

## LEGISLATION: HOW IT AFFECTS YOUR VOLUNTEER PROGRAMME

Full texts available at [www.legislation.gov.uk](http://www.legislation.gov.uk). This is an overview and should always be double-checked with recent advice.

Compiled as a group training resource by [www.rebeccatully.co.uk](http://www.rebeccatully.co.uk) for **Volunteers and the Law**

LAW	How it affects your volunteering programme	Things to do/avoid
National Minimum Wage Act 1998	If volunteers are seen to be employees, organisation may owe wages.	Create agreements and understanding, not contracts. Avoid 'consideration' – any pay that may create a contract. Money, Perks, Training etc.
Employment Equalities Legislation: Equal Pay Act, Equality Act etc.	If volunteers are seen to be employees, can claim discrimination rights of an employee	Avoid 'consideration' – any pay that may create a contract. Money, Perks, Training etc. Avoid discrimination on any grounds
Jobseeker's Allowance Regulations 1996	'Notional earnings' can include living expenses for more involved volunteering	Get legal advice of 'reasonable' living costs that cannot be considered pay if your expenses will involve accommodation, living expenses etc
Jobseeker's Allowance Regulations 2002	Volunteers need to be available for work when claiming JSA – within one week, and to interview within 48 hrs.	Use a template letter to reassure advisors of the flexibility of your volunteers' role, reassure volunteers in induction
Social Security Amendments (Volunteers) Regulations 2001	Those on incapacity benefit can receive money for actual expenses incurred, or 'to be incurred'	You can advance a volunteer money if they need it
Social Security (Incapacity for Work) Legislation 1995	Voluntary work specifically exempt from any other 'work'. Should never prove capacity to work, no matter how many hours you are involved	Use a template letter to reassure advisors of the flexibility of your volunteers' role, reassure volunteers in induction
Employment Income Manual (Income Tax Regulations)	No tax on reimbursement of expenses when volunteering. Any other income should be declared & taxed.	Stick to reimbursing actual expenses only
Health and Safety at Work act 1974	Those 'affected by organisations' activities' should be given information by organisation about health and safety.	Include reference to volunteers in Health and Safety Policy; Specific reference to policy and relevant information in volunteer induction
Common Law 'Duty of Care'	A duty to take reasonable care to avoid causing harm to others: so organisations have this duty towards volunteers	Reasonable steps should be taken to ensure that the likelihood and potential seriousness of injury to volunteers is reduced: this might include giving adequate information, training, clothing or equipment, closer supervision etc

The Management of Health and Safety at Work Regulations 1999	Organisation has an obligation to carry out risk assessments for employees and 'others'	Risk assess volunteer roles and tasks
Employers' Liability (Compulsory Insurance Regulations) 1998	Employers are obliged to maintain employers' liability insurance for not less than £5 million	Sensible to do this also for volunteers. Tell the insurer that you are involving volunteers. (Volunteers should tell their insurer if they will be using their car, but should not incur a cost)
Rehabilitation of Offenders Act	Organisations must only ask about 'spent' convictions, unless their work falls under the 'exceptions' order – including working with children and vulnerable adults	If you ask about previous convictions, consider why you are asking and how you are using this information  Assess all volunteer roles: is the volunteer working with children and vulnerable adults? Do we need a CRB check? (Enhanced check will include both POCA and POVA lists)
Police Act 1997	Some organisations are permitted to carry out CRB checks on individuals	
Protection of Children Act 1999; Care Standards Act	Set up the POCA list and the POVA list. Childcare organisations and those providing residential care must obtain disclosures on individuals.	
Data Protection Act 1998	'Personal data' – info which can identify an individual. Individual must give consent and has a right to see any info you hold about them	Use volunteers' information data only for the purposes you have collected it; don't share it; keep it secure
Copyright, Designs and Patents Act 1988	Copyright of material produced by employees while with their employer belongs to their employer	Ask design and creative volunteers to assign copyright to the organisation if you wish this to be the case. Draw up a contract if necessary – this would not be a contract of employment.
Human Rights Act 1998	Only applies to public bodies. Prevents discrimination, but only in the access of other rights in the Act.	Very little!
Immigration, Asylum and Nationality Act 2006	Criminal offence to employ a person who does not have the right to work in the UK	Avoid 'consideration' – any pay that may create a contract. Money, Perks, Training etc. Refer to UK Border Agency guidance
UK Border Agency Guidance	'Visitor Visas' – not permitted to undertake paid or unpaid work	Be aware of the risks around certain visas and 'unpaid work', make an informed choice that is appropriate for your organisation.