

Internships explained

Summary

Internships provide training and skills development for those new to a particular role or industry, and have become more common across the public, private and voluntary sectors in recent years. With the organisations offering internships ranging from major charities to Members of Parliament and media companies, the term has understandably caused some confusion and increased concerns that interns may not be treated fairly. The experience of interns is wide-ranging, and legally they may be employees, workers, voluntary workers, on work experience, or volunteers.

Some organisations have used the terms “intern” and “volunteer” interchangeably. To bring some clarity to this issue Volunteering England has worked with a range of voluntary organisations that run internship programmes to produce this information sheet.

This information sheet covers:

- What is the problem?
- What is an internship?
- Definitions
- What is a volunteer internship?
- Considerations for organisations involving interns on a voluntary basis
- Setting up a volunteer internship programme
- Resources and further information

This information sheet does not cover organisational responsibilities with regards to interns as employees. If you require this information we recommend contacting the Chartered Institute for Professional Development (CIPD).

What is the problem?

Internships are on the rise. For example between 2009 and 2010 the Chartered Institute for Professional Development (CIPD) reported that the percentage of its members planning to involve interns increased from 13% to 21%. However with no clear guidance from government, concerns have risen about interns are treated. This has been picked up in the media, and interns themselves have campaigned for more rights and recognition for their work. Around two-thirds of internships are paid. However for those who do not

receive a wage we are keen to distinguish between those who are genuine volunteers and those who are illegally unpaid workers.

There is no legal definition of an intern, which has led to much debate about where interns should fit in employment law. However the law is clear that regardless of whether or not a person is called an intern, their status depends on the arrangements under which they are engaged. An intern will fall into one of the following categories:

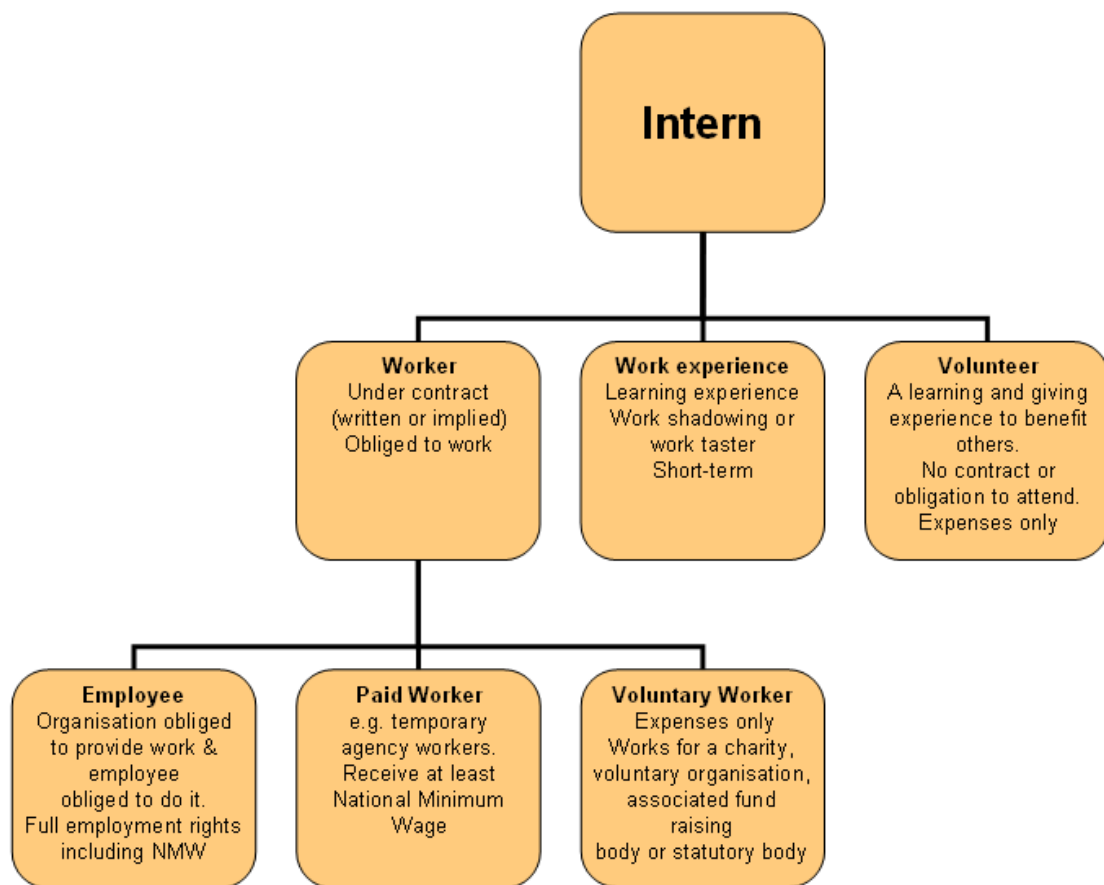
- A worker, and eligible for payment of the National Minimum Wage (NMW)
- A worker, but expressly exempt in the legislation and not eligible for the NMW (e.g. a voluntary worker)
- Not a worker and therefore not eligible for the NMW, (e.g. a volunteer)

