



# Allens accelerate

## GROWING YOUR TEAM: HOW TO USE INTERNS IN YOUR STARTUP

*Many startups look to grow their team by engaging interns, work experience students and other unpaid workers. Unpaid labour can be attractive to startups that want to expand their business quickly, but don't have the funds to spend on hiring new employees. But companies need to be aware of what the law considers acceptable and unacceptable unpaid work arrangements. In many cases, interns who are essentially performing the work of an employee may be considered by a court to be an employee of that business, leaving the business on the hook for back-pay and other employment entitlements.*

*Here are some tips to ensure your business is entering into legal internship and unpaid work arrangements.*

### ENSURE THERE IS A PAPER TRAIL

Many internships can develop as informal arrangements, but it is important that your business documents the relationship, either through a letter or agreement at the outset of the arrangement. This is important so that the intern understands that they are being engaged on an unpaid basis and ensures the structure of the arrangement is agreed between the parties.

### ENSURE THE INTERNSHIP HAS BENEFIT: FOCUS ON LEARNING AND SKILL DEVELOPMENT

The internship must be primarily for the intern's benefit, rather than the benefit of the business. If you are looking to engage interns only to help grow your business rather than focusing on the educational and vocational benefits of the arrangement for the intern, there is a greater risk that a court will construe the arrangement as an employment relationship.

Also ensure that the person is given meaningful learning and skill development opportunities. There should be a genuine chance for them to observe and learn, as opposed to simply engaging in the productive work of the business.

### KEEP THE PERIOD OF AN INTERNSHIP/ PLACEMENT SHORT AND FINITE

An internship or placement runs a greater risk of being considered an employment relationship the longer that it runs. When documenting the arrangement, try to include an end date.

### VOCATIONAL PLACEMENTS ARE OK

Vocational placements that are arranged by an approved Australian educational or training institution and are part of the requirements of a student's course of study are lawfully unpaid. However, you should ensure that the arrangement still satisfies the characteristics we have outlined previously.

### BE AWARE OF THE RISKS

In recent years, the Fair Work Ombudsman has cracked down on the exploitation of interns by companies. If your interns are found to be employees, not only could you be liable for back-pay of wages and other employee entitlements, but you could also face fines of up to \$63,000 per breach of the relevant workplace legislation.

### REMEMBER YOUR WORK, HEALTH AND SAFETY OBLIGATIONS

As a person conducting a business, you not only have work health and safety obligations to your employees, but also to any unpaid workers. Always remember that you have an ongoing duty to ensure their health and safety under state health and safety legislation.

## INTRODUCING THE A-SUITE

We know that legal issues are the last thing you want to focus on at the early stages of your startup venture. That's why we've developed a set of high-quality legal solutions specific to startups – called the A-Suite – to help you get your company up and running without a significant outlay of time or money.

The A-Suite is being made available on a free and open access basis to startups.

[www.allens.com.au/accelerate](http://www.allens.com.au/accelerate)

## ALLENS ACCELERATE

Allens Accelerate is a legal practice dedicated to supporting the Australian startup community and providing expert legal advice to startups, investors, and corporates and government agencies responding to disruption and investing in innovation. Contact our team for more information.

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