

BECTU/PACT TV DRAMA AGREEMENT

A BECTU BRIEFING FOR UNION REPS

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Version Control

Vn	Author	Date	Comment
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ABOUT THIS DOCUMENT

- This is BECTU’s current understanding of how the agreement, **which came into effect from 1st December 2017**, will be interpreted. BECTU’s understanding is based on a reading of, and experience in negotiating this agreement
- **This document is not definitive guidance.** This is the first agreement in a long time. It’s totally new and we fully expect a few questions to arise. A comparison with the APA agreement that covers commercials is instructive here. That is a very mature agreement that has no obvious ‘grey areas’. BECTU and Pact have already agreed that there are some parts of this agreement that need clarification, and there are some disagreements on interpretation.
- **This document is BECTU’s interpretation. It is our ultimate aim to publish something that is authoritative and agreed between BECTU and PACT, but until that can be arranged, this document is circulated to BECTU reps and officials only.**
- Most of this document is guidance about what the actual agreement means. There are some aspects of your working life in TV Drama on which the agreement is currently ‘silent’. For this reason, this document also includes a few notes on the position BECTU urges members to adopt In some cases. For example, this document includes the union’s interpretation of the ‘status quo’ (see travelling with equipment) or it outlines the union’s recommendations for parts of the agreement that are ‘negotiable’ (see SCWD).

WHAT HAPPENS IF A PRODUCTION DISAGREES WITH THE GUIDANCE PROVIDED HERE?

It is quite possible that productions will have a different interpretation to BECTU’s interpretation. This is to be expected and BECTU is committed to settling all such arguments amicably, and adjusting this guidance if it is in any way inaccurate or misleading.

In the early stages of the agreement, the union is still finding new ‘grey areas’ or areas where language in the agreement can be improved. If a crew member who is in BECTU finds themselves in this situation, a BECTU official can either advise the member or speak directly to the production. In all cases, it is very useful to have a detailed set of documentation of the issue so that this guidance can be improved. BECTU members are advised to call the union on 020 7346 0900 or (if not urgent) email tvdrama@bectu.org.uk

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INTRODUCTION

This agreement is broadly intended to codify the way that you work, and are paid at the moment. In negotiations, BECTU have also achieved some significant improvements – particularly in dealing with the ‘buy out’ which often forced crew who work in Prep and Wrap departments into a position where they had to work unpaid overtime.

There are a few changes that will take place as a result of this agreement, and in some cases, the agreement will create a structure to parts of your job that have previously been done in ways that are less consistent.

One major change is that workers are now ONLY contracted on ‘Day Rates’ and day terms. Previously, most workers in this sector were on ‘weekly’ terms.

From now on, because of ‘The Deal Memo’, **you will always know what terms you will be working to** - right from the start of a job. When an employer gives you a deal memo that states that the production you are working on is being done according to the BECTU/Pact TV Drama Agreement, then the terms of that agreement apply in full. Workers with a Deal Memo must be given at least one week notice or termination of employment.

The deal memo must be structured in the way, and have the information that is laid down, in the BECTU / Pact agreement. If it does not, the production is in breach of the agreement. The rates quoted must be daily rates and not weekly rates. “Prep” and “Wrap” should be listed separately and employers can’t just combine them into a single “Prep and Wrap” figure.

The agreement is either implemented in full, or not at all. If an employer says “This production will be managed according to the BECTU / Pact agreement, apart from (for example) the travel terms”, then this is a breach of the agreement. Employers or crew may not cherry-pick parts of the agreement.

This means that there will now be one single consistent approach to employing people on most TV Drama productions.

BUDGET BANDS AND RATES

PACT have proposed three budget bands (see Clause 4) with the bulk of UK-based TV drama falling into the middle band (£850k - £3m per hour). It has been agreed that BECTU and PACT will work constructively together to establish a comprehensive rates agreement for these three budget band as quickly as is practicable.

THE BENEFITS OF HAVING AN AGREEMENT

Prior to the agreement, there was a lot of confusion around some of the basic building blocks of the working day. In some departments, even straightforward concepts like the *Continuous Working Day* or *Broken Lunch Breaks* were open to misinterpretation. In addition, many departments were on a ‘buy out’. This meant that the workers were paid a fee and then practically all of their rights (Overtime, Time Off the Clock, travel restrictions etc) were expected to be waived. This was hugely discriminatory towards departments that are expected to do a lot of ‘Prep and Wrap’ work.

As a result of having an agreement, the union has achieved its key objective – to ensure that people are ‘paid for every hour worked’ (there are some caveats to this but they are minor ones, and generally ‘swings and roundabouts’ cases where the rule – e.g. on Grace Periods – can result in people doing a small amount of unpaid work, but can also result in people being paid for more hours than they actually work).

There remains some confusion around ‘prep and wrap included in the daily rate and BECTU are urging members to gain a clearer understanding of this concept and to press for clear limits wherever practicable.

IMPLEMENTING THE BECTU/PACT TV DRAMA AGREEMENT

The Deal Memo will state that you are employed under the terms of this agreement. The employer may also ask you to sign a 'contract of engagement' to cover company-specific issues. The employer should give you any separate 'contract of engagement' within six weeks of starting work, or a quarter of the way through the engagement - whichever is sooner, and the terms will not be any less than the terms given to you in the deal memo. 'The Deal Memo' will be issued based the daily working practice that is expected for the production concerned.

PENALTY PAYMENTS – OVERTIME, TIME OFF THE CLOCK ETC

The agreement includes a number of '**penalty payments**' that will be described in more detail in this document. These are designed to encourage productions to manage crew responsibly – to ensure that the working day doesn't last too long, to ensure that you have at least 11 hours break between work-days, and to ensure that meal breaks happen when they are supposed to and that they are not interrupted.

When advising on cases where a department is routinely expected to work a longer working day (i.e. 'Prep and Wrap Departments'), it is important that this guidance is cross referenced with the advice about the common 'Confusion about Prep and Wrap Payments (below).

Overtime is the most regularly-paid 'penalty' payment in the agreement. It is a penalty payment that you are paid if you have to spend more time working than your Deal Memo sets out.

It is important to remember that...

- All overtime is voluntary – if you feel unable to work it for any reason, you have a right not to do it
- Overtime must be agreed in advance. This is especially important for 'self-scheduling crew' who don't have their daily work schedule dictated by the shooting timetable.
- It is not acceptable to go to Production after a period of work to claim overtime for work that was not agreed in advance.

Like many other parts of this agreement, this is subject to a 'reasonableness' test – if you are left in a position where you have no option but to work extra time in a day (i.e. the production would suffer damage if you don't) and there is a good reason why you were unable to contact Production to agree this, then a reasonable Production should be expected to agree overtime in that case)

For self-scheduling crew, it is important that a conversation happens right at the start of a job where it is agreed what lunch breaks are expected (if you are expected to work through lunch, crew are urged to ask production to choose between making it a Continuous Working Day (CWD) – see below – or a deal where broken lunchbreaks are paid (also see below for details).

