

Buyout Contracts

*Getting the contract
you deserve!*

If you've worked in Stage Management for any length of time the chances are you've worked on a "buyout". More and more employers seem to be offering this kind of contract and they can vary widely from one producer to the next. How can you tell whether an employer is offering you a fair deal and what can you do to protect yourself both before and after accepting a job?

Buyouts "101"

Equity negotiates a number of agreements that cover different areas of the theatre industry such as the West End, Commercial Theatre and Subsidised-Repertory Theatre. These agreements lay out the minimum levels of pay, standard terms and conditions of employment, and detail any extra payments that might be incurred such as overtime rates. If you are employed on an "Equity contract" from any of these agreements then your employer is bound to honour its terms.

If an employer offers you a contract where you are expected to give up any or all of the terms of these agreements - usually for an enhanced level of basic pay - then that contract is commonly referred to as a buyout. Some employers will offer a buyout deal based broadly on one of the agreements but with changes to some of the terms. Other employers will have their own contracts that are not based on the Equity agreements at all.

First things first

Whatever type of contract you are being offered it is important to establish the terms of your employment clearly before you sign, starting with your hours and rate of pay. In this document you'll find examples of how to work out basic and overtime hourly rates, with this information you can calculate how many hours of your time your prospective employer is buying. Your contract should clearly state how many hours per week you are expected to work, does the salary sufficiently cover those hours? How does this fit with the workload you are expecting to undertake? What does your employer intend to do if you exceed your contracted hours? These are all questions that need asking if they have not been clearly addressed.

Obviously it can be difficult to know in advance exactly what the workload will be like, every production is different, but there are certain things you can check that will help to give you an idea. For example, how many other people will there be in the team? What seems like a great deal suddenly seems less appealing if you turn up on day one to find you'll be doing all the work alone. The team structure will have a huge impact on the amount of work you'll be undertaking so it's important to know how the role you are being offered fits in. It's also important to make sure both you and your employer know exactly what will be expected of you within that role. Will there be any extra duties? Again, if so does your salary reflect this?

It is worth bearing in mind that if you were working under an Equity agreement there would be a number of things aside from basic overtime that could also accrue extra

*Equity will provide
free confidential
advice and
information
regardless of whether
or not you are on an
Equity contract.*

payments. Each of the agreements is slightly different but these might include Sunday performances, bank holiday working hours, and appearance in costume. Also included with this document is a summary of extra payments from each of the Equity agreements so you can check whether your employer has accounted for them in the amount they are offering you.

Agreement based buyouts

If your employer is offering you a contract based on one of the Equity agreements then it should come with an addendum detailing clearly which aspects the employer wishes to change and how you will be compensated for those changes. Any terms not mentioned will then remain as per the relevant agreement.

The main change will usually be to the provision of overtime and here lies the major problem with buyouts; before you begin the job it can be almost impossible to know whether the sum you are being offered will cover the hours you are going to work. Employers have been known to offer contracts that, for example, say “buyout of hours up to 48”, but the sum they are offering only pays for 43 hours each week. Whether this ends up being a fair deal depends on the average hours you work over the course of the contract: you may very well work a 43 hour week, possibly even less, but if you were to end up working 48 hours on average then that’s five hours of overtime you are potentially missing out on every single week. If this turns out to be the case then the fact that your contract is based on the equity agreement offers you some level of protection as an employer cannot undercut the minimum levels of pay. If you found yourself in this situation Equity would be able to help you seek the pay you were owed from your employer.

The things that money can’t buy

Equity invests a large proportion of its time and resources into negotiating with producers in order to improve the terms and conditions within the agreements. The idea is that these should serve as a minimum industry standard for employers to offer. Whilst the union would always actively encourage employers to offer union approved contracts, they cannot oblige them to and it is an unfortunate fact that there are many jobs out there with pay and terms that fall well below that industry standard. Even so, there are certain legal rights any employer does have to observe such as the national minimum wage and the entitlement to paid holiday.

Although it may not be possible for you to take paid holiday leave, especially on a shorter contract, your employer must still pay for the holiday entitlement you accrue. They can do this by paying you all of your holiday pay at the end of the contract or week by week but either way it should, by law, state clearly in your payslip or contract which portion of the wage is salary and which is holiday pay. In other words, they cannot combine your holiday pay into your salary as one lump sum.

They must also pay you at least the national minimum wage over the course of your contract. It is especially important to be aware of this if you are engaged on a contract that offers you a flat fee for the entire production time. Keep a close track of the hours you work and check your hourly rate regularly. If you find that you are working for less than the minimum wage it is important that you contact Equity immediately.

Working Time Regulations

Another statutory right is protection under the Working Time Regulations which state that you should not work more than a 48 hour week on average over a 17 week period. Obviously in our industry hours can fluctuate greatly so most employers choose to average hours over either a 52 week period or the duration of the contract

For the most up to date copies of the Equity agreements and rates contact your local representative or visit the Equity website.

