

Making Work Pay: call for evidence on unpaid internships

TUC submission

Annex C: Questions for all other stakeholders. Questions on Unpaid Internships and internships paid below the National Minimum Wage

The TUC is the voice of Britain at work. We represent more than 5.5 million working people in 47 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

Our affiliated unions represent young workers across a range of sectors in the labour market, both in the private and public sector. Many of these young workers have undertaken unpaid internships, work trials and shadowing. Unions report that young people working under these arrangements experience a multitude of problems including breaches of national minimum wage legislation, breaches of working time regulations and sexual harassment.

We welcome the opportunity to engage with this Call for Evidence and present our views on the most effective way to stamp out exploitation experienced by young people undertaking unpaid internships, work trials and work shadowing.

We welcome the government commitment to ban unpaid internships, except when they are part of an education or training course.

The TUC believes that the most effective way to implement this ban and prevent the exploitation experienced by young people undertaking unpaid internships, work trials and work shadowing, is to amend National Minimum Wage (NMW) legislation to include an express provision that these types of work are within scope of the NMW legislation.

INTERNSHIPS

Internships are a key form of employment relationship that many young people will experience.

Recent government data¹ shows that 5% of employers offered internships in 2022 and there were around 200,000 internships. The majority (88%) of the internships were over two weeks and just under one in three (29%) over six months.

The Sutton Trust also reports that internships are a growing route into careers. More than half of graduates (51%) report completing at least one, up 12 percentage points since 2018.

The Call for Evidence recognised the limited evidence showing the extent of intern exploitation. The TUC commissioned a representative poll² of 2000 young people. The

¹ Department for Education's Employer Skills Survey (ESS) (referenced in Call for Evidence document).

² Polling carried out by Opinium. Weighted to be representative of the UK 16-24 population on age and gender, region, working status, and ethnicity. Sample 2000 16-24's.

findings confirmed the anecdotal evidence provided by unions and revealed the following key information:

General scale of internships

- 12% of young people have undertaken an internship.

Reasons for undertaking an internship

- The most common reasons for young people taking an unpaid internship were to improve their CV and help them find paid employment elsewhere in the future (50%), to get experience in a particular sector (38%) and they were encouraged by their education provider (34%).

Scale of unpaid internships

- 52% of those young people who have done an internship said it was unpaid. Our polling found that disabled young people were more likely than non-disabled young people to report doing an unpaid internship (71% vs 51%). However, the small sample size means that this data is indicative, rather than conclusive.

Unpaid internships and perceptions around pay

- 67% of these people who had done an unpaid internship felt the internship should have been paid.

Duration of unpaid internships

- 41% of these young people were doing an unpaid internship for a period ranging from one month to 12 months.

Working conditions on unpaid internships

- 58% of those doing unpaid internships had to work over eight hours per day "at least sometimes". 23% of those doing unpaid internships had to work over 8 hours per day "at least often".
- 11% of those doing unpaid internships rarely or never got a lunch break.
- 23% of unpaid interns experienced bullying, sexual harassment and/or verbal abuse. Of these, 14% said it was from a third party i.e. a customer or client.
- 25% of unpaid interns went to work whilst sick when symptoms or health problems made working difficult.

- 35% of these unpaid interns who went to work whilst sick when symptoms or health problems made working difficult, said they attended as they thought taking time off would negatively affect how they were seen.

Industry/sector information from National Union of Journalists

The National Union of Journalists represents members in a sector where exploitative internships are commonplace. NUJ are concerned that unpaid internships exploit the aspirations of young people and exclude new talent, undermining the diversity of the industry.

Students and new entrants to the industry can benefit hugely from well-structured work experience placements giving them knowledge in a practical environment. But there is a huge difference between work experience and employers using interns to fill jobs for which workers should receive a wage.

A 2018 National Council for the Training of Journalists survey found that the majority (87 per cent) of new entrants completed a period of work experience or worked as an intern before gaining their first paid job. The vast majority (95 per cent) were unpaid, and the work experience or internship lasted an average of eight weeks, although the lengths varied widely from short (lasting one to two weeks) to 52 weeks.

The report concluded this had led to a situation where "would-be journalists tend to need family financial support to fund courses or a period of unpaid work, with the implication that young people not in these circumstances continue to be deterred from becoming journalists". Large numbers of internships are never advertised and are offered through informal networks, again locking out those without connections.

