

The University of Melbourne

Guidelines for Student Volunteering

Purpose

This document provides guidelines on processes for managing student volunteering activities that can be offered or facilitated by the University.

Background

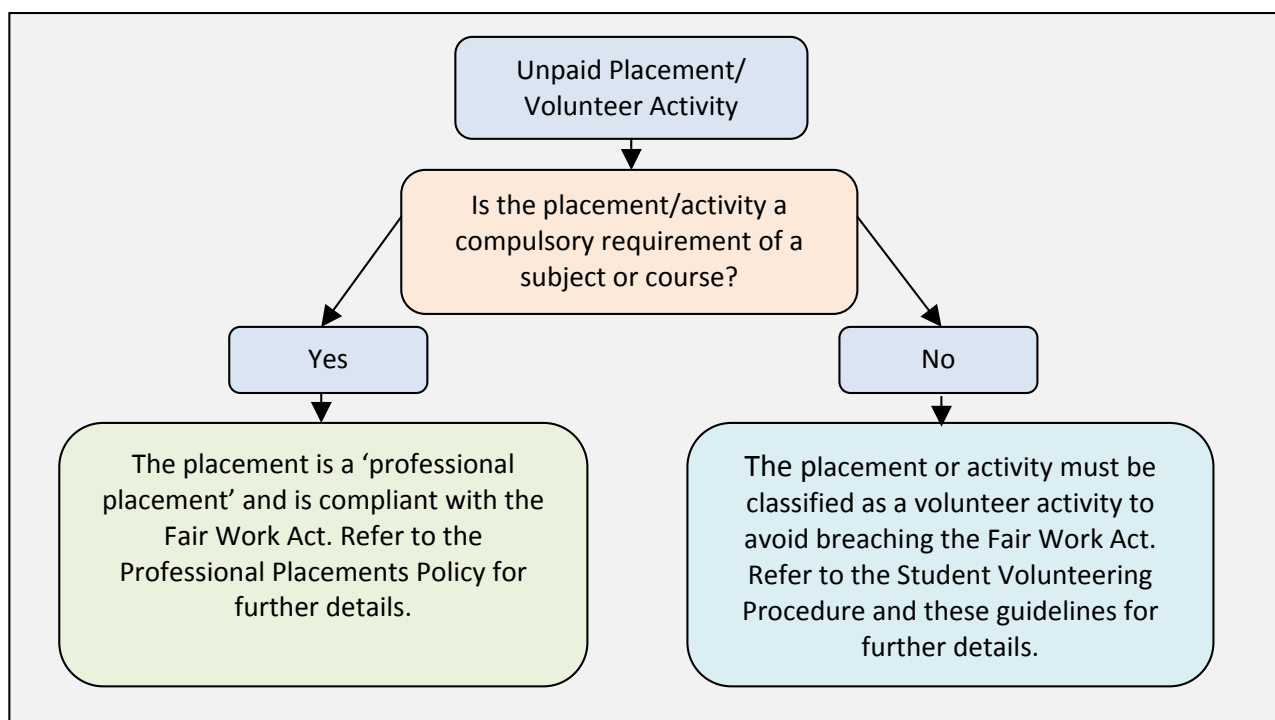
The *Fair Work Act 2009* (the Act) requires that students are paid at least the minimum wage for work experience undertaken within organisations unless the work is undertaken as a professional placement or is classified as a volunteer activity. For a placement to meet the requirements of a professional placement, it must be undertaken as a compulsory part 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 include 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

Volunteer activities 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. Other unpaid activities must be appropriately classified as volunteer activities to be exempt from the Act. As the Act does not provide any guidance on how to determine whether an opportunity can be classified as a volunteer activity, guidelines are set out below to assist faculties and graduate schools in assessing whether they can continue to either offer or facilitate specific unpaid activities.

Faculties and graduate schools are advised to consider each activity they offer or facilitate in accordance with figure 1 and 2 below to determine compliance with the Act. Activities which are non-compliant with the Act should be ceased or modified as outlined below.

