

Calls to end long-term unpaid internships

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Employment analysis: Would a suggested limit of four weeks help to end the abuse of internships by some employers? Nicholas Lakeland, employment law partner at Laytons LLP, looks at proposals to improve the current internship system and clamp down on prolonged, unpaid internships.

Original news

MP calls on HMRC to act over firms which abuse long unpaid internships, LNB News 16/01/2018 61

*Guardian, 18 December 2017: Tory MP **Chris Holmes**, whose private member's Bill to limit unpaid internships, the Unpaid Work Experience (Prohibition) Bill, recently got its second reading in the Lords, has called on HMRC to investigate companies who advertise for long-term unpaid interns and called for a ban on any placement that lasts more than four weeks.*

How would the government aim to end unpaid internships which last more than four weeks? What legislation could be employed and how would it be enforced?

The legislation which is most relevant to internships is the National Minimum Wage Act 1998 (NMWA 1998), which states that:

'(1) A person who qualifies for the national minimum wage shall be remunerated by his employer in respect of his work in any pay reference period at a rate which is not less than the national minimum wage.

(2) A person qualifies for the national minimum wage if he is an individual who--

(a) is a worker;

(b) is working, or ordinarily works, in the United Kingdom under his contract; and

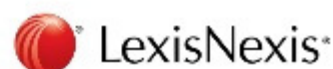
(c) has ceased to be of compulsory school age.'

NMWA 1998, s 3, also provides for exceptions (see below) to permit internships, work experience schemes and work placements to fall outside its remit, and modifying those exceptions would be the most effective way of limiting the term of internships to the suggested four weeks.

Enforcement of the NMW can presently be by way of either a claim in the employment tribunals or by enforcement notice served on employers (by HMRC), as well as through a prosecution by HMRC, and these same mechanisms could all be used to enforce any changes in the legislation.

Conservative Peer **Chris Holmes** says he is urging HMRC to do more in terms of investigation, as much is 'hidden in plain sight'. How would further investigation help to remove prolonged unpaid internships? What methods could the government pursue?

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