

# Interns, Apprentices or Workers?

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## Interns

The recent robust political debate is evidence of the renewed interest and a surge in the use of Internships. Recent research shows a 13% increase in employers planning to hire Interns.

Internships are advantageous for both parties. They provide organisations with a cost-effective method for recruiting highly motivated, well qualified students and helps identify the individuals, from seeing their contribution in the work place, that are talented with career potential. Interns are, in turn, provided with work experience which is invaluable in the current market where high numbers of people are competing for scarce employment opportunities.

## Caution!

The majority of Internships are offered on an unpaid basis, with a small expenses allowance. Employers must however be careful to ensure that an 'employment' or 'worker' relationship is not evident, as this would require the business to make payments of at least the minimum wage (NMW). This is likely to occur where:

- They are doing work which is of benefit to the organisation, as opposed to shadowing or experiencing work
- The placement is lengthy (weeks as opposed to months would add weight to the 'not a worker' argument)
- They have set hours, must comply with instructions and are required to perform certain tasks to defined standards.

## Contact Us

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Offices in Romford, London (City & West End), St Albans, Hayes and Redhill.

## The exceptions

Interns will not be entitled to the NMW (currently £5.93) and can be legitimately unpaid, without argument, where they are:

- Voluntary workers (employed by charities and other non-for-profit organisations)
- Students undertaking work experience as part of Further or Higher Education
- Those on Work Trials while unemployed and receiving Jobseekers Allowance.

## The consequences

If an unpaid Intern can successfully prove that they are or were in fact a 'worker' then they are able to claim unpaid wages going back for a period of 6 years.

In November 2009, a tribunal made an award in favour of an Intern who worked for a film production company on an agreed expenses-only basis. This has encouraged more Interns to come forward with claims. If claims are successful, then they will also be entitled to annual leave and statutory sick pay (provided they satisfy the relevant conditions).

## Be warned

The HMRC's scrutiny of Internships is likely to increase as this, as a method of recruitment and a way of securing 'free' short term labour, becomes more and more popular. Employers in sectors particularly renowned for using Interns (e.g. media, engineering, etc.) should therefore prepare for greater interest in their arrangements from the HMRC.

## Protect Yourself!

To protect your business from claims that may arise, it is essential to have a contract confirming the relationship you have with the Intern. This should include express terms relating to non-payments and expenses; the nature of work that the Intern might be exposed to; confidentiality clauses (inc social media); and details of where other policies can be accessed.

Although Interns have limited employment rights, they can still make claims for discrimination. They should be directed to your Equal Opportunities Policy if there are any issues.

## Apprenticeships with care!

Another cost-effective method of offering employment might be through an Apprenticeship Scheme at £2.50 per hour. There will be increasing demand for these Schemes as an alternative to expensive degree courses. Do note however that, as the purpose of the Scheme is training, employers have very restricted freedom to dismiss. Dismissal of poor performers should be approached with caution and if redundancies are envisaged, the onus may be on the employer to find alternative employment so the Apprentice is able to complete their training.

## Can we help?

If you have any questions about this Factsheet or any specific concerns about any individual in your business, simply contact us on **01708 758958** or visit us at [www.hrinsight.co.uk](http://www.hrinsight.co.uk)

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