THE WORKING DAY AND HOW OVERTIME IS CALCULATED

Overtime is based on a calculation that takes your rate for the day (i.e. how much you are going to be paid including guaranteed overtime as defined in your Deal Memo) divided by the number of "on camera hours" scheduled in the standard day. This is set out in the agreement as Clause 6.7 and 5.1.3.

There are important rules about how Overtime should be requested and agreed, and on whether or not it is acceptable to work Overtime on a Continuous Working Day - see 'Day Schedules' briefing (below).

Your "overtime rate" is based on your total contracted rate for the day divided by the scheduled number of "on camera hours" (see clause 5.1.3). All overtime is calculated using the following factor:

- Overtime = (total contracted day rate ÷ number of scheduled **camera** hrs) x 1.5 (with a minimum payment of £35 and a maximum payment of £45). *NB. For crew working Prep and Wrap, the day-rate is NOT divided by the number of hours in the day, but by the length of the shooting day – see examples*

NB: When calculating how much overtime is due for a particular amount of overtime that has been worked (e.g. 20 mins, or 1 hour & 10 mins etc), this calculation is done using a system of ‘increments’ (see below)

EXAMPLE: If your normal daily rate is £250/10hrs and you do a deal for 10hrs on camera and 1 additional hour “prep” + 1 additional hour “wrap” for a total fee of £300/dy, then your overtime rate is £300 divided by 10 and x 1.5 = £45/hr

UNDERSTANDING HOW THE INCREMENTS WORK

The object of these penalty payments is to ensure productions are well managed and that poor scheduling is not done at the expense of the crew.

All penalty payments are calculated together across the whole day. So if you have 30 mins pre-call, 30 mins delayed lunch break and 30 mins overtime at the end of the day, you will be due 90 mins worth of penalty (which, on in ‘increments’ rule counts as two hours at the Overtime Rate.

Overtime will accrue in 30 minute **increments** for the first hour each day. Thereafter, overtime will be payable on an hourly basis. For example, if

- 20 mins of overtime is worked, a payment of ½ of one hour at the overtime rate is due.
- 35 mins of overtime is worked, a payment of one hour at the overtime rate is due.
- 55 mins of overtime is worked, a payment of one hour at the overtime rate is due.
- 1 hour and 10 mins of overtime is worked, a payment of two hours at the overtime rate is due.
- 1 hour and 55 mins of overtime is worked, a payment of two hours at the overtime rate is due.
- Two hours and 15 mins of overtime is worked, a payment of three hours at the overtime rate is due.

Any elements that are paid at the overtime rate (e.g. Pre-Call, De-rig, Broken Lunch Payments, Travel Time that has not been incorporated into the working day, etc) are treated as separate elements. This position is implicit in the agreement and has been widely accepted and enacted without comment by productions.

So if someone is asked to do 20 mins pre-call and 20 mins de-rig, this would be treated as 2 x 30 min increments.

If someone has a *delayed* lunch break and a 20 minute de-rig, this would be treated as 2 x 30 min increments. In either of these examples, if there were any other work (e.g. on-camera overtime, or extra de-rig work at the end (for example) on top, then there would be a third increment.

If someone has a curtailed meal break (say by 30 mins), there is a payment due for the 30 mins curtailment, a payment due for the 30 minutes at the end of the day (because they will then have worked the amount of hours that they are paid for by 30 mins prior to the end of the shooting day). And then any further overtime will push the overtime into hourly increments.

Productions have argued that, in some cases (e.g. the travel time at the start and end of a day to/from a Resident Location) these two payments can be consolidated into one lump of time (therefore one increment), but BECTU have replied that this would be applying a different logic to the way we approach pre-call and de-rig times. No one would argue that it is acceptable to treat these items as a single lump.

A well-planned Production could find a way of consolidating these ‘travel to a resident location’ payments by making a decision, in advance, to incorporate the travel time into the working day. By way of illustration, if there is a 40 minute drive either side of the day, the instruction would be “leave the hotel 30 mins before the call time

and start work as soon as you arrive – and you can leave ten minutes early.” Therefore any work done after the “leave ten minutes early” time could be treated as a single instance of overtime.

CONFUSION ABOUT ‘PREP AND WRAP’ ARRANGEMENTS

Some departments, e.g. hair and makeup

- costume
- locations
- ADs etc

...have always worked for a fixed rate for an undefined amount of time on duty (*“the buy out”*)

The agreement moves to abolish the buy-out by setting a finite number of prep-and-wrap hours over and above the on-camera hours. This creates a framework that gets everyone paid for...

- unpredicted ‘overtime’ at the overtime rate
- compensatory rest pay / paid time off during periods of very long days.

“Overtime” is paid for all work that is needed (and agreed) but not scheduled in advance. This is not the same thing as “prep” or “wrap” – there are some departments that will always work some prep/wrap, and employers can schedule this as long as it is predictable. The employer can say (for example), at the start of the job...

“You will be needed to be there for all of the shooting day, and we will generally need you to work one hour prior to that shooting day, and 30 minutes after it.”

... but only if the role that you are working in has always included work like this in their daily rate (i.e. they’ve always worked on a ‘buy out’ deal).

Any time you work inside of those hours is included in the daily rate quoted on your deal memo. Any time you work outside of those hours will be paid at the overtime rate as long as it is agreed.

Existing practice is important. This time spent doing ‘customary prep and wrap’ must not be treated as a contingency in which employers can ask workers to do work that would not have been done customarily during this time, and we understand that BECTU branches are issuing their own guidance about what they understand ‘customary prep and wrap’ to be.

Some productions mistakenly started adding up to two hours prep and wrap to all crew’s Deal Memos as a matter of course. BECTU has now taken this up with Pact and agreed the following wording as an addendum to the agreement which will be published shortly:

“The crew member’s daily rate is deemed to include, where required, and in addition to the shoot hours worked, a specified amount of time for prep and wrap as set out in the deal memo and as is customary to that department and in accordance with current working practices. Any time worked beyond this specified prep/wrap period will be remunerated as per the agreement and at the appropriate overtime rate.”

There has been a ‘lost in translation’ element to this – where people have been using language in an imprecise way. In summary, the agreement can be understood to say this:

Everyone will get paid for every hour worked. Some departments will have some prep-and-wrap time included in their daily rate. All unscheduled overtime would be paid at the OT rate. There are also some ‘time off the clock’ payments that are payable on long days.

Some people (both on the Production and the Crew sides) have been mistakenly explaining it thus:

“Some people who work in Prep and Wrap departments have to ‘give’ x hours prep and y hours wrap for free”, or “we get paid for all hours work, so that means that non-shooting time is all paid at the overtime rate.”

