Unpaid work in the hair and beauty industry

Unpaid work arrangements are entered into for a variety of reasons. These include giving people experience in a job or industry and testing a person’s job skills.

These arrangements can be initiated by the business, the person wanting the work or experience, or third party organisations such as schools and training institutions.

Unpaid work in the hair and beauty industry typically involves unpaid trials and unpaid work experience. Unpaid work arrangements can be legal where an employment relationship has not been formed. However, when employment is disguised as an unpaid work arrangement, the person is entitled to be paid.

Unpaid Trials
In the hair and beauty industry, it’s common for employers to ask a person to do a trial for a role before offering them a job. If the trial is strictly a demonstration of the required skills and is for a short period of time, it can be unpaid.

There can come a point, however, when an employment relationship is created. If this occurs, the person needs to be paid. Indicators that an employment relationship has formed include when:

- the person has moved beyond demonstrating skills to completing productive work
- the person is doing tasks not related to evaluating their skills
- the person is doing work in the place of an employee
- the business places expectations and continuing obligations on the person.

Example 1
John asks his local barber for a job as a hairdresser after seeing a vacancy notice in the shop window. John is a qualified hairdresser, but he hasn’t worked as one for some time.

Wayne, the shop owner, suggested that John undertake a trial to see if he was able to perform the role. John volunteered to come in the next day and undertake a short unpaid trial.

Under Wayne’s supervision, John did a number of haircuts over the course of 3 hours. Before each haircut, Wayne informed the customer that John was trialling, and he heavily discounted the cost of the cut to reflect this. Impressed by John’s performance, Wayne offered John the job and started paying him for each shift thereafter.

In this example, John’s unpaid trial was lawful. It was for a reasonable length of time and was entirely for John to demonstrate his ability to do the job. Had the trial been extended over a number of shifts or if John moved beyond demonstrating his skills, he would need to be paid.
Example 2

Claire advertised for a senior stylist. After reviewing resumes, she called a candidate, Alex, to organise an interview. During the interview Claire told Alex that she needed to assess his skills. Claire asked Alex to attend the salon on Tuesday, Wednesday and Thursday from 9 am to 5 pm to do any walk-in clients. If Alex hadn’t been there, Claire wouldn’t have been able to fit in the walk-ins around the salon’s existing appointments.

From Tuesday and Thursday Alex did several haircuts and a few colours, and had managed to sell quite a lot of hair care products. On Thursday night Claire told Alex she would call him when she had made a decision on his suitability for the role. Claire then organised a few more people who had applied for the role to trial in the same way over the coming weeks.

Claire should pay the candidates in these circumstances. The trials were longer than reasonably required to demonstrate skills and the candidates were performing work that would otherwise have been done by an employee.

For more information about unpaid trials, see our Unpaid Work Fact Sheet.

Unpaid work experience

Work experience can help people:

- looking for experience in a new job or industry
- making the transition from study to work
- exploring a new career path.

Generally speaking, work experience needs to be paid unless:

- the experience is a vocational placement
- the person doing the work experience is mostly observing rather than doing productive work for the business
- there is no expectation that the person doing the work experience attends work or completes productive work.

A ‘vocational placement’ is a formal work experience or internship arrangement that is part of a government-approved education or training course. These placements are allowed to be unpaid. For more information, including the criteria that an arrangement must meet to be a vocational placement under the FW Act, see our Vocational Placements Fact Sheet.

Example 3

Sue was in her final year of high school, and was considering a career in hairdressing. Sue’s mum arranged for her to do some work experience at her local hair salon. The arrangement was a private arrangement between Sue, her mother and the salon – it had no connection with Sue’s high school studies.

The salon agreed to take Sue on, and she was required to attend the salon after school every Tuesday and Friday over a three month period.
Sue’s time at the salon went beyond simple observation and extended to doing tasks that would usually be done by the other staff. These included cleaning, replenishing supplies and tending to customers. At all times, Sue was expected to follow the direction of the salon manager and work productively.

Given the nature of the work performed and the duration of the arrangement, Sue should have been paid.

**Further information**

For information and resources to help you understand your rights and obligations on the topic of unpaid work, visit [www.fairwork.gov.au/unpaidwork](http://www.fairwork.gov.au/unpaidwork) or contact the Fair Work Infoline on 13 13 94.