

Making an unscripted TV programme: checklist

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A checklist setting out the main steps in making an unscripted TV programme and the legal issues a creator should consider.

An unscripted TV programme is any TV content that is made without a script, for example, a reality or game show, a documentary, or a talk show. The legal considerations for making an unscripted TV programme are different than for a scripted TV programme.

This checklist sets out the main steps and related legal considerations in making a (mostly) unscripted TV programme for a broadcast or streaming service for viewers in the UK. The steps include all stages from development to post-production, with a particular focus on content issues, including compliance with the Ofcom Broadcasting Code and other laws. The term “programme” is used to refer to a one-off programme or series of programmes.

The checklist is intended as a starting point rather than a comprehensive guide. It assumes that a broadcaster or streaming service is already involved and therefore ignores finance issues. If that is not the case, it may be useful to refer to the section on finance in [Checklist, Making a scripted film or TV programme](#).

For more information on general issues relating to broadcasting, see [Sector note, Media: regulatory overview: TV and video-on-demand](#).

Type of programme

You may need to acquire format rights, for example, for a game show or reality TV programme. See [Standard document, TV format option and licence agreement](#). Tailor the agreement according to whether the programme is talent-originated or production company-originated.

If the programme is a teleshopping programme, specific rules apply. For more on these, see [Practice note, Broadcast and on-demand TV: advertising: Teleshopping](#).

If you are making an original programme that could involve creating a new format, you should:

- Keep detailed records of the development, including a bible of the material elements of the format.
- Consider registering all titles, logos and catchphrases as trade marks, in case you can exploit the format later by selling the rights to foreign production companies. See [Practice notes, Trade marks: Registration and portfolio management](#) and [Trade marks: Exploitation](#).

To ensure you can exploit the format, require employees and consultants involved in the development to sign appropriate agreements regarding intellectual property ownership. For a selection of general copyright licences and assignments, see [Practical Law: Copyright](#).

Development

Initial agreements

Non-disclosure agreements may be desirable in the early stages of development, although they may be difficult to obtain. See [Standard document, Confidentiality letter agreement: short form \(one-way; pro-discloser\)](#).

Elements of the programme may be scripted, for example, jokes delivered by the host of a panel show. Appoint a writer or establish a writers’ room in which a number of writers work in a team. See [Standard documents, Writer’s confidentiality agreement for film or TV \(one-way, pro-discloser\)](#) and [Screenplay writer’s agreement](#).

Ensure that all employees and consultants involved in the development sign appropriate agreements regarding intellectual property ownership. For a selection of general copyright licences and assignments, see [Practical Law: Copyright](#).

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Producers

If the project is not initiated by a production company, you must appoint a producer.

If the project is co-produced, a co-production agreement is needed.

Negotiate in the agreement with the broadcaster or streaming service:

- An ongoing right to produce further series of the programme if they are to own the format.
- A format licence fee.
- (Potentially) approval rights regarding changed formats.

Budget and specification

Prepare the budget and specification considering the following:

- The talent that you want to present or participate in the programme, for example, whether you want known stars.
- Location(s), for example, whether any tax reliefs apply in the UK or abroad. See [Sector note, TV and film industry overview: Tax incentives](#).
- Environmental issues, particularly in relation to travel. See [Article, BAFTA's albert project and the Green Rider campaign](#). Incorporate environmental riders into agreements.
- Whether the programme will be released on broadcast TV or streamed. The broadcaster or streaming service may be the same entity as the producer. They may fund the project or be found after the programme is made.
- Different content restrictions apply to broadcast and on-demand programmes. See [Content issues](#).
- The estimated profit from the programme.

Insurance

Take out insurance for a wide range of risks, including for (among other things):

- Errors and omissions.
- Cast (in case they pull out or get sick).
- Faulty equipment.
- Delay.
- Unanticipated expenses.

Production team

Engage the production team (these may be companies or individuals), which is usually made up of the following:

- The director (and any executive director and assistant directors). For an agreement that may be adapted for use for a TV programme, see [Standard document, Film director's agreement](#).
- An individual producer or co-producers. For an agreement that may be adapted for use for a TV programme, see [Standard document, Film producer's agreement](#).
- The director of photography.
- The camera operator.
- The first assistant director.
- The casting director.
- The location manager.
- The line producer.
- The script editor.
- The script supervisor.
- The programme editor.
- The production designer.
- The costume designer.
- The hair and make-up designer.
- The visual effects company.
- The stunt company.
- The post-production supervisor.

