Fairer Recruitment

A practical handbook for employers and small businesses to support fairer work in Scotland's creative and cultural industries

Contents

Introduction – how to use this guide

This guide contains a basic introduction to the different types of work and working roles which can be created by an employer, as well as how they should be appropriately deployed.

As well as setting out each of the main routes into the workforce, and what those positions can be expected to do, it also defines the differences between a worker, employee and those who are self-employed.

We know that the use of unpaid work in the sector remains a challenge today – creating a barrier to entry to those who don't have connections or who can't afford to support themselves when not being paid. However, there are times when it may be appropriate to offer unpaid opportunities – and this guide will outline the main considerations for employers when looking to offer work experience to school aged young people, or industry placements for those in further and higher education. The guide also gives an overview of volunteers and voluntary workers, including some fair practice advice when working with volunteers.

Following on from this, the guide moves on to set out some handy hints around recruitment processes, to help encourage organisations to think about their current approaches to recruitment and whether these could be adapted to change how, and who, is recruited.

This guidance aims to support organisations to identify the right opportunity to offer and give advice to help improve recruitment processes. Overall, this guide is intended to help organisations consider how they can create opportunities which open up the sector and lead to a fairer and more diverse workforce.

About the authors – Creative & Cultural Skills

This guide was commissioned by Creative Scotland and has been written by Creative & Cultural Skills (CCSkills). CCSkills work across the four nations of the UK to create an inclusive and skilled cultural sector by shaping skills, education and employment best practice. You can explore the CCSkills' Fair Access Sector Support resources and guidance sessions at **ccskills.org.uk**.

This guide incorporates input from a range of partners, including a review of the legal content by Gillepsie Macandrew LLP, and is designed to be a tool to encourage objective assessment of an organisation's current approaches to recruitment. However it is not a substitute for legal advice, and should not be relied upon as such. Employers should always obtain professional or specialist advice based on your organisation's specific circumstances before taking, or refraining from taking, any action on the basis of the information in this guide.

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We need to talk about pay

The arts, screen and creative industries have traditionally made use of unpaid workers, whether this has been intentional or not. We recognise that some historic recruitment cultures across our sector are so ingrained that they have become part of the way we operate, but this doesn't mean we should continue to apply them.

Unpaid internships and misunderstandings about what make someone a volunteer may be contributing to our sector's failure to be truly inclusive and representative of the wider working population: only those who are able to work for free can pursue these opportunities, which are often used as pre-requisites to entry into paid work later down the line.

It's important to note that the use of unpaid workers isn't just a moral issue, it's a legal one. Following the guidance set out here can help keep you on safe ground but it isn't a direct replacement for legal advice. As such we would urge you to seek independent advice about ensuring that you are fully compliant with employment regulations.

Fair Work First

The Scottish Government has introduced their Fair Work First approach to encourage employers to adopt fair working practices, specifically:

- appropriate channels for effective voice, such as trade union recognition;

- investment in workforce development;

- no inappropriate use of zero hours contracts;

- action to tackle the gender pay gap and create a more diverse and inclusive workplace;

- payment of the real Living Wage*;

- offering flexible and family friendly working practices for all workers from day one of employment; and

- opposition to the use of fire and rehire practice.

For more information on Fair Work First go to:
https://www.gov.scot/publications/fair-work-first-guidance/pages/2/

* those involved in procurements should refer to the **Statutory Guidance**, **Best Practice Guidance** and **Toolkit** to understand how to consider fair pay for workers, including payment of the real Living Wage, in the procurement process.

Routes into the workforce: understanding their differences and why you might use them

We know the arts, screen and creative industries use a range of routes to support and develop talent into and through the sector. Some employers still misunderstand different types of training and employment routes, factors which may be feeding our failure to be inclusive as well as putting the resilience of the creative sectors at risk. The most common issue we see relates to pay and understanding when this should apply and when it may not need to.

The title you give to a role or an individual is not what determines their right to pay. The conditions within which an organisation requires someone to operate is what determines whether an individual should be paid or not, so just calling someone a 'volunteer' does not mean the law would treat them as one.

Making sure individuals are paid appropriately for the work they do, and understanding when pay applies, will ensure you are operating on the right side of the law. This will reduce risks to your business but might also help you support a wider range of people to pursue work in our sector.

The opportunities we offer, whether they are paid or legitimately unpaid, provide openings into work and present individuals with the chance to gain new and transferable skills. So, could we be using the opportunities we offer, whether it's work experience, volunteering or paid internships, to mobilise a broader range of talent? If we open our doors more widely and embrace difference, we might just learn a bit more about the communities we operate within, in turn providing us with the potential to grow our audiences and support creative ambitions that appeal to everyone.

This section outlines a range of entry routes that the sector currently offers, with a view to encouraging a more consistent understanding of how each of these routes should operate both in legal and fair practice terms, including when and why pay should apply and when it may not need to. We hope improving understanding here will also encourage employers to further reflect on why they offer these routes, or if they could offer them in the future.

Work Experience

The term **'work experience'** is used to describe a range of placement opportunities across the creative industries. We would like to help employers understand fair practice here to avoid mis-labelling an opportunity that would be better referred to as something else. This may help reduce concerns about offering work experience opportunities and bust some common myths.

Work experience is generally aimed at young people aged 14 upwards. A work experience placement typically lasts for between one day and two weeks in total and should provide the candidate with an opportunity to gain some insight into an industry or company. This means a candidate undertaking work experience with you may be exposed to more than one department, role or function during their placement.

Candidates undertaking work experience should be encouraged to take on basic duties and/or shadow existing staff but should not be given direct responsibility for tasks that are business critical i.e. a task the company needs fulfilled in order to operate.

Organisations providing work experience should have an up-to-date safeguarding policy and procedures in place. It is also advisable for a company to have a work experience policy, which outlines in which departments and/or situations the company offers work experience and why. See the 'Introducing a Workforce Development Policy' section on p.33.

You may wish to identify a work experience coordinator in your organisation either as a standalone role or as part of an existing role, who can help set and maintain oversight of all work experience opportunities you wish to offer. Each work experience placement should be risk assessed prior to commencement and evaluated at the end.

Work experience placements are unpaid but all learning objectives and expenses to be covered as part of the work experience opportunity should be agreed at the start.

🔍	**Routes into the workforce:** **At a glance – Work Experience placements**	
❓	What is it?	A short placement to give someone direct experience of a role, occupation or industry.
🧍	Who for?	Typically aimed at young people (aged 14 and upwards).
📅	How long?	Generally, work experience placements last between 1 day and 2 weeks. Work experience can be full time hours within that timeframe, or a work pattern agreed with the employer and the work experience trainee.
£	Paid/unpaid?	Unpaid – but any expenses incurred (e.g. travel) should be covered by the employer against receipts.
❗	Important	• The work experience can be spread across different departments to help work experience trainees see how a business works. • Those on work experience should not be asked to do business critical tasks. • We recommend having a work experience policy, a named coordinator and an updated safeguarding policy in place.

Industry Placements

Industry placements are more involved. This is a work-based learning opportunity that allows a candidate to gain real experience of an individual role or occupation. Industry placements are part of accredited training programmes and should help a candidate fulfil the requirements of the course they are undertaking. For this reason, those undertaking an industry placement that does not exceed one year and is part of a UK-based higher education or further education course do not need to be paid under National Minimum Wage regulations, but are expected to attend just as they would for taught sessions with their learning provider. This also applies to workers undertaking placements who are of compulsory school age. Work-based learning opportunities that are not part of a training course at a college or university, or an internship (see p.13), may qualify for the National Minimum Wage if the person involved is over compulsory school age.

