

Section 7
Human Resources

7.1 Human Resources

Many community groups organisations are often not aware of their legal obligations as employers and do not keep up to date with new employment legislation. This can put an organisation at considerable risk and could lead to an organisation closing down. Legislation is continually being revised at national and European level and so expert advice is essential. Your chief officer and your Board of Trustees / Committee need to ensure that you have processes in place to ensure that you are complying with your legal obligations. You also need to choose the correct legal structure for your organisation once you decide to employ staff.

The management committee/board needs to understand the distinction between employees and volunteers and ensure that good practice in the recruitment and management of both staff and volunteers is in place.

Differentiate between volunteers and employees¹

NCVO states that volunteers are an important part of voluntary organisations. They often provide a flexible, motivated work force far beyond the financial resources of the organisation.

But while it is natural for voluntary organisations to wish to treat valuable volunteers on equal terms to paid staff, this cannot apply to written agreements.

When the distinction between volunteer and employee becomes blurred, voluntary organisations can find themselves with legal problems.

In a number of recent claims, voluntary workers won the right to be considered as employees and brought a claim against their employers for both discrimination and unfair dismissal.

Put your intentions in writing

Some organisations avoid written documents totally for fear that they may inadvertently create legal obligations toward their volunteers. However, recent rulings have shown that tribunals tend to rule on behaviour rather than language. A pattern of behaviour can represent a contract, even if there's no written document.

It remains good practice to put your intentions into writing when it comes to volunteers:

- Volunteer role descriptions and agreements can help both parties to clarify intentions and expectations, lowering the chance of a grievance arising in the first place.
- On a practical level, a written agreement can help the organisation ensure that practice does not breach the law or drift into dangerous territory.

But don't create volunteer 'contracts'

While organisations will wish to have detailed, formal contracts for paid staff, it is actually safer to avoid them when it comes to volunteers. They can lead to false expectations of obligation on both sides.

¹ <http://www.ncvo-vol.org.uk/advice-support/workforce-development/hr-employment-practice/managing-volunteers/legal-status>

For this reason, you must avoid setting out the volunteer relationship in terms of rights and obligations. Instead, express your goals as intentions, hopes, or policies. This reflects the voluntary nature of the arrangement.

This means you cannot offer training with the provision that the volunteer must work a minimum amount of hours for the organisation. Nor can you promise to provide recompense such as training or a job offer for the volunteer in return for his or her time.

Checklist

- Steer clear of words with a contractual connotation. Instead of words like 'contract', 'pay', 'employee', and 'employer', use words such as 'volunteer', 'intention' and 'relationship'.
- Safeguard against misinterpretation by including the following sentence: 'This agreement reflects the hopes and intentions of the volunteer and the charity, and is not contractually binding in any way on either party.'
- Differentiate between paid staff and volunteers. This does not mean you should not treat volunteers as fairly as employees. Organisations may wish to have an equal opportunities policy for volunteers, but this should be a separate document from any equal opportunities policy for staff.
- Remember you cannot 'require' anything of your volunteers. They cannot be bound by contractual obligations without being considered employees by employment tribunals. For example, if you think it would be best that volunteers remain with you for a certain period of time, you should phrase it such that it is not a demand, but only a hope 'that the volunteer have a long, pleasant stay' with your organisation. Such statements should be reflected in your working practice. Flexibility should be shown toward volunteers who fail to fulfil their expectations.

Volunteer Now ² states that whether your organisation is run solely by volunteers or has paid staff (or a combination of both), the Management Committee is responsible for ensuring that systems and structures are in place to provide effective management and support. Good people management helps to contribute to the organisation's overall effectiveness and its ability to achieve its objectives.

Your Management Committee members are also volunteers for the organisation who require support and training in order to carry out their role effectively.

The Management Committee is also responsible for ensuring that the organisation's policies and practices are compliant with relevant legislation, are kept up to date and that its employment practices are at an acceptable standard.

Where a voluntary organisation employs paid staff, the Management Committee is ultimately the employer. This of course brings additional responsibilities both legally and practically in terms of managing staff. The Management Committee do not usually directly line manage all staff or volunteers. However, they do need to ensure that:

- Appropriate policies and procedures for managing staff and volunteers are in place;

² <http://www.diycommitteeguide.org/code/principle/managing-staff-and-volunteers>

- Sufficient resources are provided to train and develop staff and volunteers to carry out their responsibilities; and
- Staff and volunteers are properly supervised and account regularly for their work.

Policy development involves identifying need, gathering information, drafting, consulting and review.