If any productions are expecting crew to “include work in their daily rate” that doesn’t fit the description of ‘customary prep and wrap’ then BECTU members are advised to contact the union.

Custom and practice is important here. For example, the Electricians Department will do the work needed to prepare for the working day, but their approach is “*put it on the deal memo and we charge for it.*” This ensures that goodwill is maintained.

Other BECTU branches have reminded their members that P&W is for work that is actually done and it’s not a ‘contingency’, and that if someone is (for example) asking for an hour prep and wrap where there is no expectation of it being needed for work that is clearly prep/wrap related, some branches have advised their members to say...

“My rate for a 10+1 is (£xxx), my rate for 10+1 with 1hr Prep and Wrap is (£xxx x 1.15) i.e. 11.5 x the hourly rate. However, I understand that there are small bits of customary prep and wrap that I do every day in an ad hoc way and, because flexibility and goodwill are important to me, as long as they don’t go on the deal memo, I won’t charge for them.”

DAY SCHEDULES - SWD, CWD & SCWD

There are generally three models of the "Working Day" in TV Drama.

- **Standard Working Day (SWD)** 10 or 11 shooting hours with a one-hour unpaid meal break, for example 8am-7pm or 8am-8pm (plus any contracted "Prep & Wrap" hours)
- **Continuous Working Day (CWD):** 9 or 10 shooting hours without a formal break* - for example 8am-5pm or 8am-6pm (plus any contracted "Prep & Wrap" hours)
- A 9 hour CWD is paid at the same rate as a 10 hour SWD
- A 10 hour CWD is paid at the same rate as an 11 hour SWD
- A SCWD is not defined in this agreement. The agreement discourages their use and – if needed – they are to be negotiated locally. BECTU has a negotiating position that it recommends members to take (see below).

*Note, the issue of a ‘formal break’ does not negate the legal entitlement to a minimum break of 20 minutes to be completed within six hours of starting work (or within six hours of the completion of the previous break).

OVERTIME ON A CWD

The agreement is written to discourage overtime on a CWD by capping "on camera OT" at no more than two hours per week. If the producer insists on more "on camera OT", it must be agreed and negotiated locally (see 6.7.3). If Overtime is requested on a CWD, BECTU urges members to request, in the strongest terms, that the production should find another way of getting the job done – OT on a CWD is grueling and should not necessary in most cases. Where there is no other alternative, members are advised to negotiate a rate of OT that is higher than the normal rate under this agreement.

Examples:

10-hour day (e.g. 10 hours on camera + one unpaid hour for lunch). Rate for the day = £200. One hour of overtime worked.

Overtime rate calculated as follows: $£200 \div 10 \times 1.5 = £30$. As this is below £35, the overtime rate will be increased to £35

10-hour day (e.g. 10 hours on camera + one unpaid hour for lunch). Rate for the day = £275. One hour of overtime worked.

Overtime rate calculated as follows: $£275 \div 10 \times 1.5 = £41.25$.

10-hour day (e.g. 10 hours on camera + one unpaid hour for lunch). Rate for the day = £350. One hour of overtime worked. Overtime rate calculated as follows: $£350 \div 10 \times 1.5 = £52.50$. As this is above £45, the overtime rate will be capped at £45

The agreement is 'silent' on the number of working hours expected in a 'Semi-Continuous Working Day' (SCWD).

Note: The BECTU interpretation of the number of hours in a SCWD (see below) is not one that is defined formally in this agreement.

A SCWD reduces the lunch break to less than one hour to enable an earlier finish. The SCWD is negotiated at a local level, and the agreement treats these as terms that must be negotiated, and should only be used in exceptional circumstances (e.g. working in a stately home that doesn't allow food on the set).

A SCWD could be seen as a version of a CWD where lunch cannot be taken on set, and therefore is taken as a half-hour off-set. It doesn't add any more to the number of hours of work. BECTU recommends that crew negotiate for the following:

- a 8am - 7pm (10 hour SWD) would be converted to 8am - 5:30pm SCWD day with only 30 mins for lunch. As an absolute minimum, workers are paid the same rate as a 10 hour SWD.
- a 8am - 8pm (11 hour SWD) would be converted to 8am - 6:30pm SCWD day with only 30 mins for lunch. As an absolute minimum, workers are paid the same rate as a 11 hour SWD.

It is also worth noting that OT becomes payable one and a half hours earlier subject to The Deal Memo.

GRACE PERIODS

A grace period is only there to allow a 'slate' to be finished. It must not be used to extend the shooting day.

The first two Grace Periods in any week will be unpaid. However, entering into a third Grace Period will result in a one hour payment at the OT rate OR one hour and 30 minutes 'given back' as Compensatory Rest in the same working week (see below). While the agreement is silent on whether Grace Periods can be worked at the end of a period of 'camera overtime', it is custom and practice that they are only used at the end of a standard shooting day period (i.e. the SWD/CWD/ScWD period).

7TH DAY WORKING

The agreement is written to ensure that - wherever possible - seven consecutive days are not worked. If they are worked, they should be requested in writing, or formally approved in advance. Where this is not possible to avoid them, the 7th day is paid at a penalty payment of Tx2 for all hours worked.

11 DAY FORTNIGHTS

For productions that are shooting for more than eight weeks, this agreement places a cap on the use of eleven day fortnights (see clause 6.4). Any breach of this cap that occurs at the request of the producer will result in a penalty payment of £100 to each member of the crew, in addition to the daily rate specified in The Deal Memo.

In addition to this, because this agreement is based on "daily" and not "weekly" rates, the cost of employing some departments will increase when eleven day fortnights are used. It is expected that this will reduce the use of eleven day fortnights. During an eleven-day fortnight, you will never have more than 10 "on camera" hours per day. The agreement (Clause 6.4.3) has a helpful table that details how production can do 4 x 11DFs in and 8 week job, 5 in a 9-12 week job, 6 in a 13-16 week job, 7 in a 17-20 week job, 8 in 21-24 week job, etc.

MEAL BREAKS

Meal breaks are given and completed within six hours of the scheduled unit call. For example, with an 8am start, breaks must be given and completed by 2pm. If the break is curtailed or delayed, it is subject to a compensatory payment set out in Clause 9.6. This is a legal entitlement that is also codified in the agreement. In the case of a Continuous Working Day, there is still a legal minimum entitlement to a 20 minute break.

HOW MEAL BREAK COMPENSATORY PAYMENTS WORK:


Imagine an 11 hour Standard Working Day (SWD) ...