The course itself will determine the overall length of an industry placement and the expected number of hours to be worked. Industry placements should last for no more than 12 months in total. Candidates may need to undertake more than one placement to make up the total number of placement hours that is required by their course.

Candidates should be aged 16 years and over and must be supported and managed to undertake real tasks during their placement. They should be set clear objectives at the start and be given clear and constructive feedback throughout. Candidates undertaking an industry placement should have a dedicated line manager or supervisor, who along with all staff, must recognise that the candidate is there to learn.

The manager/supervisor or a nominated HR lead in your organisation must ensure the candidate gets all the necessary training and support needed to fulfil their placement. This includes helping the candidate understand company policies and procedures, the importance of complying with these and where they can get further information if needed.

Candidates should be treated as members of the team for the duration but may need to be excluded from accessing business sensitive information and/or discussions. In such instances, the reason for exclusion should be clearly and openly explained.

The host organisation (employer) should be provided with details of a key contact at the learning provider and should be in regular contact with them about the candidate's progress during the placement. If a candidate fails to turn up without notice this should be reported to the learning provider on the same day.

Personal and Protective Equipment (PPE), uniform and relevant work-related equipment needed to fulfil the placement should be provided by the host organisation. Each industry placement should be risk assessed prior to commencement and evaluated at the end.

Routes into the workforce: At a glance – Industry Placements		
	What is it?	A more involved placement to give someone direct practical experience of a specific job or occupation. The industry placement will be part of a course and will count towards the industry placement trainee's final grade.
	Who for?	Candidates should be over 16 and studying an appropriate training course at college or university.
	How long?	The length of placement and the hours involved will depend on the course – but most placements will last less than 12 months.
	Paid/unpaid?	Provided the industry placement is less than 12 months, and is part of an accredited training programme, it is exempt from National Minimum Wage legislation and would be unpaid.
	Important	• Industry placement trainees should be treated like all other employees. • They should be supported to undertake real work tasks while on placement. • The employer should remain in close contact with the learning provider throughout the placement to monitor progress.

Apprenticeships

What is an apprenticeship?

Today an apprenticeship is simply defined as a job with training, but is only recognised as being a formal apprenticeship in Scotland if aligned to a Foundation, Modern or Graduate Apprenticeship Framework. This guide only refers to Apprenticeships in Scotland. For information on apprenticeships in other parts of the UK, please contact **Creative & Cultural Skills**.

There are three levels of apprenticeship available – Foundation, Modern and Graduate Apprenticeships. Foundation Apprenticeships typically offer unpaid work experience to people in their last 2 years of school. Modern and Graduate Apprenticeships tend to be paid. More details are contained in the table below.

Apprenticeships are available at different levels of difficulty, determined by the occupation they're written for. The level of difficulty, as defined by the Scottish Credit and Qualifications Framework (SCQF), also defines the type of apprenticeship a candidate undertakes, as shown in the table below.

It should be noted that all apprenticeship frameworks include either a Scottish Vocational Qualification (SVQ) or a Competency Based Qualification (CBQ). In some Level 7 apprenticeships this might be a Higher National Certificate or Diploma. Some Apprenticeships at Levels 9, 10 and 11 may include a degree as part of the off-the-job training, these are referred to as a Graduate Apprenticeship.

Whether or not a person can apply for Modern and Graduate Apprenticeships will also depend on their residency status and their right to work and stay in the UK.

SCQF level of difficulty	Type of apprenticeship	Description	More info
4/5/6	Foundation Apprenticeship	Aimed at those in S3-S6, and typically taken over 2 years, Foundation Apprenticeships are currently available in 12 Frameworks covering several different subject areas and aim to offer students some real-life industry experience alongside their studies. They are unpaid but provide a route to progress onto a Modern or Graduate Apprenticeship or can help the school leaver achieve a National or Higher qualification that'll help with college, university and job applications.	**https://www. apprenticeships. scot/for-employers/ foundation- apprenticeships/**
5/6/7	Modern Apprenticeship	Offer apprentices a job where they work, earn and learn. Modern Apprenticeships are aimed at those over 16, and currently cover over 80 different subject areas from financial services to digital marketing. The apprentice will be based with an employer, learning on the job as they work towards achieving their qualification. Typically, Modern Apprenticeships taken between 1-2 years to complete.	**https://www. apprenticeships. scot/for-employers/ modern- apprenticeships/**
9/10/11	Graduate Apprenticeship	With similar entry requirements to university, Graduate Apprenticeships see students based with an employer, but spending on average 1 day a week at university or college as they build towards a degree or Master's. Currently covering 13 industry-designed Frameworks, those applying need to be aged over 16, based in Scotland, with both employer and university also based in Scotland.	**https://www. apprenticeships. scot/for-employers/ graduate- apprenticeships/**

What does a Modern Apprenticeship consist of?

A Modern Apprenticeship consists of three core elements:

- A job – provided by an employer.

- Off-the-job training – there is no mandated minimum amount of time spent undertaking this, the apprenticeship framework underpinned by a SVQ or CBQ, outlines what the apprentice must demonstrate competence in by the end of their apprenticeship.

- Core skills - which core skills and the level an apprentice must have these at is set out by the Apprenticeship Framework.

There are five core skills, which are:

- Communication.

- Numeracy.

- Information and Communication Technology.

- Problem solving.

- Working with others.

All five core skills must be included in the Modern Apprenticeship. Some core skills will be embedded within the apprenticeship itself, but some, like numeracy and literacy, may need to be demonstrated through the achievement of a suitable qualification set out by the individual apprenticeship framework. The learning provider you work with will provide suitable guidance and support here.

Apprenticeships can only be delivered through an agreement between an employer and an apprenticeship learning provider (this can also be the employer) who is also responsible for managing the assessment of the apprentice's achievement.

Apprenticeships offer a genuine alternative to academic study and help individuals gain the knowledge and competencies they need to become effective in an occupation.

What are my obligations as an employer?

There is a long history and culture of creating unpaid work opportunities in the creative industries. This culture has contributed to some misconceptions about what an apprenticeship is and what an employer's obligations are. We hope the following will help:

By law all employees, including apprentices, need to be paid at least National Minimum Wage (NMW). There is a NMW rate specifically for apprentices, which applies to all apprentices aged 16-18 and those aged 19 and over who are in the first year of their apprenticeship. After this point, apprentices must be paid the appropriate minimum wage for their age. Employers may choose to pay their apprentice more than the minimum wage from the start, something we'd encourage where it's possible to do so. Apprentices must be paid for all time spent on the apprenticeship including both work and training time. The UK Government has a website with the **NMW for Apprenticeships** and for all ages.

An apprentice undertaking a Modern or Graduate Apprenticeship must have reached the minimum school leaving age before starting an apprenticeship. There is no maximum age limit for Graduate Apprenticeships. Modern Apprenticeships are available to people between 16 and 24 years who are not in full time study, however there may be exceptions for those over 24 years. Training for apprenticeships is funded by Skills Development Scotland (SDS). Apprenticeship training wouldn't be funded when: a candidate's prior qualifications are in the same subject as their chosen apprenticeship; where a candidate already has related prior occupational experience, i.e. they already have experience of doing the job; or if they are over the age of 24.

