

## **Unifrog and work experience – the legals**

In most countries:

- The placement provider (i.e. 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 Risk Assessment (RA), Health & Safety (HS) and insurance 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 RA and H&S policies need to consider young people who might not be familiar with workplaces.
- Parents/caregivers of students under 18 need to agree to the student going on a placement.

### **Some common placement myths**

Over the years an industry has developed of third parties that charge schools to support them with their work experience programmes. Some of these organisations claim the following things - which are not true - and in this guide we debunk them:

- You need a specialist qualification to sign off on a work experience placement
- All - or the majority - of work experience placements must be visited
- If a placement lasts longer than 3 days, the employer must have a criminal records check
- By not using a third party, a school is somehow putting itself or its students at risk

### **Keep calm, and run a placements programme**

The main reason Unifrog have created their 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/caregiver to agree to the placement.

*Note: This guide is particularly based on UK law. Most countries have similar rules in place, but if you're involved in a placement outside of the UK, check the local law. For placements not in the UK, we handle the Insurance, Health & Safety, and Risk Assessment sections differently from placements in the UK - for example rather than asking for the Employers' Liability Insurance certificate, we ask for detail on how the placement is insured.*

## **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 information 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 who can then pass this on to the DSL.

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

### **Does someone from the school/college, or an external organisation hired by them, need to visit the workplace?**

The short answer is that in-person checks are only necessary in unusual cases.

The school/college's responsibility is to take reasonable steps to assure themselves that the employer is acting responsibly, and that the student will therefore be safe during the placement. If you follow the standard steps on the Unifrog placements tool (doing things like finding out from the employer what the workplace is like, what the overview of the placement is, and checking that they have a RA and H&S policy), then for most employers and their workplaces, and for most students, it is **not necessary** for someone to do an in-person check ahead of a placement happening, or during the placement.

Also, you do not need specific training in Health & Safety to make this judgement.

Someone coordinating placements at a school/college might decide that an in-person check is necessary if the specific workplace, or the specific student, make them think that this would be a good idea (for example, the workplace might involve heavy machinery, or the student might have special needs).

There is no rule that for placements involving students below 16 there should be an in-person check, though you should of course take into account the student's maturity in your overall assessment of the risks involved in the placement.

### **When does an EMPLOYER hosting a placement need to have a criminal records check (e.g. a DBS check)?**

The 'Keeping children safe in education' (KCSIE) statutory guidance says (to read it yourself, [here's the link](#) - the relevant parts are paragraphs 332 to 337):

- Schools / colleges should decide whether to check if an adult is barred from working with children based on the specifics of a particular placement.
- Normally checking means having the relevant adult do an enhanced DBS check, including the children's barred list.
- A check might be necessary if all 3 of these apply:
  - The student is likely to ever be on their own with an adult, without a second adult present, and
  - The student is pre-16 at the end date of the placement, and

- The placement will last more than 3 days or runs overnight.
- For placements where the student is 16+, the school cannot request a DBS check of the employer

On the Unifrog Placements tool:

- We strongly 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 student is likely to ever be on their own with an adult, without a second adult present, AND the student is pre-16 at the end date of the placement, AND the placement will last more than 3 days, we:
  - Ask the employer if they can ensure that relevant adults are not barred from working with children, and explain that this normally means that they have had a DBS check
  - If the employer says 'no' to the above, we flag this fact extremely clearly to the school/college placement coordinator, explaining that they should likely refuse permission

<p>* Is the student likely to ever be with only one adult, without another adult present?</p>	<div>Yes</div> <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>	<div>---- select ----</div> <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 (e.g. 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 (i.e. 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**.

One other thing: it's not possible for someone under the age of 16 to have a DBS check.

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. This ability is taken away if the student is under 16.

## Insurance

- What type of insurance is needed?

When people talk about the insurance that is required for placements, they are (or should be!) talking about Employers' Liability Insurance (ELI). This financially safeguards an employer against allegations of injury or illness to employees arising out of their employment, and in so doing it also safeguards employees, because it means that there will be money available should the employee make a successful claim. With a few edge-case exceptions (detailed below), it is a legal requirement for any employer.

In the UK and in many other countries, students on a placement are treated as employees of the employer for the purposes of insurance - so it's important that the employer has ELI in place.

Separately, the employer **may** have a **Public Liability** insurance policy, which 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 a 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, they should contact their insurer or the broker who arranged the policy.

- Does all Employers' Liability Insurance cover students on placements?

If the student will be working for the employer for longer than 2 weeks, normally employers need to notify their insurer about the placement.

The employer should also check whether the Employers' Liability Insurance covers young people who are less familiar with workplaces:

- In the UK, a normal Employers' Liability Insurance policy will cover work placements provided the insurer is a member of the Association of British Insurers (ABI), or Lloyds, so there is no need for additional Employers' Liability Insurance

- 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.

### **When might a placement host be exempt from needing Employers' Liability Insurance?**

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, i.e. 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.

More detail on sole traders and Employers' Liability Insurance:

- A sole trader does not have a legal obligation to have ELI, including when they host someone on work experience.
- Despite the fact that it's not a legal obligation, the ABI and individual insurers tend to advise sole traders to take out ELI when they host a student on work experience - obviously the ABI and insurers have a vested interest in advising people to take out insurance!
- Schools / colleges *could* decide that a sole trader must have ELI to host work experience, but they need to balance this against putting up unnecessary hurdles to students going on work experience, and they should also remember that the risk in not having this insurance actually lies with the sole trader rather than with them.
- A limited company that only employs one person - which is different to the legal status of a sole trader - *does* legally need to have ELI.

