Volunteers and the Law

The information on this page is for all voluntary sector organisations in Wales that engage volunteers. It explains the main legal considerations when involving volunteers and identifies practical steps to maintain a genuinely voluntary relationship. Follow this good practice to support your volunteers so they can get the most out of their experience.

Disclaimer: This information provides guidance for general information only and should not be treated as legal advice.

On this page

- Do volunteers have a legal status?
- What legal risks should volunteer-involving organisations consider?
- Key legislation affecting volunteer management
- Age and volunteering eligibility in the UK
- Volunteers from outside the UK
- Summary checklist
- Further information

Do volunteers have a legal status?

In UK Law, volunteers do not have a separate legal status. Unlike paid staff, volunteers do not have employment rights such as protection against unfair dismissal, holiday pay or entitlement to National Minimum Wages.

Organisations are not legally obliged to include volunteers within their policy framework. However it is good practice to have policies and procedures that relate specifically to volunteers and to include them in general organisational policies such as Health and Safety, Equality, Diversity and Inclusion and Safeguarding. Doing so creates an inclusive culture, minimised misunderstandings and supports consistent and fair decision making.

Unintentional employment contracts

A risk to organisations is unintentionally creating a contractual relationship. In this case, it may be possible for volunteers to pursue legal action against an organisation where it’s perceived that an employment contract is in place.

A contract does not have to be written – it can arise from the way the relationship works in practice. Tribunals may look at expenses, obligations, benefits and the language used in volunteer documents.

Two factors are considered important:

Consideration: when somethings of value is exchanged, for example paying more than out of pocket expenses, providing training that is not relevant to a volunteer's role or offering free or discounted access to services and events.

I**ntention**: when the relationship appears to create binding obligations for example stating specific time commitments from the volunteers.

What legal risks should volunteer-involving organisations consider?

Reimbursement of Volunteer Expenses

Reimbursing volunteers' out of pocket expenses helps ensure that volunteering is accessible to everyone, not just to those who can afford to take part. Expenses should relate directly to the volunteering activity and should be supported by receipts or other clear records where possible.

Otherwise, organisations might cause potential liability under **Minimum Wage legislation** and there could be tax and benefit implications for volunteers.

- **Do:** Reimburse reasonable expenses such as travel, food, drink, equipment.
- **Do:** Keep records showing that payments are reimbursements.
- **Don't:** Pay flat rate sums, sessional fees, or lump sums
- **Don't:** Provide benefits that could be perceived as payment for services.



Volunteer expenses

For more information on expenses, see this resource.

Benefits in Kind

These can constitute **consideration** if the organisation commits to providing them, and there is an expectation from the volunteer that they will receive them. Examples include free membership, or goods or services in exchange for a period of volunteering.

Organisations should avoid creating an expectation of reward. Occasional and modest gestures of thanks such as refreshments, an invitation to an event or social outing are less likely to create a legal risk is they are discretionary and proportionate.

Obligations

When volunteers are required to attend for a minimum number of hours or provide services on demand this could suggest a contractual arrangement, particularly when training, benefits or payments have been provided in return.

Training

It is good practice to provide training that enables volunteers to conduct their tasks effectively and safely. Some training may be needed to meet the organisation's obligations under health and safety, EDI and safeguarding legislation.

However, training that is offered which is not related to the volunteer role but is instead for their personal benefit, particularly where this is seen by volunteers as a right, can amount to **consideration**.

Keep training clearly related to the volunteer's role and the organisation's volunteer activities.

Mind Your Language: Vocabulary Changes

Language alone will not constitute a contract. However, when formalising the relationship with volunteers through written policies and procedures it is wise to avoid using language which has legal implications.

Replace certain words with alternatives, such as:

Word	Alternative
Contract	Agreement
Job description	Role description
Job	Role
Employer	Organisation
Employment	Involvement
Line manager	Volunteer co-ordinator/named contact
Duties	Tasks/activities
Commitment	Availability/preferred involvement

Shift	Volunteer session
Dismissal	Ending volunteer arrangement

Say that you 'hope' volunteers will do something, or that 'volunteers normally….,' rather than that they 'will be required to.'

The risk of creating an unintentional contract increases over time: for example, always ensure that you are communicating that all volunteers can decline a task and are never obligated to attend regardless of how long they have been with an organisation.

Volunteer Agreements

It is good practice to document what the organisation offers and what it hopes volunteers will contribute. The document can describe expectations clearly without creating binding obligations.

Keep volunteer agreements simple and don't over-formalise the language. You can add the words '**This agreement is binding in honour only and is not intended to create a contract of employment or legally binding**' to volunteer agreements. This wording is helpful but it will not protect the organisation if your working practices suggest a contractual relationship.

Key legislation affecting Volunteer Management

Intellectual Property Rights

A question which arises from time to time is '**who owns the copyright to resources produced by volunteers?**' The answer is the volunteer, unless it is clearly stated that the intellectual property rights pass to the organisation.

Volunteers often have a valuable role in creating resources, photographs or data. Under a contract of employment, the copyright for this material created by an employee for the employer during working hours will pass to the employer. However, under a volunteering arrangement there is no such implied transfer of copyright.