In these instances, a candidate is still free to undertake the apprenticeship but they, or you the employer, may need to pay the full training costs from your own funds direct to the learning provider. The learning provider will assess whether an individual is eligible to undertake the apprenticeship and have their training funded by SDS. Please note, this funding applies to the formal training and assessment of the apprentice only, it does not contribute towards the apprentice's wage. The employer is always responsible for paying this.

The recommended duration of an apprenticeship is set out by the individual apprenticeship framework that has been matched to the job employers are going to recruit someone to train for. Apprentices must be employed, and be issued with a contract of employment, for a duration that reasonably allows the candidate to reach competence.

It's important for an employer to recognise that an apprentice working under a contract of apprenticeship is, first and foremost, an employee and must be treated as such. There are some specific things that should be noted:

- All apprentices should have a dedicated line manager.

- If under 18 years of age an apprentice must always be given a 12-hour break between one shift ending and another starting (plus two complete days off each week).

- Young workers (under 18) must not exceed the 8 hour a day or 40 hours per week working rule, as part of the Working Time Regulations 1998 (and any amendments). They are entitled to rest breaks of at least 30 minutes somewhere towards the middle of their shift if that shift lasts more than four and half hours.

- An apprenticeship may be the first step into the workplace for some, so whilst you have employed them to do a job for you it's important to remember that they are also learning how to do this. We advise managers to apply patience and understanding here.

- All apprentices are entitled to holiday and any other benefits your company offers to staff such as childcare vouchers or paid sick leave in line with your policies.

- There are limited circumstances in which an apprentice can be dismissed.

- If an apprentice if offered a job at the end of the apprenticeship, any time spent as an apprentice will count towards their period of continuous service. This has an effect on employment rights including unfair dismissal, redundancy and maternity rights. Recognition of service for the purposes of holiday entitlements will depend on the contract of employment.

For more information about apprenticeships in Scotland go to **https://www.apprenticeships.scot/**

🔍	**Routes into the workforce:** **At a glance – Apprenticeships**	
❓	What is it?	Put simply, it's a job with training. In Scotland it must be aligned with the Apprenticeship Framework and all apprenticeships will include a job, off the job training, and core skills.
🧍	Who for?	**Foundation Apprenticeships** – pupils in S3-S6 of secondary school. **Modern Apprenticeships** – generally for those aged between 16-24 **Graduate Apprenticeships** – over 16s (no upper age limit).
📅	How long?	It depends on the type of apprenticeship and the role/sector – but usually these will run for between 1-4 years.
£	Paid/unpaid?	Foundation Apprenticeships – unpaid, as the foundation apprentice is working towards a qualification and is not an employee. All other apprenticeships are paid (and apprentices are employees).
❗	Important	• Funding to support the apprentice's off-the-job learning may be funded by **Skills Development Scotland**; employers pay the apprentice's wage (as with all other employees) • See table on p.9 for a summary of each type of apprenticeship.

Internships

In recent years there have been myriad initiatives designed to support interns into the sector and much publicity about the use of unpaid internships. Internships are one of the most misunderstood role-types in the sector with some defining them as a route only for graduates, others thinking of them as a prolonged work experience opportunity, some referring to them as a training opportunity in the workplace (sometimes called a traineeship) and some, sadly, viewing them as free labour. In all instances where they are misunderstood, we tend to find employers simply lack awareness of some key factors that could help them better define and position internships.

In truth, there is no legal definition of an intern, only the definition of a worker, which we outline later in this guide. At the start of this section we highlighted that it's not what you call someone that defines their role, it's the conditions within which they are expected to operate. This is why in practice many unpaid internships are at risk of contravening NMW Regulations, something which we explore later in the guide.

Unlike an apprentice, interns do not need to undertake formal training alongside their internship or work towards achieving a qualification.

Sometimes, learning providers such as Universities refer to 'internships' when they are describing conditional work elements of a particular study programme. If the placement does not exceed one year and is part of a UK-based higher education or further education course, what they are really describing is an 'industry placement' as defined on p.7, and as such the 'internship' is not subject to NMW. This also applies to all placements where a candidate is merely shadowing another worker and not undertaking duties themselves.

Taking account of HMRC guidelines and the need to give an intern a meaningful experience, we suggest a fair practice definition of an internship is:

A paid, entry-level position for someone of working age, who is seeking to develop their CV or change career. An internship lasts for no more than six months, and the individual has a defined role and is paid at least NMW for their age.

	Routes into the workforce: At a glance – Internships	
What is it?	Whilst no legal definition exists, a fair definition would be that an internship is an entry-level position for someone who is seeking to develop their CV or change career.	
Who for?	Interns should be of working age.	
How long?	Internships should last no more than 6 months.	
Paid/unpaid?	Paid.	
Important	• Unlike an Apprenticeship, an internship carries no requirement to undertake formal training or achieve a qualification. • Unpaid internships are at risk of contravening NMW regulations.	

Volunteers and Voluntary Workers

Volunteers

Volunteering is any activity that involves spending time, unpaid, doing something that aims to benefit an individual or group other than, or in addition to, close relatives.

Volunteering must be a choice freely made by the volunteer. This can include formal activity undertaken through public, private and voluntary organisations as well as informal community participation. **Volunteer Scotland** has a wealth of resources around working with volunteers. The Scottish Government has produced a National Framework for Volunteering and, in partnership with Volunteer Scotland, launched the **Volunteering Action Plan** which can also be useful to reference.

There are many reasons that people choose to volunteer, including:

- To give time or expertise back to a cause or community.
- To make new friends and increase social contact.
- To gain new knowledge or learn new skills.
- For the sheer love of the location e.g. an avid theatre goer who just loves to spend time in a theatre atmosphere.
- As a step towards paid employment.

Volunteers should be free to volunteer for a reasonable and mutually agreed period that suits them. Organisations should recognise that volunteers hoping the opportunity will help them progress into paid employment may volunteer for less time than someone who is volunteering simply to give 'something back'. We encourage employers to value and support both.

Somebody is not a volunteer if:

- They are given money other than reasonable expenses (which ideally should be reimbursed against actual receipts).
- There is a contract to do work between the individual and the organisation.

A genuine volunteer will not be considered an employee or worker, nor will they be entitled to those protections and rights.

Many organisations use volunteer agreements. These are useful for setting out mutual expectations on one or two sides of A4. However, they should not be referred to as 'contracts', nor be very formal, nor use language or imply conditions that appear to intend to create binding obligations. Remember a contract can be made verbally as well as in writing. For further advice on volunteer agreements please see **Volunteer Scotland's guidance**.

Whilst genuine volunteers are not employees, organisations should still take care to ensure that they treat volunteers fairly and equally. No organisation will retain volunteers for long if they feel they are being poorly treated.

All volunteers should be:

- Able to volunteer an amount of time over any period that suits their needs. This is highly unlikely to be full time i.e. Monday to Friday, 9am-5pm.

- Offered any training (and protective clothing) that is appropriate to assist them in carrying out their voluntary duties.

- Assigned a mentor or supervisor, to monitor progress.

- Reimbursed genuine, necessary, documented and agreed expenses.

- Offered a volunteer agreement to clarify the expectations for both the volunteer and organisation.

No volunteer should be asked to undertake business critical duties because ultimately they can choose whether or not to attend, and you are unable to hold them to account in the same way you would a worker or employee. If you treat volunteers just as if they were your paid workers or employees, then you risk HMRC or an employment tribunal doing the same and determining that they were indeed a worker or employee – which could have significant consequences, like granting them entitlement to the NMW and paid holiday.