Enter into agreements with the crew if they are not employees of the production company or a company appointed by the production team. For example, camera operators, sound engineers, runners and so on. See [Standard document, Film crew member's agreement](#).

Shooting schedule

Create a shooting schedule for the programme to ensure that the production costs remain within the stated budget. Producers are responsible for delivering the programme on time and on budget.

Talent and other participants

Enter into agreements with talent and other participants, which may include the following depending on the programme type:

- **A presenter.** If the presenter is presenting as themselves, for example, in a documentary, travel show or reality show, a loan-out agreement may be appropriate. See [Standard documents](#):
 - [TV presenter's loan-out agreement](#) (between the loan-out company and the production company);

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- Inducement letter between TV presenter and production company; and
- TV presenter’s agreement.
- **A contestant** (or other major participant appearing in a non-professional capacity, for example, in a reality show). See [Standard document, TV contributor’s agreement](#).

Reality shows must be particularly careful to comply with the Ofcom Broadcasting Code rules designed to protect participants ([Ofcom: The Ofcom Broadcasting Code \(with the Cross-promotion Code and the On Demand Programme Service Rules\) \(30 December 2020\)](#)). In many cases, it is necessary to carry out a risk assessment and put in place mitigating procedures. See [Ofcom: Statement: Protecting participants in TV and radio programmes \(18 December 2020\)](#).
- **A minor participant.** See [Standard document, TV contributor’s release](#).
- **Children.** Working with children (those under 16 or 18 depending on where filming takes place) requires a licence from the child’s local authority. The licence states the number of hours the child can work, as well as any other steps needed for the child’s employment. You must also inform the local education authority where the filming takes place. See [Practice note, Employment of children](#).
- **Animals.** You should procure any animals from a known industry supplier and comply with the following:
 - the Animal Welfare Act 2006;
 - the Cinematograph Films (Animals) Act 1937;
 - the Performing Animals (Regulation) Act 1925; and
 - RSPCA guidelines ([RSPCA: Advice and welfare: Performing animals](#)).
- **A composer.** See [Standard documents, Composer’s agreement for film music](#) and [Short-form film music commissioning agreement](#).

Location

Enter into location agreements if appropriate. See [Standard document, Location agreement](#).

You are likely to require permissions to film in certain locations or using special effects. For example, in the UK, permissions are required from:

- Local authorities for filming on public land.
- The police when:
 - filming on a public highway;
 - special effects, explosives or firearms are used; or

- uniformed police or police vehicles are portrayed on film.
- The local police and highways department of the local authority to film on a public road.
- Local shops or restaurants in which filming takes place, particularly if a shop’s or restaurant’s trade mark or name are filmed or heard within the programme.
- The architect of a modern building still in copyright to avoid infringing copyright in the building and in any underlying architectural drawings. Under UK copyright law (section 62, Copyright, Designs and Patents Act 1988), filming buildings in public places or which are open to the public is a “permitted act”, but it is not clear whether this extends to architects’ drawings. See [Practice note, Copyright: permitted acts: Representation of certain artistic works on public display](#).
- The appropriate body in relation to royal parks and buildings (see [Sector note, Media: regulatory overview: Filming regulations](#) under “Royal parks and buildings”).

If filming using a drone, apply to the Civil Aviation Authority (CAA) to check whether permission or a licence is required. See [Practice note, Drones: law in the UK: Registration and competency](#) and [CAA: Unmanned aircraft and drones](#).

Check whether there are any other applicable local laws on filming, for example, as there were during the height of the COVID-19 pandemic.

Content issues

Regulation and statute

The Broadcasting Code contains rules for:

- Broadcast content in Part 1 (see [Practice note, Broadcast TV programme content regulation](#)). If there is any possibility that the programme will be broadcast, compliance with Part 1 is essential.
- On-demand content in Part 3, which contains lighter rules (see [Practice note, On-demand TV regulation: Content requirements](#)). If the programme will only be streamed, compliance with the lighter rules is sufficient.

