

# ADVERTISING EXPLOITATION



# #FAIRFRINGE

## A FAIR DEAL FOR FRINGE WORKERS

# INTRODUCTION

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In the lead up to the Fringe 2018 we compiled our first Advertising Exploitation report (1) detailing and documenting the practices, some of which appeared to be unlawful, used by companies to recruit staff. The report highlighted just how blatant and rife this exploitation is - companies openly recruit for jobs which will have terrible employment rights. Since last year our campaign has made massive strides forward and a host of venues have made some excellent improvements. However, sadly there are still too many workers being exploited and too many Fringe companies failing to treat their staff with respect. We noticed that this year companies have been far more secretive about their pay and conditions - they now know we are watching and their exploitation will not go unchallenged. Even with all this though, there are still many job adverts advertising terrible working conditions for staff.

Below are some of the openly exploitative practices we have documented in the lead up to this year's Fringe.

## WORKING TIME

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We found many adverts which indicated that workers would be expected to work very long hours. The Working Time Regulations Act 1998 regulates the hours and rest breaks of workers in the UK (2). Most workers have the right to:

- at least a 20 minute break if they will work longer than six hours.
- not work on average more than 48 hours per week. Individuals may choose to work longer by "opting out".
- 11 consecutive hours' rest in any 24-hour period
- one day off each week or two consecutive days off in a fortnight

Whilst workers can opt out of the 48 hours per week limit, they cannot be compelled to do so, and under-18's are not able to opt out. Workers cannot opt out of the other listed rights.

Many job advertisements give no specific details of shift lengths and use the word "flexible" to signify to employees that they may end up working longer than initially agreed. There is potential for workers to feel pressured to continue working hours beyond what is required, especially in cases where accommodation is tied to their work.

Whilst it is less common for adverts to say explicitly that applicants will be working without adequate days off, it is more common for them to contain

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no information at all about rest days, or to imply that there will be no days off.

Bound and Gagged Comedy's advert for flyerers says that successful applicants "will be required to work from Sunday 28th July – Sunday 25th August" and "will have 1 day off so you will be able to see other shows". Under the working time regulations staff working for this 29 day period should enjoy at least 4 days off.

Purple Martian Comedy's advert (4) for their Street Team states that workers will receive "1 full day off in the middle of the fringe" in a 26 day run from 31st July to 25th August. That these employers are advertising the fact that they offer a single day off in a month as a selling point to potential applicants shows how embedded the expectation to work to the point of exhaustion has become at the festival.

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PQA Venues (5) says that their expectation is for workers "to be available to work every day throughout the Fringe and for the dates stated above" from the 29th July to 28th August (32 days). Get Comedy (6) implies that their staff will be working every day by saying in their advert that they will be "working an average 4-6 hours per day including weekends, so plenty of time to enjoy the festival, see shows and have fun!" Live Nation Comedy (7) says that applicants will be working "4-6 hours shifts throughout the month" from 2-26 August.

## **C VENUES**

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Following an astonishing number of bad reports, them being named & shamed in our Advertising Exploitation report last year and winning 2 out of 3 of our 'Bad Boss Awards', at the start of this year we released our dedicated C-Venues Report (8). This was packed with interviews from staff about the abysmal way they were treated. Sadly, having reviewed C Venues adverts and offer for this year it is clear that little has changed.

C Venues have made some changes in how they advertise for their 'volunteers' this year. Gone are any references to pay on their website, instead a commitment to a 'small contribution to your subsistence expenses'. According to C themselves in a response to an email inquiry, "We will reimburse expenses of up to £3 per day for a shift of between 3 and 5 hours, £6 per day for each day you volunteer for a shift of between 5 and 10 hours, and £9 per day you volunteer for a shift of more than 10 hours. For those volunteering for the full programme (15 July - 30 August,) on

average this adds up to approximately £250-300." C writes in their information pack (9): "We would like to be able to offer more, but simply don't have the budget." It is clear that C's business model uses volunteer labour to lower operational costs. C Venues is a private limited company.

