

HR MATTERS: SHOULD INTERNS BE PAID?

Clare Murray examines the growing number of internships in the wake of the recession, and considers whether or not those seeking work experience should be paid

In the aftermath of the recession and with youth unemployment at record levels, internships are increasingly viewed as a vital way of gaining experience and, in turn, graduate jobs. The debate surrounding the payment of internships has recently been put in the spotlight following the CIPD's (Chartered Institute of Personnel and Development) recommendation that interns should be paid a 'training wage' of £2.50 per hour in line with apprentices.

However, at present there are no specific laws covering the hiring of interns. Whether or not an intern is entitled to be paid will depend on their employment status. Determining whether an intern could be a worker or even an employee under UK law (and therefore be entitled to the National Minimum Wage – NMW) depends on the type of work that they undertake, and the amount of control the company exerts over them. The NMW is currently £5.93 for those aged over 22, and £4.92 for those aged between 18 and 21.

Employers who provide interns with a placement that consists entirely of work shadowing should be able to show that the intern is not a worker, as they are not carrying out work of value, simply learning from others. They are likely to be classified as volunteers who are under no obligation to work and have no expectation of being paid, other than their reasonable expenses.

However, if an intern is undertaking work of value and the organisation exerts an element of control over him/her (for example, they work set hours), it is likely that they would be considered to be a worker and be entitled to the NMW. It is also possible, though far less likely in practice, that interns who are paid may be deemed to be employees if certain conditions are met (for example, there is a mutual obligation to provide work).

Workers at charities, voluntary organisations, associated fundraising bodies or certain statutory bodies are not entitled to the NMW if, under the terms of their engagement, they are not entitled to remuneration, just reasonable living expenses.

In addition to the question of whether an intern has the right to be paid, you should also be aware that other employment rights arise if an intern is considered a worker. These can include rules on working time and certain statutory rights under the Employment Rights Act 1996. Further, depending on their legal status, any intern you take on may have a right not to be discriminated against on the basis of their sex, race, disability, sexual orientation, religion or age and a right to health and safety protection. ■

The CIPD's internship guide for employers can be found at www.cipd.co.uk/publicpolicy/_internships-that-work.htm

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