- ... for someone who works in a Prep & Wrap dept (Locations, AD, Hair and Makeup, Costume and Wardrobe, etc)
- Your 'Deal Memo' has 1½ hours of Prep and Wrap "included in your daily rate"
- So an...
 - 7am "pre-call"
 - Camera starts at 8am
 - Camera finishes at 8pm with 30 mins wrap expected afterwards
 - ... and a break for lunch (unpaid) at 1pm which must last one hour, and **begin no later than six hours after unit call**
- This is five hours after Unit Call, so there is no penalty due for a "delayed meal break"

<6am	<7am	<8am	<9am	<10am	<11am	<noon	<1pm	<2pm	<3pm	<4pm	<5pm	<6pm	<7pm	<8pm	<9pm	<10pm	
Rest	Pre-Call	Camera	Camera	Camera	Camera	Camera	Lunch	Camera	Camera	Camera	Camera	Camera	Camera	wrap	rest	Rest	Rest
6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	

Now imagine at short notice, the lunch break has to be shortened by 30 mins...

- ... so lunch is now 1pm – 1.30pm.
- This means that you will be paid for
 - that lost 30min lunch at the overtime rate
 - also, you complete the 11 hours of shooting 30 minutes early
 - assuming that the wider crew is still shooting to 8pm, the final 30 mins is also payable at the overtime rate because you will have completed the eleven camera hours that you are contracted to work by 7:30pm.
 - This also means that both of the half-hourly increments have now been used up
- If any further overtime is worked (i.e. more camera work, or more than 30 mins wrap) will be charged at the OT rate – in hourly increments



<6am	<7am	<8am	<9am	<10am	<11am	<noon	<1pm	<2pm	<3pm	<4pm	<5pm	<6pm	<7pm	<8pm	<9pm
Rest	Pre-Call	Camera	Camera	Camera	Camera	Camera	Camera	Camera	Camera	Camera	Camera	Camera	Camera	Rest	Rest
6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

What if a meal-break is delayed?

- Unit Call is 8am. Lunch should have started no later than 2pm
- Lunch actually starts at 2:30pm.
- Overtime is payable for the 30 mins
- You will still be working 11 camera hours so (unlike a curtailed meal break) you will not be earning any further camera-related overtime if the shooting day finishes on time (8pm)

<6am	<7am	<8am	<9am	<10am	<11am	<noon	<1pm	<2pm	<3pm	<4pm	<5pm	<6pm	<7pm	<8pm	<9pm
Rest	Pre-Call	Camera	Camera	Camera	Camera	Camera	Camera	Lunch	Camera	Camera	Camera	Camera	Camera	Rest	Rest
6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

REST PERIODS

The law is clear. There should be **an eleven hour break between working days.**¹

In accordance with this law, every worker should also have at least one rest day per week plus their eleven-hour break between shifts.

- If your schedule is for one day off (i.e. in an “eleven day fortnight”), your total rest should be 24+11 - 35 hours.
- If your schedule is for two days off, your total rest should be 48+11 - 59 hours.

¹ For full details of legal rules on rest breaks, see <https://www.gov.uk/rest-breaks-work/overview>

If this entitlement is reduced for any reason, you are entitled to an equivalent period of "compensatory rest" or a Time Off the Clock (TOC) payment - see below.

Where lunch-breaks are delayed or curtailed, overtime will apply. This is detailed in Clause 9 of the agreement.

COMPENSATORY REST - "TIME OFF THE CLOCK" (TOC)

"Compensatory Rest" (or "TOC") is a device that ensures that you get the agreed amount of rest in a work schedule in accordance with the eleven-hour rule. Payment for any breach of this break is known as "time off the clock" (TOC) – see below. It does this by giving you paid time off (i.e. a shorter working day) after having worked a particular working pattern as described in the agreement.²

If it is not possible for the producer to give you "compensatory rest", then the 'encroached' period will be paid as TOC at the applicable overtime rate. TOC payments are in addition to any overtime worked - e.g. you finish work at 10pm and are expected back at work the following morning at 8am, you will be paid for one hour at the overtime rate if the employer is unable to give the time back as paid rest later.

In practice, this means that the vast majority of TOC payments will be paid in one hour increments as it is unlikely that the eleven-hour break will be encroached on without a production previously having used at least 2 x 30mins of overtime. Example 1 (below) shows how TOC *could* be paid in 30 min increments.

Example 1: TOC paid in 30 minute increments:

Day 1: Start 9am, Finish 9.30pm (unpaid hour for lunch) = 11 SWD with 30 mins overtime worked

Day 2: Start 8am, Finish 8pm (unpaid hour for lunch) = 11 SWD

30 minutes of TOC payable at the Overtime Rate as compensation for a 30 minute breach of rest time

Bookable: 11 hour SWD + 30 mins worked OT + 30 mins TOC at the OT rate + 11 hour SWD for day 2

Example 2: TOC paid in hourly increments:

Day 1: Start 8.30am, Finish 9.30pm (unpaid hour for lunch) = 11 SWD with 2 x 30 mins overtime worked

Day 2: Start 8.00am, Finish 8.30pm (unpaid hour for lunch) = 11 SWD

30 mins of TOC payable at the Overtime Rate as compensation for a 30 minute 'encroached' rest time

Bookable: 11 hour SWD + 2 x 30 mins worked OT (day 1) + 11 hour SWD + 30 mins TOC at the OT rate (day 2).

NIGHTWORK, EARLY CALL AND CLAWBACK

Nightwork is defined as shooting hours that are scheduled to finish after midnight (work that starts between midnight and 6am is treated as an 'Early Call' – see below). The total number of "on camera hours" worked after midnight in any given week must be repaid as "compensatory rest" by the end of that week or before the next week working week starts. The "compensatory rest" accrued in one week is capped at the length of the contracted working day under this agreement. Crew are only entitled to one paid rest day in any block of consecutive nights, even if the night shoots continue for more than one week. BECTU members are urged to ensure that their rates reflect these arrangements, and that this is reflected on The Deal Memo should a production be planning a large number of night-shoots.

Prep & Wrap time that goes past midnight does not give rise to Compensatory Rest.

NB: This is not the same thing as an Early Call – if a worker is called in to work at, say 2am, they will be entitled to four hours Overtime (all work done before 6am counts as Overtime) but this will not accrue four hours of compensatory rest (see 6.7.6).

² For details of the legal status of Compensatory Rest, see <https://www.gov.uk/rest-breaks-work/compensatory-rest>

Early Call

The agreement says "Early Call: Hours worked in the UK before 0600 shall be paid at the applicable overtime rate. For the avoidance of doubt, Early Call does not constitute Night Work."

The earliest a worker can be called without receiving a penalty payment is 6am. Calls earlier than 6am are paid overtime (i.e. a 5am start = 1 hour paid overtime with the "day" starting at 6am).

Where this "5am start" worker (in this example) is on a 10 hour SWD, OT would also start to be paid after 4pm instead of the 7pm (the point at which a 10+1 SWD would end if it started at the usual 8am Call Time).