Industry/sector information from BECTU

Bectu is the union for creative ambition. They represent nearly 40,000 staff, contract and freelance workers in the media and entertainment industries. They report that internships remain a major barrier to getting in and getting on in the industry. More than a quarter (26%) of workers entered the creative sector through internships. 94% of workers agree all internships should be paid. Unpaid work still persists, with 39% of workers telling Bectu they have felt pressured to work for free. Among those in their first two years, nearly half (49%) say they've been pushed into unpaid work just to "get a foot in the door."

Internships and socioeconomic backgrounds

Young people from a professional background are three times more likely to have done an internship than those with working class backgrounds, or whose parents were long-term unemployed when they were growing up (18% v 6%)³. Of those who have done

³ Respondents to the survey were asked about their socioeconomic background. This is based on their highest earning parent's occupation when the respondent was 14. Higher

internships, young people from higher socioeconomic backgrounds are more likely to have done unpaid internships.

1. *To what extent do you agree with the following statement: “Internships which are not part of an educational or training course should be paid at least the National Minimum Wage.”*

The TUC strongly agrees with this statement.

Internships and non-compliance with the National Minimum Wage

We share the government’s concerns (outlined in the Call for Evidence) that some workers who are entitled to the National Minimum Wage are being placed in roles that have been incorrectly classified by employers as “internships”. This is intended to circumvent the requirement to pay individuals in accordance with NMW legislation.

We are concerned that many young people are undertaking productive work, of value to employers, that is not a genuine training or educational experience. They are doing work that has been rebadged as an internship. The TUC believes the misuse of internships in this way is a breach of National Minimum Wage legislation.

This is confirmed in our recent polling where 67% of young people who had done an unpaid internship felt the internship should have been paid.

NUJ also flag that in their industry interns are expected to do real work, completing set jobs. They state that those undertaking general internships, which are not part of a student course, should be paid at least the NMW. This arrangement benefits interns by providing an opportunity to gain knowledge and hone existing skills in a structured environment. Employers can train new entrants and improve the skills of their workforce. Internships can be used to increase the diversity of the workforce.

Recent polling carried out by the Sutton Trust which showed that whilst an increasing proportion of internships are paid the National Minimum Wage (37% compared to 27% in 2018), the proportion paid, but at less than the NMW, has also risen from 9% to 23%. Around one in five internships offers no financial compensation at all.

NMW legislation needs to be clarified, consistently applied and underpinned by robust enforcement. The current legislation creates ambiguity which can be misinterpreted or exploited by employers. Therefore, we support the government’s mission to ban unpaid internships except when they are part of an education or training course.

We propose that the NMW legislation is amended to include an express provision that says that those on internships should fall within this legislation and must be paid

socioeconomic background, or professional, background is defined as those whose highest earning parent was working in a professional or senior, middle or junior management occupation. Working class background, or lower socioeconomic background, is defined as those whose highest earning parent was working in a technical and craft occupation, a routine or semi-routine manual or service occupation, or were long-term unemployed.

accordingly. This would send a strong, unambiguous signal from government that interns should be paid the NMW.

One option is to amend the National Minimum Wage Act 1998 section 54 to insert a new subsection (3A) to read, for example: "For the purpose of this Act, a "worker" who must be paid the minimum wage includes anyone who makes their time available to an employer, including as an intern".

2. What compensation do you think is fair?

As stated above, the TUC believes that internships should be **paid** in line with the relevant NMW wage rates.

It would be more appropriate for the government to use the term "pay" rather than "compensation". This would clearly signal that interns are undertaking work which should be paid. Compensation is more commonly used to provide redress where an individual has suffered a loss. It is more difficult to arrive at a figure for compensation. However, there are clear, transparent NMW rates which can be linked to "pay".

3. How long should internships which are not part of an educational or training course last?

TUC polling shows that 48% of young people doing unpaid internships, were doing so for longer than one month. 5% of young people doing an unpaid internship were in a job that lasted over a year. 11% of young people doing an unpaid internship were in a job that lasted between 6 months and a year. This is an indicator that many young people were in employment relationships akin to typical work. The length of these internships is concerning because it means many young people had to struggle without pay. And the typical length of an internship makes it even more difficult for young people, without an alternative source of income/financial support, to access these opportunities.