Figure 1: Classifying the activity under the Fair Work Act



Volunteer Activities

Whether an individual is an employee or a volunteer is essentially a question of fact based on a set of circumstances. There are a number of factors to consider in determining whether or not an employment relationship exists between the student and the host organisation. Factors that will help interpret whether a relationship is an employment relationship include:

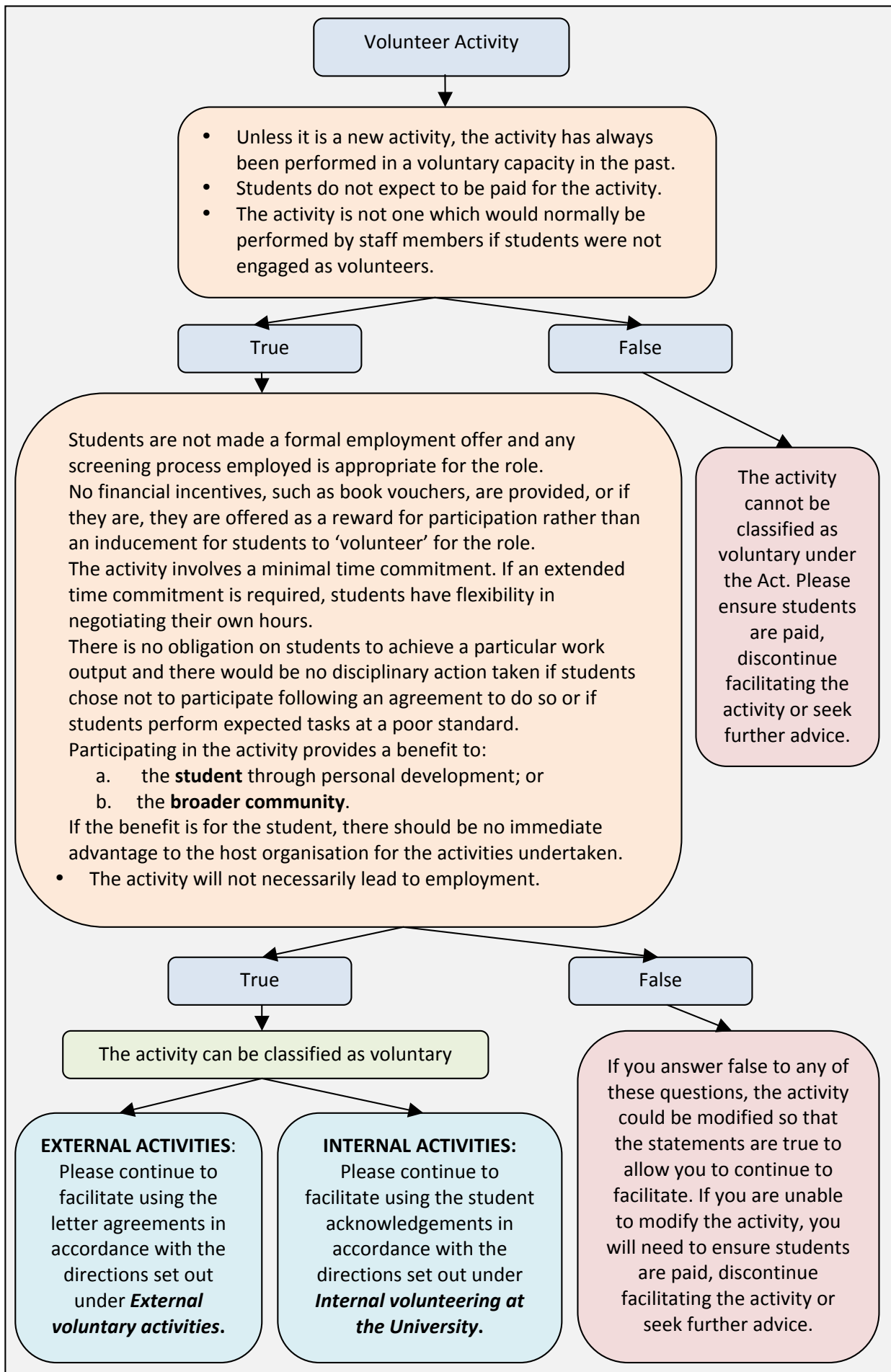
- the express intention of the host organisation and the student in entering into the arrangement (is there an intention to enter into a legally binding relationship for the student to undertake the activities or 'work' in exchange for valuable consideration, such as pay; or is the intention primarily to provide the student with an experience, and not for the benefit of the host?);
- whether the activity is one which the host organisation would ordinarily pay a staff member to perform;
- whether there is a formal offer and acceptance process and a competitive selection process for appointment to a position;
- the length of the engagement, whether there is an expectation for the student to give a certain time commitment and the level of flexibility the student has over attending; and
- the degree of control the organisation has over the activities performed by the student.