Fair practice when working with volunteers would include:

- An induction where the volunteer is told about the organisation and its policies. This would generally cover health and safety, what to do if you have a problem and an introduction to other staff and volunteers.

- A volunteer should be told who their supervisor or leader is and how to contact them. It is important that they have a named person who they can go to with any problems or queries.

- Adequate training to be able to carry out their role.

- Ongoing support and supervision, to make sure the volunteer is happy in the role.

- Support and training for your staff who supervise or lead volunteers, so they understand how volunteer management is different from managing employees.

- Considering extending your equal opportunities policy to include volunteers if appropriate.

- Ensuring that the organisation stays abreast of good practice in volunteer management. As such, you may want to introduce a **Volunteering Policy** that sets out for your staff, your volunteers and those you work with, how and why your company uses volunteers. For guidance on introducing a volunteer policy please see Volunteer Scotland's guidance **HERE**.

	Routes into the workforce: **At a glance – Volunteers**	
	What is it?	Volunteers will freely choose to spend time doing something to benefit others – be that an individual or an organisation. It can be about improving skills and experience and therefore help towards future employment, or it can be more simply for pleasure or 'to give something back'.
	Who for?	No age restrictions.
	How long?	Volunteers should be free to choose how much and how often they volunteer, and how this suits them. Organisations can suggest the amount of time, and/ or the days they would like people to volunteer with them, but it must always be mutually agreed and ultimately the volunteer decides their availability.
	Paid/unpaid?	Unpaid.
	Important	• Volunteers should not be asked to undertake business critical activity. • Volunteer Agreements are a good way to set out what is mutually agreed by both parties. • It is recommended only to reimburse volunteering-related expenses against receipts. • Volunteers are not employees and therefore don't have the same protection or rights in law – but organisations should still treat them fairly.

Voluntary Workers

In terms of NMW legislation, there is a category of worker called a Voluntary Worker, who can only work for a charity, a voluntary organisation, an associated fundraising body or a statutory body. They cannot work for commercial organisations. An example of a Voluntary Worker would be someone who works in a charity shop.

Voluntary Workers can have a contract of work in place, and be expected to attend at specific times to perform specific tasks, without the organisation having to pay them or grant them all the same benefits and rights as paid workers or employees. However, they can be reimbursed for expenses actually incurred in the performance of their duties, for example the purchase of required uniform, or to enable the Voluntary Worker to perform their duties and that are not accommodation expenses, for example home to work transport costs or increased childcare costs.

Voluntary Workers have a more complex legal status, crossing both volunteer and worker definitions, rights, and exemptions. This status may also have wider considerations – for example, Right to Work checks may apply or they may be entitled to further protections and entitlements. You should take specific advice if you think your organisation uses Voluntary Workers.

It's important to note that Voluntary Workers must still be free to come and go as they please. that is, if they don't want to turn up for work, they don't have to. If a Voluntary Worker is undertaking a role that's identical to a paid worker, you may be required to pay the Voluntary Worker a wage, and as such their Voluntary Worker status would no longer apply.

🔍	Routes into the workforce: At a glance – Voluntary Workers	
❓	What is it?	Voluntary Workers differ from volunteers in that they can have a contract of work in place and may also be expected to attend at specific times to perform specific tasks (albeit they are not required to do so).
🧍	Who for?	No age restrictions.
📅	How long?	Voluntary Workers can be asked to work at set times and for a set duration – but they are free to come and go as they please (e.g. they don't have an annual leave allowance and aren't required to submit holiday requests).
£	Paid/unpaid?	Unpaid.
❗	Important	• Voluntary Workers can only work for a charity, a voluntary organisation, an associated fundraising body or a statutory body. They cannot work for commercial organisations. • Voluntary Workers have a complex legal status and any organisations using them should ensure they are correctly managed within NMW regulations. • If a Voluntary Worker is undertaking a role that's identical to a paid worker, you may be required to pay them.

Employees, Workers and the Self-Employed

These routes into the workforce are those that most organisations will be familiar with, and will appreciate that they require payment.

Which category an individual sits in can be surprisingly difficult to identify. As we've said before, it is the working conditions within which an individual is required to operate that determines their status as employee, worker or self-employed person. Approaches to determining employment status are addressed later in this guide.

Employees receive the highest level of protection in law and have the broadest range of rights, with workers entitled to some, but not all, of those protections and rights. Those self-employed individuals who are effectively their own business, receive the least protection from legislation: i.e. they are not entitled to holiday pay or sick pay from the organisations they work with, nor do they qualify for payment of the NMW. They are, however, their own boss.

Employees

There are different definitions of 'employee' and 'employment' used in different legal contexts. The most significant legislation on the rights of employees is currently the Employment Rights Act 1996, and that defines an employee as "an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment". It then defines a 'contract of employment' as "a contract **of** service", which can be express or implied, and agreed verbally or in writing (an employment contract does not have to be in writing for it to exist!).

There's no statutory definition of a 'contract of service', but in very simple, general terms, it requires an individual to personally do the amount and type of work in the contract. They cannot send someone else to do their job and they must follow the lawful and reasonable instructions of their employer in order to remain employed. In return for their service, the employer makes payment of the agreed amounts and benefits.

Those who qualify as employees have significant protections and rights. The table on p.24 sets out some key rights for comparison, but as examples, maternity leave is only guaranteed to employees, and (after a minimum period of service) only employees are protected in law from unfair dismissal and are eligible for redundancy payments. The law also implies certain terms into all contracts of employment, for example, the duty of mutual trust and confidence, and a duty of fidelity.

Having an employee comes with additional costs, and administration, for a business: for example, you will have to pay Employers National Insurance Contributions (NIC) and pension contributions, and use the Pay As You Earn (PAYE) reporting system. But it also gives you certainty, and may give you a level of commitment from and retention of key individuals that other arrangements may not.

If you are considering recruiting employees, p.25-34 of this guide have suggestions for fair practice approaches.

	Routes into the workforce: At a glance – Employees	
?	What is it?	An employee is someone who works under a contract of employment, who does that work themselves and who is duly afforded a high level of rights and protections in law.
🧍	Who for?	Employees must be working age.
📅	How long?	This will be determined by the contract of employment – but can be full time or part time, permanent or for a fixed term.
£	Paid/unpaid?	Paid.
!	Important	• Employees have significant protection and rights in law (see p19 for more details). • As a result, employees do carry more administrative costs for a business – but this also brings greater commitment, retention and certainty than other arrangements.

Workers

Worker status sits between that of an employee and a self-employed contractor. The Employment Rights Act 1996 sets out two tests for determining 'worker' status:

- Someone who works under a contract of employment is a worker: so when other legislation (like the National Minimum Wage Act 1998) refers to 'workers', employees are also included.

or

- Someone who has a contract to do work personally – but is not carrying on a business or profession – is also a worker.

The second test allows those people who do not qualify for employee status, but who have some form of contract which requires them to undertake the work personally (without the freedom of a self-employed contractor) to gain some protections in law.

In simple terms, a 'worker' has a contract to do work or services personally for a reward – they cannot send someone else – and while they will be obliged to do work once they have committed to it – they may not have to accept whatever work they are offered by an employer nor make themselves available for work.