The government has committed to ban unpaid internships except when they are part of an education or training course. The TUC supports this position.

Once unpaid internships are banned, the length of internships will no longer be a key factor leading to the exploitation of unpaid interns. Interns will be paid in accordance with the relevant NMW legislation and will not be trapped in longer duration, unpaid, exploitative situations.

4. Do you have any other comments or suggestions regarding internships? If yes, please state these below.

Internships entrench inequality and restrict social mobility.

Instead of providing young people with a stepping stone into the labour market unpaid internships can conversely be a real barrier to social mobility and transition to the labour market. Unpaid internships can exclude young people from backgrounds

without the established networks and financial support that other young people, typically from higher income families, can rely upon.

TUC polling found that half (51%) of young people polled said they had not applied for a job because it was unpaid. Of those who had not applied 47% said it was because they could not afford to work without pay, rising to 52% for those from working class backgrounds, 54% for disabled young people and 59% for those who are currently out of education, employment and training.

TUC polling showed that young people from a professional background are three times more likely to have done an internship than those with working class backgrounds, or whose parents were long-term unemployed when they were growing up (18% v 6%)⁴. Of those who have done internships, young people from higher socioeconomic backgrounds are more likely to have done unpaid internships.

The Sutton Trust⁵ has also carried out some useful polling in this area finding that:

- 40% of unpaid interns rely on the 'Bank of Mum and Dad' to fund their role, up from 26% in 2018.
- graduates from working-class backgrounds are much less likely to undertake an internship than graduates from a middle-class background, and the gap has widened since 2018 from twelve percentage points to twenty.

The Sutton Trust also found that higher social capital through networks is also associated with access, and just one in 10 internships is found through an open advertisement.

The TUC believes that internship positions should be publicly advertised so that all young people can find and apply for opportunities. Many internships are never advertised, and instead offered through informal networks, to friends or family of staff or clients. This practice locks out talented young people without connections.

The new Fair Work Agency must lead to more effective enforcement of the National Minimum Wage, including a focus on internships

The TUC supports the government commitment, set out in its Plan to Make Work Pay⁶, to ban unpaid internships except when they are part of an education or training course.

⁴ Respondents to the survey were asked about their socioeconomic background. This is based on their highest earning parent's occupation when the respondent was 14. Higher socioeconomic background, or professional, background is defined as those whose highest earning parent was working in a professional or senior, middle or junior management occupation. Working class background, or lower socioeconomic background, is defined as those whose highest earning parent was working in a technical and craft occupation, a routine or semi-routine manual or service occupation, or were long-term unemployed.

⁵ [Source – Sutton trust report.](#)

⁶ <https://labour.org.uk/wp-content/uploads/2024/06/MakeWorkPay.pdf>

As we've flagged above, we believe the most effective way to do this is by amending the NMW legislation to include an express provision stating that internships fall within the scope of NMW legislation.

Following this legislative amendment, it is essential that the relevant enforcement body, the Fair Work Agency, undertakes robust, proactive enforcement of this new right to stamp out any remaining exploitative practices and to send a clear signal about the importance of this new employment right for young people.

It is essential that the new Fair Work Agency receives a funding settlement that enables it to discharge its new functions and powers effectively. A new funding settlement must also address the long term under funding of the labour market enforcement system which has seen the UK fall far below international benchmarks relating to the number of labour market inspectors.⁷

Alongside the revised NMW legislation there should be a FWA campaign that raises awareness of the new rights for interns and carries out targeted, pro-active enforcement.

When the Sutton Trust published *Pay as you go?* in 2018, it found that there had been no prosecutions for minimum wage offences relating to internships. No research since then indicates that this has changed. Amended legislation and robust sanctions are needed to create a deterrent that leads to a step change in behaviour amongst employers who misuse internships.

Consensus amongst unions and employers about the need to ban unpaid internships

Employers and graduates want reform. Sutton Trust polling revealed that three quarters of employers offering internships say banning unpaid internships would not negatively impact the number of opportunities they provide.

Job displacement

Interns should not be expected to replace otherwise vacant staff jobs unless they are being paid a staff wage.

Transparency around key terms and conditions and information for interns

Ideally, the terms of engagement should be formalised in a written agreement between the company and the intern. Interns should be entitled to the same key employment protections relating to employment particulars, written statements etc. as other workers.

