

## Volunteer Basics

### What is a volunteer?

Volunteers, Interns and people on unpaid placements give their time to charities for free. They do not have the same legal status as employees. This means that charities are free to reject and stop volunteers continuing their time at the charity without needing to give them any notice or follow grievance procedures. In return volunteers can not turn up and leave their volunteer role without giving notice. They are exempt from receiving national minimum wage. They can only receive payments for expenses.

The relevant legal act is **National Minimum Wage Act Section 44**.

If a workers payments do not comply with what is laid out in Section 44 - if they get what could be classed as wages, or seem to be treated in the same way as a paid worker would be— they are entitled to full minimum wage. HM Revenue and Customs have the powers to inspect records and premises, and can issue enforcement notices to the charity to pay minimum wage and backdate this for up to six years. They enforce the minimum wage act.

If they are classed as employees it can also affect their ability to claim benefits.

### Are they actually employees?

They might legally actually be employees if:

They are **obliged to work**, if they have to turn up at set times, they have to accept the work they are given and if they don't have the right to refuse work.

If they have a **contract**, which can be written or verbal

Basically: if they can **refuse** work an employer gives them, they are a volunteer. If they have to do it, they are an employee. If they can be seen to be an employee the charity might find it is obliged to pay them as such.

### Make sure you treat them like Volunteers

#### Contracts and agreements

- You can have a written agreement but **don't call it a contract!** You can refer to 'reasonable expectations' and that they may benefit from doing a certain number of hours but nothing stronger. State there is '**no mutuality of obligation**'.
- Also make sure you don't accidentally create an 'implied' contract which could be oral, so make sure what you say matches the written agreement!
- Make sure you let them know there is **no obligation** for them to turn up at set times, although doing so may allow them to get the most out of volunteering.
- **Don't** use 'sick leave' 'giving notice' 'dismissal' 'disciplinary procedures' or any other employee related terminology.
- Add a clause into this agreement making sure they assign **intellectual property rights** to the charity they are working for. This makes sure that you can use anything they create!

### **Expenses and benefits**

- Only pay genuine expenses and keep accurate records of these, make sure volunteers give you receipts. This can cover transport and food, but usually not more than £5 per day for either of these is good practice. You don't have to give expenses.
- It seems unfair but don't provide expensive training for the volunteers, this may be construed as payment and a benefit they earn. Keep to free courses (The Museums, Libraries and Archive Service as well as the Museums Association for example, provide cheap and free training).

### **Further information**

This is only an introduction, Charity and Volunteer Law is extensive and complex and the Charity Commission and Volunteering England are excellent sources for further details on everything listed in this fact sheet.

#### **The Charity Commission**

<http://www.charity-commission.gov.uk/>

The regulator for all charities in Britain, provides useful toolkits and resources on their website.

#### **Volunteering England**

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

Information for volunteers and those who manage them.

#### **HM Revenue and Customs**

<http://www.hmrc.gov.uk/nmw/>

They regulate the minimum wage act, information on which can be found here

#### **The Cranfield Trust**

[www.cranfieldtrust.org](http://www.cranfieldtrust.org)

The Cranfield Trust is a leading provider of free management support to the UK voluntary sector.