A worker has some rights and protections: for example, the Equality Act 2010 protects workers, they are entitled to the National Minimum Wage 1998, to pay slips, and are protected by the Working Time Regulations 1998, which includes the entitlement to take paid holiday. Other legislation (for example, entitlement to statutory sick pay) uses slightly different definitions which may mean some workers qualify and some don't.

But where a right is specifically reserved to an employee, for example the requirement to give at least the statutory minimum notice to terminate a contract, or protection from unfair dismissal after two years of service, a worker is not protected.

There are many circumstances where the flexibility and rights offered by worker status suit both parties. However, it is a less secure position for the individual, and from a diversity and inclusion perspective, organisations may want to consider whether these more casual working arrangements are the best option.

	Routes into the workforce: **At a glance – Workers**	
	What is it?	A worker has a contract to do work or to provide services personally for a reward and they cannot send someone else to do this work. But they do not need to accept all work that is offered to them.
	Who for?	Must be working age.
	How long?	This will be determined by the contract of employment.
	Paid/unpaid?	Paid.
	Important	• Workers have some rights and protections in law, but not as many as employees. • Workers have more flexible working arrangements than employees. • But worker status is less secure for the individual involved.

Self-employed

At the other end of the employment rights scale are self-employed contractors (also commonly called freelancers), who work under contracts **for** services.

Again, there's no statutory definition of a 'contract for services' but in very simple, general terms it is when someone in business for themselves agrees to provide particular services to another person or company. The key requirement is that the services are delivered: it does not necessarily have to be the specific individual delivering them.

Self-employed contractors usually offer their services to more than one organisation at once, determine how and when they will work, can send someone else to deliver the work if they consider/deem it appropriate, manage their own tax and National Insurance obligations and charge fees that they determine for the services.

Engaging self-employed contractors is a common way of working in the creative sectors: they are often specialists in their field and engaging them allows organisations to access specialist, short-term, flexible services without the additional statutory obligations and costs of hiring another employee such as employer's National Insurance Contributions.

The use of personal service companies and the 'off payroll working' rules (commonly referred to as IR35 rules) are outside the scope of this guide. However, organisations should be aware that changes came into force in April 2020 and if you engage self-employed contractors in this way you should take specialist advice.

Self-employment gives far fewer rights and protections to the individual, which is not always fully appreciated by either side. In some circumstances health and safety legislation and equality legislation may extend to cover the self-employed, but, for example, they have no entitlement to be paid NMW, nor to receive either paid holiday or sick pay and there is no protection from unfair dismissal.

Also, even if both sides agree at the outset that the relationship is one of self-employment, a court or tribunal can disagree - remember, it's the conditions within which someone is expected to operate that determines what they are! If an employment tribunal decides that in reality the working relationship was in fact one of employer/employee then they will apply those employee rights when making their judgement.

HMRC also pays close attention to questions of employment status when inspecting tax records, and if it rules an individual is an employee it can, and does, impose penalties and collects employer's NIC.

Fair practice to consider when engaging a self-employed contractor would include:

- Is it genuinely a situation of self-employment? Consider what the reality of the working relationship will be. Even if self-employment is appropriate, have you considered other options (like fixed-term employment contracts) which may encourage a more diverse range of applicants?

- Issue a contract for services before work starts, including the agreed fees, proposed/expected timescales for delivery, a payment schedule and acceptable expenses. Consider and include what will happen if there is a problem and the services cannot be delivered or are sub-standard.

- Issue any appropriate and relevant company policies – but be mindful that this may move you closer to having the same level of control you would have over an employee or worker.

- Consider which legal obligations will apply to each self-employed contractor you engage (for example, are there specific Health and Safety or employer's liability insurance requirements) and whether there are steps you need to take in relation to those.

- Ensure there is a designated point of contact in your organisation for the self-employed contractor, and where appropriate offer feedback.

- Pay on time (where there are no issues with the service delivery). A self-employed contractor may charge interest on late payments, and disputes over debts are time consuming and costly. There's also a reputational risk.

- Charities may be subject to additional regulatory requirements when engaging self-employed fundraisers, and specialist advice should be sought in this situation.

🔍	**Routes into the workforce:** **At a glance – Self-Employed**	
❓	What is it?	Also known as 'freelancers', the self-employed will work for themselves and offer these skills and services to others for reward. This can involve 'sub-contracting' some elements to others if deemed appropriate.
🧍	Who for?	Must be working age.
📅	How long?	This will be determined by the contract for services and the capacity/availability of the freelancer. Self-employed contractors will offer their services to more than one organisation at once, and therefore determine how and when they will work.
£	Paid/unpaid?	Paid. A fee will generally be agreed in advance – based on the freelancer's estimation of how much the work will cost them to deliver.
❗	Important	• Self-employed 'freelancers' will manage their own time, national insurance and tax, and financial arrangements. • Hiring freelancers is common practice – allowing flexible short-term access to specialist knowledge and expertise, whilst also sustaining an important part of the working sector who choose to work freelance. • But self-employment offers far fewer rights and protections to the individual involved. • Employers need to be careful that the working relationship is not closer to that of an employer/employee – which can be challenged.

What's the difference? Determining employment status

The question of employment status is often both a question of fact and a question of law. Whatever the contractual documentation states, if the status of a person engaged by an organisation is challenged by either the person or by an outside agency such as HMRC, the court will look at the reality of the relationship – not what either party calls it. As stated previously, it's not the title you give someone that determines their status, it's the conditions within which you're expecting them operate that determine this.

The test to determine an individual's employment status has been developed in the courts over many years. The court or tribunal will look at the facts of a case and apply the following tests during its deliberations:

1. Whether there is a **mutual obligation** between the individual and the organisation.

Does the individual have the right to a minimum amount of work or pay? Are they required to attend, or could they lawfully refuse to do the work offered? The more obligation there is upon an individual to accept work when offered, the more likely they are to be an employee.

2. Whether the individual is obliged to **personally** undertake the work required by the organisation.

Can the individual send someone else to deliver the services on their behalf? If there is a right of substitution, is it ever actually used? If the reality of the situation is that an alternative person could not be sent or would not be accepted in place of the individual, then it is more likely the individual would be considered an employee.

3. Whether the individual is under the **control** of the organisation.

How integrated into the organisation is the individual? If the business could not function without that person doing that role, the relationship is more likely to be one of employer/employee.

Does the organisation dictate the manner in which the individual undertakes the work, or can the individual decide what to do, and how and when to do it? Are they subject to the organisation's rules such as appraisal and disciplinary procedures? Do they require training and supervision to provide the services? The more directions the organisation can enforce on the individual, the more likely they are to be an employee.

Can the individual work for other organisations at the same time as working for the organisation in question? If they do not have other clients, or they are restricted by the organisation in the engagements they can undertake now or in future, they are more likely to be considered an employee.

We hope the information outlined above will help employers more objectively review the openings they offer and make conscious decisions about the types of opportunities they create and why.

We also hope that by gaining a better understanding about what makes someone an employee, worker or a legitimate self-employed contractor (freelancer), we can collectively ensure that those working in the sector are being granted the rights they are entitled to, which in turn protects businesses from unnecessary risk.

Key rights overview

This is not an exhaustive list of an individual's statutory rights at work, only a selection, and only applies to employees, workers and the self-employed. The rights of other groups, like voluntary workers, are not included and you should seek specific advice.

The rights described in this table were correct at the time of publication but may be subject to amendment now that the United Kingdom has left the European Union.

Only statutory minimum entitlements are covered here. An individual's contract may be more generous and if so, those provisions must be followed.

