

Unpaid Work Schemes: Exploitation or Experience?

7 February 2013

The Fair Work Ombudsman today announced a new focus on educating employers and employees about the legitimacy of schemes for unpaid work experience.

This follows the release of a major report, commissioned by the Fair Work Ombudsman, into unpaid work experience arrangements in Australia, including internships, work experience and unpaid trial periods.

The report, *Experience or Exploitation? The Nature, Prevalence and Regulation of Unpaid Work Experience, Internships and Trial Periods in Australia* by University of Adelaide Law School Professors, Andrew Stewart and Rosemary Owens, found a growing number of businesses using unpaid work schemes as an alternative to hiring paid staff.

It also found young people and migrant workers are particularly vulnerable to being exploited through these schemes.

Fair Work Ombudsman, Nicholas Wilson, in releasing the report today, thanked Professors Stewart and Owens for their work, saying they had provided the first significant analysis of the issue in Australia.

"I commissioned this report because of my concern about the growing prevalence of unpaid work experience in Australia," Mr Wilson said.

"It provides a solid basis for me as the Fair Work Ombudsman, as well as other key stakeholders such as employers, industry bodies, unions and other government agencies to develop strategies which serve to protect the rights of people undertaking unpaid work."

Mr Wilson said the report highlighted that Australia was not alone in grappling with this issue.

"Internships and similar unpaid work schemes have been a concern to international forums such as the International Labour Organisation, which recently said they could become a 'disguised form of employment' without the real benefits they promise, such as real on the job training."

"I aim to ensure that workers are not exploited and that both employees and employers are aware of their rights and obligations in this area."

Mr Wilson stressed he was not wanting to stifle genuine learning and development opportunities.

"There are many quite legitimate work-based learning programs and vocational placements which genuinely enhance the learning of participants," Mr Wilson said.

"Generally these vocational placements are linked directly to formalised training through universities or other training institutions.

"It's obviously quite appropriate for student nurses to be placed in a clinical setting for periods of time throughout their study to enhance their learning.

"But a young person who is required to work unpaid in a café for a full week to test his or her 'suitability' for a paid position as a barista, waiter or kitchen-hand is clearly being exploited.

"That's the type of exploitation that will be my focus."

Mr Wilson said the report made six valuable recommendations which he would work to implement. They encourage the Fair Work Ombudsman to:

- Better define unpaid work experience
- Expand guidance and education activities
- Conduct targeted campaigns in key industries identified in the report
- Instigate legal action before relevant courts where appropriate
- Improve liaison with relevant government agencies, and
- Initiate comprehensive engagement with key stakeholders representing employers and employees, vulnerable workers (including young people and migrant workers,) and educational institutions.

Mr Wilson said educating the Australian community about the legitimacy and legality of unpaid work arrangements would be a

primary element of the Fair Work Ombudsman's response to the report. This would include developing industry-specific education materials for the key industries identified in the report: Hair & Beauty; Hospitality; Cafes & Restaurants; and, Professional Services.

Mr Wilson said the report does not impact in any way on volunteer work for not-for-profit organisations or high-school-based work experience programs.

"I am hopeful that employers, their representative bodies, as well as unions and others with a strong interest in this issue will work with me and my staff as we seek to ensure that Australians are not exploited through unpaid work," Mr Wilson said.

"To foster that collaborative approach I am organising a forum of key stakeholders in about one month to help foster genuine discussion about this issue."

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Report, summary and list of recommendations available here: www.fairwork.gov.au/unpaidwork

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