On days off, C writes: "We allocate one day off during the fit up for those attending the full fit-up period, and half a day off for those attending only the last week of the fit up; and three days off during the run for those staying for the full run period." Under the Working Time Regulations, workers should expect a day off every week, or two consecutive days off every fortnight. Give that C's full dates are 46 days from 16th July to 30th August, four days off for anybody working the full 46-day period is two less than would be legally mandated. However as C Venues staff are "volunteers", they are not entitled to these rights.

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On shift lengths, C writes: "Volunteer shifts are typically around 8 to 10 hours. During some days in the fit-up and get-out periods, shifts for some roles can be up to 12 hours a day, and on the few occasions we have overnight technical rehearsals, some shifts for technicians and managers can be up to 13 hours." Last year, staff at C told us that they had failed to recruit enough volunteers, and that as a result shifts were consistently at the upper end of these estimates, and sometimes much higher. However even at the very lowest estimate of 8 hours per shift, averaging the four days off throughout the festival gives an average weekly workload of 51.2 hours which is above the legally mandated maximum of 48 hours. Last year staff told us that they were routinely working over 65 hours per week, sometimes more, and were made to feel guilty if they worked less. However, as C Venues staff are "volunteers", they are not entitled to rights to time off. C Venues should recognise their staff as employees and give them the proper time off.

C are still offering accommodation for their volunteers, with little change in their description of multiple people to a room. Last year we heard many reports of overcrowded accommodation, with up to 12 people sharing bathrooms and kitchens designed for 4. In their volunteer information pack, C writes: "A typical room might be for two or three people, in a large bedroom with one double bed and one or two mattresses" ... "Expect to queue for the bathroom at times, though we try and rotate shifts so that not everyone in the flat is starting at the same time. Due to the nature of the short-term rental market, flats don't generally have wifi." Living in these conditions might be acceptable for a few days, but 46 days living away from home with strangers in overcrowded spaces, with no privacy, no security, and no internet is surely unacceptable.



# POVERTY PAY

Edinburgh is an expensive city at any time of year, but particularly during the festival when rents and other prices skyrocket. The Living Wage Foundation calculates how much a person needs to earn to survive (10). This Real Living Wage is currently £9 per hour across the UK, and £10.55 in London. Anything less than £9 per hour is not enough to live on, even before considering any extra costs of living in Edinburgh during the festival.

The Fringe Society is quick to point out that the festival is worth £200m every year (11), but the festival workers who make it all happen don't always get their fair share. These employers make a profit at the expense of their workers, who aren't paid enough to live on. Sadly work which pays less than the Real Living Wage is very common at the Fringe. Underbelly (12) advertised roles for Box Office, Front of House and Bar Staff, all of which paid £8.21 per hour.

Unfortunately some festival employers not only fail to pay the Real Living Wage, but also advertise posts which do not pay the legal minimum wage of £8.21 per hour. In the Fringe Society's 2017 survey of festival workers (13), more than 50% of respondents who received an hourly wage said that it was less than the then-minimum wage of £7.50.

Many employers this year have advertised posts paying £8 per hour. Presumably such employers either don't intend to employ anybody over the age of 25, or intend to pay any such employees less than the minimum wage.

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Bound and Gagged Comedy (14) advertised for flyerers offering £8 per hour and commented: "We want people who will be able to take the strain of working hard during the day and partying hard during the evening, this is ideal for students!" Two Skies Ltd, a company running a stall at the Fringe's outdoor market, also advertised jobs at £8 per hour (15), as did Phil McIntyre Entertainments. (16)

Several employers advertised posts without listing any information about wages at all. This included Purple Martian Comedy (17) who said they offer "Great money (better than a lot of other teams - but we want the best people)" and Off the Kerb (18) who said their pay was at a "competitive rate". Asking people to apply for jobs without knowing the rate of pay means they will be unable to plan.