Organisations need to be clear about the status of their interns, to ensure they are treated properly. An organisation will face different legal obligations if their interns are in fact “workers” rather than volunteers. But they would also need to consider how people can best be supported and show consideration for different needs, for example a volunteer intern may require more flexible working arrangements to fit around a paid job.

What is an internship?

In the absence of a legal definition, and building upon broadly accepted elements of existing internships, we would see an internship as a time-limited work placement that allows a person to gain on-the-job experience. Internships occur within the private, public and voluntary sectors, and include an element of training or skills development. They offer an introduction to a particular field of work. Depending on the nature of work the internship entails, the person may or may not be a ‘worker’.

This diagram categorises the different types of intern:



Definitions

Depending on the nature of the internship, and the type of organisation providing the opportunity, an intern will fall under one of the following categories:

Worker: A worker is someone who works under a contract. The contract does not need to be written - it may be an implied or oral contract. Examples include temporary agency workers and freelancers. Although workers are not entitled to the full range of employee rights, they must be paid the national minimum wage plus holidays.

Employee: According to the Employment Rights Act 1996, an employee is someone who works under a contract of employment. All employees are 'workers', but have a wider range of employment rights and responsibilities, for example the right to maternity leave, and the responsibility to give a minimum notice period if wishing to leave the job. There are a number of tests to help decide whether someone is an employee:

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- There is an obligation on the individual to perform the work and in return an obligation on the organisation to provide the work (a contractual relationship)
- The individual is required to attend work on a regular basis unless on authorised leave (eg holiday, sickness absence, maternity leave)
- The individual is required to work a minimum amount of hours (whether fixed or variable) and expects to get paid for the hours they work

Paid worker: Under the National Minimum Wage Act workers are legally entitled to a minimum wage, which is currently £5.93 per hour for people over 21 years old. However many organisations choose to pay more than this minimum.

Voluntary worker: Full-time volunteers may fit into this category, or those volunteers deemed to operate under a contract (written or implied), for example a full-time residential volunteer working on a social care project. They may consider themselves 'volunteers' but are in fact workers due to the arrangements under which they work. Voluntary workers are defined in the 1998 National Minimum Wage Act (NMWA) as a type of unpaid worker that can only be employed by charities, voluntary organisations, associated fund-raising bodies and statutory bodies. Section 44 of the Act explains that these workers are not entitled to the national minimum wage if certain conditions are met:

(a) that they receive no monetary payments of any description, or no monetary payments except in respect of expenses—

- (i) actually incurred in the performance of his duties; or
 - (ii) reasonably estimated as likely to be or to have been so incurred;
- and

(b) that they receive no benefits in kind of any description, or no benefits in kind other than the provision of some or all of his subsistence or of such accommodation as is reasonable in the circumstances of the employment.

