

# **Volunteers and the law: Key topics**

## **AVM Conference**

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# What we'll cover

- An overview of the legal position of volunteers
- Key topics
  - Avoiding contractual relationships
  - Health and Safety
  - GDPR
- Questions

# A confusing picture?

- Volunteers do not have employment rights
- There is no body of ‘volunteer law’ analogous to employment law
- Some legislation does include volunteers
  - screening
  - health and safety
  - welfare benefits

# A confusing picture?

- Volunteers retain the rights or protections we all share as citizens
  - GDPR
  - Health and safety
- In some rare circumstances volunteers can become workers or employees in the eyes of the law

# Volunteer or worker?

While volunteers aren't covered by employment legislation, it can be possible for some volunteers to be seen as workers or employees in the eyes of the law.

The key issue is whether or not there is a contract in place.

# What is a contract?

- consideration  
*(money or something of value exchanged)*
- intention  
*(was there an intention to create a binding agreement?)*
- Offer and acceptance

# Workers

A worker is someone who carries out work while under a contract (eg casual workers)

Workers are covered by the Equality Act, the National Minimum Wage Act and the Working Time Regulations

# How do we know where we stand?

An understanding of what constitutes a contract

Previous industrial/employment tribunal cases

Therefore...

It's ok to reimburse expenses, to provide training, and to have written policies and procedures

# Steps to take

Reimburse out of pocket expenses only

Avoid obligations – ‘you must work for us for 6 months’

Expect rather than oblige

Don’t sound too ‘employmenty’

# Health and Safety

## *Duty of Care:*

The duty of care is a legal obligation on all individuals and organisations to avoid carelessly causing harm or injury.

# Health and Safety

Section 3 of the Health & Safety At Work etc Act 1974, imposes a duty on every employer:

“to ensure, *as far as reasonably practical*, that persons not in their employment, who may be affected by their undertaking, are not exposed to risks to their health and safety” and “to give information as might affect their health or safety”.

# Health and Safety in practice

- Carry out risk assessments (Management of Health and Safety at Work Regulations 1999)
- Health and Safety Policy
- Induction
- Training
- Support and communication

# General Data Protection Regulations

- Strengthening of data protection responsibilities and the rights of ‘data subjects’
- Principles –
  - Lawfulness, fairness and transparency
  - Purpose limitation
  - Data minimisation
  - Accuracy
  - Storage limitation
  - Integrity and confidentiality (security)
  - Accountability

# General Data Protection Regulations

- Rights of individuals, including:
  - ‘right to be forgotten’
  - ‘right of access’
- The ‘right to be informed’
  - Concise, transparent, intelligible and easily accessible – and in plain English
  - Retention periods
  - Purpose of processing
  - Details of data controller/data protection officer

# General Data Protection Regulations

- Under what ‘lawful basis’ are you processing volunteer data?
  - Consent
  - ‘Legitimate interest’
    - Legitimate, necessary, balanced
- Privacy notice including (but not limited to)
  - Lawful basis
  - What you are doing with data and why

# Further information

NCVO

[www.ncvo.org.uk](http://www.ncvo.org.uk)

Legal updates from Sandy Adirondack:

[www.sandy-a.co.uk](http://www.sandy-a.co.uk)

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