You should always take specific advice on the rights an individual may have, based on the facts of each particular case.

Right	Employee	Worker	Self-Employed
To receive written particulars of terms: Details of pay, hours, holiday entitlement, pension arrangements and several other key terms must be set out by particular deadlines and in particular documents	✔	✔	X
Statutory Sick Pay	✔	May qualify if relevant NI rules are met	X
Itemised pay slip	✔	✔	X
National Minimum Wage	✔	✔	X
Workplace Pension enrolment (if eligible)	✔	✔	X
Paid Holiday	✔	✔	X
Family related rights: • Maternity/paternity/adoption shared parental leave • Statutory Maternity/ Paternity/Adoption/ Shared Parental Pay	✔	X May qualify if relevant NI rules are met	X
Right to request flexible working	✔	X	X
Protections from discrimination because of or in relation to a protected characteristic (age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation)	✔ (Note that applicants for jobs are also protected)	✔	There may be some protection for some contractors, dependant on the particular facts.
Protections from harassment or victimisation	✔	✔	There may be some protection for some contractors, dependant on the particular facts.
Right not to be treated less favourably as a part time Worker	✔	✔	X
Right not to be treated less favourably if a fixed term Employee	✔	X	X
Minimum statutory notice period (note that a contract may provide for periods of notice whatever the employment status)	✔	X	X
Protection from unfair dismissal	✔	X	X
Right to a redundancy payment	✔	X	X

Approaches to recruitment: sometimes it's the small things that make the biggest differences

Encouraging and embracing diversity across the creative and cultural workforce – valuing difference in all its guises – will help to make our sector more relevant and responsive. However, having a diverse workforce is not necessarily a direct indicator that a business has embraced equality. It is being inclusive that supports this. Ensuring equal opportunity for all comes about as a result of the cultures and practices we choose to operate, but we may not always realise that the things we are doing are holding us back.

Inclusion starts with recruitment: how we recruit determines who we recruit, so thinking a little differently about what we do here could be the difference between an organisation recruiting to type or opening its doors to the widest pool of people, regardless of background or circumstance. Adapting approaches could help an employer to learn about the talent that's available and potentially shine a light on what they're currently missing.

Equality, Diversity and Inclusion: how does improving recruitment practices help?

Everybody should be committed to diversifying the workforce in the arts, screen and creative industries in Scotland - and agencies across the public sector already have a number of initiatives which seek to embed the principles of equality, diversity and inclusion in their own organisations, their partners and in those they fund.

The terms 'diversity', 'equality' and 'inclusivity' are used frequently in discussions across the sector and are often cited within sector debates and strategies, but there is a risk that these terms are being used without really stopping to reflect on how the sector can truly achieve each of these. They must stop being things we aspire to become, but instead become an inherent part of the way we all operate. In summary, these terms must authentically define the culture of our workplaces and no longer be things we hope to 'achieve'. The terms 'diversity' and 'inclusion' are frequently used in our sector, but this doesn't necessarily mean these terms are fully understood.

Whilst most employers should have awareness of the 2010 Equality Act and the nine characteristics that are protected by law: **age**, **disability**, **gender reassignment**, **marriage and civil partnership**, **pregnancy and maternity**, **race**, **religion or belief**, **sex**, and **sexual orientation**, being a truly inclusive employer should go beyond simply fulfilling obligations to avoid discrimination against these characteristics.

Typically, **diversity** in the workplace concentrates on staff recognising **difference**. Valuing different viewpoints and approaches, as well as the workforce being representative of the communities that it seeks to serve and/or engage.

Inclusion focuses on how an organisation ensures its workers can fulfil their potential regardless of their background, identity or situation. An inclusive workforce sees the benefit of a diverse range of people working together, and makes individuals feel **equally** valued and able to contribute.

An organisation that has an inclusive approach to recruitment welcomes applications from a diverse range of candidates without prejudice and deploys recruitment methods that actively encourage and facilitate this.

What feeds inequality in the workplace?

There are many factors that lead to an organisation failing to be truly diverse and inclusive, these can include:

- Prejudice and bias, which can be conscious or unconscious.

- Lack of confidence or skill in managers and/or decision makers who consider it easier to manage those with a more uniform set of experiences and perspectives.

- Conforming to type. It can be assumed to be a more straightforward option to recruit someone in the image of oneself or the previous postholder who may have been popular with others.

- Unwillingness to change because this isn't deemed important or necessary.

- Lack of representation in the business, sector or individual occupation to date.

Why should my workforce be diverse and inclusive?

From a business perspective, diversity can directly impact upon effectiveness. For example, in a marketing and communications team, where the brief is to attract a larger and more diverse audience into a venue, staff with different perspectives, backgrounds and circumstances will aid the delivery of that work. It's also true that employers have a legal duty to protect the health, safety and welfare of their staff, and working in a diverse and inclusive way may help in meeting those obligations.

But beyond those considerations, organisations that invest in the development and wellbeing of their staff see everyone in the organisation as an individual. This means the background, identity and/or circumstances of individuals bears no relationship to their ability to meet their potential, and staff feel valued and respected. These organisations are safer, more positive and frankly nicer places to work, often resulting in greater staff loyalty, improved performance and increased wellbeing.

Key reasons why an organisation should want to be diverse and inclusive:

- **Moral** – people deserve to be **treated equally** regardless of their background, identity or personal circumstances. Failure to do this means you risk treating one person less favourably than another, which isn't **fair**. We all have the right to develop and grow, be rewarded, equally supported and be given a voice on things that matter to us.

- **Social** – everyone should have **equal access** to employment and development **based on** merit, not because they have had the fortune to access training, experiences or networks that others haven't - these aren't indicators of someone's **ability**. We must learn to recognise and utilise someone's skills, even if they are presented to us in ways that we're not used to. It could be bad for a business's productivity if we don't do this!

- **Legal** – in addition to the serious health and safety obligations mentioned above, there are many Acts of Parliament which protect employee and other workers' rights. For example, the National Minimum Wage Act 1998 sets minimum requirements for pay and the Employment Rights Act 1996 sets out many familiar rights including the right to maternity leave and the right (after two years' continuous service) not to be unfairly dismissed. Discrimination, harassment and victimisation on the grounds of a 'protected characteristic' are prohibited by the Equality Act 2010 – and the conduct of an organisation or individual staff member can be held to account both outside of working hours and outside of the workplace.

Diverse workforces aren't just about improving the way in which tasks or areas of work are undertaken, there are wider benefits, such as:

- **Mirror imaging** - much anecdotal evidence suggests that where a business's workforce reflects its local community, it improves the diversity of audiences/customers and helps to extend reach.

- **Increasing acceptance and kindness between staff**. The more we're exposed to difference, the more we can understand it and value it.

- **Business sustainability** – embracing a diversity of thoughts, ideas and ways of working from different backgrounds, identities and circumstances, improves planning, decision making and engagement.

Ultimately, workplace disputes can be costly, and time consuming for an organisation. They can also result in financial penalty, reputational damage and in some situations, criminal proceedings. Promoting and embedding diversity and inclusion in the workplace protects your organisation and supports your people: why **shouldn't** your workforce be diverse and inclusive?

It's important to note that inclusive recruitment doesn't mean giving someone a job if they aren't suitable for it, but it does mean findings ways to reach out to and recognise talent, even if it is described or presented to us in ways we're not used to.

