



Community &
Voluntary Services
cheshire east

Volunteers and the Law

Welcome



Aims and Outcomes

Course Aim:

To support organisations to be aware of the Law and good practice in relation to involving volunteers.

Outcomes:

By the end of the session all learners should be able to:

- Understand legal requirements in relation to volunteering
- Apply good practice in relation to involving volunteers
- List the key documents needed to support your organisation and your volunteers

What is volunteering?

What is a volunteer?

- Volunteers give time, carrying out activities that aim to benefit community or society.
- Volunteers are unpaid and choose how they wish to give their time.
- Volunteering takes place in every sector from charities and not for profits to the public and private sector.

Definition of volunteering

- Any activity that involves spending time, unpaid, doing something that aims to benefit the environment or someone (individuals or groups) other than, or in addition to, close relatives. Central to this definition is the fact that volunteering must be a choice freely made by each individual.
(NCVO)

Legislation

Which of these do you think apply to volunteers?

- Equality Act 2010
- Copyright, Design and Patents Act 1988
- Health and Safety at Work Act 1974
- Charities Act 2011
- Data Protection Act 2018
- The Care Act 2014
- The Children Act 2004
- Rehabilitation of ex-offenders Act 1974
- Employment Rights Act 1996

Legislation

Which do

- Data Protection Act 2018
- The Care Act 2014
- The Children Act 2004
- The Charities Act 2011
- Rehabilitation of Ex-Offenders Act 1974

Which don't

- Copyright, Design and Patents Act 1988 (related to employees)
- Equality Act 2010 (related to employees or service users)
- Health and Safety at Work Act 1974 (if no employees)
- Employment Rights Act 1996

Volunteers have fewer rights and less legal protection than paid staff.

Contracts & Employment

What is a contract?

A contract:

- Doesn't have to be a written piece of paper signed by both parties
- Doesn't have to be a verbal agreement
- Is a description of a relationship

A contract must contain:

- An Offer
- An Acceptance
- Consideration
- An intention to create a legally binding relationship

Contracts & Employment

Reducing risk - avoiding entering into a contract

- Only reimburse out of pocket expenses
- Only provide training relevant to their role
- Avoid / reduce perks
- Reduce obligations on the part of the volunteer
- Treat your volunteers fairly
- Have a Volunteer Policy
- Organisation chart
- Put it in writing
- Use the correct terminology



Contracts & Employment

Terminology / Language

Do's	Don'ts

Contracts & Employment

Terminology / Language

Do's	Don'ts
Volunteering	Working
Volunteer	Staff / unpaid or free staff / workers
Volunteer Role / Description	Job Role / Description / Person Spec
Reimbursement	Payment
Agreement	Contract
Opportunity	Placement/ Job
Expectations	Obligations
We hope / prefer	You must

Contracts & Employment

Consequences of creating a worker/ employment relationship:

- being paid the minimum wage (if they are over school-leaving age)
- being covered by the worker provisions of the Equality Act 2010
- working no more than 48 hours per week on average (and all other rules in the Working Time Regulations 1998)
- having five to six weeks' paid holiday each year (pro rata).
- belonging to a trade union (and all accompanying rights, such as time off for union activities)
- receive statutory sick pay
- not be unfairly dismissed

Activity – legal cases and implications

Discuss each case in pairs – do they constitute a contract?

- Migrant Advisory Service v Mrs K Chaudri
- Gradwell v Council for Voluntary Service, Blackpool, Wyre and Fylde
- Murray v Newham Citizens Advice Bureau

Think about :
Consideration, Intention and Obligation

Volunteer Agreement

What to include

- Reasonable expectations of the role
- Details of out-of-pocket expenses
- Equality and Diversity
- Health & Safety information
- Confidentiality statement
- Regular support
- Data Protection

This agreement is in honour only and is not intended to be a legally binding contract

“This agreement is not intended to be a legally binding contract between us and may be cancelled at any time at the discretion of either party. Neither of us intend any employment relationship to be created either now or at any time in the future.”