# AGE DISCRIMINATION

Some festival employers openly advertise practices which could be seen as discriminatory on the basis of age. We saw a large number of job adverts which excluded applicants under the age of 18, with no obvious justifiable reason. It could be reasonable to exclude under-18s if the job involved handling alcohol, or for some other reason was inappropriate for younger workers, but in these instances we saw no reason why under-18's would be unable to carry out the work.

Workers of compulsory education age may only work part time, however in Scotland the school leavers' age is 16, and in any case these jobs take place entirely within the summer holidays, when the restrictions don't apply!

According to the government's industrial relations agency ACAS (19), workers under the age of 18 are entitled to extra rest breaks, at least two consecutive days off per week, and an upper limit of 40 hours's work per week. They also cannot opt out of the Working Time Regulations. It's possible that employers have decided that they are simply not willing to give workers under 18 the additional rights to which they are entitled, and have thus excluded them from applying.

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Purple Martian (20) explicitly excluded applicants in their advert for their Street Team, stating that they must be “at least 18 as of 1st August 2019” in their advertisement. Get Comedy (21) made the same restriction in their advert for their Street Team, and said applicants “must be aged 18 or over by 1st August 2019 to apply”. The Stand made the same statement (22).

Other employers advertised pay rates which discriminate on the basis of age. Whilst this isn't unlawful, it is clearly unfair. Workers under the ages of 21 and 25 are no less capable than older workers, and employers should be willing to pay equal wages for equal work. Paying workers the bare minimum wage in this way is not only unfair and not nearly enough to live on, but also devalues workers, giving them the impression that they would be paid less if their employer could get away with it.

Mick Perrin Worldwide (23) advertised offering a lump sum for the month of “£955.80 for under 21 year olds, £1195.56 if you are over 21 years old and £1268.46 for those over 25 years old”. We assume that these have been updated to take account of the uplift in the minimum wage since it was advertised in February.

The SpaceUK (24) asks its Box Office Assistants and Press Officers of all ages to do the same job but does not pay equal wages depending on their age. Their recruitment pack says “those under 21 will receive £6.15 per hour, those aged 21 to 24 will receive £7.70 per hour and those over 25 will receive £8.21 per hour.”

# "VOLUNTEERING"

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Many venues and employers advertise their roles as voluntary. They boast that the positions offer an opportunity to take part in the Fringe and to gain experience in the entertainment and hospitality sectors. But you can't pay bills or buy food with experience, and volunteers don't have the same employment rights as workers and employees.

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Some festival employers insist that if they paid their staff a proper wage their business would collapse. But the reality is that any business which can't afford to pay its staff properly cannot afford to operate. It is simply unacceptable, and wholly outwith the spirit of minimum wage legislation, to use volunteer labour to lower operating costs. Volunteering has its place when it's for a good cause, but not when it's just to allow a comedian to lower their ticket price, or to allow a venue operator to widen its profit margins.

Some employers appear to use perks such as free tickets as an incentive to apply, and others pay a lump sum for expenses over the month. But government guidance (25) is clear that volunteers should receive only payments to cover actually-incurred expenses directly related to their volunteering, and should not receive other rewards or benefits in kind. Staff receiving other perks might be classed as workers, and would then be eligible for employment rights including the minimum wage.

Pleasance runs a Festival Volunteer Programme (26), where volunteers receive "no less than £680" for the entire festival run "as a contribution to their expenses". This year volunteers will be working from 26th July to 29th August. As noted above, C Venues uses volunteers, and will this year pay an expense rate of £3 for shifts between 3 and 5 hours, £6 for shifts between 5 and 9 hours, and £9 for any shift over 10, which adds up to around £250 to £300 for the whole length of Fringe. C Venues is a private limited company.

ZOO Venues (27) advertised for volunteers and said "ZOO Venues works on a break-even basis and all profits are re-invested into the company to help us expand in future years. Because of that, we cannot offer our staff a wage, so all positions are voluntary." ZOO Venues is a private limited company.

