

THE VALUE OF DESIGN

DISCUSSION REPORT



ALD#

National Theatre
17th April 2018

THE VALUE OF DESIGN: INTRODUCTION

The Value of Design took place at the National Theatre on 17th April 2018, launching a joint campaign between the Association of Lighting Designers (ALD), BECTU, EQUITY and the Society of British Theatre Designers (SBTD) to improve terms and conditions for designers in relation to the UK Theatre and SOLT Collective Agreements.

Fiona Watt facilitated the event and the following representatives introduced the work of each organisation involved:

Ian Saunders	Executive Director ALD
Helen Ryan	Assistant National Secretary BECTU
Jamie Briers	Directors and Designers Committee Secretary EQUITY
Fiona Watt	Honorary Secretary SBTD

Over 70 professional designers (set, costume, lighting, sound and video) attended representing the full range of career stages and genres of performance design.

The knowledge and expertise these conversations represent is from designers who had designed over 350 shows for companies and organisations who list themselves as members of UK Theatre, 145 of which were in MRSL Subsidised Theatres.

Breakout sessions were facilitated by members of SBTD and ALD.

Designers from throughout the country were represented at the meeting.

Particular thanks go to Liz Wright, Max Dorey and Max Jones (SBTD), Paul Handley and Suzy Morgan (National Theatre) for their support.

The report that follows is designed to act as a prompt, an aide memoire. It is a direct verbatim documentation of the conversations that took place. Anything added by the facilitator concerned is for clarification only.

If you have anything you would like to add, please email fiona@theatredesign.org.uk

WHAT NEXT?

- We will be inviting representatives of the PMA (Personal Management Association i.e. agents) to join us at the next working group meeting.
- We will be sending out a survey so that we can anonymously gather as much information as possible with regard to the costs you are absorbing into these contracts in order to build a strongly evidenced case for improvement to the way that design is valued.

WHAT CAN I DO?

- Join one, or more than one, of the four organisations if you are not yet a member.
- Tell other designers what we are doing and share the campaign with them on Facebook, Instagram and Twitter.
- Get involved – if you sign online petitions, join marches to save the NHS, our presence in the EU etc. you are already an activist.

Become active for your own career and profession.

TIMELINE

October 2018	We will submit a claim to UK Theatre based on the recommendations evidence that supports these conversations.
October 2018 - April 2019	We will enter into a period of negotiation of the claim. The Unions – BECTU and Equity – are the only organisations that can negotiate on our behalf. Heads of ALD and SBTD will be present in these meetings as subscribing members of Equity.

THE VALUE OF DESIGN: FUTURE EXPLOITATION: COPYRIGHT, BROADCAST, DIGITAL DISTRIBUTION

- Copyright should remain with the designer. Is this being adhered to?
- How often are you being asked for buyout/signing your copyright over in perpetuity without further payment?
- Is this particularly prevalent when further use is likely to be digital e.g. live broadcast of a show?
- Transfers

Facilitators: Kathy Sandys (SBTD) and Mark Jonathan (ALD)

PRS = A BENCHMARK

- 'Future Proof' – What is to come?
 - We need a water-tight agreement that includes forms of further exploitation that may not be in use yet. (In the way that Cinema broadcast, Web broadcasts, DVD sales are now usually covered)
- Payment regardless of changes made or not to transfer or broadcast.
- International broadcast.
- Shift of design brief clause = change of payment deal
 - Designers reported that they were contracted for one design and then this grew into a bigger job without further payment
- Payments for transfers often poor and related to the first low fee.
- Release form – shown in cinemas without? Do they exist?
- Distribution deals