The checklist at figure 2 has been developed to assist faculties and graduate schools in determining whether activities can be classified as voluntary or should be paid. All unpaid student activities which do not form part of course requirements will need to be considered according to this checklist and appropriately acted upon. In accordance with the checklist, to be classified as voluntary all activities must not have been previously performed in a paid capacity and must not normally be performed by

staff members. It must also be clear to students that they will not be paid for their participation in the activity.

Activities should also not employ screening processes which are not appropriate for the role, provide financial incentives or an inflexible extended time commitment and should provide either a benefit to the student such as through personal development, or a benefit to the broader community. Existing activities may be modified to fulfil these requirements. In terms of screening processes, it is appropriate for organisations to use a variety of tools to screen potential volunteers, including applications, interviews and probationary periods, but the tools used should be commensurate with the actual role.

Figure 2: Volunteer Activity Checklist



If an activity conforms to the requirements set out in figure 2 above, it can continue to be offered or facilitated by the University in accordance with the requirements set out below. In most cases, volunteer activities will be offered by not-for-profit organisations, but volunteer activities may be undertaken at for-profit organisations where they conform to the above requirements.

External volunteer activities

For external activities and placements, faculties and graduate schools will need to enter into a Volunteer Letter Agreement with any host organisation with whom they facilitate volunteer activities to further manage the potential legal risks. Two Volunteer Letter Agreements templates are available for use by faculties and graduate schools: one for activities which provide a clear benefit to the community and another for activities which provide a work experience or personal development benefit to the student. Faculties and graduate schools should use the most appropriate Letter Agreement based on an assessment of the activity.

The Letter Agreement is intended to ensure that a volunteering experience in a host organisation provides a framework for an enriching student experience as well as setting out the nature of the relationship, the objectives of the program and the obligations of the University and the host organisation.

Some examples of compliant external volunteer activities are:

- Volunteer work undertaken through a formal volunteer work program, such as a not-for-profit or community organisation or authorised by an agency such as the Red Cross or Conservation Volunteers.
- The In-2-Science Peer Mentoring in Schools Program which involves the placement of university students as peer role models to engage with school students and support teachers in the classroom.

Staff responsible for facilitating or coordinating volunteer activities should be aware of the rights of student volunteers. Volunteers are not employees and, unlike paid staff, are not covered by awards or workplace agreements. Volunteers however do have rights, some of which are enshrined in legislation and some of which could be considered the moral obligations of an organisation involving volunteers. Further guidance on the rights of student volunteers is provided at:

<http://www.services.unimelb.edu.au/live/svrs/downloads/2008/volunteer-rights-resp.pdf>

Host organisations for which the University of Melbourne facilitates voluntary placements should have appropriate public liability insurance as a minimum. The University's insurance also covers all volunteer activities where:

- the individual is accepted as a University of Melbourne student;
- the activity is undertaken with the prior knowledge and consent of the University; and
- there is a nexus between the activity and the student's course of study. It is up to the appropriate faculty or department to make the assessment as to whether the activity is acceptable as an associated or complimentary activity to the student's current course requirements. Where this nexus exists, it should be noted in the Letter Agreement.

Internal volunteering at the University

Student Volunteer opportunities and activities offered by the University should also comply with the requirements set out in the checklist at figure 2. This means that where, due to the type of task or activity, the University would ordinarily pay a staff member to perform the task or activity, the University should provide students with appropriate payment. For example, if a student is engaged to provide course advice to prospective students on Open Day, the student should be employed by the University.

In general, student activities at the University will be voluntary, where:

- there is no intention to enter into an employee-employer relationship;
- there is no remuneration (other than small gifts, such as a gift voucher, that are provided at the University’s discretion) and no promise of remuneration;
- the student has not been required to go through a screening process inappropriate to the role;
- there is genuine flexibility and minimal time commitment; and
- there are no disciplinary consequences for the student not attending.

For participation in University activities such as Open Day or O-week, activities may continue to be voluntary where the intention is to contribute to the University community in the student’s capacity as a student. For example, if a student is engaged to show prospective students and parents around the campus and describe his or her experience as a student at the University, s/he could be engaged to do so a volunteer.

The following table provides some examples of paid activities as distinct from volunteer activities at Open Day:

| Examples of student volunteer activities | Examples of paid activities |
|--|---|
| <ul style="list-style-type: none"> • Handing out maps • Providing guided tours of the Faculty or campus • Talking to prospective students and parents about the experience of being a student at the University • Handing out showbags • Directing visitors around the campus | <ul style="list-style-type: none"> • Providing specific course advice • Performing administrative tasks (eg. packing showbags, entering data into a database) • Assembling stands or marquees. |

Other examples of compliant student volunteer activities which occur at the University include:

- Orientation Week Hosts
- Student mentoring programs
- The University’s Student Appeal program
- Research experience.