Another example: A location needs to be vacated by 2pm every day. Production decides to do 10hr CWDs with 4am starts. A 10hr CWD (i.e. "9 hours straight then go home") would go through to 1pm at which point all crew with no 'wrap' responsibilities can go home. 1-2pm would be treated as 'wrap'.

This would be treated as follows:

- 4-6am = OT rate (i.e. the daily rate ÷ 10 and then x 1.5 with the £35 floor and £45 ceiling)
- 6am-1pm = paid at the normal hourly rate (i.e. seven hours at the daily rate ÷ 10)
- After 1pm = paid at the OT rate to anyone who doesn't have 'wrap included in their daily rate'.

This part of the agreement is still a bit open to interpretation though with different departments having different pre-existing 'custom and practice' arrangements. It falls outside of our normal 'penalty' framework where we calibrate rates to discourage unwelcome working practices.

Some departments have argued that hours before 6am would be overtime with the normal day starting at 6am. The problem with this is that it could incentivise productions to have people working from 6am >> 5pm on a 10+1 SWD just so that they would 'get their money's worth' on days that have pre-6am calls.

CLAWBACK

"Clawback" is defined in clause 6.5. Under the agreement, the number of hours that can be "clawed back" are restricted to 1 hour per day after a SWD and 2 hours per day after a CWD. Any "on camera" hours scheduled to finish after midnight are classed as "night work".

EXAMPLES

EXAMPLE 1		
DAY 1	1500 – 0200	2 hours compensatory rest accrued
DAY 2	1400 – 0100	1 hours compensatory rest accrued
DAY 3	1300 – 0000	0
DAY 4	1200 – 2300	0
DAY 5	1100 – 1900	3 hours compensatory rest given
DAY 6	Rest	
PAID as 5 Days		
EXAMPLE 2		
DAY 1	1500 – 0200	2 hours compensatory rest accrued
DAY 2	1400 – 0100	1 hours compensatory rest accrued
DAY 3	1300 – 0000	0
DAY 4	1200 – 2300	0
DAY 5	1100 – 2200	0
DAY 6	Rest	
DAY 7	Rest	
DAY 8	1300 – 2100	3 hours compensatory rest given
PAID as 6 Days		

EXAMPLE 3		
DAY 1	1500 – 0200	2 hours compensatory rest accrued
DAY 2	1400 – 0100	1 hours compensatory rest accrued
DAY 3	1300 – 0000	0
DAY 4	1200 – 2300	0
DAY 5	1100 – 2200	0
DAY 6	Rest	
DAY 7	Rest	
DAY 8	1000 – 2100	3 hours untaken compensatory rest PAID
		PAID as 6 days + 3hrs OT
EXAMPLE 4		
DAY 1	1700 – 0400	4 hours compensatory rest accrued
DAY 2	1700 – 0400	4 hours compensatory rest accrued
DAY 3	1700 – 0400	4 hours compensatory rest accrued
DAY 4	1700 – 0400	4 hours compensatory rest accrued
DAY 5	1700 – 0400	4 hours compensatory rest accrued
DAY 6	Rest	One day of compensatory rest given (capped)
		PAID as 6 days

TRAVEL

DEFINITIONS

- **Production Base** – the place that the production nominates throughout the production. This will usually be a studio or a production office
- **Unit Base** – where catering, unit parking etc is located
- **Filming Location** – usually a short distance from Unit Base.
 - *Production can ask you to do up to 15 minutes travel between Unit Base to the filming location without paying for travel time or mileage (see 7.4)*
 - *“Road Miles” are used in this agreement – not “as the crow flies” – therefore online journey planners can be used to settle disputes.*
- **“Radius”** – in these examples we will be working on an example of a production that has nominated a Production Base outside of the M25. If the Production Base is inside the M25, they are allowed to replace the “30 road mile radius” boundary with the M25. The same logic will apply in cases like these.
- Any **payments** that are paid for travel time will either form part of the working day, or be paid at the Overtime Rate as specified in the agreement

You may have a "Production Base", a "Unit Base" and a "Resident Location" on any given contract. Travel arrangements are based from the "Production Base". A producer can nominate **only one UK Production Base for each worker** in their "Deal Memo". This cannot be changed for the purposes of payment and time arrangements.

THE 30 MILE RULE

Crew are compensated for time beyond 30 road miles from Production Base (or when Production Base is within the M25, time may be paid on all miles travelled outside the M25). A production may choose one, and only one, of these arrangements for the entire production. If a Unit Base is more than 15 minutes from the filming location, time will be deducted from the shooting day or overtime will be paid as compensation. N.B. This is often an improvement on current practice. Mileage is only payable if the production does not provide transport to and from base to location. **Important practical tip:** If this isn't done sensibly, it could be a clunky part of the agreement that results in confusion and bad feeling. The Union has had questions about distances slightly over

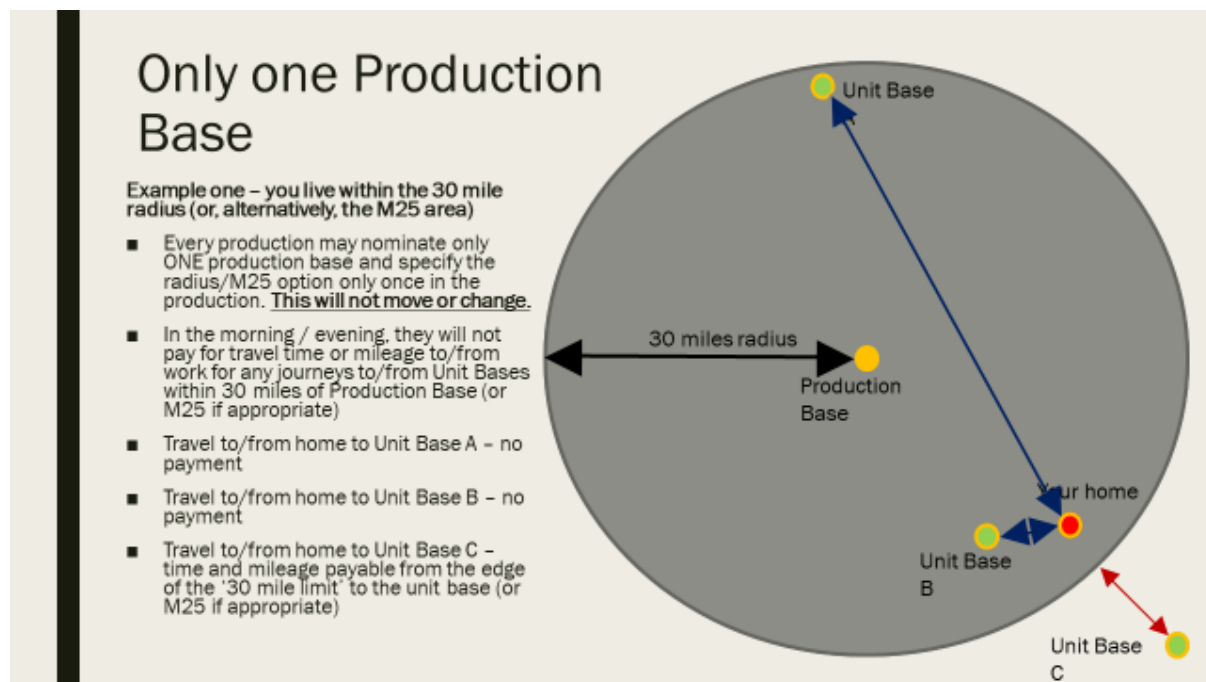
30 minutes travel time. Our practical suggestion is that, instead of asking an employer to pay 5 minutes Overtime on a 35 minute journey from a Production Base, or a Resident Location to a place of work, it may be preferable, on an 8am call time, for the employer say (in the case of a Resident Location – see below) “leave the hotel at 7:30am – aim to be at the place of work by 8:05am and start work then” or when travelling from the Production Base, to say “arrive at 8:05.” If employers don’t do this, and they have (for example) 20 minutes travel payable in the morning and another 20 mins travel payable in the afternoon, this means that there are two payments due – these would both be treated as separate 30 minute increments (assuming that no other Overtime or broken/delayed meal break penalties were due on the same day – in which case they could become hourly increments).