The programme must comply with the laws on:

- Copyright (see [Practice note, Overview of copyright](#)).
- Performers’ rights (see [Practice note, Consents needed to publish or exploit film or photographs of individuals: Performers’ rights and performers’ moral rights](#)).
- Moral rights (see [Practice note, Moral rights and artist’s resale right](#)).

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- Defamation (see [Practice note, Overview of defamation](#)). Making a slanderous statement is a potential risk for live television broadcasts.

The programme must also comply with the relevant broadcaster's compliance policies, for example, the BBC's Content Compliance Policy.

Music

Clear rights to any existing music to be used. See [Standard documents, Master recording synchronisation licence agreement for film soundtrack](#) and [Music publishing synchronisation licence agreement for film soundtrack](#). It may be possible to clear some music, specifically production or library music, via collecting societies. See [Practice note, Collecting societies in the music and film sector: Mechanical Copyright Protection Society \(MCPS\)](#).

For a full discussion of music clearance and contractual issues, see [Practice note, Legal issues arising from use of music in film](#).

Featured products

Agree on product releases for any product, artwork or photograph used in the programme. See [Standard document, Product release](#).

Enter into product placement agreements if a brand wants to pay for its product to be used in the programme. There are restrictions on product placement in broadcast and on-demand TV, including in news and children's programmes. See [Practice note, Product placement in broadcast and on-demand TV](#).

Data protection

Consider whether any clearances for the filmed content are required under data protection or privacy law. For example:

- Drones fitted with cameras can collect personal data, for example, images of people or vehicle plate numbers. This can have data protection and privacy implications. See [Practice note, Drones: law in the UK: Data protection and privacy](#).
- Filming in public places could have data protection and privacy implications, for example, if identifiable individuals appear in the film other than incidentally or in a crowd scene. See [Practice note, Consents needed to publish or exploit film or photographs of individuals](#).

Production hazards

If the programme uses weapons, explosives or fire, or you are filming in water or using stunt work, comply

with Health and Safety Executive guidance ([Health and Safety Executive: Stunts, fights and other potentially hazardous production activities \(September 2017\)](#)).

Sponsorship

Enter into sponsorship agreements if a brand will sponsor the programme. This usually involves the sponsor associating itself with each programme in "bumpers" (advertisements) around the opening and the credits, and any advertising breaks. News and current affairs programmes cannot be sponsored. See [Practice note, Sponsorship: an overview: Broadcast sponsorship](#).

Voting and competitions

If the programme contains phone-ins (for example, for viewer voting or competition entry) which require use of premium-rate services (PRS), the broadcaster or other media content provider must register with the Phone-paid Services Authority (PSA), the premium-rate phone regulator, as they are "level 2" providers under the PSA Code of Practice. See [Practice note, Premium-rate phone services](#).

Merchandising

Consider whether there will be any spin-off, merchandising or commercial tie-in opportunities. This could, for example, include character merchandising or exploitation of the rights in the show's theme music. See:

- [Practice note, Character merchandising licences: IP rights and competition law issues](#).
- [Brand exploitation toolkit](#).
- [Standard document, Character merchandising licence](#).

Production

Establish an on-set safety protocol.

Comply with the Working Time Regulations 1998 (SI 1998/1833) (WTR 1998). The WTR 1998 includes a maximum working week of 48 hours, with specific provisions for night work and rest periods and rest breaks. However, this maximum limit on working time may be amended, or opted out of, through individual agreements in employment contracts (regulation 4(1), *WTR 1998*). For more information, see [Practice note, Working Time Regulations: overview](#).

You must also comply with:

- For children, restrictions on working hours. See [Practice note, Employment of children](#).

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- Legislation and guidelines for the use of animals. See Talent and other participants.
- Procedures to protect the welfare of participants. See Talent and other participants.
- Any other contractual or regulatory restrictions.
- Edit the programme if it is not live.
- Check whether there are any copyright works (for example, a painting, sculpture, building or logo) or trade marks (for example, on products, clothes or buildings) appearing in the programme for which licences have not already been obtained in the pre-production or production phases, and arrange appropriate licences.

Post-production

Once shooting is complete:

If the production company is a member of the relevant collecting societies, see [Practice note, Collecting societies in the music and film sector](#).

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