All employers must pay at least the national minimum wage, see Equity’s Guide to Low Pay and No Pay or www.gov.uk/national-minimum-wage

if it is less than a year. An employer can ask you to sign a document opting out of the regulations but **you do have the right to change your mind and withdraw your consent at a later date**. You would have to give notice of this and a suitable notice period (up to a maximum of three months) should be specified either in your contract or the opt-out document if this is separate.

After you've signed

Equity can help you seek any money you are owed up to three months after the end of your contract.

If you find yourself working on a job that turns out to be a bad deal then all is not necessarily lost and there are things you can do to protect yourself. Always keep copies of contracts and any correspondence. If you are on an Equity based deal then you should have signed three copies of the contract and any addendums; one for yourself, one for your employer and the other to go to Equity. This is intended to help Equity keep a record of the work being offered but many contracts never make it to the Union's offices. It may well be worth returning this copy to Equity yourself.

Even on a buy-out your employer should still keep timesheets and it is a good idea to keep copies of these so you have your own record of hours and any break infringements. This allows you to keep track of your work in relation to your pay and will help you to make a case if you find you are out of pocket for any reason.

In an extreme situation you might have to go to an employment tribunal and any paperwork you have to prove your case will be invaluable. It is important to remember that a case can only be taken to tribunal up to three months after the end of the contract so if you have any concerns it is important to raise them as soon as possible.

Speaking up

There is sometimes the misconception that if you challenge contracts or try to negotiate better terms for yourself you will be seen as a troublemaker. If you approach your employer in a reasonable way there is no reason why this should be the case.

We are skilled professionals who deserve to be paid properly and fairly for our work.

If you have any issues with your contract it is always worth speaking to your employer either directly or through your line manager. This can seem a daunting prospect alone so if you have colleagues who are also affected then it might be worth discussing with them how best to approach things. It is always worth being as discreet as possible, your employer will probably be more receptive if they hear about a problem first hand rather than through the gossip mill. Unfortunately, there are unscrupulous employers out there but most are just looking to save costs where they can and don't set out with the intention of treating their staff badly, it is entirely possible that they are unaware that there is a problem and you might be surprised at how co-operative they are. If you find you need help then contact Equity who will offer advice and can, if you wish, intervene on your behalf.

Above all it is important to remember that we as stage managers are professionals providing a valuable service to our employer's business and we deserve to be paid properly and fairly for our work. Hopefully, by asking the right questions, knowing our rights, and working with our union we can ensure that employers respect this.

Doing the maths

Step one – Work out your hourly rate

Take the the minimum weekly salary and divide it by the hours per week.

e.g. A DSM in a grade 2 sub-rep theatre has a minimum salary of £403 based on a 42 hour working week.

$$403 / 42 = \text{£}9.60 \text{ per hour}$$

Step two – Work out your overtime rate

On an Equity Sub-Rep contract overtime would be paid for any hours over 42 per week and this overtime would be paid at time and a half.

$$9.60 \times 1.5 = \text{£}14.40 \text{ per hour}$$

Step three – How much is your buyout worth?

If you are being offered a buyout, deduct the minimum weekly salary from the amount you are being offered per week.

This DSM is being offered a buyout with a weekly salary of £446.20.

$$446.20 - 403 = \text{£}43.20$$

Step four – How many hours is that worth?

The amount you are left with is the value of the overtime your prospective employer is buying. You can work out exactly how many hours this equates to by dividing the value by the overtime rate.

In this case the DSM is being paid £43.20 over the minimum and the overtime rate is £14.40 per hour.

$$43.20 / 14.40 = 3$$

This DSM would be paid for three hours of overtime each week on this deal in other words a total of 45 hours per week

Always keep in mind that overtime is payable under a number of different circumstances, not necessarily just for your total hours per week, check the agreements or contact Equity for further details. Even if you're not on an Equity based deal it is a good idea to use the agreements as a template to judge how fair an offer you are being made.

Cheat sheet

So, you've been offered a job and you know how much they are proposing to pay you, here's a quick guide to the most important questions to ask before accepting that buyout.

- How long is the contract for?
- How many hours per week will I be expected to work?
- Which days of the week will I be expected to work both in rehearsals and performance?
- How many performances per week will there be?
- Will there be any work on a bank holiday and if so how is this paid?
- What happens if I work more hours than expected?
- Will I be expected to opt out of the Working Time Regulations?
- How many other people are in the team and what are their roles?
- Will I be expected to cover any senior members of the team in their absence?
- Will I be expected to undertake any other duties?
- Can I take holiday leave and if not how will I be paid for my holiday entitlement?

Asking these questions is perfectly reasonable and any responsible employer should be able to answer them. Once you've got those answers don't be afraid to take some time to weigh up the pros and cons of your contract before accepting, you're a business person and you have every right to make sure you're getting the best deal possible. Again, if you are unclear about anything, Equity will always give confidential advice.

