

Non-Paid Work Guide

This guidance note explains certain work-like activities that do not create an employment relationship and therefore fall outside of the Employment (Jersey) Law 2003. It is not intended to represent a statement of the law.

Examples of the types of activity this guidance note covers are:

- Therapeutic work
- Project Trident, work placements and work experience (for Interns please see note below)
- Volunteer

The basic principle for understanding if a person has any statutory rights under the Employment Law is simply – ‘are they an employee?’

The definition of an employee is set out in Article 1 of the Employment Law and states that this is ...‘a person who is employed by an employer’. A person is employed by another person if they are undertaking work which they must personally perform for that same person – whether this is work or services. This work is completed under a contract of employment (whether express (written) or implied), thus creating a mutual obligation between the two parties which therefore affords statutory rights under the Employment Law which neither party can waive.

(For information regarding ‘self-employed’ and sub-contractors please see JACS guidance note 9.)

Employers and other organisations that provide individuals with work-like activities, for example, work-based experience and training, work placements provided under a Work Scheme or by the Education Department, and other similar supported work-like activities usually do not create a mutual obligation between the parties. In such a case, the Employment Law rights, including the right to be paid at least the minimum wage, do not apply, as there is no contract of employment in place and they are not employees.

Therapeutic activity:

- The tasks/activities are focused on the needs of the individual and not the needs of the company (although the company may see some benefits from the outcome/output of the assigned tasks);
- The tasks are not time targeted and therefore the tempo of these again reflect the needs of the individual;
- The individual is likely to have been referred to the company and monitored/supported by a professional adviser;
- There is no obligation on the individual to attend or to complete the task/activity.
- May receive out of pocket expenses e.g. petrol/parking costs etc

Project Trident, work placements and work experience:

- Approach made usually through a team linked to Education e.g. Project Trident; Careers etc;
- Agreement on the scheduling and attendance is agreed with the company and the team directly, rather than with the individual who is to attend;
- Tasks/activities are assigned so as to give the individual a ‘taste’ of a workplace, and some general work experience outside of the school/college;
- Visits from the referring team will be made during each individual’s placement.

- May receive out of pocket expenses e.g. petrol/parking costs etc

NB: Interns – if the work that an intern undertakes would reasonably be considered as employment, rather than a work placement or work experience, and there is a contractual arrangement in place, it is likely that the Employment Law rights, including the right to be paid at least the minimum wage, would also apply.

Volunteers:

- Individuals who freely give their time to assist an organisation e.g. charity shops, parent classroom assistants, League of Friends etc;
- There is no obligation on the individual to attend;
- Whilst the tasks/activities undertaken are of benefit to the organization, there is no obligation on the individual to do the work and there is no obligation on the organisation to provide any work;
- May receive out of pocket expenses e.g. petrol/parking costs etc

For further information and advice, contact JACS: (01534) 730503 or Email jacs@jacs.org.je

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