Unpaid voluntary workers are allowed to receive certain expenses that are incurred in the course of their duties. Provision of accommodation is allowed under the Act, and an extra subsistence payment can be given, if the voluntary worker is employed as a result of an arrangement between two separate bodies.

Work experience: Work experience placements are typically not paid, not contracted, and are short-term. Often used to give young people or others a taster of a particular job, individuals are given the chance to try various tasks or shadow a member of staff. This may be undertaken as part of an

educational course. Crucially any placement should provide a supported learning environment.

Students doing work experience as part of a higher or further education course are not entitled to the NMW if the work experience is less than a year long.

Volunteer: A volunteer is someone who undertakes an activity that involves spending time, unpaid, doing something that aims to benefit the environment, individuals or groups other than (or in addition to) close relatives. They are not in a contractual position (written or implied) with the organisation. Volunteers should be reimbursed for any expenses they incur in volunteering, for example travel and lunch expenses.

What is a volunteer internship?

In most cases interns will be 'workers', however in practice charities sometimes attach the term 'intern' to a volunteer position which allows someone to gain practical experience whilst volunteering to support the charity's cause. Volunteer interns will be:

- giving their time freely (i.e. not under contract)
- reimbursed only out-of-pocket expenses
- working either directly or indirectly to benefit others (i.e. the environment, individuals or groups)

We would suggest that a volunteer internship therefore be defined as "a time-limited volunteer placement that allows a person to gain practical experience by undertaking an activity that involves spending time, unpaid, doing something that aims to benefit the environment, individuals or groups other than (or in addition to) close relatives".

If the intern is under contract (either written or implied) and unpaid, but working for a charity, voluntary organisation, associated fund-raising body or statutory body, legally they are likely to be a 'voluntary worker'. The voluntary worker exemption from the NMW was designed to enable voluntary organisations to continue working with volunteers (i.e. those who wish to donate their time / experience for no reward) where their role would have been seen as contractual and so subject to NMW. Although exempt from NMW, voluntary workers are covered by the Working Time Regulations (1998), and therefore organisations must adhere to this legislation. For example workers are entitled to a 20 minute break if they work for 6 hours or more.

However if an intern falls within the definition of a worker and the voluntary worker exemption does not apply, they will be entitled to the NMW. If an organisation advertises an unpaid internship illegally, they will risk being

required to repay the NMW in arrears and face other sanctions, e.g. an automatic penalty and possible prosecution.

Considerations for organisations involving interns on a voluntary basis

Taking on interns can be a great way to bring new ideas and energy to your organisation's work, whilst providing a valuable opportunity for someone looking to start their career. For charities and voluntary organisations that rely on people who volunteer their time for a particular cause or group of people, internships are often offered on a voluntary basis. However, if your intern is unpaid, you must be certain that you are not creating an illegal unpaid worker position. If your intern is a 'worker' and your organisation is not a charity, voluntary organisation, associated fund-raising body or statutory body then they will be entitled to National Minimum Wage.

If your interns are volunteers, Volunteering England's Good Practice Bank¹ provides further resources and information about how to provide good management and support. The resources provide guidance on: creating a volunteer agreement, reimbursing expenses, putting proper support structures in place and how to make volunteering opportunities more accessible to a diverse range of people.

There are barriers that prohibit individuals from undertaking unpaid internships that organisations should be aware of. Financial constraints, or the need to relocate for example to London, are very real barriers for many people. There is a danger that internships become exclusive and only available to those who can afford it. Organisations can seek to avoid this with practical steps such as paying expenses up-front or considering offering flexible working arrangements, to allow time for paid employment.

However some voluntary organisations may decide that for the level of work involved in the internship, and the commitment required, it is in the best interests of both the organisation and the individual to provide at least the National Minimum Wage. This approach may also open up opportunities to people from disadvantaged backgrounds that may otherwise be unable to take up the position.

