

## Placements: the legals explained

From a legal perspective students on placements are generally considered the same as normal employees, so they are covered by the employer's health and safety and insurance policies. The role of the school/college is solely to take reasonable steps to ensure that the employer is acting responsibly. Parents / guardians of students under 18 need to agree to the student going on a placement. Read on for more detail, including downloadable template Risk Assessments and Health & Safety policies.



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### In a nutshell

In most countries:

- The placement provider (ie the employer) has primary responsibility for the health and safety of the student;
- The school's / college's role is solely to take reasonable steps to satisfy themselves that the employer is acting responsibly;
- Young people on placements are considered like normal employees of the host, so a company's normal policies are sufficient. The employer just needs to make sure that what they have in place is appropriate for the age of the people hosted on the placement. For example, the Risk Assessment and Health & Safety policy needs to take into account young people who might not be familiar with workplaces.

### **Don't worry, and run a placements programme**

Historically some schools / colleges have been put off from running in person placement programmes because they have been too worried about taking the blame if something goes wrong on a placement. This is a big shame, and shouldn't happen! The main reason we have created our Placements tool is to make it easy for schools to execute their legal duty to take reasonable steps to ensure that the employer will provide a safe placement.

The Unifrog Placements tool is essentially a series of forms that lets schools / colleges check that the employer has the necessary insurance and policies in place. It also gives employers guidance to help them run a great placement, and to make sure that their insurance and policies are all appropriate, and it makes it easy for a parent / guardian to agree to the placement.

*Note: This guide is particularly based on UK law. Most countries will have similar laws in place, but if you're involved in a placement outside of the UK, check the local law.*

### **Insurance**

In the UK and in many other countries, students on work experience placements are treated as employees of the employer for the purposes of insurance. Because of this, to host work experience, most employers must have appropriate **Employer's Liability** Insurance.

The main thing to be careful of is whether the Employer's Liability insurance

covers young people who are less familiar with workplaces. The employer should check their policy documentation to ensure that they are adequately covered; when in doubt, they should contact their insurer or the broker who arranged the policy. One other thing to note is that if the student will be working for the employer for longer than 2 weeks, employers need to notify their insurer about the placement.

Separately, the employer **may** have a **Public Liability** insurance policy, which (regardless of what people might tell you) is not a legal requirement to host work placements, and it will not cover students themselves when they are at the placement. Nonetheless, most Public Liability policies will cover any accidental injury or damage to third party property arising from the actions of the student on work experience, and many employers want to make sure that they are insured in this way. If this is the case they should check their Public Liability insurance policy document, and if they are in doubt, contact their insurer or the broker who arranged the policy.

In the UK these sorts of employers are **exempt** from needing Employers' Liability Insurance:

- Sole traders, and companies employing only their owner where that employee also owns 50% or more of the issued share capital in the company;
- Most public organisations including government departments and agencies, local authorities, police authorities and nationalised industries;
- Health service bodies, including National Health Service trusts, health authorities, primary care trusts and Scottish health boards;
- Some other organisations which are financed through public funds, such as passenger transport executives and magistrates' courts committees;
- Family businesses, ie if all of your employees are closely related to you (as husband, wife, civil partner, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister). However, this exemption does not apply to family businesses which are incorporated as limited companies.

On the Unifrog Placements tool, for an in-person placement:

- If the employer fits into one of the special categories above, the tool asks the Employer placement lead what insurance, if any, the employer does have in place
- Otherwise the tool asks employers to give details for their Employers' Liability Insurance, including sharing with the school / college a copy of their insurance certificate. If this will have expired before the end date of the placement (or a day after the start date if the placement is marked as 'ongoing'), then the Employer placement lead must commit to updating the insurance details before the start of the placement. The system also sends the employer a reminder email to update their insurance details on the day they've said that their insurance will expire.

## Risk Assessment

In a Risk Assessment an employer must:

- Identify what in the business could cause injury or illness (the hazards);
- Decide how likely it is that someone could be harmed and how seriously (the risk);
- Explain how the employer minimises the hazards, and how they control the risks.

In the UK companies with fewer than 5 employees don't legally need to have a **written** Risk Assessment, though we think it's good practice to have one. And even though it doesn't legally need to be written down, you should still have gone through the process of assessing risks, and considering what steps to take to mitigate the risks you identify.

It is wholly up to the employer to create a suitable Risk Assessment - they are the ones who are responsible for the wellbeing of their employees (including students on placements), and they are the ones who understand the risks encountered at their workplace. It's not the role of the school, parent / guardian or student to 'sign off' on the Risk Assessment.

When an employer is hosting a young person on a placement, they should check that their Risk Assessment sufficiently takes into account having a young person on site, who might be less familiar with workplaces. This doesn't mean that the

Risk Assessment needs to specifically mention young people, but there might be additional risks or actions that you need to take to ensure that everyone at the workplace remains safe - and if so, you should update your organisation's Risk Assessment.