The following is designed to help employers think about where they could be making small changes that might just make a big difference.

Unconscious bias

People are shaped by the world around them. Their beliefs, values, assumptions and instinctive responses are built on their own experience of the world. As the name suggests, to be unconsciously biased is automatic and unintentional - there is no malice intended when a university-educated manager shortlisting for a position selects only candidates who have degree level qualifications, but it may be that, unconsciously, they place more value on that type of experience because it is what they are most familiar with.

The difficulty for the recruitment process is that these unconscious decisions can result in a workplace closing its doors to diverse talent, instead hiring people who look like us or with whom we share a common experience. In failing to identify the most talented person for the role, we risk damaging our business.

It's important to remember that there is a difference between conscious and reasoned choices or actions and unconscious stereotypes and prejudices that we are not aware of when we make decisions. The human brain tries to make decisions as quickly and effectively as possible, using its previous experience as a guide. Stress and tiredness exacerbate this default. It's perfectly normal and natural and in dangerous situations, serves us well. But when recruiting, if we always do as we've always done, the creative sector and its workplaces will remain largely white, male-dominated, and middle-class.

Tackling unconscious bias

Consciously preventing yourself from acting unconsciously verges on the impossible. Instead, accept that unconscious bias exists and design systems to mitigate it.

The following examples may help you think about this:

- If you have identified an issue within your organisation you want to address, for example, a lack of diversity, first research the problem you are trying to solve. Are you receiving a good breadth of applications, but not shortlisting diverse or disabled candidates? Or are you not receiving suitable applications in the first place? If not, can you find out why? Try and understand what sits at the heart of the issue and then create a response based on facts not more assumptions.

- When recruiting, make sure you allow enough time for decision making based on clear criteria set in advance, don't rely on a CV or letter 'jumping out at you'. Record the evidence and the reasoning behind the decisions you make.

- Consider anonymising applications, so a candidate's name, gender and age are not revealed to the shortlisting panel.

- Consider advertising your role without stating who the company is, just where you're based and the type of organisation you are. Sometimes candidates may have preconceived ideas about your company/brand that prevent them from thinking you're for them.

- Make sure that the people making the decision, having the conversation, or promoting the event reflect the organisation you want to be. Unconscious bias exists in your audience too, and if they cannot see themselves reflected or welcomed in your organisation, they may discount you without consciously knowing why.

Job descriptions

We see lots of job descriptions in the creative sectors that inadvertently close the door to diverse talent and could reasonably put people off from applying for a job. This is counterproductive for an organisation, because it means you end up recruiting from a small and potentially homogenised pool. In other words, you don't know the extent of the talent available to you until you make your jobs open to all. Plus, the protections of the Equality Act also cover job applicants, so consider the requirements you place on a role in this context too.

There are of course some jobs that can only recruit individuals with recognised qualifications, skills and prior experience. None of us would want to be treated by a doctor who isn't qualified or sufficiently experienced to do so. However, we can be quick to default to asking applicants to have specific prior qualifications and experience that may not be a true measure of whether they're the most appropriate candidate for a role.

When writing job descriptions, it might be worth just sense checking against the following:

- Is the job description based on what you need someone to do for you, or learn to do for you, or is it based on what the previous candidate did? Sometimes what we need now differs from what has been done in the role before. Review this objectively.

- Simplify the language you use in your job description. Don't assume knowledge that only those who conform to type would recognise, avoid acronyms that are specific to your organisation or field of work, and don't assume that everyone knows what your company does even if you're well-known. Remember, lots of people have transferable skills which could be valuable to you, rather than simply sticking with a familiar skill set articulated by someone that you identify with more readily.

- Only set necessary and valid pre-requisites for entry. Ask yourself if it's essential for a candidate to have a degree or 10 years prior work experience in a similar role. These aren't necessarily true measures of one's ability.

- It's also recommended that Job Descriptions state salary for clarity, consistency and parity.

- GDPR places restrictions on the use of 'automated decision making'. If you will use a recruitment tool that automatically discounts people on the basis of set requirements, without a human being reviewing those decisions (like a website which only allows applications with a certain level of experience to proceed) take advice on your privacy policy and obligations.

- Don't forget to look for potential and a willingness to learn, regardless of the position's seniority. Sometimes these candidates have more to offer in the long run, as they'll grow and develop with the organisation rather than coming in with pre-conceived ideas about the way things should be done.

- Take a leap of faith. You might think it's easier if you just go with what you know but it may just pay to let go!

Remember, where you advertise your positions can have just as much impact on who you attract as the content of the job advert itself. Look at where you currently advertise your positions and think about where else you could go. As a sector we can be guilty of posting our positions in places that appeal to certain demographics. Have you considered the Job Centre, local newspapers, and other non-sector specific platforms?

Approaches to interview

It's probably rare to find a candidate that really likes going to a job interview, but sensible employers will recognise that this is a candidate's opportunity to shine and you must create the conditions that help them to do this. Failing to create open, thoughtful and encouraging conditions for interview means you risk not getting the best from someone and in turn potentially losing out on the best talent for your business.

Remember, recruitment is a two-way process, you aren't doing someone a favour by giving them a job, the right talent will benefit your business, so you need to make sure you're selling yourself too.

Don't be afraid to enjoy the recruitment process either, it shouldn't be a chore that you have to squeeze around other responsibilities. Try and see it as an exciting opportunity to find someone that's going to be a positive addition to your team and company.

When designing your interview process ask yourself if the set up helps sell your organisation's culture (or the culture you hope to achieve) and if the method/s you're using aid this. And remember the Equality Act applies to the recruitment process too: be sure that the arrangements you make for deciding who gets the job are not discriminatory. 'Arrangements' would include the application form or process, interview times, locations and facilities, any tests or assessments and the shortlisting and decision-making process.

Here are some options for you to consider:

Panel interview: keep it light and remember this set up can be intimidating, particularly if the candidate is asked to sit at one end of the boardroom table with the panel at the other. Make it friendly and try sitting around the table (or in a circle if there is no table) so it feels more like a conversation is going to take place rather than a hard Q and A!

Plan your questions and be mindful of potentially discriminatory questions that you cannot ask at all, and those that you cannot ask in advance of a job offer.

Presentation: remember this is a skill in itself, so it may only be worth building this into the interview process if the candidate is required to present as part of the role they're applying for. If you do choose this method, make it clear upfront what style of presentation they may wish to consider: a brief PowerPoint, a short talk, a pre-recorded video presentation. Do what you can to empower the candidate and make them feel comfortable.

Task and assessment: whilst this method is a great way to get a candidate to demonstrate core skills and attitudes it can also feel overwhelming for some. For anyone that's been to an assessment centre, sometimes just not knowing what the tasks are going to be can fill people with dread. If you choose this method, please make sure the tasks being assessed are relevant to the core of the role you're recruiting for e.g. don't set a task that asks a candidate to organise an inbox if the core of the role is focused on managing clients or customers. Instead choose something that helps them demonstrate the way they interact and communicate with real people!

Consider if you should ask applicants about any reasonable adjustments required under Equality Act requirements.

Group interview with team tasks: this only works if you have lots of applicants and teamwork is an essential part of the role.

A light touch combination of two or more of these may also be an option, as it can help break up the interview process. There are also some simple things you can do before and during the interview process to help (which seem obvious but are easily forgotten):

- Think about providing interview questions in advance to all candidates – this makes the process more transparent, potentially allows candidates to be better prepared and positions your organisation as fair, empathetic and professional.