- Look at gaming industry licensing models
- The reputation that is left as a mark against the work
 - Particularly when the broadcast isn't good- Companies assume designs will transfer without additional work to another media
- 5 – 10 minute Royalty free taster – Publicity use v Full broadcast.
- What is the minimum?
- Agents responsibility in relation to the Unions
 - Agents are better informed than the unions are
- UNIONS OUT OF DATE WITH PLATFORMS
- Information and advice for young designers on fees and royalties – MURKY
- Broadway and LORT are better known than UK contracts.
 - What UK Agreement are we bargaining on?
- Who is the agreement bound by?
- Opera and ballet are buying rights in perpetuity.
- Digital distribution without permission or pre-agreement
 - It can be good publicity.
 - Not paid = designer feels shafted
 - Producers who lie
 - Union to have teeth to stop a production when the designer hasn't been paid and to
 - 'Tell the producer'
 - Entertainment lawyers expensive
- Whether there is Commercial gain by the producer OR NOT there should still be a credit to the designer if not a fee
- Policing an agreement **after** it is agreed
 - Addition of BBC Arts when not agreed initially

- Digital distribution without permission or pre-agreement
- No precedent for a digital fee – worldwide rights
- ‘Promise of further exploitation’
 - Is used like a carrot to get designers to work for nothing or minimal remuneration
- Concern around the aesthetic quality when permission given – pre-signing screening opportunity (to approve?)
- Archive recording if for study not a broadcast agreement
- Photos of the model box and costume drawings on Twitter and in the programme
 - Exploitation of ‘rehearsal’ or ‘archive’ on media platforms undermining commercial...
- Photographer gets credit for the designer’s work
 - We should have access to the photographs and be credited
 - Sound design exploitation
- Work publicised as GCSE text
- Non-refundable advance on Royalties Like the USA,
 - Too many producers agree a low fee based on royalties and then rescind the Royalty

*Compiled by Mark Jonathan
April 2018*

Continued...

THE VALUE OF DESIGN: ACCESS, EQUALITY & DIVERSITY

How do we achieve this?

- Clarity, transparency of fee structure
- Access to building based opportunities for emerging designers
- Code of conduct towards freelancers regarding fear and harassment

Facilitators: Francesca Peschier and Max Jones (SBTD)

THE NEED FOR WIDER CHANGE

- If fees were better across the board there would be more opportunity as the big designers wouldn't have to do so many shows in order to break even. It would 'mean there was more pie for everyone'
- 'When we realise we are in a moment of privilege, we need to open it up to others as much as possible'
- 'You want to take everyone with you, how can you best be generous when you yourself are struggling?'
- 'Our voice needs to be amplified'
- Designers outside of London feel isolated, regional theatres take on London designers still. The bog houses do not respect work done outside of the capital. (3 separate designers reported the experience of having to have had shows in London in order to taken seriously in their local theatres.

- How do we install resilience in the next generation of theatre designers?

ACCESS IS AN ISSUE EVERY STEP OF THE WAY

- The moment after graduating is very precarious – ‘if your drama school isn’t well connected there is an instant inequality as to who you will come into contact with, assisting opportunities etc. You can very quickly find yourself on your own’
- At either end of the scale, you quickly get pigeon holed as one sort of designer, especially at mid-career when you are no longer considered ‘emerging’ it is hard to make the next step up
- This is especially true for parents, taking a break to have a child makes it incredibly difficult for women to get back into the industry.
- ‘You still can’t bring you baby into tech week’
- There is no flexibility in tech and production weeks which also make it impossible for parents

ASSOCIATE DESIGNERS OFFER AN ALTERNATIVE PATHWAY

- There are no building based opportunities anymore, there are only two options into the industry – assisting and trying to make it within your peer group (e.g. usually low budget fringe work)
- There needs to be a budget line from the outset set aside for them
- More responsibility needs to be taken on by companies and buildings
‘As individuals, we feel powerless’
- Where those opportunities exist, they need to be advertised more widely and especially locally – at the moment it still feels very London centric
- Associate model also often works better for the lead designer than having to juggle assistants – it offers a consistency

HOW CAN WE INCREASE DIVERSITY?