How often should an employer review their Risk Assessment? There is no official rule on this, it's up to each employer to decide what they think is sensible, for example they might have a policy of reviewing it once a year, or when relevant circumstances change (eg moving into a new workplace).

You don't have to do it like this, but we recommend that your Risk Assessment includes a simple table like this one, with a new row for each risk you identify:

<b>Hazard description</b>	<b>Who might be harmed and how?</b>	<b>What are you already doing to control the risks?</b>	<b>What further action do you need to take to control the risks?</b>	<b>Who needs to carry out the action?</b>	<b>When is the action needed by?</b>
<i>Eg Slips and trips</i>	<i>Eg Staff and visitors may be injured if they trip over objects or slip on spillages.</i>	<i>Eg All areas well lit, including stairs. No trailing leads or cables. Staff keep work areas clear.</i>	<i>Eg Better housekeeping in staff kitchen needed, eg on spills. Arrange for loose carpet tile on second floor to be repaired/replaced.</i>	<i>Eg All staff, supervisors to monitor  Manager to organise for carpet to be repaired.</i>	<i>Eg Immediately</i>

---> Download a template Risk Assessment [here](#).

To help you with your own, here's an example we've filled in for an imaginary [car garage](#), and here's one for an imaginary [office-based company](#).

On the Unifrog Placements tool, out of an abundance of caution, if any of these apply for an in-person placement:

1. The employer has never hosted a placement before
2. The workplace represents above average risks
3. The student has said that they have special needs, illnesses or injuries that might affect the placement

Then the tool instructs the Employer placement lead that they must email a copy of their Risk Assessment to the School / college placement coordinator. The School / college placement coordinator can choose to give permission for the placement to happen before receiving these documents - it's totally up to them.

## Health & Safety policy

A Health & Safety policy explains how the employer manages health and safety in their business. It should lay out who does what, when and how.

Just to get the two things straight in your head: a Risk Assessment forms part of a Health & Safety Policy, but the policy should cover other things as well, for example it should make clear who has overall responsibility for health and safety, and who has day-to-day responsibility for different things (this will be clearer if you look at our downloadable template below).

The employer **might** want to explicitly detail how health and safety will be managed on work experience placements, for example laying down the rules of what a student can do during a placement, explaining who will be responsible for them from a health and safety perspective, and covering logistics like the policy of doing a health and safety briefing with students on their first day.

Just like with Risk Assessments, it is wholly up to the employer to write a suitable Health & Safety policy - they are the ones who are responsible for the wellbeing of their employees (including students on placements), and they are the ones who understand the risks encountered at their workplace. It's not the role of the school, parent / guardian or student to 'sign off' on the policy.

In the UK companies with fewer than 5 employees don't legally need to have a written Health & Safety policy, but we think it's good practice to have one. And even though it doesn't legally need to be written down, you should still have gone through the process of creating a Health & Safety policy, including making clear who does what, when, and how when it comes to health and safety.

---> To help you create your own, download a template Health & Safety policy [here](#).

On the Unifrog Placements tool, out of an abundance of caution, if any of these apply for an in-person placement:

1. The employer has never hosted a placement before
2. The workplace represents above average risks
3. The student has said that they have special needs, illnesses or injuries that might affect the placement

Then just like for Risk Assessments, the tool instructs the Employer placement lead that they must email a copy of their Risk Assessment to the School / college placement coordinator. Again, if the School / college placement coordinator wants to, they can give permission for the placement to happen before receiving these documents.

## **Safeguarding**

In the context of work placements, 'safeguarding' means keeping young people safe from physical, emotional or sexual abuse during the placement, and also for the employer to follow best practice in flagging concerns they might have that a young person is being abused, or is at risk of being abused.

It's good practice for schools / colleges to give the employer information about how safeguarding concerns should be dealt with during the period of the placement, including sharing with the employer the contact details of the designated safeguarding person. If you're using our Placements tool, we give this info to employers on the Employer initial form.

Here's some more safeguarding best practice during placements:

- The Employer placement lead (and whoever else is directly interacting with the young person on the placement) should be mature in their attitudes and able to establish good professional relationships with young people;
- Physical contact should be avoided where possible, with the understanding that sometimes it is unavoidable, for example when it is necessary to show someone how to operate machinery;
- If a student doesn't show up to their placement, or they have an accident during the placement, or the student commits a significant act of indiscipline, you must let the School placement coordinator know right away;
- If a young person confides to an adult personal information that gives rise to concern for the young person's safety or the safety of others, the adult should:

- Be open to listening and be non-judgemental;
- Not promise to keep anything secret;
- Write down what the young person said in as much detail as they can, and as soon as possible pass on the information to the School placement coordinator.