Setting up a volunteer internship programme

To make sure both the intern and organisation get the most out of the experience we have identified some key considerations:

¹ <http://www.volunteering.org.uk/resources/goodpracticebank/index.htm>

1. **Recruitment:** Organisations should have an equal opportunities policy and use a fair and transparent recruitment process to ensure the application process is open to all. Measures to accommodate those with a disability should be clearly communicated. Set out what the volunteer can expect from the organisation, and the process for claiming expenses.
2. **Learning and development:** It is important to provide the intern with a useful learning experience. Be explicit about the purpose of the internship, detailing what work the intern will do, how this will benefit the organisation, and draw out the skills the intern will be able to acquire.
3. **Structure:** The internship should be planned and structured. They typically tend to be around 3 months in length, but can range from 8 weeks to 12 months. Offering flexible working options, such as part-time hours (to allow for paid employment), may attract a more diverse range of applicants. Plan in activities that will develop different skills or build on existing skills.
4. **Management and support:** It is important to assign the intern a supervisor so that they are properly supported, and know that they have someone to talk to if they have any problems. This supervision should include: an induction, review meetings and feedback at the end of the placement.
5. **Shadowing opportunities:** To maximise the learning opportunity, interns may value the chance to shadow a senior member of staff. Inviting them to attend staff briefings or other organisational events will help them gain a wider understanding of the organisation's work.
6. **References:** One of the benefits to the intern will be the offer of a reference. Using evidence from review meetings to write a strong and positive reference will show the intern that their work has been valued, and may help them secure future employment.

Resources and further information

- Organisations such as [internocracy](#) offer accreditation for internships.
- The **Chartered Institute of Personnel and Development (CIPD)** has produced some useful resources to support internships:
 - [Internships that work](#)², Dec 09

² http://www.cipd.co.uk/NR/rdonlyres/A12DBDE1-5AA3-41FF-BB3A-0EE89EB31629/0/Internships_that_work.pdf

- [Internship Charter](#)³, Sep 09
- **Skillset** has produced a [Code of Practice](#)⁴ for Graduate Internships in the Creative Industries.
- **The National Council for Work Experience** provides [guidance and information on work experience](#)⁵.

Information for interns

If you are an intern and are concerned about your rights, see these websites for more information:

- [Rights for Interns](#)⁶
- [Worksmart](#)⁷
- [Interns anonymous](#)⁸

Further information

- ⇒ **Government information** about the National Minimum Wage can be found here on the [direct gov website](#)⁹.
- ⇒ **Volunteers and the Law, 2005.**
A free publication by Volunteering England offering a readable guide to the law.
<http://volunteering.org.uk/law>
- ⇒ **Volunteering England Information Sheets**
Avoiding creating employment contracts
Volunteer Expenses
<http://www.volunteering.org.uk/resources/goodpracticebank/Information/>
- ⇒ **Volunteering England Good Practice Bank**

³ <http://www.cipd.co.uk/publicpolicy/promoting-productive-internships-internship-charter.htm?lsSrchRes=1>

⁴ http://www.skillset.org/uploads/pdf/asset_14315.pdf?1

⁵ http://www.work-experience.org/employers_about_work_experience.htm

⁶ <http://www.rightsforinterns.org.uk/>

⁷ <http://www.worksmart.org.uk/rights/viewsubsection.php?sun=99>

⁸ <http://internsanonymous.co.uk/>

⁹

http://www.direct.gov.uk/en/Employment/Employees/TheNationalMinimumWage/DG_175114

Includes a Theme on “Legal issues and volunteering”
<http://www.volunteering.org.uk/goodpractice>

- ⇒ **What’s a contract?** - AdviceNow website guide
This independent website provides information on rights and legal issues.
<http://www.advicenow.org.uk/contracts>

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For more information on managing volunteers, please visit The Good Practice Bank at www.volunteering.org.uk/goodpractice

A full list of Volunteering England’s Information Sheets is available at:
www.volunteering.org.uk/information sheets