

Paid Tutors? Advice to U3A Committees

1. Introduction

For many years there has been discussion on the circumstances in which U3As should make payments to non-members for services. This document is designed to provide guidance on the issue of paying or not paying for tutors in the U3A Movement.

1.1 What is your U3A?

- U3A is a mutual aid organisation in which its third age members' interests, skills and experiences are shared for reciprocal benefit. Our self-help learning principle is: by the members for the members.
- The key to U3A is the mutual aid principle. No payments are made to members for services rendered to any U3A. There is no distinction between the learners and the teachers - they are all U3A members.
- Each U3A is operationally independent, but as a member of The Third Age Trust agrees to follow the principles of the U3A Movement.
- Being a self-help learning co-operative is what makes U3A unique.
- The Vision, Mission and Principles of the U3A Movement are laid out in the Trust document Going Forward 2014-16 and are the pillars of our Movement

1.2 What is the Relationship between my U3A and the Third Age Trust?

The Third Age Trust is the national support and advisory body for U3As in the UK. The members of the Trust are the UK U3As, not the individual members in those U3As. The Trust consists of the elected volunteer Trustees on the National Executive Committee (NEC) and the staff attached to the National Office. The Trust cannot direct U3As but has a duty to advise on good practice and on hazards to be avoided.

The Trust cannot absolve individual U3As of consequences of their actions. There is no such thing as 'Head Quarters' or 'Head Office'. If there were such entities, U3As would have very different constitutions from current ones and lose much of their current operational independence.

At least in England and Wales each individual U3A is itself a charitable organisation. Those with charitable income above a specified amount must be registered. Members of individual U3A committees are themselves Trustees of that U3A. As such, they are legally responsible for all decisions taken for the running of that U3A. Hence the Trust provides advice to U3As but does not manage the operation of an individual U3A and cannot be responsible for its operation. Although the Charity arrangements in Scotland, Northern Ireland and the Isle of Man are not the same as in England and Wales, the differences are not material to normal U3A activities.

1.3 Background history

Paying 'monthly meeting' speakers was essential in the early days as otherwise U3As would have been too inward looking. Ever since the movement started there have been interest groups where individual members joined together to pay for trips to theatres, concerts, places of historical interest, starting

points of walks, geological or archaeological sites, etc. All of these are clearly within the accepted ethos of the movement and covered by our insurance subject to restrictions on dangerous activities.

Over the years many U3As have kept strictly to the original guidelines and have avoided organising interest groups led or tutored by non-members who would have had to be paid. Such an approach is, and remains, a central guiding principle of the U3A Movement.

However, over the years, some U3As have paid, directly or indirectly, for non-members to take various levels of responsibility for some interest groups.

The Trust agreed at the September 2014 post AGM question time to provide advice to U3As on the issue of paid tutors. This is the response, having listened to and considered all the comments we have received on the matter.

2 The National Executive Committee Position on Paid Tutors in 2015

The NEC believes that the arguments for not paying tutors are very strong. Historically the movement has been very successful in a climate where adult/further education colleges have found it very challenging to make non-vocational courses viable. The aim of the U3A Movement is for members of interest groups to contribute, in many different ways, to the success of the group without the assistance of non-U3A members. The NEC believes strongly that this mutual learning model is as appropriate today as it was when the U3A Movement was founded in the early 1980s. Much of the fun is provided by the mutual help within a group. We believe that lack of internal expertise is not normally a valid reason for paying a tutor. It is surprising how rapidly a group of people can develop, without any significant initial knowledge, into a group who engage in serious study and even research. Being 'all in it together' enhances self-confidence and groups without an expert are some of the most satisfying in a U3A. Having an expert, particularly a paid tutor, can easily stifle these highly desirable outcomes.

2.1 Practical Advice: Avoiding Paid Tutors

The Trust fully recognises that there are cases in a U3A where a substantial number of members want to engage in an activity where they are not willing to operate purely internally. In such cases we believe U3As should do the following and only consider the possibility of paid tutors when all else fails:

- Investigate involving members of another, reasonably local, U3A. This could be either to get the group started, or to contribute to it on a longer term basis. A member of another U3A cannot be paid a fee, but out of pocket travelling expenses would normally be paid.
- Investigate if local provision for the Group already exists or could be made available under the auspices of a non-U3A organisation e.g. a local authority, commercial body, Age UK.
- Investigate using expert non-member(s) to advise, for a few sessions, on the subject required.

