal or professional relationships.
- B. Health and Safety.
- C. Contractual disputes.

A. Where there is bullying or harassment, this can often be shut down before it really begins by responding firmly and confidently. The union can offer workshops on this. PACT & BECTU have developed a statement on bullying and harassment that we aim to include as an appendix in all future agreements. If the situation persists, you can read this to determine the policy.

B. Health and Safety is the responsibility of ALL parties involved in the production. It means taking reasonable steps to identify likely risks and mitigating against their occurrence. You should not expect others to be solely responsible. You must report any risks you identify and are entitled to refuse to work in a situation where in your professional opinion, an unmitigated risk exists. Of course, in a world of infinite possibility, what is reasonable is a factor. You should expect to see a risk assessment for each workspace or situation or at least be shown one if you request it.

C. Though there are always gray areas, most contracts and agreements are fairly comprehensive and it is usually clear if something is happening in contravention of part of an agreement.

If you have checked your contract, any additional policy statements and of course your own professional experience to determine that something isn't right, you need to address the problem.

What to do if there is a problem

1. If the problem affects your team, department or the entire production, you should confer with your colleagues to agree what the issue is and what should be done about it. You may wish to consult with colleagues even if you are the only one affected to see if you can get their support.

2. Your team (or possibly just you if you are the only one affected) should then discuss with your line manager or head of department to see if they can resolve the situation at the department level or support you in taking it further.

3. The next step is to discuss things with production - either the production manager, line producer or producer. Possibly your head of department will do this alone, with you or ideally as a supportive group - perhaps the entire crew might attend a meeting. We recommend acting as a group as it is then harder for a manager to attempt to solve the problem by "shooting the messenger". We do not recommend identifying yourself as a union member unless it is necessary or you feel safe to do so. Regrettably, there is still prejudice and discrimination against union members. This is illegal, but hard to police in a freelance environment. A group is harder to intimidate than an individual. Depending on the role, a single crew member might be easily replaced, but a whole crew is not.

At all times you should try to be calm, reasonable and positive. It is unwise to assume malice or sharp practice before it is clearly the case. Once the person responsible or with the power to fix the issue has been informed, they then can choose how to respond.

4. It is of course up to you to decide how serious a problem is, but if you believe you are in a situation that is dangerous, intolerable or a clear breach of your contractual terms and your

managers are not addressing it to your satisfaction, you need to call the union. You can of course call for advice at any time. It maybe that the intervention of an official results in a fair resolution or it may be that things need to be taken further. BECTU may decide to contact a higher tier of management or a trade body such as PACT. Finally, it may be decided that you have a good case to take to a court.

Once you have a serious dispute with a company, it is likely that your professional relationship with them is over. This may not be a bad thing if they are willing to let things get to such a point. As a freelancer, you likely have other clients or can find new ones. Unless a situation is bad enough to make the news, it is unlikely that word will spread very far. The production company will probably not want bad publicity. Any gossip will probably be quickly forgotten. You therefore should not worry that your career is over. If you are capable of good work, you will find opportunities. At worst you may be short of work as if you were ill or injured, but if you are available and make enquiries, this may turn around quickly.

Companies who have allegedly failed to observe their obligations to members can be found on an 'Ask First' list in the union journal. When taking on a new client, it is wise to check this list. If your potential client appears there, enquire with the union before proceeding.

More information: <https://www.creativetoolkit.org.uk/your-rights/legal>