Induction

What to include:

- Introductions
- General Information
- Health and Safety
- Training
- Introduction to their role
- Relevant policies
- Insurance cover

Volunteer Policy

What to include:

- Explaining how the volunteer fits into the organisation
- Recruitment of volunteers, inc. Equality & Diversity, DBS, etc.
- Role descriptions
- Induction and training
- Supervision and support
- Confidentiality and data protection
- Health & Safety
- Expenses
- Problem solving and complaint procedures

Gifts and perks

Gov.UK –

You are not paid for your time as a volunteer, but you may get money to cover expenses. This is usually limited to food, drink, travel or any equipment you need to buy. You might be classed as an [employee](#) or [worker](#) rather than a volunteer if you get any other payment, reward or benefit in kind. This includes any promise of a contract or paid work in the future.

Incentivised Volunteering

- Future employment
- Time credits
- Local schemes
- Payments in kind, such as meal vouchers or theatre tickets
- Discounts / Purchases

Expenses quiz

True or false?!

I can give my volunteers £5 per week to cover their expenses

False – it needs to be out of pocket expense

I can give my volunteers 20p per mile for them cycling to the office

True – providing they are visiting the office to volunteer

My volunteers can donate their expense back to us

True – providing they actually claim the expenses, the donation can even be gift-aided

I can pay my volunteers 50p per mile for using their car

True and False – the HMRC rate for car mileage expenses is 45p/mile. Over this may be taxed...

Expenses a Volunteer can claim

Expense payments must be for the actual cost of the expense. Typical expenses include:

- Travel to and from the organisation (or wherever the voluntary role is taking place)
- Travel (on behalf of the organisations) while volunteering
- Meals while volunteering
- Post and phone costs
- Care of dependants (e.g. children or elderly parents) while volunteering
- The cost of protective clothing or special equipment needed for the role.

Copyright

- Take care...copyright differs for volunteers vs employees
- Any activities undertaken by the volunteer – such as websites/ design will belong to that individual and not your organisation
- Ensure that copyright is included in the volunteer policy/ procedure and induction and the volunteer is asked to sign over so that it belongs to the organisation
- Have a copyright policy – and ensure this is made clear *before* the work starts

Data Protection

What data do you have on your volunteers?

Only collect what you need

How to store personal data

How long to keep it for?

People have the right to be erased

Ensure volunteers know how to be compliant with Data Protection



Community &
Voluntary Services
cheshire east

20 min Break

Cyber Security

5 quick, simple, free or low cost steps

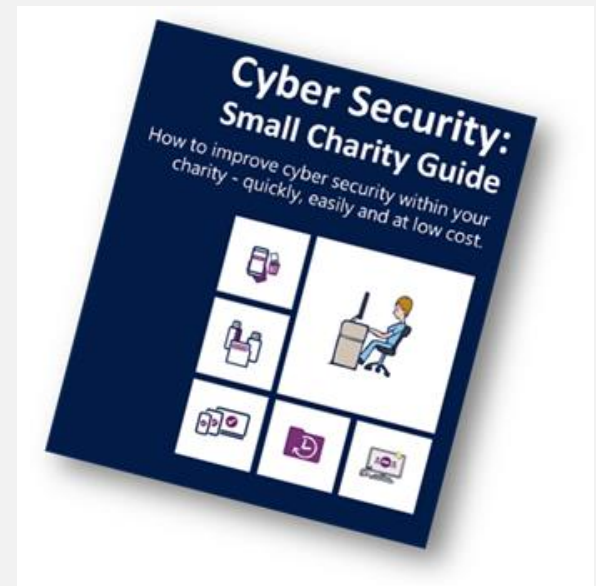
Backing up your data

Protecting your charity from malware

Keeping your smartphones/tablets safe

Using passwords

Avoiding phishing attacks



Safeguarding Legislation

For service users, volunteers and organisations....

