



Employers – Be wary of Internships

In this short article we are not dealing with JobBridge. Internships under the JobBridge Scheme being the National Internship Scheme being an intern who is taking place in a scheme where the intern is specifically considered not to be an employee. There is therefore no legal uncertainty as regards their status.

Internships are relatively new in Ireland. They appear particularly popular in the IT industry.

Other service companies such as Solicitors, Accountants and others are beginning to use interns. It is seen as a way for individuals to gain relevant work experience and to increase their ability to obtain employment.

The concept of an internship is regulated in countries such as the United Kingdom and the United States. There is no legislation in Ireland governing internships. Therefore there is no legislation to ensure a minimum rights or obligations of the parties except the JobBridge Scheme.

The question which a business must ask itself is whether or not the intern is an employee? The normal answer which will be given is an emphatic “NO”. However, that may not be the position.

In Irish law there is no legal definition of an intern. A person is either an employee or they are not an employee. Any business considering taking on an intern should be aware that there is a risk that an intern could be deemed to be an employee for Employment Law purposes. In such circumstances the intern would be entitled to the full legal rights as an employee would be afforded. These rights would include the entitlement to be paid the National Minimum Wage. They would be entitled to rest and break periods. There would be a maximum number of hours that they could work. They would have to obtain Annual Leave and be paid for it. They would be entitled to be paid for Public Holidays. When the internship finished they would be entitled to minimum notice. If the internship exceeded 12 months they may have a claim for Unfair Dismissal. They will also have the full protection of Employment Equality legislation as regards claims for discrimination and sexual harassment.



Whether a person will be treated as an employee will, before any Tribunal or Court very much depend on what type of work they do. If the intern is simply there to shadow another employee, they have no duties, they are simply being trained. They follow around the other employee. They may do some ancillary minor work such as photocopying a few documents that are needed for a meeting.

They might even type up an agenda but invariably they will simply be shadowing the employee or employees they are assigned to. In such circumstances the intern is less likely to be categorised as an employee.

If however the intern is doing real work, if they are working on a project, if they are given jobs to do, if they are there to effectively work they are more likely to be deemed to be an employee.

In dealing with this issue maybe it is necessary to look at it from the point of viewing a practical example. Let us say there is a coffee shop who takes on two interns. The first intern simply follows behind an employee who serves coffee and food. They follow behind them. They see how it is done. They however never carry trays or rarely do so. They don't serve at the tables. They are just shown how to be a waiter or waitress. It is unlikely that they would be categorised as an employee. If the "internship" involves the individual actually serving at tables, making the coffee, cleaning up, preparing the premises for customers during the day and effectively to all extensive purposes actually working there then it is likely that they will be categorised as an employee.

The defence which will usually be raised by employers is that the intern signed an agreement saying that they were an intern. There is a long list of precedents in Ireland where the Courts have held the fact that an individual may be stated in a contract to be a particular status such as self-employed does not make them so. The Courts have consistently held that it is a matter for the Court or a Tribunal to investigate what the actual status of the individual is. This office has considerable concerns about internships which are not under the JobBridge Scheme. Employers considering using the scheme need to be extremely careful.



A claim under the National Minimum Wage Act by an individual who has been an intern for six months will be under that piece of legislation alone will be a little over €6,700. Taking a claim for Holiday Pay, Public Holidays and Minimum Notice and the figure starts to rise substantially.

We would also advise employers who are considering taking on an intern that they should check their insurance as regards employer and occupier liability as it applies to an intern.

It would be our view that claims under Employment Law for non JobBridge interns are likely to rise. Unfortunately some internships are nothing more than a method to obtain “free labour”.

Before acting or refraining from acting on anything contained in this Guide legal advice should be obtained. This Guide does not purport to be legal advice.