

## The University of Melbourne

### Guidelines for Professional Placements

#### **Purpose**

This document provides guidelines on the unpaid professional placements that can be offered or facilitated by the University and the process for managing approved activities.

#### **Background**

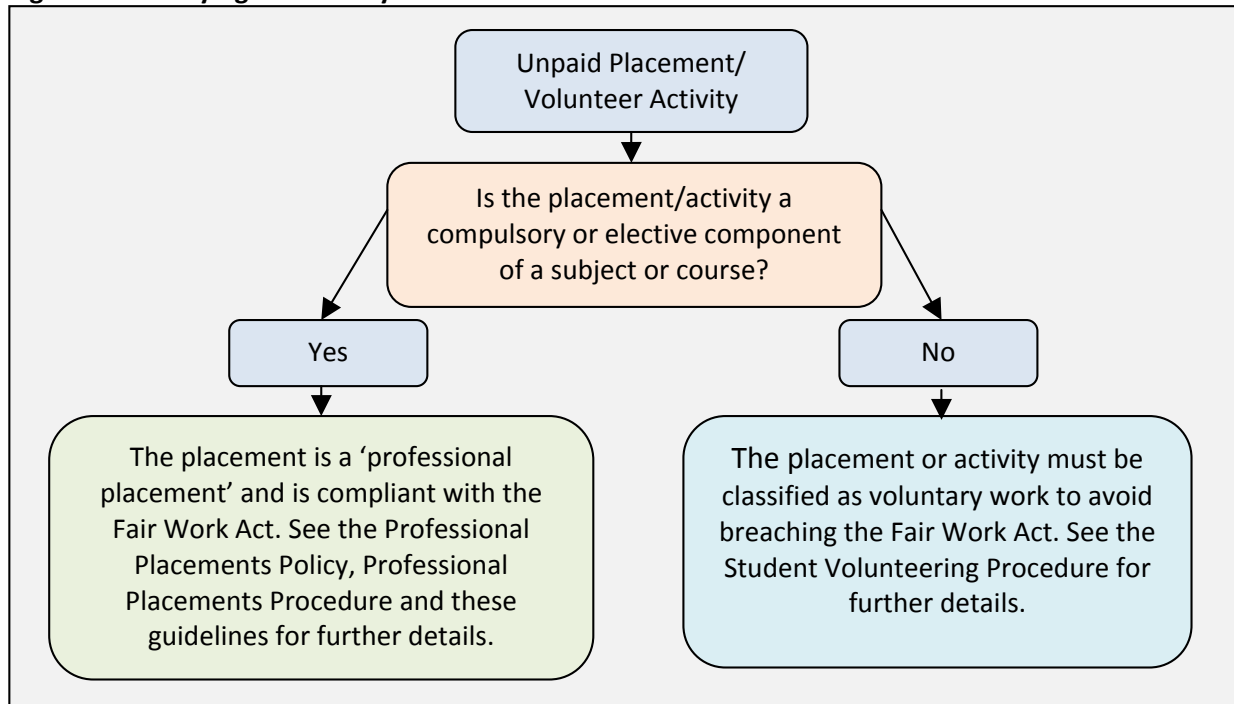
The *Fair Work Act 2009* (the Act) requires that students are paid at least the minimum wage for work experience undertaken within organisations unless the work is undertaken as a professional placement or is classified as a volunteer activity. For a placement to meet the requirements of a professional placement, it must be undertaken as a (compulsory or elective) component of a subject or a course. If an unpaid placement or internship does not meet this stipulation, to avoid the creation of an employment relationship and be in breach of the Act it needs to be classified as a volunteer activity. The consequences of an unpaid placement or internship not falling within these exemptions under the Act is that the student is deemed to be an employee and is legally entitled to at least the minimum wage. The Fair Work Ombudsman has broad powers to investigate a complaint about an alleged contravention of the Act. Financial penalties can be imposed on employers who contravene the Act.