Where activities are voluntary, faculties and graduate schools will need to enter into the Student Acknowledgement with each student performing voluntary tasks. Further details on how to manage this signing process are provided below.

If a decision is made that the student will be performing work usually performed by a staff member, the student’s position must be classified in accordance with the Professional Staff Classification Standards in The University of Melbourne Collective Agreement 2010 and paid at the casual rate for that level of work. All other terms and conditions of the Agreement will apply to the staff member.

Staff facilitating placements at the University may also need to consider whether student volunteers need to obtain a Police or Working with Children Checks. This will depend on what sort of activity it is and whether they will be in contact with children. For example, as all University staff working in Health Services, Counselling Services or Children’s Services are required to complete a Working With Children Check as part of their employment application, students undertaking placements in these areas may also need to comply with this requirement. Where appropriate, staff will need to ensure that the appropriate checks are obtained.

Letter Agreements with External Host Organisations for Student Volunteer Activities

This section provides guidance for coordinators of student volunteer activities on when and how to sign the letter agreements with external host organisations.

The signing process:

For volunteer activities with external host organisations:

Volunteer coordinators must use the Voluntary Placement Letter Agreement and complete the following steps:

- Complete the details specific to the volunteer activity 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 volunteer activity, subject/course details where relevant, name of student(s); and
 - Insert the date of the activity.
- 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.

For volunteer activities offered by the University:

Volunteer coordinators must use the appropriate Student Acknowledgement and complete the following steps:

- Complete the details specific to the volunteer activity as follows:
 - Insert the name, student ID number, address and contact information for the student at the top of the first page;
 - Insert the date;
 - Insert the description of the volunteer activity
 - Insert the dates for the volunteer activity; and
 - Insert the specific objectives of the volunteer activity.
- Arrange for two copies of the Acknowledgement to be signed by the relevant Head of Department/Head of School either in hard copy or electronically.
- Arrange for the student to countersign both copies of the Acknowledgment.
- The student should keep one fully signed copy for his/her records and the department/school needs to retain the other copy for its records and possible audit.

Examples of common scenarios:

The following points provide some additional guidance on how to arrange for finalisation of the Letter Agreements and Acknowledgment 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 volunteer 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 volunteer placement during each semester but don't know (and won't know) the names of the students until immediately prior to the activity. Instead of specifying the names of the students you can insert in the "Re:" section, 'x number of students from [name of volunteer program] 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.

Additional Questions

Can host organisations continue to provide rewards such as book vouchers to student volunteers?

While the provision of financial rewards could lead to an interpretation that there is an employment relationship, host organisations may continue to provide small gifts in thanks for a student's contribution. However, this should not be provided as an incentive to induce students to volunteer. Students should be advised that the provision of small gifts is subject to availability and is at the discretion of the host organisation.

Can students be paid stipends of less than the minimum wage and still be considered volunteers?

The payment of stipends should generally be avoided as this is one factor that could lead to the creation of an employment relationship, meaning that students would be entitled to receive the minimum wage for their participation in the activity. In circumstances where stipends are provided but all other requirements set out in figure 2 are met, central approval of the activity will need to be provided by the Deputy Vice-Chancellor (Academic) for both external and internal opportunities, based on advice from Legal Services. To obtain approval, faculties and graduate schools should send details of the activity to provost-policies@unimelb.edu.au, including information on how the other requirements for a volunteer activity set out in figure 2 are met and the specifics of the stipend.

What about work shadowing?

Observational work shadowing experiences which do not involve any work would not fall under the auspices of the Act and would not require payment. This only applies to instances where students are observing only and not performing any tasks which could be seen as 'work'. All other work experience activities which do not form part of a course will need to conform to the requirements of volunteer activities set out in figure 2.

What about international placements and volunteer activities?

All international work experience activities which do not form part of a course will need to be assessed against the criteria for volunteer activities set out in figure 2 to determine if the activity is of a standard which the University would support.

Further information

For further information on engaging students as volunteers at the University please contact:
Your local HR representative, in the first instance

For further advice regarding the Letter Agreements please contact:
Kylie Gould, Senior Lawyer, Legal Services
Email: k.gould@unimelb.edu.au; Phone: 8344 2082

For all other questions, please contact:
Veronica Coram, Office of the Provost
Email: coramv@unimelb.edu.au; Phone: 9035 8841