



## Volunteers and Employment Law

### Introduction

Volunteers are not employees and are not subject to employment law.

A volunteer:

- does not have employment rights: minimum wage, holidays, sick pay etc.
- has no obligation to continue – and the organisation has no obligation to provide a role
- Should not have a contract, either verbally, in writing or in practice, with either expressed or implied terms.

To make sure you do not create a contract of employment with a volunteer you should avoid:

- giving people flat rates for expenses
- providing training that does not apply to the volunteering opportunity
- telling a volunteer they must come in on a specific day

More information can be found on the [government website](#).

### Expenses

It is good practice to offer volunteers expenses incurred through volunteering for your organisation. Write an expenses policy and process which explains what sort of things can be claimed for. Make sure you have an internal agreement and budget in place.

Any volunteer can claim travel, lunch and any other expense as a result of volunteering. This applies to volunteers on benefits and volunteers seeking asylum.

Be clear about what can be claimed in your organisation, and what a reasonable amount is. This will depend on many variables, for example where you expect your volunteers to travel from and whether you provide lunch or ask them to buy it. Explain at their induction that volunteers must produce receipts and why this is important. Not everyone may have experience of doing this and it will avoid confusion later.

More information can be found on the [NCVO website](#).

### Benefits

Up to date advice on volunteering while on benefits can be found on the [Citizens Advice website](#) and on the [NCVO website](#).



## Volunteers from overseas

The rules on volunteers from overseas are complex and depend on the volunteer's country of origin. The most up to date guidance can be found on the [NCVO website](#).

## Refugees and asylum seekers

People who have refugee status or humanitarian protection, or who have exceptional leave to remain, and their family members, are allowed to do any type of work including voluntary work. Asylum seekers (people in the process of applying for refugee status) and family members are not normally allowed to work while their claim is being decided, but they can volunteer in both the public and voluntary sectors. This includes while they are appealing against a decision to refuse them asylum. More information can be found on the [NCVO website](#).

## Insurance

Your organisation should have an insurance policy that covers volunteers.

Volunteers should be covered, either under your organisation's employer's liability insurance, or public liability insurance.

Policies should explicitly mention volunteers because they may not automatically be covered, but including volunteers will not usually increase your insurance premium. If the tasks are high risk, then the insurance policies may need to be amended to accommodate this. Depending on the tasks involved, your organisation may need professional indemnity insurance as well as liability cover. Your organisation may also wish to take out personal accident insurance for their volunteers. This would cover volunteers that are harmed whilst volunteering, even if there is no negligence on the part of the organisation.

More information can be found on the [NCVO website](#).

## Safeguarding and Disclosure and Barring Service (DBS) checks

If your organisation is working directly with vulnerable adults and/or children or vulnerable young people under the age of 18, then you will need to write a separate safeguarding policy and procedure for vulnerable adults and children/vulnerable young people. These will:

- say how you will keep vulnerable adults and children/vulnerable young people safe
- outline the procedures to follow should a safeguarding incident occur.



The [NSPCC](#) has guidance on how to write a safeguarding policy for child protection as well as other training and advice.

The procedures need to link in to the Safeguarding Boards. In North Yorkshire these are the [children and young people safeguarding board](#) and the [vulnerable adults safeguarding board](#).

Both these websites have guidance and advice. Community First Yorkshire can provide template policies. Email [communitysupport@communityfirstyorkshire.org.uk](mailto:communitysupport@communityfirstyorkshire.org.uk) for more information.

Part of your policy should include who in the organisation needs a DBS check. A DBS check looks at where someone has a criminal record and is mandatory in certain roles such as child care.

Community First Yorkshire provides a [DBS](#) checking service.

The [Government](#) website provides more information on who should apply for a DBS check.

### Health and safety

Every employer with five or more employees must have a written health and safety policy. It should relate to the health and safety of their employees. However, every organisation has a duty of care to its workers so it is always helpful to write a health and safety policy. For smaller organisations with only one workplace a single document will usually be sufficient.



Safety problems will vary and it is important that the health and safety policy is a working document within your organisation. Staff should also be involved in the process of developing the policy so that they have a sense of ownership.

You should think about the following when writing your health and safety policy:

- What is the policy's purpose?
- What does the organisation commit to do?
- Who is responsible?
- Who will we consult with?
- How will we ensure safety?
- Procedures for training staff and volunteers in health and safety
- When risk assessments are done, and who does them
- First aid cover
- What happens in emergencies, e.g. fires
- Access to occupational health facilities or counselling organisations.
- Procedures relating to health and safety: specific breaks, lone working etc.

Further information can be found on the [government website](#).

### Copyright

Many volunteers donate their skills as well as their time to organisations by, for example designing or producing promotional materials. In these instances, the copyright for the material automatically belongs to the volunteer. Your organisation should therefore take steps to ensure you can reproduce or adapt materials in future.

You will need to gain permission to use works created by volunteers. You can ask the volunteer to sign a statement to the effect that:

- control of copyright is being given to the organisation
- control of copyright is being given in exchange for a small sum of money
- exchange of money relates to control of copyright for material produced, rather than for hours of work done
- the work may be used/replicated/reproduced in all possible scenarios.

The following statement can be used for this purpose: *I, [volunteer name], agree to assign copyright on the work I produce to [organisation name] in return for the sum of [e.g. 50 pence]. I understand that this means the organisation has control of copyright for material/work I produce, in a similar way to the control it has over material/work produced by a paid employee. I understand that this sum is payment for copyright on material(s) I produce or have produced and is not a payment for work.*

[Sport England](#) have some good examples of cases involving volunteers and copyright. The [Government](#) also has information.

### **General Data Protection Regulations (GDPR)**

GDPR legislation covers any personal or sensitive information that an organisation gathers or holds on staff, service users, volunteers and other third parties.

Everyone involved with your organisation will need to follow GDPR policy and procedures and new volunteers should receive training in how to do this.



The records you hold on any volunteers and also any information that volunteers may need to have access to as part of their volunteering role must be accessed, used and stored in line with GDPR legislation.

Community First Yorkshire can help with the writing of GDPR policies and procedures.

More information can also be found on the [NCVO](#) and [Civil Society](#) websites.

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### **Additional Support**

If you need any advice or support regarding the information outlined in this resource, Community First Yorkshire can help. Find out more about the volunteering support we offer on our [website](#), or simply fill in an [enquiry form](#) and we'll get back to you.

Don't forget, you can advertise your volunteering roles for free on our [Volunteering in North Yorkshire \(VINY\)](#) directory?

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