

AAPTLE Meeting No. 5

Tuesday 21st July, 12 Noon, via Zoom, hosted by SMA

Present:

Andy Rowley (SMA); Owen Thomas (SMA); Ali Wade (SMA); David Evans (PMF, ABTT, SiPA); Mandy Ivory-Castile (PMF); David Farley (SBTD); Tom Piper (FMTW); Cat Silver (SBTD/TDF); Katie Scott; Michael McCormack (Hencilla Canworth), Dan Shelley (PMF); Sam Fellows; Johanna Town (ALD), Claire Hartley (CITA) Catherine Kodicek (CITA), Matt Humphrey (FMTW); Cynthia Del Rosa; Stuart Porter (ALD); Dominic Bilkey (ASD); Garrin Clarke (Wales Freelance Taskforce); Fiona Watt (SBDT); Lucy Carter (ALD); Zoe Milton (ASD); Katrina Lindsay (SC); Nicky Shaw (SBTD), Angharad Davies; Susie McKenna; Sadeysa Bailey (FTF); Anna Ehnold Danailov (PIPA); James Rowse

Welcome

SMA welcomed all to the meeting and drew attention to last meeting's minutes for review in the AAPTLE Slack group.

Apologies received from Robin Townley (ABTT) and Stuart Beeby (who will attend next week).

The AAPTLE Open Letter is now online in The Stage.

Welcome to Michael McCormack from Hencilla Canworth, here to update and discuss issues around insurance.

1. Health and Safety & Insurance

Update on the issues that producers are facing at this time:

- Regarding specific cover against Coronavirus loss, there was not much there in the first place and what was there has now gone. Any insurance going forward will have Coronavirus exclusion. That does not apply to public liability policies and employer's liability policies which will continue to operate as long as members are taking what insurers call "reasonable precautions" against prevention of illness. People should stick to the government guidelines as closely as they can. Guidelines are not the same as legislation, they are not mandated, so there may be some flex in them, but people should understand that doing nothing is not an option and they need to be making an effort to prevent the spread of disease for people attending premises. Wording may vary, but reckless and deliberately ignoring the need for these measures is what will land you in trouble with a liability policy.
- On the question of whether recklessness would include not excluding people who may be ill from the premises: would have to look at each scenario on its own merits. The policies make no specific mention of Coronavirus and do not prescribe specific measures. A court would look at overall measures and question whether you'd been "reasonable" or not. An isolate instance might not be classed as reckless but if it was part of an overall pattern of generally ignoring guidelines and not putting measures in place, then the insurers would take a different view.

- On the question of who would be seeking insurance: producers, production companies and venues. In terms of individual freelancers, it may not fall to individuals to be putting the measures in place, but everyone has a responsibility to follow them. We haven't seen specific claims linked to CV yet, but can see stories on the news linked to specific workplaces. That's where claims might be seen arising, where a local authority has to step in and close a specific venue because of an outbreak. Not easy to prove where you caught the virus in an isolate case.
- On the question of whether insurers are seeing trends in things, new models of working that they would not touch: no, there is very little activity in the performing arts world at present. The potential for a liability claim is limited. Most people who get CV recover quickly. No insurer has so far said they won't do anything.
- On the question of whether producers are looking at creating jobs that will help workers do their jobs better without jeopardising insurance (eg like film and TV are hiring extra staff in wigs, hair, makeup): not aware of insurers asking for this specifically, as long as risk assessment being carried out and measures to mitigate risk put in place. Have not come across insurance companies putting additional terms in on liability.
- On the question of whether fault can be attributed to an individual if there is an outbreak and the show is pulled: would see no prospect of that being insurable. Liability insurance tends to be liability for injury or illness. Would not expect a freelancer to be responsible for a show being pulled- that would seem unreasonable. Do look at contractual terms and conditions.
- On the question of how we can protect ourselves from liability if people are not tested when they come in: look at your own contractual terms; if you have symptoms and you go to work, then that would be reckless.
- On the question of whether we need to think about risk assessment for freelancers: take advice from risk management professionals or look at government guidelines and follow them as closely as possible. There are best practice guides out there.
- In answer to point raised that vulnerable workers may lose out on work if producers are reluctant to carry out measures to make them safer: needs to be risk assessment carried out on each space and that would take into account the needs of the people in that space. Anti discrimination legislation will still apply.
- Distinction made between freelancers who are working under control of an employer who are therefore classed as employee workers and those who are not. The knock-on effect of this is that there will be different duties of care given to different types of freelancers and so it's important to clarify definitions and differences. There is a helpful guide on DWP website which outlines circumstances under which a person becomes an employee in liability terms. ACTION POINT: to clarify freelancer definitions as they relate to AAPTLE members.