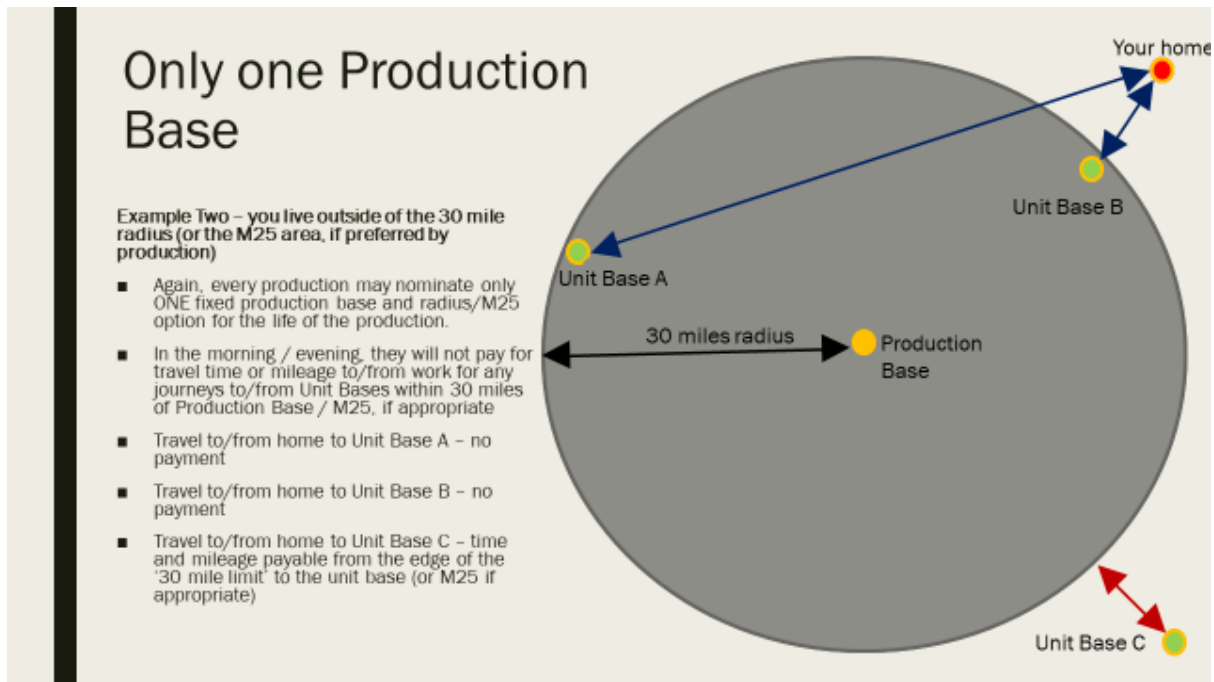
RESIDENT LOCATIONS – WHEN CREW ARE AWAY FROM HOME OVERNIGHT

A “Resident Location” (usually a hotel) is place of work that is over 50 road miles from the nominated Production Base. Time spent travelling beyond 20 road miles or 30 minutes from Resident Location to the place of work will be compensated by an overtime payment, or form part of the working day. Distances are defined in “road miles” so that on-line journey planners can be used to verify distances and times.

WHAT IF UNIT BASE AND THE SHOOTING LOCATION AREN’T RIGHT NEXT TO EACH OTHER?

If there is journey time from Unit Base to filming location, the production can ask for up to 15 minutes to be given (so, in theory, for a Unit Call of 8pm, the production can say “it will take you 12 minutes to get from unit base to filming location so please be at Unit Base by 7:48am” and this will attract no overtime payment and won’t be affected by the whole ‘prep and wrap included in the daily rate’ part of the agreement either.





TRAVELING IN A VEHICLE TRANSPORTING EQUIPMENT

The agreement is silent on what happens in cases where Production asks crew to drive a vehicle used to transport equipment home (or some times to the unit base) each night and to set each day, and the worker is under the control of the production & not free to go about their own personal business. It is BECTU's position that, if they have been given this responsibility outside of their contracted hours, then they should be compensated as laid out in the overtime clause.

If a crew-member is a passenger in a production controlled vehicle being driven, the allowable travel time in the agreement is relevant. If you are the driver of a production vehicle, then the travel clause cannot apply as you are still working and should be paid.

TRAVEL ON A REST DAY

A rest day should not involve any work or travel. If travel is *required* on a designated rest day, BECTU's position, the day is no longer a rest day and it should be treated as a working day (PACT dispute BECTU's interpretation of this part of the agreement, particularly with regard to whether this is treated like a working day that qualifies for 6th & 7th day payments). However, it certainly should be treated as a 'travel day' and be paid at the daily rate.

Employers may claim that the letter of the agreement doesn't firmly define it as a working day, but members are urged to remind employers that this is an industry that is already routinely asking people to work 55 hours or more (often many more) per week and that they have a duty to try and incorporate travel into the working day wherever possible.

Whatever happens, **all departments should be treated the same**. Clause 7.3 of the agreement encourages productions to incorporate travel into the working day for long journeys ("travel and shoot day"). If one department is having travel treated as a normal day, then other departments should be treated the same.