#### **Compliance with the Fair Work Act 2009**

Professional placements should only continue to be offered or facilitated by the University where the activities are compliant with the Act. As indicated, all placements, internships or work experiences that form a compulsory part of the requirements for a course or subject are exempt from the requirement to pay a minimum wage (plus entitlements such as superannuation) under the Act. The main purpose of the placement should be to provide work experience to the student. The benefit received by the host is secondary to the benefit received by the student. The student may be engaged in observational work, or productive activities, but there should be no expectation or requirement that the student be obliged to assist the host to generate revenue.

Other unpaid activities must be appropriately classified as volunteer activities to be exempt from the Act. Faculties and graduate schools are advised to consider each activity they offer or facilitate in accordance with figure 1 below to determine compliance with the Act. Activities which are non-compliant with the Act should be ceased or modified.

**Figure 1: Classifying the activity under the Fair Work Act**



### **Professional placements**

Professional placements (as defined above) can continue to be facilitated by the University. This includes all placements and internships that form part of credit-bearing subjects and all compulsory non-credit-bearing subjects. To further manage the potential legal risks associated with facilitating unpaid placements, unless advised otherwise, faculties and graduate schools will need to enter into a professional placement Letter Agreement with any host organisation with whom they facilitate a subject-based professional placement. Three professional placement Letter Agreement templates are available for use by faculties and graduate schools:

- a) For activities where the host organisation will not own the intellectual property.
- b) For activities where the host organisation will own the intellectual property but there is no licence to the University or the host organisation to use the copyright in the student's assessment materials.
- c) for activities where the host organisation will own the intellectual property, with licence to the University and host organisation to enable the host organisation to use the copyright in the student's assessment materials and a confidentiality undertaking.

Where the host organisation owns intellectual property generated by the student during the placement, faculties and graduate schools must also ensure students sign two copies of a Student Assignment Deed Poll and provide these to Legal Services.

The Letter Agreements are intended to ensure that a subject-based professional placement undertaken in a host organisation meets the requirements of a professional placement under the Act and sets out the intent of the placement and the obligations of the University and the host organisation. Students on professional placements will be covered by the University's insurance, however the host must also have public liability insurance in place as a minimum.

The Letter Agreements have been approved by the University's Legal Services and can be signed by Heads of Departments or Deans. Further details on some common scenarios and details of how to manage the signing process for these are provided below.

### **Letter Agreements with External Host Organisations for professional placements**

This section provides guidance for faculties and graduate schools on when and how to sign the letter agreements with external host organisations for professional placements.

#### ***The signing process:***

Placement coordinators must use the relevant professional placement Letter Agreement and complete the following steps:

- Complete the details specific to the professional placement as follows:
  - Insert the name, address and contact information for the host organisation at the top of the first page;
  - Insert the date;
  - Insert the description of the professional placement, subject/course details, name of student(s); and
  - Insert the date of the placement.
- Arrange for two copies of the letter agreement to be signed by the relevant Head of Department/Head of School either in hard copy or electronically.
- Send both signed copies to the host organisation and ask for their authorised signatory to sign both copies either in hard copy or electronically.
- Request that the host organisation keep one fully signed copy and send the other back to the School.
- Send the University's copy to Legal Services once it is received.
- Legal Services will arrange for:
  - the document to go in safe custody at Central Records;
  - for it to be scanned and registered on TRIM;
  - Record it on Legal Services document management system.

#### ***Examples of common scenarios:***

The following points provide some additional guidance on how to arrange for finalisation of the Letter Agreements for specific common scenarios:

- You have several students from the same course or subject going to the same host organisation over the course of a year. You do not need to sign a letter agreement for each student for each semester. You can enter into a single letter agreement to cover all professional placements at the host organisation for the whole year. You would sign a new agreement for the following year.
- You know that you will be sending a set number of students on professional placement during each semester but don't know (and won't know) the names of the students until immediately prior to the placement. Instead of specifying the names of the students you can insert in the "Re:" section, '*x number of students from [name of course/subject] during [insert year]*'. Once you know the names of the students you should advise the host organisation of the names of students by email. They will need this information for access, supervision and orientation purposes.

**Further information**

For further advice regarding the Letter Agreements please contact:

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For all other questions, please contact:

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