- Where are the role models??? How do we create them when we work alone in the dark?
- We need the data. What does backstage actually look like? So much work done on onstage diversity, can we have a study about backstage? Considering the recent Panic! Survey on social mobility in the arts.
- It starts early. Students at GCSE level need to see productions – cost of tickets and transport have to be taken into account, and generate interest in the craft from an early stage. By FE they need to feel encouraged that this is a viable career choice.
- Encourage students and educators to show the connection between STEM and design. Its ‘Year of the Engineer’ in 2018 – where is theatre represented? Many young people don’t realise the technical aspect of what we do.
- The fear of debt puts many lower income students off, you are looking at £30 grand now for drama school. There is even more pressure on international students.
- People of colour have a particularly high drop off in Higher Education in our industry – why? ‘Some of my students get to drama school and find they are the only POC in their class, it can be very off putting’.
- We lose a huge percentage of new designers with the first 5 years of their being in the industry – if they have no safety net then it is simply not a sustainable career. How can we support those people so they can make it through these first steps? Is it grants? Apprenticeships?
- The industry is not representative of the 90% female make-up of the courses. Why? The gender gap is enduring, is it reflected in pay?

*Compiled by Francesca Peschier
April 2018*

THE VALUE OF DESIGN: CREDITS & ARCHIVE MATERIALS

- Are you being appropriately credited across all media?
- Are you being charged for photographs of your work or having difficulties accessing production photos etc. without being charged?

Facilitators: Liz Wright (SBTD) & Hartley Kemp (ALD)

OBTAINING PHOTOS

- Balance: photographers need our work and we need theirs.
- Designers can be expected to pay high costs to obtain photos.
- Designers sometimes suffer from a model in which photographers are not paid (or not paid much) for taking photos and recoup costs by selling shots – drama schools are especially guilty of this.
- Provision of photographs should be a standard clause in contracts.

ENSURING PHOTOS ARE USEFUL FOR DESIGNERS

- Designers rely on production photographs because they have few opportunities to photograph their own work.
- Photographs that are taken too early in the process, e.g. at the first dress rehearsal before work is finished are a problem for designers – sometimes photos are taken so early that the designer is only just seeing things onstage for the first time.

- **The designer's opinion on photos matters and can help to improve them:**
 - Designers can advise photographers on the best shots.
 - The designer's eye can be useful when selecting photos but isn't always part of this process.
- Problems with types of shots taken, or selected by the theatre and subsequently offered to the designer – tendency for these to be focused on actors' faces and not on the overall design.
- It would be useful if photographers were asked for a mixture of shots: mid and wide range as well as close-up.
- We should have access to the full set of photographs, not just the ones (mostly close-ups) selected for marketing purposes.

USING PHOTOS

- Example of an Artistic Director insisting on creative control of photographs and preventing them from being used on a designer's website while the production was on tour.
- Photographs should not be shared by designers if they contain spoilers, although this can be detrimental to designers of long-running productions.
- Example of a designer not being allowed to use photos because the company only arranged a license for their own website.
- It would be useful in some cases for contracts to include a clause giving designers the option to veto shots - especially if the director or others have right to veto.

WORKING RELATIONSHIPS

- Choosing what to fight for.
- Not wanting to seem difficult.

- **If we all keep asking for the same things, producers and others in power will get used to these requests and they will no longer seem unusual / unreasonable.**
- Producers don't have a contract basis to reference where photos are concerned.

CREDITS

- Photographers often credited when other creatives are not.
- Associate and assistant designers should be credited in programmes in the same way as assistant directors and not lost in small print
 - Assistant/associate designer role is misunderstood leading to incorrect credits.
- The creative team – including the director – should be credited altogether on posters, leaflets etc. or not at all.
- **There should be parity across creatives and across associates.**
- Credits for designers should be in the same size and font as for the director.
- Example of credits specified in contract but not followed – no consequences for this.
- **Even if credits are difficult to add to printed materials, they should be made available online.**
- Designers described happening across their own work on social media uncredited to them. This helps to perpetuate misunderstanding about the designer's essential role in developing production concepts.
- **Designers and creative team should be tagged on all social media.**
- Where space for tags is limited, e.g. Twitter a link could be provided to the company's website.