OTHER ELEMENTS OF THE AGREEMENT

DAILIES - ENGAGEMENT AND CANCELLATION

Workers engaged on a daily basis ("Dailies") will not be given a full deal memo, however, their working will be governed by this agreement. If a Daily is confirmed for the next day but cancelled after 3pm through no fault of

their own, they are entitled to one day's pay at the agreed daily rate. If a *pencil* booking is not cancelled by 3pm that booking is deemed to be void and the worker can look for other work.

Dailies are entitled to a paid rest day where they finish a series of daily contracts on a 'night pattern'. (Clause 6.6.5) though this is disputed by the employers in some instances. This is a part of the agreement that will need further clarification going forwards. The system of Compensatory Rest was designed to ensure that workers are adequately rested with an emphasis on safety and work/life balance. The idea is to shorten a subsequent day by the number of hours worked **before** resorting to a financial payment. However, a financial payment is given because Compensatory Rest hours cannot be 'given back' within the agreed period under the ongoing contract.

Pact take the view that crew (mainly dailies) should be informed of this, but it is BECTU's understanding that this often doesn't happen. Since the agreement was signed, BECTU have proposed to Pact that, should any contract (weekly or daily) end with any Compensatory Rest owing, then an additional day contract should be offered to the worker so they can be fully rested before starting work with a new employer. If there were (for example) five hours of Compensatory Rest owing, the employer could ask the worker to come to work on the subsequent day after taking the Compensatory Rest, on condition that the worker finishes work before midnight.

EXPENSES & PER DIEMS

Mileage costs will be reimbursed in accordance with HMRC Guidelines (currently 45p per mile). There are no fixed rates for payments that are made where no means are provided, and these figures will be included on the deal memo, though HMRC Guidelines will generally be used. Producers will assess this on a job-by-job basis.

HOLIDAY ENTITLEMENT & BANK HOLIDAYS

Every worker is entitled to 5.6 weeks of paid leave per annum. Because so many contracts are short, this is normally covered by a payment that allows you to have 'paid time off' between contracts. This is often paid at the end of your contract.

The Deal Memo will detail "basic" and "holiday" payments. There is no legal obligation to specifically pay for Bank Holiday working, and the employers would not agree to pay extra for working a Bank Holidays during these negotiations. In practice, workers can request holiday (either unpaid or taken from holiday entitlement) but the onus falls on the HOD to manage that department "to ensure the continuation of the shoot".

UNIT REPRESENTATIVES

Union members on a production can elect or appoint Unit Representatives. If you are appointed to a position such as this, you will be allowed the flexibility you need to carry out this role. For example, you will be given the time and space to organise a meeting of BECTU members on the production concerned during breaks or rest periods, subject to agreement about timing with the producer. Such meetings should not interrupt the production schedule.

Any BECTU officials or representatives from outside the production that are called in to deal with anything related to the production understand that they are bound by the same rules of confidentiality that apply to crew members and will be expected to sign non-disclosure agreements.

COMPLAINTS AND DISPUTES

This agreement has a complaints and disputes procedure (see Section 15). If BECTU members need help or advice in using this, please contact BECTU Section Office on 020 7346 0900.

HEALTH AND SAFETY - FACILITIES

Drinking water and toilets, to an acceptable standard, must now be made available at all times for all workers on a production - including during prep and wrap, and they should be a reasonable distance from the place of work.

REPRESENTATION - BULLYING AND HARASSMENT

The agreement includes a joint statement from Pact and BECTU on bullying and harassment that applies to all workers under this agreement. This statement is found in the appendices to the agreement and it sets out how these issues are handled.

FORCE MAJEURE

Force Majeure is where an unpredictable disruption occurs (earthquakes, freak weather, terrorist incidents, injury to a leading actor etc) – as defined in Clause 13.

Under this clause, a production is suspended for up to 21 days and employers are not obliged to make payments for lost work days. However, BECTU negotiated this in the knowledge that ‘crew retention’ is often a priority for productions under these circumstances and the union advises crew to negotiate informally in the unfortunate event of this happening.

IMPLEMENTATION, REVIEW AND TERMINATION OF THE AGREEMENT

This agreement is intended to be a long-term arrangement. However, comes in to force on the 1st December 2017. It will be formally reviewed after 12 months where changes that are mutually agreeable can be made. The agreement formally lasts for two years at which point either party can terminate it, or it can be renegotiated or re-adopted in full.

SCENARIOS – QUESTIONS FROM BECTU MEMBERS

There are some scenarios where this briefing (above) leaves some questions unanswered. Here are some questions that BECTU has received, along with the Union’s interpretation of the agreement by way of an answer.

Q: When a finish is scheduled for midnight, but there is unplanned camera overtime, does this extend the day beyond midnight and (potentially) accrue compensatory rest?

A: Yes – see Clause 6.6.2. For example, Compensatory Rest (TOC) would be payable for any time prior to midday if the previous day’s shooting finished at 1pm unless ‘given back’ as paid rest later on.

Q: I work in a capped grade (i.e. my OT at Tx1.5 would be less than £35 or more than £45 if the ‘floors and ceilings’ in this agreement didn’t apply). What is my overtime?

If your Tx1.5 rate is less than £35, 30 mins OT = £17.50. If your Tx1.5 rate is more than £45, 30 mins OT = £22.50

Q: What are the “Camera Overtime” rates?

Unlike our Major Motion Picture Agreement, on the TV Drama agreement, when calculating rates, there is no “camera” overtime, though the concept of ‘On-Camera Overtime’ does exist in the agreement (see below). The only overtime rate is the Tx1.5 with a floor of £35 and a ceiling of £45.

On a Continuous Working Day (CWD), the agreement says that employer shouldn’t really be asking for overtime in the first place. They certainly shouldn’t be scheduling On-Camera overtime, and when they do, it should be capped at no more than two hours a week. If they ask you to work more than this, it has to be agreed locally, and they have to agree the rates locally (which means there should be a dialogue and you should be ready with an idea of what overtime rate yourself and your colleagues will be asking for).

Q: Is a ‘turnaround’ and a ‘rest period’ the same thing?

There is some confusion here, with people using different terminology. A ‘Turnaround’ is a rest period between two periods of work. So it could be a weekend, or it could be a rest day that is given to allow crew to adjust between night work and daytime work.

Sometimes people refer to the “11 hour daily rest” break as a “turnaround” but it’s a bit confusing – most of the time it is used to refer to the end of a week or a pattern of nights. If you have to start work before the 35 hours has elapsed, it’s either charged at the ‘overtime’ rate (using the increments in the agreement) or ‘given back as paid time off’. The union’s position is the penalties for breaking the turnaround are there to stop it from happening wherever possible.

On weekly turnarounds, normally (when going from a pattern of day working one week, into a similar pattern the following week) this is either a two-day-weekend or a one-day-weekend (if it’s an eleven day fortnight).

