Unpaid work in the professional services industries

Unpaid work arrangements are entered into for a variety of reasons. These include:

- giving people experience in a job or industry
- testing a person’s job skills
- volunteering time and effort to a not-for-profit organisation.

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.

In the professional services industries, which feature a broad range of activities including business management, legal and financial services and science and engineering, these arrangements typically involve vocational placements and 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.

Vocational placements

Students are often required to complete periods of work experience as credit towards their qualification. The Fair Work Act 2009 (the FW Act) recognises these formal work experience arrangements as 'vocational placements' and they can be unpaid.

For example, law students are often required to complete a period of work experience in a legal environment to complete their law degree or be admitted to legal practice. There are similar requirements in many other professions, including medicine and teaching. The university or institution providing the course will have rules governing the work experience, such as how long the experience must be for, what qualifications the work experience supervisor must have, and the nature of the work to be undertaken.

A business or organisation hosting the student may decide to make some payment, at their own discretion, but this could lead to the nature of the arrangement becoming one of employment. If this is the case, the employee would be entitled to be paid their relevant minimum entitlements.

For more information on the differences between employment and vocational placements, including what qualifies as a vocational placement, see our Vocational Placements Fact Sheet.
Example 1

Tom undertook a 30 day vocational placement at an advertising company as part of his marketing degree. He really enjoyed the work and had become involved in a major campaign the company was working on. The manager of the advertising company offered Tom the opportunity to continue the arrangement over the semester break so he could see the campaign through to the end. Tom agreed and worked unpaid for 3 weeks over the semester break.

As the extra work performed over the semester break wasn’t a requirement of Tom’s marketing degree, it did not form part of the vocational placement. If Tom was completing productive work during the 3 week period, it would be likely that he would be an employee and entitled to be paid for the work performed.

Work experience & internships

In professional services industries the terms ‘work experience’ and ‘internship’ refer to a number of arrangements. A person could be offered training, learning opportunities and work experience in a professional environment that may be paid or unpaid. The arrangements sometimes span several months and can often lead to full-time employment.

For an unpaid internship or unpaid work experience arrangement to be lawful, the business needs to ensure that the intern or work experience participant is not actually an employee. Indicators that an employment relationship has been established include where the person is:

- mostly completing productive work for the business
- obligated to attend work and be productive
- doing work that would otherwise be done by an employee.

Unless the arrangement is a vocational placement, a person doing an internship or period of work experience who satisfies the criteria above must be paid. This applies regardless of whether they agree to the unpaid arrangement.

For information on whether an employment relationship has been created see our Unpaid Work Fact Sheet.

Example 2

Maria is a nurse who is planning a career change and is studying law. To get some experience in the legal industry, she offered to volunteer at a local law firm over her summer break to do basic legal research and help with clerical work. Maria attended the law firm for a few irregular hours every few weeks.

The arrangement provided minimal benefit to the law firm – it was mostly for Maria’s benefit. There was no expectation that Maria worked productively or independently, and her output was not vital to the operation of the firm. Based on the circumstances of this arrangement, Maria wasn’t an employee of the law firm and didn’t need to be paid.

After a few months, the law firm asked Maria to work more regularly. She was given responsibility for parts of the firm’s file administration, replacing the work that a clerical employee used to
The firm received a substantial benefit from this arrangement, as Maria was doing the same work as a clerical staff member.

These new responsibilities created an employment relationship, and Maria was entitled to be paid for her work.

**Example 3**

Jonathon was a final year accounting student. He agreed to do unpaid work experience with an accountancy firm and had been promised employment once he graduated.

Jonathon attended the firm for three days a week as an unpaid intern. He did a range of productive jobs for the firm, including customer tax returns and company financials, which were both charged to clients.

Although Jonathon had agreed not to be paid, the nature of the arrangement was consistent with an employment relationship and he was entitled to be paid for all hours worked.

**Example 4**

A recruiting firm placed an advertisement on the internet for graduates to work on a voluntary basis for one day a week over a 6 month period. The placement (not linked to any education or training course) offered hands on experience with a potential for job opportunities. The firm’s HR manager explained that the internships were observational in nature, with no expectation of productive work. The interns each signed agreements that detailed the training they would receive.

The interns would observe the firm’s consultants doing candidate selection and screening and sit in on interviews and reference checks. On occasions, the graduates did some hands on work under supervision, such as reading through applications, talking as a group about how they would shortlist the candidates, and doing mock interviews.

As there wasn’t a significant benefit to the firm from the work, or any expectation to do productive work, there were no indicators of an employment relationship, which meant that the interns didn’t need to be paid.

**Further information**

For further information and resources unpaid work, visit [www.fairwork.gov.au/unpaidwork](http://www.fairwork.gov.au/unpaidwork) or contact the Fair Work Infoline on 13 13 94.