- Worrying tendency for creative teams to no longer be listed on some theatre websites (even though this should be easy / inexpensive) for the inadequate reason “we just don’t do that”.
- Comment that lighting designers “don’t sell tickets” as a reason for not crediting them.
- Lighting designers have sometimes been credited alongside technical crew.
- Video design has been credited incorrectly, or not at all, possibly because video designers sometimes join later in the process
- How should devised work be credited? Does the phrase “devised by the company” cover creatives adequately? (we think not).
- Current contracts based on a hierarchical theatre structure are less relevant to devised work.
- Designers should ensure others are credited on their own website, e.g. actors shown in photographs.

CONTRACTS

- Problem of extremely complicated contracts written by entertainment lawyers for musicals.
- “Sharks” of the industry are not on UK Theatre / MRSL lists.
- **Preparing own standard clauses to add to contracts.**
- Importance of getting things in writing, even if it’s just an email.
- Equity can look at contracts if useful.

*Compiled by Liz Wright
22nd April 2018*

THE VALUE OF DESIGN: EXPENSES

TRAVEL
SUBSISTENCE
MODEL BOX COSTS

- What expenses are you absorbing on a project over and above what is being offered within the contract?

*Facilitators: Ian Teague (SBTD) and Fiffi Thorsteinsson (ALD)
Travel and accommodation*

- Getting Travel and accommodation expenses are rarely a problem.
- When there is a fixed sum for travel and accommodation expenses rather than being reimbursed actual expenditure the sum is never enough to cover everything.
- There are often unforeseen expenses due to changes in schedules. Theatres expect designers to be flexible when that happens but don't always allow for extra costs. Flexibility needs to work both ways.

ASSISTANTS

- Where is an assistant they should be paid by the Theatre rather than the designer.
- Possible contract/agreement clause.
- **If it is agreed that an assistant is needed they shall be paid directly by the manager.**

MODELS

- Models should be seen as a production cost rather than a design cost and should be paid for by the producing theatre.
- There needs to be a change in culture whereby there is a separate budget line for model costs.
- Largest model cost is labour rather than materials.
- Producers seem unaware of true costs of models.
- Spending an extra £500 to do model properly can save thousands further down the line.
- Printing of plans and drawings is a significant cost that should be paid by theatre.

OTHER COSTS

- Designers incur other costs such as running a studio, software and equipment purchase and training. These are difficult to attribute to individual productions but need to be born in mind in negotiating fees.

*Compiled by Ian Teague
April 2018*

Continued...

THE VALUE OF DESIGN: RESPONSIBILITIES AND FEES OF ASSISTANTS AND ASSOCIATE DESIGNERS

- How can the costs of hiring an assistant/associate be distributed between management and the designer?
- Clearly distinguishing the definitions of these two roles

Facilitators: Nicky Shaw and Max Dorey (SBTD), Rory Beaton (ALD)

WHAT IS THE DIFFERENCE BETWEEN AN ASSOCIATE AND AN ASSISTANT?

An **associate**:

- Works in a **designer**'s place once the designs have been delivered.
- May or may not have assisted the **designer** in their studio.
- Can make design and artistic decisions without the designer being present.

An **assistant**:

- Will work alongside the **designer**, primarily in the studio (as a model maker, researcher or draughts person), but sometimes in the theatre too

Issues raised by this include:

- An **associate** is/should be paid a higher fee or daily rate than an **assistant**.

- Should the fee for an associate come out of the designer's fee (given that the designer is not present - as at least one ALD member believed)?
- The role of **associate** can be seen as a developmental role that may have longer term benefits towards a young **designer's** career.
- Does this suggest that they should be paid by the **designer** rather than the company or that if the **associate designer** role is required by the production, that their fee is therefore considered a show expense and paid for by the company. [**Designers** have been known to insist on calling an **assistant** an **associate** simply to ensure they are paid directly by the company]

***Associate** designer falls into two categories, either (post delivery of designs); the designer **is not** present during the production and rehearsal period so the **associate** works in the designer's stead*

or

*The designer **is** present during the production and rehearsal period, but if a large show (i.e. with many costumes to fit), the **designer** may need to be in costume fittings, while the **associate** deals with props and scenic issues or vice versa.*

*Suggestion: the designer's fee is divided into design time and design royalty - paid to the **Designer**.*

*Days present for the production/rehearsal - paid to the **Associate** (and to the **Designer** if both in attendance).*

POSITIONS WITHIN COMPANIES

- Requests for opportunities for more early years **designers** as-well-as opportunities for **designers** already established in their careers, but still working on small scale productions, but wishing to move up to larger scale production with leading companies.
- There are a few **graduate** programmes, but not schemes for the more established young **designers**.