UNPAID WORK TRIALS

⁷ Paragraph 5, page 4 - <https://www.tuc.org.uk/sites/default/files/2021-05/Enforce%20report%20draft%20Final%20Version%202020%20110521.pdf>

The Call for Evidence recognised the limited evidence available showing the extent of exploitation amongst those young people doing work trials. The TUC commissioned a representative poll of 2000 young people. The findings showed:

General scale of work trials

- 25% of young people have undertaken a work trial or trial shift.

Reasons for participating in work trials

- The most common reasons for taking an unpaid work trial or trial shift was because it was part of a recruitment process (38%), the employer implied it would lead to paid employment (28%) and the young person thought it would improve their CV and help them gain paid employment elsewhere in the future (22%).

Unpaid work trials and participant perceptions

- 52% of young people undertaking work trials said these were unpaid.
- 65% of these people who had done an unpaid work trial felt that it should have been paid.

Duration of unpaid work trials

- Almost half of young people were doing an unpaid work trial or shift for up to a day (48%) but 9% of these young people were doing unpaid work trials for between one month and six months.

Bullying and harassment on work trials

- 25% of people who had done an unpaid work trial experienced bullying, sexual harassment and/or verbal abuse. Of these, 13% said it was from a third party i.e. a customer or client. 23% of unpaid work trial young people went to work whilst sick.
- 18% of these felt pressure from manager or supervisor to attend. 34% thought taking sick leave would negatively affect how they were seen and 30% were worried they might lose the opportunity or not be asked back.
- Of those who did not take time off sick, 43% said they did not think they would have been able to take sick leave if they were unwell.

5. *Do you believe all work trials should be compensated?*

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6. *If you believe work trials should be compensated, what level of compensation do you believe is fair?*

The TUC believes that work trials should be **paid** in line with the relevant NMW wage rates.

It's also more appropriate to use the term "pay" rather than "compensation" as this would clearly signal that young people doing work trials are undertaking work which should be paid. Compensation is more commonly used to provide redress where an individual has suffered a loss. It is more difficult to arrive at a figure for compensation. Whereas there are clear, transparent NMW rates which can be linked to "pay".

7. *How long should work trials last?*

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8. *Do you have any other comments or suggestions regarding work trials? If yes, please state these below.*

The Call for Evidence recognises that an individual may be asked by a prospective employer to carry out tasks, without payment, to help the employer to decide whether the individual has the skills and qualities required for the job. The Call for Evidence suggests this will often be a "legitimate practice" and sets out a range of circumstances/situations where the government believes that NMW may not be applicable.

The TUC disagrees with some of the assertions made by the government in relation to when it is legitimate for work trials to be unpaid:

The government suggests that a work trial lasting up to a day may not fall within the scope of the NMW legislation and could be a genuine part of a recruitment process. The TUC believes that if a "work trial" lasts a full day, this will far exceed the time necessary to assess whether a person has the required skill set for a role. It is commonplace for employers and recruiters to develop interview assessments and tests that last less than an hour which can adequately assess whether someone has the skills for a role.

The government suggests that the nature of the tasks carried out by the individual and how closely these relate to the job offered (the government asserts that where the tasks are different from those which the job would involve, this may indicate that the employer is not genuinely looking to test the individual's ability, but rather to get the tasks carried out) should help determine whether a work trial is unpaid. The TUC disagrees with this. If a job applicant is doing work of value for the employer, they

should be paid for it. It shouldn't make a difference if the tasks are related to the job role that the person is applying for or not.

The TUC is concerned that the factors put forward by the government in the Call for Evidence have no basis in law. The [NMW enforcement manual section relating to trial periods of work](#), makes no mention of these factors. If the government is drawing upon NMW case law, then the TUC firmly believes that the legislation should be amended to render this case law null and void.

For clarity (for workers, employers and the judiciary who have to interpret the NMW legislation) and to remove the scope for non-compliance with NMW, the relevant legislation should be amended to make it clear that **any** "work trial", regardless of length, should be paid in accordance with the relevant National Minimum Wage rate.

Unpaid work trials should only be carried out where they are part of a simulated environment, for example, an interview assessment that replicates real workplace tasks.

The TUC accepts the need for unpaid voluntary work trials, where they are part of a high-quality welfare to work programme.