- Children Act 1989 (as amended)
- Children Act 2004
- Children and Social Work Act 2017
- UN Convention on the Rights of the Child
- Working Together to Safeguard Children 2018
- Care Act 2014
- Care and Support Statutory Guidance – Chapter 14 relates to adult safeguarding
- Charity Commission Guidance



Safeguarding in Practice

Safer Recruitment

- Application form
- Interviews
- References
- Trial Periods
- DBS Checks

Ongoing

- Safeguarding Policy
- Safer Recruitment policy
- Induction
- Supervision and support
- Risk Management

DBS Checks

Do you need them?

- Is it legal? Is the volunteer carrying out 'regulated activity'?
- Correct level of check
- Correct workforce
- Portability?
- What happens if something appears on the certificate?

Rehabilitation of Offenders Act

Spent convictions

Community order or youth rehabilitation order = 1 year

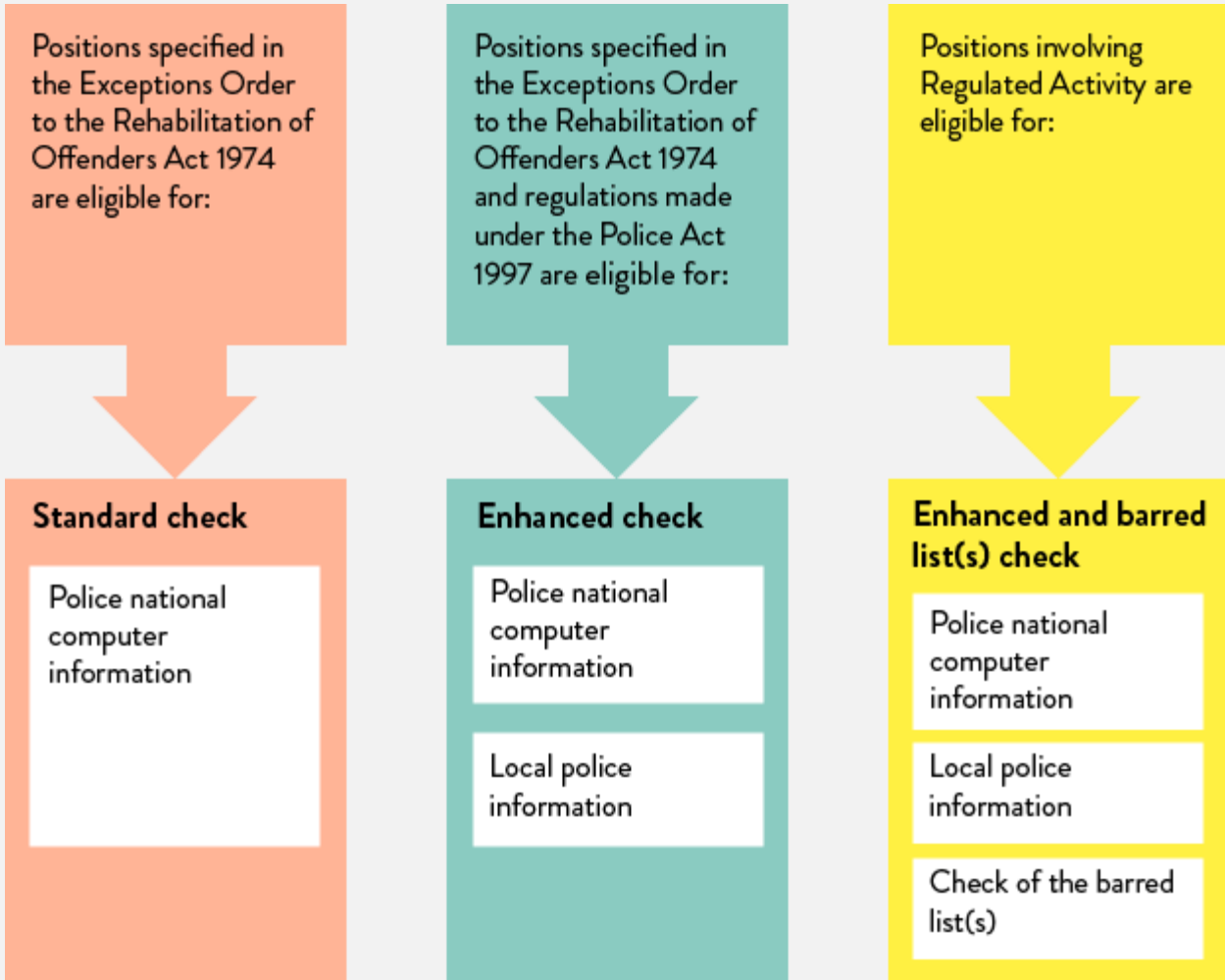
Custodial sentence of 6 months or less = 2 years

