

EMPLOYMENT LAW DEPARTMENT

Work Experience Students – Avoiding Employment Risks

Dean Wilson LLP Solicitors

Ridgeland House, 165 Dyke Road, Brighton, BN3 1TL **01273 249 200**

Do employers have to pay “work experience” students at least minimum wage?

Many companies, regardless of size, need to make sure they are treating work experience students correctly, particularly in relation to payment, as to do otherwise can result in employers falling victim to the adage “no good deed goes unpunished”.

It is rare that a work experience student can be unpaid. This can happen if the arrangement is a vocational placement (or part of an education or training course) or if the student is of compulsory school age.

Other than these two exceptions, an employment relationship may be created with the student, even for the very short period of time that work experience students are with a company or organisation. If this is the case the student will be entitled to be paid at least the National Minimum Wage (while also accruing some paid annual leave!)

The following factors will help determine if the student should be paid:

- Will the student be doing any productive work – or will they only be “shadowing” one of your employees?
- Is the main benefit of the experience for the student, who is receiving a meaningful learning experience, training or skill development?
- Or might the student be doing some “real” work for you – and of the simplest kind?

The answers to these questions will help to determine if an employment relationship might exist.

Employers also need to consider if the student hopes to get something in return (such as the potential of a job in the future) or if the business is using the opportunity as a “trial run” while getting the benefit of having some work performed by the student which helps the business. Whether or not the business sets the hours and days for the student to work will also be relevant. All of these factors indicate that you should be paying the student at least the National Minimum Wage.

A less “legal” but still important point to consider is the fact that some organisations who have continued with unpaid work experience programmes have received very negative media attention even when they may not have a strict “legal” obligation to pay.

This kind of publicity is unlikely to be the expected result of trying to provide a valuable work experience opportunity.

Victoria Wright

 01273 249277

 vjw@deanwilson.co.uk