VOLUNTARY WORKERS & VOLUNTEERS

The TUC is not responding to the specific questions in this section.

When the government fulfils its commitment to ban unpaid internships it is essential that unscrupulous employers do not reclassify workers/interns as "volunteers" and "voluntary workers" to try and circumvent the new requirement to pay interns under NMW legislation.

The new Fair Work Agency should play a key role in monitoring and investigating whether internships are being rebadged as "volunteers" or "voluntary workers" by employers with a view to circumventing NMW rules.

9. *Do you believe all voluntary workers should be compensated?*
10. *If you answered yes, what level of compensation you think is fair?*
11. *Do you have any other comments or suggestions regarding voluntary workers?
If yes, please state these below*
12. *Do you believe all volunteers should be compensated?*
13. *If you answered yes, what level of compensation you think is fair?*
14. *Do you have any other comments or suggestions regarding volunteers? If yes,
please state these below.*

WORK SHADOWING

The TUC is not responding to the specific questions in this section.

TUC polling revealed the following key findings related to work shadowing:

- 11% of young people have undertaken work shadowing (not part of a school organised programme).
- 77% of these work shadowing experiences are unpaid.
- 57% of young people doing unpaid work shadowing experiences say that “at least sometimes” they are doing similar work to other colleagues they work alongside. 42% were at least sometimes asked to meet deadlines and 50% at least sometimes worked unsupervised. This implies these young people may have been doing more than shadowing.

Given that young people have indicated that they are doing productive work during their work shadowing experience, the TUC believes that the Fair Work Agency should play a key role in monitoring and investigating whether work shadow placements are being used by employers in an attempt to circumvent NMW rules.

15. Do you believe all work shadowing opportunities should be compensated? [Yes / No / Do not know/ Prefer not to say]

16. If you answered yes, what level of compensation you think is fair?

17. How long should work shadowing opportunities last?

18. Do you have any other comments or suggestions regarding work shadowing? If yes, please state these below.

Key findings on harassment on work experience type employment relationships

The TUC is extremely concerned by the findings from our polling that revealed that:

- 24% of young people doing a “work experience” type activity experienced, bullying, verbal abuse or sexual harassment.
- 19% of young people who were under 16 at start of their work experience experienced bullying, sexual harassment and/or verbal abuse.

This forms part of a broader pattern of workplace harassment, which we know many women and particularly young women experience. TUC polling found that 62% of

women aged between 25 and 34 have experienced sexual harassment, bullying or verbal abuse at work.⁸

The TUC believes interns, work trial participants etc should have the same protections in the workplace as any worker. It would make no sense to have a scenario where some people in the workplace are protected, and others are not, especially given that in many scenarios volunteers and paid staff may interact. If an organisation is having to think about risks, then they should be thinking about the risks holistically to include paid employees, contractors, volunteers, third parties and so on. Employers will be familiar with this approach through their existing health and safety obligations, where measures must cover anyone in the workplace. Failure to protect volunteers particularly those disproportionately affected by sexual harassment such as disabled women and young women, puts additional barriers to paid employment in the way of women who already face discrimination and inequality in the workplace.

The TUC is seeking to ensure that Equality Act provisions to protect workers from bullying, harassment and sexual harassment, including the Worker Protection Act cover anyone carrying out work for an employer - this would include, young people on work experience, interns, volunteers.

Tackling workplace harassment and violence is a health and safety as well as an equalities issue. We believe that there is a case for extending the health and safety framework and approach to workplace sexual harassment and violence particularly in terms of risk-assessments and the reporting and recording of incidences similar to the RIDDOR framework. The HSE would be well placed to have a role in overseeing these aspects alongside the EHRC and trade unions.

Other points on supporting young people whilst undertaking all types of work experience

Many young people will take part in internships, work trials, work shadowing and other forms of work experience in public organisations; therefore, publicly funded organisations should be adequately funded to ensure they can pay their workers - including young people taking part in these activities.

For young people doing work experience in the creative sectors, creative unions publish promulgated rates for freelancers where typical collective bargaining structures are not

⁸ <https://www.tuc.org.uk/news/new-tuc-poll-2-3-young-women-have-experienced-sexual-harassment-bullying-or-verbal-abuse-work>

available. These collectively agreed pay rates should be adhered to when paying young people.