

ANNEX D

To *Jo Swinson*
From [REDACTED], *Labour Market x* [REDACTED]
Date 28 January 2013

**Meeting with Mike Crockart MP and Gus Baker (Intern Aware),
1 Victoria Street, Room 847, 1pm to 1.30pm, Wednesday 30 January**

Purpose

- o Meeting with Mike Crockart MP and Gus Baker (co-founder of Intern Aware) to discuss minimum wage legislation and its impact on young people.

Attendees

- o Mike Crockart MP for Edinburgh West
- o Gus Baker, Intern Aware
- o [REDACTED], Labour Market Directorate
- o [REDACTED], Labour Market Directorate
- o [REDACTED], HM Revenue & Customs

Our objective

- o To ensure that Mr Crockart and Intern Aware understand the Government's position on interns and the minimum wage and the work we are doing on enforcement.

Their objective

- o Mr Crockart requested this meeting to discuss minimum wage legislation and its impact on young people.

Issues or elephant traps

[REDACTED]

Background

CC list

[REDACTED] Ceri Smith, Bill Wells, Gaynor Ithell, [REDACTED]
[REDACTED]

Briefing

- o See overleaf.

Agenda Item:	Issues to raise and points to make:
Internships (Advertising and Regulation) Bill	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> [REDACTED]
Legal position - internships and the minimum wage	<ul style="list-style-type: none"> If an internship meets the legal definition of a worker, then they are subject to minimum wage legislation and must be paid at least the minimum wage from the start. [REDACTED] An employer can only take on an intern on an unpaid or "expenses only" basis where the intern is undertaking work on a voluntary basis. If an intern is not a volunteer, as defined by law, they are entitled to the minimum wage.
Minimum wage enforcement for interns	<ul style="list-style-type: none"> Effective enforcement is extremely important in ensuring that the minimum wage remains a success. [REDACTED] HMRC will evaluate their targeted enforcement campaign in the fashion sector [REDACTED] A key challenge is how to encourage interns who on the face of it are workers to contact the Pay & Work Rights Helpline. There is a limit to what we can do through targeted enforcement work without jeopardising other minimum wage projects. [REDACTED]
Minimum wage enforcement for interns - advertising	<ul style="list-style-type: none"> HMRC have met with Intern Aware and have written to websites advertising unpaid internships that you have identified. The letters to the websites have highlighted that it is illegal for employers not to pay the minimum wage if the intern has a contract or arrangement with their employer which makes them a worker.
Guidance/ information for interns	<ul style="list-style-type: none"> [REDACTED]

Additional briefing

Minimum wage enforcement for interns

- Effective enforcement is extremely important in ensuring that the minimum wage remains a success.
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] HMRC are more than willing to work with interested stakeholders and, in the past, have worked successfully with BECTU.
- A key challenge that we face is how to encourage interns who on the face of it are workers who are entitled to the minimum wage to contact the Pay & Work Rights Helpline. There is a limit to what we can do through targeted enforcement work without jeopardising other minimum wage projects, e.g. projects in the social care or hotel cleaning sectors. Calls to the helpline from anyone who appears to be working for no pay or 'expenses only' are currently being fast tracked and a recent communications campaign to promote the helpline emphasised that calls to the helpline were confidential.
- We have also worked with Intern Aware in the past to promote the message that interns can complain up to 6 years after they were unpaid. So whilst current interns may be reluctant to come forward there is nothing to stop former interns from making a complaint. Additionally we have worked hard to use social media to target low-cost communications at the intern audience. We would welcome any ideas you have on this and in particular how we can encourage interns and former interns to come forward.

Organisation and biographies

Background on Interns Aware

Intern Aware is a small but vocal lobby group for paid internships. They are of the view that unpaid internships are exploitative, exclusive and unfair.

They campaign for a shift in public attitudes towards fairness and effects of unpaid roles on social mobility.

Intern Aware have a close relationship with Rt Hon Hazel Blears MP, a strong advocate for banning unpaid internships.

BIS and Cabinet Office officials have recently met with Mr Baker where he raised issues around advertising internships, increasing awareness of the Pay and Work Rights Helpline, using the Naming policy more and the possibility of government using financial incentives to employers who pay their interns. Officials committed to consider the points raised.

