

## ***Who Is Allowed To Volunteer?***

Volunteering is a positive thing, both for the volunteer and for the people that they help. The Government sees volunteering as the basis of active citizenship that creates inclusive and vibrant 'active communities'. However there are legal and safety restrictions, some real and some imagined, that create barriers to certain groups offering time. It is important to understand what restrictions really do exist and advise people on them correctly.

### **Asylum seekers**

Since April 2000, asylum seekers (people in the process of applying for refugee status) have been allowed to volunteer. This includes whilst they are appealing against a decision to refuse them asylum. They may receive a letter saying that they must not engage in paid or unpaid work but this does not relate to roles that are clearly voluntary. New Home Office guidance states that care should be taken to ensure that activity undertaken by an Asylum Seeker is for a not-for-profit organisation, and does not amount to either employment or job substitution. It confirms that Asylum Seekers are entitled to receive out of pocket expenses just like other volunteers.

### **Volunteers from Overseas**

There is no restriction on people from EU countries coming to the UK to volunteer. People from outside the EU who have a visa to work or study in the UK may volunteer as long as they are still undertaking the activity that is stated on their visa. It is possible to get a visa to come to the UK to volunteer, however this must be arranged in advance and certain restrictions apply. For further information see the

Centre factsheet “Accepting Volunteers from Outside the UK”.

### **Ex-offenders**

Under the Rehabilitation of Offenders act it is only acceptable to ask someone to declare spent convictions if they will be working with vulnerable people. The new Criminal Records Bureau will mean that more organisations will have access to police checks but information on spent convictions will still only be available if an individual will have access to vulnerable individuals. There is no clear legislation requiring organisations who work with vulnerable people to check staff and volunteers, however organisations have a Duty of Care to clients and if they did not have appropriate checks in place it could well be argued that they had neglected this duty. Under the Protection of Children Act 1999 and Court Services Act 2000 it is an offence to knowingly employ (paid or unpaid) anyone with a conviction for murder, manslaughter, rape, GBH and a number of sexual offences, to work with people under 18. However aside from this there are no set guidelines on which other offences would make an individual unsuitable. However there are a number of factors that organisations should take into account when weighing up the pros and cons of an individual case:

- whether the conviction is relevant to the position
- the seriousness of the offence
- the length of time since the offence occurred
- whether the applicant has a pattern of offending behaviour
- whether the applicant’s circumstances have changed
- the circumstances surrounding the offence and explanation offered by the applicant

Even taking this guidance into consideration, whether or not to take on an individual with a criminal record, will remain almost entirely subjective and could well mean that many people are being unfairly discriminated against and that organisations are losing out on perfectly capable and safe staff and volunteers. It is a challenge for the sector to work together to develop good practice guidelines to ensure that the over 5 million people in this country with convictions for a crime which could have involved imprisonment are not written off as potential staff and volunteers. For further information see the Centre factsheets “Screening Volunteers” and “Safe Involvement of Volunteers with Vulnerable Clients”

## **Children**

People under the age of 18 are classed as vulnerable and organisations have to take this into account when using them as volunteers, obviously people over the age of 16 are free to undertake paid work so ‘child protection’ is usually assumed to relate to those under 16. A risk assessment needs to be made so that a proper judgement can be made of whether placing a young person in a voluntary role would place them or the people with whom they were working at risk. However by adhering to some basic principles most organisations can involve young people in their work:

- Young people should not be left unattended
- It is safer if young volunteers are supervised by two or more adults
- Any potentially dangerous activity should have constant adult supervision.

It is a very good idea to obtain a parental/guardian consent form for volunteers under 16. This would show that the volunteer’s parent/guardian understands what the organisation does, what the young person will be doing,

when and where they will be working and consents to this. If the volunteer will be working away from the premises where they normally volunteer then additional permission should be sought.

### **Insurance**

Insurance cover (public or employer liability) does not automatically cover people under 16 so it is important to check that there are no lower age limits to the cover. It is normally easy to extend the policy to cover young people but occasionally the insurance company may decide that because of the types of work involved the risk of involving young people would be too high. There may also be problems with upper age limits. Many insurance companies will not extend policies to cover people over a certain age. It is well worth searching around to find insurance that allows you to include as many people as possible but many organisations find that insurers will not extend certain policies to cover people over 80. Contact the Centre Information Line for a list of insurers with experience of working with voluntary organisations.

### **Vulnerable people**

Sometimes adult volunteers may be classed as vulnerable if they have a substantial physical or learning disability, are very elderly, have mental health problems or are recovering from addictions. People who fall into these groups can be very good volunteers and organisations who refuse to take on anyone who is vulnerable could well be losing out on good volunteers as well as stopping people who are often excluded from the community from taking an active role. However just as when working with young people care should be taken to make sure that vulnerable people are not at risk and are adequately supported to carry out their role. It should be remembered that people have varying support

needs and that individuals are usually the best judges of what they can and cannot do and of the types of help that they need.