MM left meeting after this agenda item

2. Calling out unethical practices

- Stage has picked up on Furlough and Covid Contracts. SMA are aware of some of these.
- Point raised that the furlough to October discussions are being portrayed on the one hand as a lifeline that s being offered but on other hand employers are saying it is a loan that they are taking out and needs to be repaid. This is legal and there are maternity based laws that

allow people to be given higher rate of pay but they have to come back and continue contracts. Causing a lot of stress for HODs in WHM. Concern that working conditions when people return to work are going to be worse.

- Point raised that different managements are taking slightly different views. Some are asking for all the NI, pension etc to be drawn back when people return to work. Some are setting a 20% reduction across the board on the return to work. People are concerned about being tied in to an unfavourable agreement for an undetermined length of time or being seen as disloyal for not accepting and then not being considered for rehire on the return to work. SOLT managements want it to be all sorted by the end of July but staff don't yet know what the SOLT/UNION variation agreements consist of yet.
- Point raised that outside of London it's more about people being made redundant rather than furlough negotiations. Some companies offering freelancers first refusal on productions that have been postponed. Other companies trying to restage productions with a view to employing same staff if possible.
- Question raised regarding whether any of our members would prefer to have the payback option? Answer offered that a lot of people want 3 months of support but worried about it being pegged to unfair terms coming later. Many people would want the 2 aspects to be separate
- ALD raised the point that they commented on The Stage article when asked to but have not actually received anything around this issue from their own members yet. Have had approaches from media which they will happily pass on to other bodies.
- Point raised that we need to contemplate the recession we are going into and ability to pay back any monies. Same things are happening in all sectors. We must find ways of being realistic. We absolutely should call out unfair practise but also look at how we support members there won't be work for over the next 18 months.
- Point raised that furlough deals are not a lifeline. It is a deal that gives you slightly more payment but managements have added things in on return to work like not paying overtime. It involves going back to work under exploitative conditions.
- Point raised that we should be helping people transfer skills.
- Point raised that a lot of people will be taken off furlough scheme very soon and everyone will urgently need work.
- ACTION: it was agreed to move on to item 4 on the agenda, missing item 3 for now. We need to shape the structure of the organisation before establishing action points from this discussion. Refer this point to future meeting when the aims and structure are agreed.

4. Aims Manifesto: agreeing the aims of AAPTLE and structuring the alliance.

- ALD have put together a document which is in Slack as a word document. Please comment.
- Point raised that we need to establish how we operate. We represent a huge range of people, both as Associations and freelancers. We need to think about what we have in common that we can congregate around and need to coalesce around set of principles and aims. Part of this is a COVID response and part is terms and conditions.
- Everyone looked at the working document.
- Agreed by several present that so far the document is a good start. Suggested that we discuss further via Slack and revisit at the next meeting.

- Question raised whether we need to consider something more formal like chair or secretary or continue rotating. Should we submit agenda points by time/date?
- Question raised whether we want to acknowledge the links some of us have with certain organisations?
- Point raised about how we work out a way of delivering what works for the people that matter.
- Point raised about what rules we operate to?
- ACTION POINT: ALD to post work so far, all to review and note further in Slack and revisit.

5. SOLT/UK Theatre

- Point raised from several attendees that we should extend a formal invitation for SOLT/UK Theatre to attend a meeting and with clear idea of what we would like to ask.
- Point raised that we need to be open and transparent with SOLT/UK Theatre about what we would like to ask.
- Point raised that some members of this group are tightly linked to SOLT/UK Theatre and will want to be mindful of longer term relationships.
- Point raised that situation is very different regionally and we need to be mindful of this when discussing with SOLT/UK Theatre.
- ACTION POINT: to be discussed further.

6. AOB

- Request from SBTD to check last week's meeting minutes for outstanding action points and update in Slack.
- If anyone has not signed up to the mailing list, please ask DB to be sent link again.
- Point raised that everyone should feel able to call the group out over any oversights - for example if the meeting is becoming London-centric.
- PMF will be bringing a regional guest each week.
- Next week's host is CITA: 28th July 12 noon.