- Two day weekend = 11 hours + 48 hours. If you have to start work before the 59 hours has elapsed, it’s either ‘overtime’ or ‘given back as paid time off’
- One day weekend = 11 hours + 24 hours. If you have to start work before the 35 hours has elapsed, it’s either ‘overtime’ or ‘given back as paid time off’

If you work a week of nights (10 hour days), at the end of it, you are given a paid rest day (actually, the accurate statement is that you are asked to add up the scheduled hours you have worked after midnight in the week, and you get these back as paid rest, but capped at 10 hours) before you start back on days.

If you work **nights** five-day-week Monday to Friday, and you are going back to work on days the following week (which is also a five-day-week), Monday would be a “paid rest-day”. If you finished work at 3am on the Saturday morning, the earliest you would be able to start work would be 2pm on the Monday. In this case, the employer

will generally ask you as long as a day is paid, the employer can ask you to return to work on the Monday. If so, that day would, effectively, be 'double time'. Alternatively, they could give it to you as a paid day off.

So, let's say you finish at 5am on Saturday morning.

- 5am Saturday to 5am Sunday = "Saturday"
- 5am Sunday to 5am Monday = "Sunday"

Your ten hour paid rest starts at 4pm on Monday (allowing for the 11 hours daily turnaround – on five day weeks a weekend turnaround is 48+11 hours (see clause 6.8.2) which means that they have to pay you for 4pm until 3am. If they ask you to come back in to work before 4pm on the Monday they have to either 'give it back' as paid time off (TOC), or they have to pay you overtime. Generally in an example like this, you would be expected to go back onto a day-pattern, probably at 8am on Tuesday.

CASE STUDY – MAKEUP DEPARTMENT OVERTIME AND REST PERIOD PAYMENTS

This is a particularly complex case study and what follows is BECTU's interpretation of how the agreement deals with this.

<p>Deal memo</p> <ul style="list-style-type: none"> • 11 hour SWD on camera (12 hours in total) • One hour Prep • 30 mins de-rig <p>This is probably wrong – the employers shouldn't be doing this as the deal memo was never intended to allow for people being 'at work' more than 13 hours in a day as it automatically breaks the 11 hour rest break – it should only be done if the call time the following day is more than 11 after the end of 'wrap'.</p> <p>There are only 24 hours in the day so you can only be at work for 13 hours without making the 11 hour break impossible.</p>	<p>This calculation (below) assumes no 'grace periods' were called on the shooting day. Up to two 15 grace periods are permitted per week (i.e. time to 'finish a slate' – the third grace period in the week attracts one-hour payment at the overtime rate.</p> <p>Overtime rate is based on an hourly rate which is derived (in this case) from the daily rate ÷ 11. The OT rate is, therefore the hourly rate x 1.5 with a floor of £35 and a ceiling of £45.</p>
<p>Day One:</p> <ul style="list-style-type: none"> • 11 hour SWD on camera • 15:30pm started prep (2 hrs prep) • Camera rolled 5:30pm • Hour for lunch • Camera stopped rolling 5:30am • Worked at 6:15am (45mins wrap) <p>9 hours 45mins break taken at the end of this day before starting work on Day Two.</p>	<p>One hour and 15 mins of overtime payable.</p> <p>(2hrs 45 mins worked – deal memo allows for 1 hr 30 mins)</p> <p>This is payable in 30 min increments for the first hour then one hour increments thereafter – so... <u>2 hours payable at the overtime rate.</u></p> <p>1 hour 15 minutes broken rest period is accumulated. This equates to one hour and 15 minutes which should be 'given back' as the equivalent time off <u>or</u> alternatively paid for 2 hours at the OT rate.</p> <p>(We believe that Pact are arguing that rest period 'time off the clock' is only paid in 30 min increments – i.e. 1.5 hrs – BECTU disagree with this and this is currently in dispute. The agreement says it should be treated in the same way as OT).</p>

<p>Day Two:</p> <ul style="list-style-type: none"> • 11 hour SWD on camera • Start – 4pm (1.5 hrs prep) • Camera rolls at 5:30pm • One hour for lunch • Camera stops rolling 5:30am • Worked one hour and 5 mins wrap (6.35am) <p>9 hours 55mins break taken at the end of this day before starting work on Day Three.</p>	<p>One hour and 5 mins of overtime payable (2hrs 35 mins of overtime are worked – deal memo allows for 1 hr 30 mins)</p> <p>This is payable in 30 min increments for the first hour then one hour increments thereafter – so 2 hours payable at the overtime rate.</p> <p>One hour five minutes broken rest period is accumulated. This equates to either one hour and five minutes which should be ‘given back’ as the equivalent time off or alternatively paid for 2 hours at the OT rate.</p> <ul style="list-style-type: none"> • Total accumulated daily rest is now 2 hrs 20 mins. • Total accumulated ‘compensatory rest payment’ is 4 hours at the OT rate. <p>(We believe that Pact are arguing that rest period ‘time off the clock’ is only paid in 30 min increments – i.e. 1.5 hrs – BECTU disagree with this and this is currently in dispute. The agreement says it should be treated in the same way as OT).</p>
<p>Day Three:</p> <ul style="list-style-type: none"> • 11 hour CWD on camera • Start – 4.30pm (1.5 hour prep) • Camera rolls at 6:00pm • No lunch break (but a 20 minute break) • CW stopped working at 1:30am – went home – no wrap <p>15 hours break (no broken rest period)</p>	<p>7.5 shooting hours was worked without a break. The deal memo would allow for 10 straight shooting hours and 1.5 hours overtime.</p> <p>No overtime is due as the deal memo allows for 1.5 hours prep and wrap and this is what has been worked.</p> <p>The accumulated daily rest of 2hrs and 20mins appears to have been given pack. In fact, two and a half hours accumulated broken rest period appears to have been ‘given back’ here, so the worker concerned is ten minutes ‘up’.</p> <p>There is still 1.5 hours due to be ‘given back as paid rest’ or paid at the overtime rate. Again, Pact dispute this calculation. If they were to be correct, there would only be 30mins left to be ‘given back’/paid as OT.</p>
<p>Day Four:</p> <ul style="list-style-type: none"> • 11 hour CWD on camera • Start – 4.30pm (1.5 hours prep) • Camera rolls at 6:00pm • No break for lunch • Camera stops rolling 4:00am • Worked 20 mins wrap (4:20am) 	<p>We don’t know what the subsequent pattern of work was after day four so can’t know anything about any ‘broken rest period’ payments / time given back are due.</p> <p>20 mins of overtime is payable (1 hr 50 mins worked and the deal memo allows for 1 hr 30mins.</p> <p>This is payable in one 30-minute increment.</p>
<p>A rest day is payable paid at the end of a pattern of nights</p>	