Custodial sentence of over 6 months and up to and including 30 months (2 ½ years) = 4 years

Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years) = 7 years

Custodial sentence of over 4 years, or a public protection sentence = Never spent

The Rehabilitation of Offenders Act (Exceptions) Order lists exceptions to the 1974 Act in recognition that there are certain activities for which fuller disclosure of a person's criminal record history is relevant.



Source:
NCVO

Equality Act 2010

Equality Act 2010 protects the following characteristics (which do not apply to volunteers):

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Public Sector Equality Duty

The **public sector equality duty** requires public bodies to have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities.

It is a **duty** on **public** authorities to consider or think about how their policies or decisions affect people who are protected under the **Equality Act**.

How does this affect charities?

Equality for volunteers – best practice

Tips for making sure volunteers know about equality issues

- Include volunteers in your equal opportunities policy
- Discuss equality issues with volunteers in their inductions.
- Have clearly defined role descriptions that set out the boundaries of volunteers' roles and responsibilities
- Give adequate training.
- Supervision and support
- Make sure service users and volunteers have clear ways to raise complaints or concerns, so that mistakes can be swiftly put right.

Health and Safety

What should you have in place?

- Health & Safety at work act 1974
- Management of Health & Safety at Work Regulations 1999
- Duty of care
- Risk Assessments
- Lone Working
- First Aid

Insurance

- Why Insure?

Types of insurance:

- Public Liability
- Employers Liability
- Professional Indemnity
- Trustee Indemnity
- Personal Accident Insurance

Different Types of Volunteer

Volunteers on Benefits?

Young Volunteers

Volunteers from abroad

Specific volunteer roles

The role / the task / the volunteers?

Special considerations sometimes need to be made related to:

- Volunteers Drivers
- Employer Supported Volunteering Schemes
- Professional roles
- Staff volunteering

Conflict of Interest

What happens if....

- You have a volunteer who runs an IT firm, and that firm bids for work to re-do your organisation's website?
- You have a volunteer who helps with funding bids – who also volunteers for another organisation bidding for the same funding?
- You have a volunteer that works for a big corporation that you are applying to for business sponsorship?
- You have a volunteer who is also a local councilor?

Policies and procedures

What does your organisation have in place?

- Recruitment policy
- Volunteer Induction
- Volunteer Agreement
- Volunteer Policy
- Safeguarding Policies
- Health and Safety Policy
- Equality and Diversity (Equal opportunities) Policy
- Expenses policy
- Comments and Complaints Policy
- Data Protection and Confidentiality Policy
- Conduct policies – i.e. dress code, smoking, use of alcohol/drugs
- Conflict of Interest policy
- Use of social and other media policy
- Problem solving procedure

Supervision and Support

Supervision

- Task lists
- Role Description
- Volunteer agreement
- Volunteer policies

Support

- Informal
- 1:1
- Group sessions
- Team meetings

Best Practice

- Volunteer Agreements
- Follow the law
- Supervision and support
- Use of language – role rather than job
- Policy and Procedure – expenses
- Induction/ supervision
- Clear Role descriptions
- Inclusive organisation – equal
- Thanking your volunteers
- Copyright
- Avoid perks

Questions?



Aims and Outcomes

Course Aim:

To support organisations to be aware of the Law and good practice in relation to involving volunteers.

Outcomes:

By the end of the session all learners should be able to:

- Understand legal requirements in relation to volunteering
- Apply good practice in relation to involving volunteers
- List the key documents needed to support your organisation and your volunteers

Produced by:

CVS Cheshire East

Sources of information:

NCVO, Volunteers and the Law (2005)