

Best Practice Guide for ADLS Work Experience Placement Programme

(Employment Law Committee May 2016)

Introduction

After the success of the Work Experience Opportunities for Law Students pilot programme in Auckland in 2015, Auckland District Law Society extended the programme working with other Universities throughout New Zealand in 2016. These guidelines aim to provide information to law firms to promote fair and equal access to the legal profession through good working practices. The aim of the programme has been to promote paid and volunteer work experience opportunities for 4th and 5th year law students at law firms throughout the country. In these two years, the programme has proved popular amongst firms and students alike, allowing for a matching of young academic talent with practical work in an increasingly competitive field.

Best Practice Guidelines

The following guidance represents ADLS's view and expectations of good practice for law firms who provide work experience to aspiring students and law graduates:

1. ADLS wishes to make clear its expectation that if work of value is to be undertaken it should be remunerated. It is expected that law firms provide fair remuneration when a student or graduate is undertaking work of value to the firm. Unpaid opportunities that align more with the practice of 'job shadowing' are perfectly acceptable. However, if a student or graduate is undertaking work that a firm would have reasonably expected to pay another employee to perform, remuneration of a reasonable amount is to be attached. This remuneration is expected to be no less than the minimum wage as required under the Minimum Wage Act 1983. Furthermore, where reasonable work-related expenses are incurred, there is an expectation that these expenses will be reimbursed. Receipts for all expenses to be reimbursed should be provided to the firm.
2. A written employment agreement is required under the Employment Relations Act 2000 if remuneration is paid. If a firm is in the position of employing a student or graduate under a work experience placement, ADLS expects that the firm's obligations as an employer under the Employment Relations Act 2000 and Holidays Act 2003 (and any other legislative requirement) will be met.
3. Where the opportunity is unpaid, it should be in the spirit of a proper voluntary placement. ADLS recommends that, even with an unpaid opportunity, a written agreement setting out the terms of the arrangement would be useful in clarifying expectations, obligations, and any other details associated with the placement.
4. To the extent possible, the nature of the work should be clearly defined. Clarity around the offered work experience is vital for the success of the placement. A firm should make clear what expectations are held including, but not limited to:
 - a. how long the placement will last;
 - b. the normal hours of work the individual is expected to attend;
 - c. remuneration, if any;
 - d. what expenses will be reimbursed; and
 - e. the type of work the individual may be expected to observe or undertake.
5. If a 90 day trial period or any other probationary period is used, it must be clearly set out in the written employment agreement and comply with the prescriptive requirements of the Employment

Relations Act 2000, including that it be entered into before the commencement of the placement. Fixed term contracts must also comply with the prescriptive requirements of the Employment Relations Act 2000. Treating individuals with transparency is important to minimise potential exposure to any personal grievance causes of action or any other claims.

6. ADLS emphasises that all terms of the above agreements should be fair and non-discriminatory.

7. ADLS notes the duty that a law firm owes to its clients. It is important to be transparent with clients about the potential exposure of their cases to work experience individuals and to ensure that clients consent to this occurring.

8. The law firm or host should recognise the importance of appropriate data and information handling procedures, especially where work will bring students or graduates into contact with potentially legally privileged and/or otherwise confidential or sensitive information. It is suggested that students/ law graduates should be asked to sign a confidentiality agreement and be inducted on the firm's policies concerning confidential and/ or sensitive information.

9. Recruitment processes should be fair, transparent and accessible. Advertisement of available placements will be vetted and displayed on the ADLS website.

10. Where possible, it is desirable for both parties to provide feedback after the work experience comes to an end. From the firm to the student or graduate, this feedback might comprise a written reference and/or statement as to the skills obtained or a reflection upon their work. This will allow students and graduates to approach subsequent opportunities with valuable evidence as to their experience and detailed information about potential future development. Students or graduates may also offer feedback to the firm. Their feedback may assist in enhancing future work placement opportunities the firm may offer. A firm might consider anonymising such processes to avoid any future bias. Practices such as these reinforce the learning and growing opportunity for both the firm and the student or graduate, and give greater integrity and value to work experience placements.