The agreements

Over the next few pages you will find a summary of the hours and overtime provisions along with any extra payments which are due under each of the current Equity agreements. It is worth remembering that these payments are not intended to be a bonus for you as an employee, most are there to dissuade an employer from working their staff excessively hard or to acknowledge extra services outside of your usual job remit. In other words, they are there to protect you. If your employer is offering you a buyout, compare your contract with whichever agreement is most appropriate and make a note of which points are different. Then you can decide whether you need to approach your employer about improving any of the terms they are proposing. Equity spends a large portion of its time negotiating with producers to try and set industry standards, these negotiations are usually long and difficult. With this in mind it might seem ridiculous to try and singlehandedly talk an employer into offering you a better deal but it is always worth asking the questions. The more aware we are the more we can challenge employers who are offering unfair deals and hopefully improve things for the future.

Fringe

Working week – Maximum 40hrs over 6 days.

Working day – Maximum 10hrs per day between 8am and 12pm.

Breaks – Break of 1hr between morning/afternoon and afternoon/evening sessions.

Break of 15 minutes within every 3hr working period.

Break of 11hrs overnight.

Overtime – 1.5 times hourly wage

- Hours over 40p/week
- Hours over 10p/day
- Missed breaks

2 times hourly rate

- Breach of 11hr overnight break

Other payments

- If a profit is made on the production then a bonus amount should be paid, this amount should be agreed with Equity.

N.B. If the producer is receiving public funding then the salaries paid should be industry standard.

Independent Theatre Council

Working week - Performance only week – Maximum 35hrs (the hourly rate is based on this figure).

Performance/rehearsal/travel/get-in or out week – Maximum 43hrs.

Production week – Maximum 47hrs (there can only be one production week per production).

Working day – Maximum 10hrs.

Breaks – Break of 1hr between morning/afternoon and afternoon/evening sessions.

Break of 15 minutes within every 3hr working period.

Break of 11hrs overnight.

Overtime –Missed breaks are paid at 1.5 times hourly wage for every quarter hour worked.

Compensatory time off must be given as soon as possible for hours in excess of daily or weekly totals. If, at the end of the contract, you have still exceeded the maximum hours then the remaining overtime is paid as follows; 1.5 times the hourly wage for the first twenty hours remaining, 2 times the hourly wage for hours above this.

Other payments - Relocation and commuting allowances are payable. On tour, travel and subsistence allowances are payable. See agreement for exact details and rates.

Commercial Theatre

Working week – Maximum 46hrs over 6 days between 8.30am and 11.30pm

Breaks – During rehearsals a break of 1hr after five hours work

Break of 15 minutes within every 3hr working period

Break of 11hrs overnight

Overtime – 2 times the hourly rate

- Hours over 46p/week
- Missed breaks
- Breach of 11hr overnight break
- Rehearsal on a day off (subject to minimum four hour call)
-

Other payments

- Performance on a day off is paid at 1/8th of the weekly wage
- Additional performances added post-contractually are also subject to a payment of 1/8th of the weekly wage
- Subsistence, weekly and daily touring allowances are payable where applicable

There must be two days off in every fourteen day period. In breach of this compensatory time off is owed as well s overtime

The minimum salaries vary between rehearsals and performance and are dependent on the number of shows per week, see agreement for further details

West End

Working week – Maximum 42hrs over 6 days between 8.00am and 11.30pm

Working day – Maximum of 8hrs per day (not including breaks)

Breaks – Break of 1hr after five hours work

Break of 15 minutes within every 3hr working period

Break of 12hrs overnight

Overtime – 1.5 times hourly rate

- Hours over 42p/week
- Hours over 8p/day (13.5p/day on nominated long days)
- Missed breaks

2 times hourly rate

- Hours worked before 8.30am and after midnight
- Breach of 12hr overnight break
- Work on a nominated rest day

Single time (in addition to weekly salary)

West End - continued

Other payments

- Responsibility payments for ASM covering DSM, DSM covering SM etc
- Appearance in costume is paid at a set rate per appearance
- Shows over eight per week subject to an extra 1/8th weekly salary per show
- Up to two performances on a Sunday allowed with an extra payment due for **each** performance, see agreement for rates.

Subsidised Repertory Theatre

Working week – Maximum 43hrs over 6 days between 8.30am and 11.30pm.

Working day – Maximum of 12.5hrs per day from first call to end of day. The exception to this is that three days out of the seven before the first performance may be nominated as “long” days where the maximum may be 13.5hrs.

Breaks – Break of 1hr after four hours work.

Break of 15 minutes within every 3hr working period.

Break of 11hrs overnight.

Overtime – 1.5 times hourly rate

- Hours over 43p/week
- Hours over 12.5p/day (13.5p/day on nominated long days)
- Missed breaks

2 times hourly rate

- Hours worked before 8.30am and after midnight
- Breach of 11hr overnight break
- Work on a Sunday or public holiday (not performances) subject to a minimum 4hr call

Other payments

- Performances on a public holiday are paid at 1/8th of the weekly salary
- Performances on a Sunday are subject to extra payments, see agreement for current details.
- Performances over eight per week are usually subject to extra payments, slightly different arrangements are in place for Christmas or children’s shows and if the extra performances fall on a seventh working day. See agreement for details.
- Subsistence, weekly and daily touring allowances are payable where applicable.