On the Unifrog Placements tool, the employer placement lead is shown the school's safeguarding policy, including how to raise a safeguarding concern with the school / college

### **When does an employer hosting a placement need to have a criminal records check (eg a DBS check)?**

In the UK the legal situation is a bit confusing:

- The statutory guidance says that if the person working with the young person is unsupervised, and in frequent contact with the child, then the school or college 'could' ask the employer providing the work experience to ensure that the person providing the instruction or training is not a barred person.
- At the same time, under UK law, a school or college is not allowed to request that an employer obtains an enhanced DBS check with children's barred list information for staff supervising children aged 16 to 17 on work experience.

To navigate this situation as cleanly as possible for everyone, on the Unifrog Placements tool:

- We advise the employer that it's not a good idea for the person working with the young person to be alone with the young person
- If the adult and the young person are going to be unsupervised:
  - We flag this to the school and the Parent / Guardian
  - We ask the employer to confirm that they can ensure that the adult is not barred from working with children



<p>* Is the student likely to ever be with only one adult, without another adult present?</p>	<p>Yes</p> <p>It's best practice to avoid this ever happening. If you think it's unavoidable, we will show this to the parent and the school coordinator so that they can take it into consideration when giving their agreement.</p>
<p>* Can you ensure that the relevant adult(s) is not barred from working with children?</p>	<p>---- select ----</p> <p>This normally means via an up to date security check, for example the UK's enhanced DBS check including the children's barred list.</p>

## When does a student need to have a criminal records check (eg a DBS check)?

If a student is going to be doing a placement:

- Working with people under the age of 16, or who are otherwise particularly vulnerable
- Significantly without supervision by an adult who has had a criminal records check
- For an extended period of time (ie longer than 2 weeks)

Then the employer **may** require the young person to have a criminal records check - it is at the employer's discretion.

It's best practice to make the whole placements process as straightforward as possible, so employers shouldn't require a student to undergo a criminal records check (which can take a lot of effort and some expense) **unless it's really necessary**.

On the Unifrog Placements tool we give the employer the ability to require that the student does a check, including specifying what check needs to be done, and how.

## GDPR and related data protection law

In most countries data protection and privacy laws are very detailed, but common themes are that:

- Data must be held securely;
- You should only use and store the minimum amount of data necessary;
- Only people who really need to see the data should be able to see it;

- The data subject should always give permission for their data to be used and stored;
- The data subject should be able to take away their permission when they wish to.

To host a placement via Unifrog you must abide by the relevant data protection and privacy laws in place in the placement country. You can research these on the relevant official websites, for example [ICO in the UK](#).

On the Unifrog Placements tool, the Employer placement lead must agree to abide by the data protection law in place in the country where the placement is taking place.

### **When a family member hosts a student for a placement**

If a student is on a work placement with a family member (eg a parent / guardian), and the placement is part of a school's / college's programme, or is directly encouraged by the school or college, then the school or college **still has the same duty of care that they would if the student were doing a placement with anyone else**. The duty of care is to take reasonable steps to satisfy themselves that the host is acting responsibly - ie that the host has the appropriate insurance, Health & Safety policy and Risk Assessment in place. So in these cases, if you are using the Unifrog Placements tool, we very much recommend that the admin for the placement is run through the tool as normal.

Here are some of the confusing elements to do with family members hosting placements:

- **Employer's Liability Insurance.** Sometimes people think that if a family member is hosting a placement, there's no need for the employer to have Employers' Liability Insurance. It's true that in the UK, family businesses where *all the employees* are closely related don't need ELI - however, firstly this exemption does not apply to family businesses which are incorporated as limited companies, and secondly almost any other sort of company does need to have ELI, even if the host is a family member of the student.
- **Health & Safety policy, Risk Assessment, Safeguarding.** For these things, when a family member hosts a placement,

there are no differences from any other type of placement, including when the placement is at a family businesses.

- If the placement is happening **totally separate** to the school or college (eg during a holiday, entirely separately from the school / college) then of course staff at the school or college do not have their normal duty of care to satisfy themselves that the employer is acting responsibly. What does 'totally separate' mean? The problem is that this is open to interpretation; let's say a school / college has an inset day and encourages students to do a day's work experience with a family member during their time off timetable - is that totally separate from the school or college? You could argue it either way. Out of an abundance of caution, we recommend that schools and colleges tell their students to run any placements they do through the normal administrative processes - and we've build the Unifrog Placements tool to be as straightforward as possible so that it doesn't put people off from taking the safe option.

### **Good stuff from elsewhere**

#### **UK's Health & Safety Executive on placements**

A super resource featuring sound advice on the legals in the UK to do with placements, as well as downloadable templates for Risk Assessments and Health & Safety policies.