- Welcome the candidate, show them around (if appropriate), offer them a drink (and not just water from the jug on the table but a cup of tea or coffee), let them get a feel for your company and the environment within which you work.

- Make conversation and show interest in the candidate, don't just launch straight into questions or tasks. The more relaxed a candidate is the more likely you are to see their true potential.

- Make sure any questions you ask are succinct, don't ask three questions in one!

- Don't be afraid of a silence, let a candidate think and let them know it's ok for them to take their time (it can sometimes be hard to recall an example when we're nervous).

- Make sure they are given the opportunity to ask you questions.

- Thank the candidate for showing interest in the role.

Induction

All organisations should make it their duty to put in place a thorough induction for new starters. We see too many organisations assume that a new starter is fine if they've signed their contract of employment and know their working hours.

If we're honest, the first few days in a new job can be tough for anyone, even the most experienced of individuals. Getting to know colleagues takes time as does getting to know how an organisation operates. Whilst it wouldn't be realistic for an induction to go on for months, it would be realistic for an induction to last for a few weeks.

Here are some things to consider:

- Make sure the candidate is introduced to all staff (where practical), help them understand where they fit within your organisation. If it's a micro company then schedule a one to one between each team member and the new candidate in the first few weeks, so they can get a feel for what each member of the team covers. In larger organisations consider doing this with the staff that the new candidate is likely to work most closely with, even if they're not in their immediate team.

- Take the candidate through key policies and procedures, don't just ask them to sit and read them. Ask them questions to check their understanding. Remember if a staff member doesn't fully understand their obligations it could put your business at risk.

- If it's a job role that requires travel, show them the process for booking travel and how to claim back work-related expenses and what constitutes a legitimate expense (this should be outlined in your expenses policy).

- Make sure they understand their working hours and any flexibilities you permit here.

- Assess the need for reasonable adjustments at the start. Help create the environment that's most conducive to a candidate's success (and therefore yours).

- Explain at the start expectations regarding conduct. Even the most experienced candidates can get this wrong! You must help them understand your culture and standards early on.

- Create time for the team to spend together so the new candidate can get to know everyone properly. This can also help existing staff be more inclusive.

- Most importantly make time for the new recruit at the start. Don't start them and then go into back-to-back meetings for the next two weeks. Schedule time in your diary just for them.

There are some candidates who may need just a little bit more support at the start: those who are new to the world of work. In this instance don't forget the small things like explaining when and where they can take lunch and breaks, what is considered appropriate attire, where the toilets are (and let them know they don't need permission to go to the toilet, this is something that a school-leaver may need to be made aware of!).

Introducing a workforce development policy

Organisations that wish to follow fair practice approaches to recruitment may find it useful to put in place a workforce development policy. Organisations of all sizes can introduce one of these to help set clear boundaries for a company and its staff. Doing so can help nurture the organisation's desired recruitment culture for the future.

When introducing a workforce development policy, try and consider the following:

- What your company wants to offer and what it doesn't. It's much easier for staff if they know when an organisation does or does not offer work experience and paid internship positions. This way, when asks are made to the company all staff can respond in line with the company's policy.

- Set out what you want to achieve through the workforce development policy, such as training individuals in specific roles where you have skills needs or wish to diversify a team. This will also ensure that the opportunities you offer are meaningful.

- If work experience or industry placements feature in your policy, you may want to specify when in the year you'll make opportunities available and why, for example you may run a seasonal programme and want to help someone learn during times when the organisation has more work.

- Who do you want to prioritise creating development and employment opportunities for? For example, if 80% of your organisation is made up of graduates, could you look at ways to increase non-graduate employment? Although employers cannot discriminate with regards to the 9 protected characteristics in the Equality Act, there are situations where there may be an objective justification for what might otherwise be an indirectly discriminatory policy or practice. However, you should always take specific professional advice before rolling out a policy that might place those with a protected characteristic at a disadvantage, and be sure that the policy is proportionate in its impact and has legitimate intent.

- Think about whether your workforce development policy is solely about your business or is designed to do some greater good and make this clear.

Workforce development policies don't need to be complex, they can be constructed as follows:

The introduction – say why the company has this policy and what it hopes to achieve through it.

Types of opportunities offered – specify what types of opportunities the company will offer such as Industry Placements, Apprenticeships, Paid Internships or Volunteering opportunities. Define in what areas each of these roles will be created and state how many opportunities a year you hope to create (if the answer here is on a project by project basis then it's fine to state this). Where existing roles are to be recruited to, outline in the policy the steps the organisation will take to ensure a role is fit for purpose. Think about objectively reviewing the role in relation to the organisation's current needs and update the job description before advertising the position.

Spell out the recruitment process – outline the steps the company will take when recruiting to new opportunities, whether it's work experience or the next CEO. Think about the advice set out earlier in this guide and see if there are things you could introduce that would make recruitment more accessible, inclusive and fair. Set a standard for your company and then encourage all staff to work to it.

Key personnel – identify who in the organisation is responsible for the policy and for creating different types of opportunities. It might be the same person for each of these, or it may be different personnel depending on the type of opportunity or the area of the business it aims to support.

Support during an opportunity – state in your policy the level of support, guidance and supervision each type of opportunity will receive as standard. This is also a helpful way to clarify for existing personnel what their obligations might be here.

Progression – be clear with candidates from the start. Don't guarantee future work for someone if you can't do this but be clear from the beginning about what the organisation's position is. Don't leave it until the last week of their placement or employment to let them know! Do try and support candidates to progress following their time with you, give them advice about places they can look for relevant work or further experience and help them identify the skills and knowledge they have gained whilst with you.

Most importantly, make sure the workforce development policy is **real and true**, don't just write one and let it sit in the background, make sure it is an active policy that helps drive your organisation's culture and ways of working.

Let's make change happen

We know change can be hard and recruitment can sometimes feel more like a task that has to be undertaken rather than an exciting opportunity to further shape our workplaces and our creative outputs. If we stop to ask ourselves what it is that really makes workplaces happy, healthy and productive we'd probably all come to the same conclusion: people.

Given this, it seems short-sighted to risk overlooking the importance of getting recruitment right, investing time and energy into making our workplaces open to all, and using different employment and work experience routes to mobilise talent, however different that talent might be from what we've known before.

We hope this guide has provided some helpful food for thought, supporting you to stay on safe ground whilst encouraging you to think about the entry routes you create, along with some simple steps you could take to help you open your doors more widely.

If our sector has secured its place as a world leader when it comes to creative outputs, surely, we should be striving to achieve the same when it comes to diversity and inclusion across the workforce.

Useful resources and websites

This section has links to resources which you might find useful to refer to. This includes links which have been highlighted throughout the document.

Different types of work and workforce development

Skills Development Scotland

Apprenticeships.scot

Creative & Cultural Skills

Volunteer Scotland

ScreenSkills

Volunteering for All: Volunteer National Framework

The Illustrated Freelancers Guide

Volunteering Action Plan

Fair Work

Real Living Wage
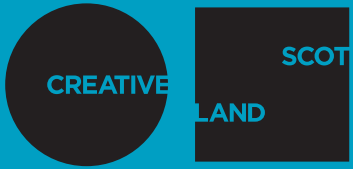
National Minimum Wage

Fair Work Convention

Fair Work First Action Plan

BFI Diversity Standards - Screen Scotland pilot

Creative Scotland **Rates of Pay Guidance**

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