(Some payment may be necessary.)

- Ask an interest group that wishes to use paid tutors on a continuing basis to operate completely outside the auspices of the U3A. This may be the most practical option for some indoor physical activities such as Pilates etc. If the group is external to U3A and is not part of the U3A advertised programme the U3A is clearly not involved. (Any person organising such a non U3A group needs to be aware of the pitfalls including those discussed in section 2.2 below.) Activities organised by Universities, Colleges, Museums and other entities that are available to U3A members but are not part of U3A are surely welcome. As such, nobody would object to them being mentioned in a U3A's Newsletter.

It is a key part of U3A ethos that costs of membership are kept as low as possible so that, ideally, nobody should be debarred from U3A membership on cost grounds. Hence any additional costs that may arise from the above suggestions should fall exclusively on members of the particular interest group.

For information the Trust will be offering workshops designed to help U3A groups' coordinators and other committee members to improve participation in interest groups. These are also intended to help U3As to get groups going in cases where coordinators/leaders have proved elusive.

A U3A committee may have to choose between not having the particular interest group within the U3A or paying a tutor on a relatively long term basis. From the above, it is clear that the Trust believes that the best option is not to have the group in the U3A. Such an approach does not preclude the interest group from developing, at a later date, within the U3A as new members join or when an unpaid leader/coordinator/tutor emerges. This is the safest route for protecting the U3A and its committee as Trustees of their U3A from difficulty in the future.

2.2 Practical Advice - Potential Problems Concerning Paid Tutors

If a U3A does follow or contemplates following the paid tutor route, we believe it is essential to recognise that there is a dilution of the principles of the U3A Movement and that, in addition, the following steps are taken by the particular U3A committee.

- The existence of the group is authorised by the U3A committee to ensure that legal and financial arrangements do not put that U3A at risk.
- Neither central funds (nor contributions from other interest groups) in an individual U3A are used to cross-subsidise groups using paid tutors.
- Every U3A committee currently supporting a paid tutor group or contemplating one continually monitors the status of any tutor under employment and tax law (which may not always be the same).

If you are considering a paid tutor it is incumbent on you to make an informed judgement on the employment status of that individual. The best and recommended way to do this is to use HMRC's Employment Status Indicator (<http://www.hmrc.gov.uk/calcs/esi.htm>) which, on the basis of the information you supply, will provide an answer on the individual's employment status. If the result is 'employed' you should not continue with that person.

If the result is 'self-employed' you must print or save copies of the Enquiry Details screen and the ESI Result screen which will include a 10 digit reference number. This is very important because if the worker's employment status is ever questioned you will be required to produce these copies. In addition you should draw up a written agreement which should state that:-

- It is a contract for services and the tutor is self-employed and responsible for his/her own tax and national insurance.
 - If a session does not take place the tutor is not entitled to payment.
 - The content of the lesson is the responsibility of the tutor.
 - All equipment must be supplied by the tutor.
 - The tutor is responsible for his/her own insurance and must provide a current cover note.
- The U3A Committee needs to continually monitor the paid tutor's Public Liability Insurance Policy as the U3A Insurance Policy covers U3A members only. The tutor's National Insurance Number, Unique Tax Reference number in respect of Self-Employment and copies of Professional Qualifications need to be held on file. (The fact that a tutor has a self employment status is not sufficient evidence of self employment as regards a U3A as an individual tutor can be classed simultaneously as self employed for one source of income and an employee for another.)
 - The U3A Committee needs to accept that the Third Age Trust cannot give any advice on insurance or any other topic that relate to interest groups using paid tutors.

3 **Recommendations**

Given the dilution of the unique ethos of U3A, the alternative options available and the

difficulties of protecting the U3A and its members from legal challenges and HMRC penalties, the NEC recommends individual U3A Committees, as the Trustees of their U3A, to adopt a policy of not having interest groups that require paid tutors.

In all cases a U3A Committee is strongly recommended to take all precautions including full consideration of the legalities and not to feel pressurised by non-Trustees (i.e. by members not on the committee) who would not have to shoulder the responsibilities taken on by the Trustees.

National Executive Committee - January 2015