

## **Volunteers and the law**

The law applies to volunteers but few laws specifically reference volunteers: their rights, such as they are, are the same as for citizens generally; there are the main areas where the law can affect volunteers:

### **Health and safety**

- Duty of care must be protected at all times, by insurance and by good practice. Consider what is “reasonable” for your organisation:
  - Duty of care to volunteer (what you ask them to do, and what could happen as a consequence)
  - Duty of care to people working with the volunteer (other volunteers and staff)
  - Duty of care to service user/customer

Steps to take:

- Insurance
- Vetting (Application forms, interviews, CRB checks, probationary period)
- Risk assessments
- Review practice

### **Employment law**

- Volunteering may be seen as a job and so subject to contractual law (Consideration” and “intent”).

Steps to take:

- Avoid payment in excess of actual costs incurred
- Avoid mixing a person’s role between volunteering and sessional work
- Avoid any obligation about duration of commitment being compulsory

### **Safeguarding**

- DBS checks are there to
  - Deter inappropriate people from applying
  - Unable employers/volunteer involvers to learn about their offending history

Steps to take:

- Determine whether a DBS check is needed
- Have a procedure for dealing with ‘contras’
- Determine your organisation’s outlook is on what offences (and attitudes to those offences by the offender now is)

### **Volunteers from overseas**

- Protect your organisation against charge of letting people volunteer who are not allowed to. Check:

- Whether they are from EU or related country (Can always volunteer)
- Asylum seekers (Can always volunteer)
- From non-EU country and not an asylum seeker – check visa.

Step to take:

- Put on application form a question about whether applicant able to volunteer.

## **Tax**

- Avoid putting your volunteers into a position where their volunteering has a tax liability.

Steps to take:

You do not have to pay any expenses, though it's nice to do and helps you get the best volunteers, but if you are paying expenses, reimburse out-of-pocket expenses only

Pay out on no more than

- Travel, against public transport (or taxi) tickets or agreed mileage rate + parking that relates to volunteering
- Meals while volunteering
- Phone, postage costs
- Care of dependents
- Costs of protective clothing, special equipment

Retain all receipts and/or get signed statement of expenses incurred and only pay out against it.

## **Benefits**

- All major benefits allow the claimant to volunteer
  - Jobseekers must evidence that they are actively looking for work and can begin with one week's notice
  - Employment and Support Allowance (nee Incapacity Benefit). Claimants can volunteer but are asked to let their advisor know what volunteering they are doing (How much volunteering and what tasks, and what expenses they are getting. They need to be aware that their access to the benefit might be re-assessed if they evidence a low level of illness or disability. (Any issues encountered: ring VAL Helpline on 0116 257 5050)

Steps to take

Refer to up to date guidance from DWP and, if possible, support volunteers through these hoops.

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