- There could be paid or unpaid shorter-term residencies with theatres/companies to help continue developing skills (This would alleviate the pressure of working back to back on small shows).
- Many large companies should be able to set up these opportunities as paid jobs. Stephen Brimson Lewis stated that the salaries paid to the two RSC placements does not come directly from the company, but are funded independently by the Leverhulme trust.
- It was mentioned that these positions used to exist, but were removed by the arts council – it feels to many that these will not return unless funded privately.

NS and MD suggested that a scheme could be put in place at a variety of UK companies (Theatre, Opera and Dance)

*Sponsored by large commercial companies (similar to KPMG, Deloitte etc) working with SBTB to establish these positions for Young **Designers***

*SBTB could have a committee to help selection (?) in order to give designers of a wider age and experience level, the opportunity to learn how a larger company operates, giving the designer contacts (especially with resident directors) and to improve the chances for **designers** based outside of London to work inside theatres in their areas (particularly those that are guilty of solely using London **designers** for the larger regional productions)*

ASSISTANT'S PAY

- There are no agreed payment terms between **designers** and **assistants/associates**.
- It is not uncommon for an **assistant**, who is working on a reasonable day rate, to earn more than the **designer** they assist (whose fee, when divided by the days/weeks worked is less for the whole production).

- Model box expenses discussed (but covered more in depth by a different group) How can we make sure that fees are not compromised for **designers** and **assistants**?
- A company may be willing to pay for model materials, but this represents only a small part of the entire cost of the model - paying for **assistants** to help make the model and create the technical drawings, greatly exceeds the material cost.
- The Model and Technical Drawings are contractual and must be provided by the designer, therefore the company should pay directly for these (to an agreed budget)
- Several experienced **designers** mentioned that in the USA (in commercial theatre), assistant/ associate designers are often provided by the production company.
- Also larger European State or National companies run their own in-house model and/or draughting rooms, so the **designer** has assistance provided by the company.
- With (commercial?) theatre companies, if a **designer** is required to redesign at a late stage in the process, they may well need to employ an assistant at their own expense.
- It was discussed that under these circumstances the cost should be covered by the company and not by the **designer** (something to put into the contract)?
- It is time to increase director and producer awareness of the implicit costs associated with redesigns (and design in general).
- To clearly demonstrate where the work that designers are expected to provide stops and thus, where extra work (and extra pay) starts.

DESIGNER'S FEES

- When **designer's** fees are small, the day rate works out to be

extremely low (depressingly so!) As a community we should keep a record of what this daily rate works out to be. Only by having this information, can we clearly demonstrate how undervalued the **designer's** work is.

- It might be time for **designers** to start establishing their own formulas to make these calculations easier.
- MD has already made a calculator that spreads a set fee into the number of days at a variety of day rates.
- This can be used to demonstrate how many days you think fair to give to a production and thus the point where the number of days worked dips below the minimum wage (for the fee offered) To MD, this dictates when he should be able to renegotiate a contract before signing or to request a day rate (rather than a fee) or at the very least, for expenses to be paid for every day over that minimum day rate.

This calculator is almost ready to share, MD would like to host this online perhaps in an informal password protected area for designers to store tools and information that would be useful for us to share.

DIVERSITY

- There are very few non-Caucasian British **Designers**. How to resolve this?
- **Designers** are open and willing to offer assisting work to all ethnic groups, but young designers are predominantly Caucasian.
- ALD pointed out that when an LX Designer requires having a board op there is no question of that person being brought in, however this can be at the LX Designers own expense.

