



Volunteering Agreements - should you have one?

Should you be asking your volunteers to sign an agreement? We asked Jane Klauber from leading charity legal experts, Russell-Cooke.

Views still vary in the sector as to whether a volunteering agreement is helpful in defining objectives and expectations on both sides or if an agreement encourages a volunteer to regard what is a gift relationship as conferring contractual entitlements. Our view is that provided a volunteer agreement is clearly worded to reflect the non-contractual nature of the relationship and is expressed in terms of hopes and expectations rather than requirements, it will be useful in clarifying expectations and setting boundaries and should not create the inference of a legally binding agreement so long as the work provided is genuinely voluntary i.e. is not in exchange for payment of any type. The agreement does not necessarily have to be signed and may be in the form of a letter from the organisation to the individual volunteer but a signature in itself, in the absence of other indications of a legally binding arrangement, is unlikely to create a legally binding agreement.

What should be included in the agreement?

A clear statement that the agreement is binding in honour only and is not intended to be a legally binding contract between the organisation and the volunteer and that neither party intends any employment relationship or other worker relationship to be created.

The agreement should be worded in terms of reasonable expectations and while your organisation may want certainty about the amount of time a volunteer can commit to the volunteering role and hours and duties, it is better to set out the preferred expectations while making it clear that you are flexible about the time commitment.

Similarly you will want the volunteer to give you as much notice as possible if they are unable to volunteer for you because of other commitments such as holiday and if they wish to cease volunteering. Again this should be worded as a request for reasonable advance notice rather than a requirement.

Phrases and wording that are commonly found in employment contracts should generally be avoided such as “notice”, “annual leave” and references to your disciplinary and grievance procedures are not appropriate and should not be applied to volunteer although many organisations provide a complaints procedure and some commit to a process akin to a disciplinary procedure of alerting the volunteer in advance of concerns about their work before ending the relationship.

Policies and procedures

While it is not appropriate to refer to your disciplinary and grievance procedure, there are obligations that it will be important to bring to a volunteer’s attention which are likely to be contained in your staff policies. These include confidentiality, Safeguarding requirements,

health and safety and the avoidance of discrimination. Many organisations do state that the volunteer is expected to follow the organisation's standards including health and safety and equal opportunities and other procedures and some compile a separate volunteer handbook covering such areas specific to volunteers. Again as long as there is no exchange of cash or benefits in exchange for work, references to organisational policies should not create an inference of an employment relationship.

Confidentiality

Most organisations are concerned about confidentiality and will include a statement reminding the volunteer that they are not permitted to use or disclose any confidential information they have access to during the period of volunteering either during that period or afterwards.

Copyright

In most cases volunteers will not create intellectual property but if they may be writing articles for you, taking photographs or producing any other material, the volunteer will need to sign an assignment of intellectual property rights to ensure that you retain ownership of the intellectual property in the material produced during the course of volunteering.

Payment

In order to ensure that the obligation to pay the National Minimum Wage does not arise you do need to limit payment to verifiable out of pocket expenses and the agreement should set out details of those expenses and how they may be re-claimed.

Data protection

In cases where volunteers will be processing personal data on your behalf for example data bases of your beneficiaries or members, you may want to include provisions reminding the volunteer of those obligations. Additionally if you are likely to process personal data concerning the volunteer including for example their health, it is sensible to include a short consent to the processing of personal data including sensitive personal data in the agreement.

Leaving the organisation

It will not be appropriate to require a minimum notice period but you should simply request that the volunteer gives you as much notice as possible in order for you to make alternative arrangements.

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