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Dyad Productions (28) advertises for a Backstage Team Volunteer, and say “This is an UNPAID VOLUNTEER post, but in return we can give you: Company Pass (free entry into over 300 shows, plus on-site food/drink discounts, VIP bar access) and a free and lavish company meal.”

# PHOTO APPLICATIONS

We saw many adverts which asked applicants to submit photographs with their applications. We consider this an extremely poor recruitment practice, because it allows employers to easily discriminate on the basis of their age, gender, race, disability, or simply their looks. The Equality and Human Rights Commission would appear to agree. Point 16.42 of their Statutory Code of Practice on Employment (29) states that: “Applicants should not be asked to provide photographs, unless it is essential for selection purposes, for example for an acting job; or for security purposes, such as to confirm that a person who attends for an assessment or interview is the applicant.”

CK Productions (30) requested a photograph, as did Purple Martian/Mars Comedy (31) and Alexander Bennett (32). Purple Martian/Mars Comedy also made clear that applications will not be considered if the photograph is missing.



# CONCLUSION

This report is a glimpse into the shameful practices that employers use to staff their venues through underpay, discrimination, tied housing and overwork. We want to see this all end and with it will come a Fringe that is fair and works for all.

Below are the Fair Fringe Campaign's recommendations to make that possibility a reality:

1. All venues and performers should sign up to the Fair Fringe Charter - committing to:

- Paying the real Living Wage of £9 p/h

- Rest breaks

- Equal pay for young workers

- Minimum hour contract

- Anti-sexual harassment policy

- Paid transport after 12am

- Consult on rota changes

- 100% tips to staff

- Trade Union access

- No unpaid trial shifts

- No photos on job applications

2. The website Edinburgh Festival Jobs should refuse to host job adverts that do not meet the criteria in Unite's Fair Hospitality Charter

3. Edinburgh City Council should make full use of its licensing powers to prevent repeat-offender venues from operating.

4. The Fringe Society should ban venues such as C Venues who fundamentally fail to meet the Fair Fringe Charter from advertising in their programme.

# REFERENCES

1. <https://www.fairfringe.org/our-report/>
2. <https://www.acas.org.uk/workinghours>
3. <http://archive.fo/yACNS>
4. <http://archive.fo/0q6Xy#selection-379.0-379.42>
5. <http://archive.today/bQmox>
6. <http://archive.today/5BeCG>
7. <http://archive.fo/kYcbP#selection-351.0-351.57>
8. <https://www.fairfringe.org/c-venues-report>
9. <http://archive.today/hbECO>
10. <https://www.livingwage.org.uk/what-real-living-wage>
11. <https://www.edinburghnews.scotsman.com/news/politics/200m-festival-fringe-boost-to-edinburgh-s-economy-1-4851640>
12. <http://archive.today/sOfIK>
13. <https://www.edfringe.com/learn/news-and-events/fringe-society-publish-results-of-venue-workers-survey>
14. <http://archive.today/yACNS>
15. <http://archive.today/oHDmC>
16. <http://archive.today/B73eQ>
17. <http://archive.today/TmyCs>
18. <http://archive.fo/XG9o7>
19. <https://www.acas.org.uk/index.aspx?articleid=5410#Treatingyoungerworkers>
20. <http://archive.today/TmyCs>
21. <http://archive.today/5BeCG>
22. <http://archive.fo/NLg6m>
23. <http://archive.today/61wx9>
24. <https://www.thespaceuk.com/downloads/work-for-us.pdf>
25. <https://www.gov.uk/volunteering/pay-and-expenses>
26. <http://archive.today/zzdOp>
27. <http://archive.today/jJQHY>
28. <http://archive.today/1Zw8N>
29. <https://www.equalityhumanrights.com/sites/default/files/employercode.pdf>
30. <http://archive.fo/ZgjG5>
31. <http://archive.fo/TmyCs>
32. <http://archive.today/dKjAi>

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