To avoid difficulties arising agree in writing how copyright and permissions are transferred to the organisation.

Equality Act 2010

The Act does not apply to volunteers however it is good practice to apply the principles of equality, diversity and inclusion to volunteers and volunteering. It is good practice to promote fair access to volunteering opportunities, respectful behaviour and an inclusive volunteering environment.



EDI in volunteering: a guide to equality, diversity and inclusion for volunteer managers

Find out more about equality, diversity and inclusion in volunteering

UK General Data Protection Regulation and the Data Protection Act 2018

UK data protection legislation regulates the collection, use, storage and sharing of personal data and applies to all living people.

Volunteers must comply with the Act and volunteers in relevant roles should be trained in how to handle, process and store people's personal data. These volunteers are responsible for using personal data responsibly. Volunteers also have the right to know what personal data is kept about them.

Health and Safety Act 1974 and Management of Health and Safety at Work Regulations 1999

Organisations have duties to protect people affected by their activities. Volunteers should therefore be included in health and safety policies, procedures and arrangements.

- Conduct risk assessments on volunteer roles
- Explain the risks relating to the volunteers' roles
- Provide appropriate induction and training relevant to the role and level of risk
- Provide suitable support and supervision
- Make equipment and materials available to safeguard volunteers in their tasks.
- Ensure that your approach to health and safety is always proportionate to the risk.

Safeguarding

Volunteers aged 16 or above who have access to children or adults in a regulated activity may need to have a DBS check. It is unlawful for organisations to apply for a DBS check unless you have assessed the role to be eligible for one. Explain to volunteers why a DBS check is required.

Age and volunteering eligibility in the UK

Youth Volunteers

Generally, there are no legal reasons why people under 18 cannot volunteer, but organisations should take additional steps when involving children and young people. Those under 18 are classed as a vulnerable group and additional safeguards may apply depending on the activity, venue and age of the volunteer.

Children under 14 years of age should not volunteer within school hours. Those under 14 cannot work or volunteer for a profitmaking organisation. .

- **Parental Consent** – Get written consent from parents or guardians.
- **Insurance** – Check their insurance covers volunteers of different ages.
- **Risk –** Assess each role with the young person. Explain safety arrangements clearly without assuming prior knowledge.
- **Supervision** – Make sure the volunteering opportunity has good supervision and support.
- **Safeguarding** – Keep your safeguarding policies up-to-date and ensure everyone understands them, including online safety.
- **DBS Checks** – Some staff might need DBS checks.

Unsuitable Roles

Avoid giving young volunteers roles that:

- **Overwhelm** – Are beyond their physical or mental abilities.
- **Present health risks or risks of accidents –** Have health risks or a high risk of accidents they might not recognise due to inexperience.
- **Breach fundraising restrictions** – People under 16 can’t do house-to-house fundraising without an adult.



Involving young people as volunteers

For more information on involving young people in volunteering

Adult volunteers

There is no maximum age for volunteering. Older volunteers can volunteer in almost all settings if the role is safe and appropriate. It's important to conduct regular risk assessments and to adjust for volunteers with mobility, sensory and health needs and to check volunteers are covered by your insurance.

Volunteers from outside the UK

The UK is no longer a member of the European Union; however, EU nationals can volunteer in the UK if they have settled or pre-settled statue or other immigration status that allows volunteering.

Asylum seekers, those with refugee status or who have 'exceptional leave to remain' can volunteer. It is good practice for organisations to ask people to self-check their immigration conditions to check they have the right to volunteer in the UK.

Visitors to the UK may be permitted to volunteer for a limited time. The Home Office and UK Visa and Immigration are important points of contact for current guidance and further clarification.



Involving asylum seekers and refugees in volunteering

For more information on involving asylum seekers and refugees in volunteering

Summary checklist

Most volunteer relationships are positive, but disputes can arise when expectations are unclear or when practices start to look like employment. Take an approach to design volunteer opportunities and arrangements that are fair, flexible and clearly non-contractual

Use this checklist to reduce the risk of unintentionally creating a contract or exposing volunteers to harm.

- Treat volunteers fairly and provide clear, accessible ways to raise concerns or resolve disagreements
- Support volunteers' wellbeing and create a culture where people can discuss concerns without fear of criticism.
- Make it clear that volunteer roles are voluntary, and unpaid
- Use flexible language which doesn't imply an obligation to volunteer
- Avoid employment style terms like 'work' 'contract' or 'job descriptions' – adapt the words used to a volunteering context.
- Do not require volunteers to provide a service in return for training, benefits or other rewards
- Don't pay flat rate expenses, sessional fees, lump sums or anything more than genuine out-of-pocket-expenses and keep clear records
- Keep gifts, rewards or social events modest, occasional and clearly discretionary.

Further information

Home Office

Home Office

Home Office

[Permission to work and volunteering for asylum seekers (accessible)]

HM Revenue & Customs

[Volunteer opportunities, rights and expenses: Pay and expenses – GOV.UK]

HM Revenue & Customs

[Check if you need to pay tax on mileage payments as a volunteer driver – GOV.UK]

Department of Work and Pensions UK



Keeping volunteers safe