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 (even for a normal low risk placement, the UK's Health & Safety Executive recommends that schools / colleges see a copy of the employer's insurance certificate).
- Employers upload their insurance certificate straight into the form. If they are blocked from doing this (a rare occurrence normally caused by an employer's firewall) then the form allows for them to email it to the placement coordinator instead.
- If the Employers' Liability Insurance 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 after 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. Even though it doesn't legally need to be written down, an employer 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/caregiver or student to 'approve' or '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 (e.g. 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>E.g. Slips and trips</i>	<i>E.g. Staff and visitors may be injured if they trip over objects or slip on spillages.</i>	<i>E.g. All areas well lit, including stairs.  No trailing leads or cables.  Staff keep work areas clear.</i>	<i>E.g. Better housekeeping in staff kitchen needed, e.g. on spills.  Arrange for loose carpet tile on second floor to be repaired/replaced.</i>	<i>E.g All staff, supervisors to monitor  Manager to organise for carpet to be repaired.</i>	<i>E.g. 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 employer is asked to upload a copy of their Risk Assessment into the form (if they are blocked from doing this by their organisation's firewall, the form allows for them to email it to the placement coordinator instead; the employer can also indicate that they cannot provide the document at all, in which case they have to explain themselves, and their explanation is shown to all other parties). The placement coordinator can choose to give permission for the placement to happen before receiving these documents - it's totally up to them. As we've already said, it's not the role of the school/college, parent/caregiver, or student to 'approve' or 'sign off' on the policy.

## **Fire Risk Assessment**

In England, workplaces and business premises (except for single-family private homes), regardless of the number of employees, must have a Fire Risk Assessment. If there are fewer than 5 employees it doesn't necessarily need to be written down, though all the same it's a good idea to have it in writing. Wales, Scotland and Northern Ireland have similar requirements.

The responsibility for the Fire Risk Assessment might be the landlords, but in many cases, it is also the responsibility of the employer that uses the workplace.

An excellent source of best practice on Fire Risk Assessments is [this page](#) on the government's website. It includes guides specific to different sorts of workplaces.

Find the UK government's simple Fire Risk Assessment checklist [here](#).

On the Unifrog Placements tool, on the Employer initial form, we ask the employer to confirm that their organisation follows the Fire Risk Assessment rules for England.

## 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.

A Risk Assessment forms part of a Health & Safety Policy, but the H&S 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/caregiver or student to 'approve' or '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, an employer 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 to upload a copy of their Risk Assessment into the form (and - if they are blocked from doing an upload - the form allows for them to email the RA to the placement coordinator; the employer can also indicate that they cannot provide the document at all, in which case they have to explain

themselves, and their explanation is shown to all other parties). Again, if the placement coordinator wants to, they can give permission for the placement to happen before receiving these documents. As we've already said, it's not the role of the school/college, parent/caregiver, or student to 'approve' or 'sign off' on the policy.

## 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 (e.g. a parent/caregiver), 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 - i.e. 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:

- **Employers' 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 business.
- If the placement is happening **totally separate** to the school or college (e.g. 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 built the Unifrog Placements tool to be as straightforward as possible so that it doesn't put people off from taking the safe option.

## **Do volunteers count as employees?**

This question is important because the rules on whether an employer needs to have Employers' Liability Insurance, and written RA and H&S policies, are affected by whether an organisation has employees, and how many it has (see above!)

Volunteers are considered employees for the purposes of insurance if they act like and are treated similarly to employees, for example if their expenses are paid, if they volunteer regularly and in a consistent way, and if they are provided by the organisation with materials and detailed direction to do their volunteering. If a volunteer has a contract, then they should definitely be considered as an employee.

In some cases, it will be very clear that a volunteer should be considered as an employee for the purposes of insurance and RA and H&S policies, and in other cases it will be a judgement call. An organisation should consider taking legal advice to help make the judgement call.

On the Unifrog Placements tool, on the Employer initial form, an employer can select that they have '0 employees (e.g. only volunteers)'. If an employer selects this option, we invite them to upload an Employers' Liability Insurance Certificate, though (as long as they provide an explanation) they can say that they don't have one. The system treats them the same as an organisation with employees when it comes to their Health & Safety Policy and Risk Assessment.

## **Can a student go on a placement if the employer doesn't have some or all of the normal paperwork?**

Whether a school/college can give permission for a student to go on a specific work experience is a judgement call for the school/college. There is no rule that says: without seeing a particular document (even when it's asked for by the Unifrog Placements tool), a work experience can't happen.

For work experience a school/college's role is to take reasonable steps to assure themselves that the employer is acting responsibly, and that the student will therefore be safe during the placement; the purpose of getting sight of paperwork is just to help the school/college with checking that the employer is acting responsibly. There are various legitimate reasons for why an employer might not have paperwork, and in addition the government guidance says that it's not the role of the school/college to 'second guess' or 'sign off' on particular documents.

On the other hand, if an employer can't or won't provide paperwork, and the school/college feel that this means they can't assure themselves that the employer is acting responsibly - it's fair enough for them to refuse permission for the placement to happen.

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