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Internsâ?? rights: HR guide

Description

Introduction

Itâ??s not always straightforward to determine **internsâ?? rights**. Businesses may be required to pay **interns**. It depends on what the intern is doing and their work status classification.

Workers/employees

Workers and employees, generally, have certain rights such as entitlement to the minimum wage and paid annual leave. Employees also have additional rights, such as the right to statutory sick pay and protection from unfair dismissal (currently subject to two yearsâ?? service). Itâ??s therefore important to determine whether the **intern** could fall within one of these two categories.



For worker and employee status there needs to be â??mutual obligationâ??, which is a minimum requirement for a contract to actually exist. This means that each party must have an obligation to fulfil

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their side of the bargain. It is important to determine whether the business has an obligation to provide work and is the **intern** is obliged to turn up and work.

To be deemed a worker the individual must also be obliged to provide work or services personally, rather than sending another person in their place, and they must not be providing the work or services as a business.

To be considered an employee again the work or service must be done by the person under contract but there also needs to be an element of control by the employer over the employee. Other factors for determining status could be considered, too.

What is written in the contract or **internship** agreement does not determine status, and itâ??s whatâ??s happening in practice that counts.

The intern arrangement

Where the business is providing set tasks which the **intern** are obliged to carry out the intern will usually be a worker and, in most cases, must be paid.

By contrast, **interns** that have looser arrangements with the organisation and shadow (rather than perform set tasks), could fall outside the worker protection.



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The National Living Wage and National Minimum Wage

The National Living Wage (NLW) of Â£12.71 an hour must normally be paid to workers aged 21 and over, and the NMW, with lower rates, applies to most workers aged under 21.

There are a few exceptions to NLW or NMW entitlement though.

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One of the exceptions is work experience placements not exceeding one year undertaken by students as part of a UK-based higher education or further education course.

Another exception is voluntary workers who work for charities, voluntary organisations, associated fund-raising bodies and statutory bodies. They are not entitled to a minimum wage provided certain conditions are met. They must not receive payment other than reimbursement of expenses incurred or reasonably estimated. They also must not receive any benefits in kind other than reasonable subsistence or accommodation.



Good practice

There is a good reason to pay **interns** even when you donâ??t legally have to. If you donâ??t offer payment you may well be excluding able people who canâ??t afford to do an **internship** for free. By offering to pay interns youâ??re widening your pool of talent.

This guide is intended for guidance only and should not be relied upon for specific advice.

If you have any queries relating to **internsâ?? rights** or need advice on other employment law issues please do not hesitate to contact me on 020 3797 1264.

Do check mattgingell.com regularly for updated information.

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