*Compiled by Nicky Shaw and Max Dorey
April 2018*

THE VALUE OF DESIGN: PURPLE PAGES

At the end of the evening, we asked for any individual final thoughts that hadn't been captured as yet to be written on the purple paper provided or emailed to us.

If your brain has been whirring since or you were not able to attend the event but have some responses, please email fiona@theatredesign.org.uk

We value your contributions.

If like in ITC contracts, the fee for a designer doing Set and Costume Design is the same amount as a designer of set independently and a costume designer:

Obviously one designer doing both is doing double the work for the same fee – not good.

But also, early in career it is detrimental to designers doing only one area as smaller companies won't pay two fees when for the one fee they can get a designer to do both.

Therefore hard to get early jobs as sole set OR costume designer.

My main point is no matter how good a contract we negotiate, if a dodgy producer miss-manages a show and owes us money like a final part fee, it can mean there is just no money in the 'show company' account and its gone bust. Under the SOLT agreement I understand there is a pot of money held by SOLT from a producer so if things do go bad at least

there is something for everyone owed money. Wouldn't it be great if UK Theatres independent producers were to follow suit with a similar scheme?

On the subject of Assistants and helping both young and mid career designers, I'd love to see some kind of scheme where a producer is obliged to engage an assistant designer to work with the Designer in a internship/apprentice. This would be on top of any assistant designers needed to complete a project. It would allow a young designer into a studio environment and theatre during a production week and see how a show is put up. For the Designer, hopefully they have a very useful extra pair of hands, but they won't have to worry about are they good enough to do the work I need doing etc. and having to spend time training them yourself.

In terms of the fee issue, I think it would be useful to break it down a little further than you suggested. You were absolutely right saying we all work differently and the coming up with the design happens very differently, but there is a raft of things that need to happen between and around this to get to the point of production week attendance realisation and 1st usage. I went through that job breakdown I sent you and put days against each part beyond the research, initial design phase and design development phase as if I was doing it all myself with no assistants to help - it adds up to a lot of days!

My final thought, which is more of a SBTd thing is could we start a register where we record who is working where, when, so if you've just been offered what looks like a bad deal or just want to know what the company are like to work with you can kind that out?

Or anonymously, recording what kind of show we designed where and what was the fee/royalty/expenses deal? Then we could work out what the going rate in any theatre actually is which could stop theatres trying it on?

Access to theatre shows: the majority of theatre shows in London are not affordable for emerging freelance designers for whom would be crucial to watch shows. We could agree with theatres to have cheap tickets for Equity/Union members

Meet your future collaborator: networking events for directors and designers!!!! or some pubs/cafes where we can meet each other

Treat Design as a business:

1. Define role – in general but with lots of detail. Have this used as standard in the contract
 2. Include a ‘ change of order’ section in the contract and use it. So when the design changes as the job progresses it allows for extra charges to be made – as a commercial business would.
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Continued...

KNOWLEDGE IS POWER: RECOMMENDED READING

UK THEATRE/BECTU/EQUITY COLLECTIVE AGREEMENT

[Equity Agreement for Theatre Designers](#)

A key role of the ALD/BECTU/Equity/SBTD working group will be proposing re-writes to this agreement so that it is in clear, plain English and fit for purpose.

It is also our aim to get a template contract included in this agreement again so that standard use of it becomes the norm.

UK THEATRE: THEATRE WORKFORCE REVIEW AND STRATEGY

<https://uktheatre.org/theatre-industry/guidance-reports-and-resources/theatre-workforce-review/>

Both ALD and SBTD will be members of the Stage Sight working group in collaboration with UK Theatre and Arts Council England which will be developing strategies to increase diversity in creative team and backstage roles.

PANIC 2018 – IT'S AN ARTS EMERGENCY!

Panic! Social Class, Taste and Inequalities in the Creative Industries is the first sociological study on social mobility in the cultural industries, and was released by Create London and Arts Emergency on April 16th, 2018.

<http://createlondon.org/event/panic-paper/>