Biography – Gus Baker, Intern Aware



Mr Gus Baker is the founder and Co-director of Intern Aware. He is an official at BECTU (Broadcasting Entertainment Cinematograph and Theatre Union). He was the president of the University of Bristol Students' Union. He is a Labour Party Activist and a lawyer-in-training.

Background

Internships – position under minimum wage law

There is no definition of an internship in minimum wage legislation. Interns are considered in the same way as everyone else with regards to whether the minimum wage is due.

The key issue is whether or not they are a worker as defined by minimum wage legislation. If they are, then they are eligible for the minimum wage unless a specific exemption applies. Volunteers are not workers and are not eligible for the minimum wage.

Whether or not an intern is a worker depends on the contract or arrangement they have with the employer. A worker is someone who works under a contract of employment or any other kind of contract (express or implied) whereby they undertake to do work personally for someone else (and they are not genuinely self-employed).

A contract does not have to be written and can be oral or implied. Key elements in establishing whether someone has a worker's contract include:

- whether there is an obligation on the individual to perform the work and an obligation on the employer to provide the work, and
- whether the individual is rewarded, or entitled to be rewarded, for the work by money or benefits.

Each case has to be considered on its individual facts.

It is legitimate for employers to offer unpaid or 'expenses-only' opportunities where the individual is acting as a volunteer. The term "volunteer" is not defined in legislation because it is sufficient that an individual is not a worker. There is extensive case law considering the statutory definition of "worker" in the context of specific factual scenarios, including where the individual is found to be a volunteer.

In general, a volunteer is someone who gives their services free of charge. They are not paid or given benefits in kind and only given training to do their job. Volunteers have no employment contract relationship with the employer; they are not required to provide their services and the employer has not committed to provide work. Volunteers can be reimbursed out-of-pocket expenses, provided training to undertake their role and can be given small unexpected gifts to thank them for volunteering.

Additional background information (from Mike Crockart's website)

Mike Crockart supports Hazel Blears' Internships Private Members Bill.

The Bill seeks to ban advertising long-term unpaid internships. It is hoped that a ban on advertising such positions will encourage companies to pay their interns, making them accessible to people from all backgrounds.

Competitive fields like the media, fashion, and finance are particularly prone to offering young people long stints as unpaid interns. Whilst the experience is excellent, the lack of paid work means that the system favours those from wealthier backgrounds. Making all long-term internships paid would make them more accessible to those who cannot afford to work for free, and would be of benefit to those who live outside of London, where the majority of internship opportunities are located.

The Bill has cross-party support with sponsors including Julian Huppert MP, David Miliband MP, and Eric Ollerenshaw MP.

Commenting, Mike Crockart said:

"I am delighted to give my support to this Bill. We need to close the loophole which allows companies to advertise long-term unpaid internships and Hazel Blears' Bill brings us a good way closer to doing just that.

"The position of 'intern' has no legal status in this country, but has developed over recent years to fill the grey area between 'volunteer' and 'worker' in employment legislation. It is already illegal not to pay the National Minimum Wage where a person is working set hours with specific duties. But companies are still working within the law if they advertise such positions. This is absolute nonsense and we need to close the loophole.

"I am working closely with Intern Aware to tackle the problem of unpaid internships; so I know just how widespread these unpaid positions are. Offering placements which provide valuable experience and opportunities without paying the going rate excludes people from poorer backgrounds from gaining all important industry know-how.

"I have had two apprentices in my office through the Parliamentary Placement Scheme. It's a great initiative which makes a career in politics accessible because those taken on are paid a proper wage. I would like to see this kind of properly administered scheme extended into other industries.

"I believe in fair pay for a fair days work; for smaller companies this may mean paying the minimum wage to interns, but for others it will mean adopting the Living Wage. "In today's challenging job market, it is essential that the same opportunities are available to everyone, regardless of economic background."

- 20% of 18-24 year olds have undertaken unpaid internships and those from higher social classes are three times more likely to undertake unpaid internships according to the respondents of a recent NUS survey.
- From the same survey 52% of respondents said they felt an internship was an important step for a career in politics. The Parliamentary Placement Scheme was brought in to make routes into a career in politics more accessible and to diversify the profession.
- Intern Aware work to represent exploited interns and to make them aware of their rights