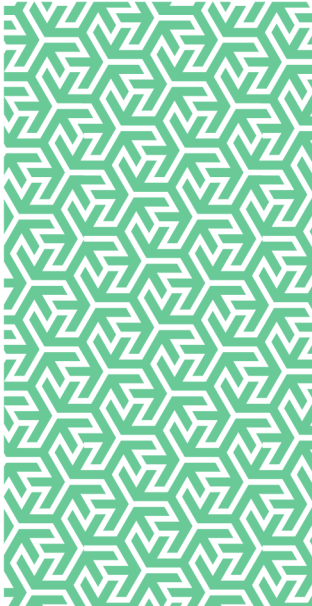


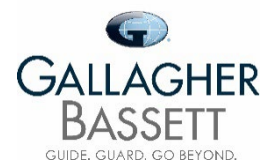


Risk control

Volunteers – Risk Management Guidance



In partnership with



Volunteers – Risk Management Guidance

Introduction

Official statistics produced by NCVO depict a general increase over the last two decades in the number of people and organisations involved in volunteering within the UK¹. The types of activities in which volunteers become involved covers a wide range of activities and can include:

- Sports, leisure and recreation
- Education and youth work
- Health and social care
- Environmental protection and upkeep
- Local community services
- Festivals and events

In some cases Local Authorities recruit volunteers directly, and in others they work with charitable organisations that make use of volunteers to deliver services.

This guidance note is provided to review some of the main risk management considerations when using volunteers and in particular with regards responsibility for:

- Health and safety – The law and managing the risk
- Safeguarding vulnerable groups
- Insurance requirements

For the purposes of this guide we are adopting the following definition of volunteering:

“Volunteering is when someone spends unpaid time doing something to benefit others.”²

Helping close friends or relatives isn't considered to be volunteering. But doing something to benefit the environment (and through that, other people) is.

Volunteering should always be a free choice made by the person giving up their time.

Health and Safety

As we have already established, volunteering can involve a wide range of activities, exposing volunteers to various levels of risk. Although the majority of volunteers are likely to be engaged in low-risk activities, there is potential for exposure to higher risk activities such as working at height or using machinery.

The Law

In most cases, health and safety law does not apply where volunteering does not involve an employer, although there are some exceptions.

Where there is an employer, health and safety law, including the Health and Safety at Work etc Act 1974³, states that employers must protect their employees but also others, including volunteers, from any risks arising from work activities.

Volunteers should be provided with the same level of protection where they carry out similar activities and are exposed to the same level of risk as employees.

Good health and safety management should not be seen as a barrier to volunteering. Quite the opposite. It should assist in encouraging volunteers by enabling their roles to be carried out in the knowledge that their health, safety and wellbeing is a key consideration.

Managing the Risk

Employers must carry out risk assessments to identify significant risks to volunteers, as well as employees, and implement effective control measures.

Employers must include volunteers, as well as employees, in any risk assessment conducted in order to identify significant risks in activities they may be engaged in and implement effective control measures.

Employers must consult employees and should also include volunteers in a two-way process to allow them to raise concerns and influence decisions on managing health and safety.

Risk assessments should be sensible and proportionate to the level of risk presented by the activity.

Many of the activities carried out by volunteers will be low risk, however, where the risk is higher than the risk assessment should be proportionate and consider the additional hazards that volunteers and employees may be exposed to.

For example, risks may be proportionately higher if they involve:

- Working at height
- Using machinery
- Lone working

Factors to Consider

Employers must:

- Plan and prepare activities effectively so they know how volunteers will be deployed
- Ensure volunteers are covered by relevant insurance policies

- Match the task to the individual by checking they have the capability and competency to do the activity
- Make sure effective management, supervision and monitoring arrangements are in place
- Make sure accidents and near misses involving volunteers are recorded and followed up

Training and Equipment

Volunteers must be provided with enough information, instruction and training to make sure they can carry out their activities safely and competently. They should be provided with an induction, which includes information on the results of any relevant risk assessment and the hazards they may be exposed to.

Employers should provide appropriate equipment (including personal protective equipment where required) necessary for the task and ensure volunteers are effectively trained and competent in its safe use. Equipment should be regularly maintained and safely stored after use and with any damage or defects promptly reported.

Accident Reporting

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)⁴ require the responsible person to report certain adverse incidents involving employees or those affected by their work activity, including members of the public and volunteers.

The responsible person can be the employer or the people in control of the premises.

Adverse incidents involving volunteers are only reportable where the accident arose from a work-related activity and:

- The incident resulted in a fatality
- or
- The injured person was taken directly from the scene of the incident to hospital for treatment

Adverse incidents involving volunteers where there is no work activity are not normally reportable. The requirement to report over-7-day injuries only applies to employees, not volunteers.

Safeguarding Children and Vulnerable Groups

Where volunteers will be working with children or vulnerable clients / service users, care must be taken to ensure the safeguarding responsibilities of the authority are fully met. The following risk control measures should be in place and included within the risk assessment process:

- Suitable references should be obtained and checked
- Checks made to ensure volunteers have not been barred from working with vulnerable groups (i.e. DBS checks in England and Wales, and PVG in Scotland)
- Induction training and information provided
- On-going and update training to maintain knowledge to current standards
- Supervision by a competent person
- Process of active feedback from clients / service users
- Ready access to channels by which concerns can be raised in confidence

Insurance Requirements

General Public Liability Insurance

The work directly undertaken by volunteers on behalf of a local authority will generally be covered by the authority's Public Liability insurance.

Insurers will however want to be notified of the number of volunteers employed and the type of activity in which they are engaged. In particular insurers should be notified of any plans to use volunteers in higher-risk activities, such as those mentioned previously within this document.

It is important that detailed records or a register is maintained by organisations of the volunteers engaged by the authority. Minimum levels of information to be retained should include:

- Personal details (name, address etc.)
- Dates during which the volunteer worked with the authority
- Activities and tasks to which the volunteer was assigned
- Confirmation that activities have been risk assessed
- Confirmation of any required safeguarding background checks
- Information and training provided to the volunteer
- Supervision and monitoring provided

The information outlined above will be required in the case of a claim against the Local Authority involving a volunteer and so must be readily available to the Risk and Insurance Manager or equivalent.

Documentation should be retained for sufficient periods as claims may be made many years after the incident has occurred. In particular claims involving children may be delayed until that child becomes an adult, and claims for certain types of disease may take decades to be submitted due to the slow onset of any physical symptoms.

Document retention policies to cover such events should already be in place within the authority.

Generally insurers will want to have assurance that the good practice procedures set out in this guidance document have been implemented.

Insurance to Drive

Where a vehicle is provided by the authority then they will also provide the insurance cover. The same standards applied to employees while driving should apply to the volunteer. This may include license requirements and checks, health standards and compliance with driver policies, including those that cover the use of mobile phones, drugs and alcohol and smoking in vehicles.

If volunteers are required to use their own vehicle they should be advised in writing of the need to notify their own vehicle insurer. If applicable, checks should be made to ensure that cover is provided for any passengers travelling in the vehicle or damage incurred in the course of the volunteering activity. Driving policies that apply to employees using their own vehicles for work should also be applied to volunteers.

Volunteers working for charities and other organisations - Non-delegable duty of care.

In some circumstances volunteers may not be working for the authority directly, rather they may be working with a third party organisation that has been commissioned to deliver a service. This may be a charity, another public authority or a commercial organisation. In such circumstances the responsibility for the volunteers' health, safety and other liabilities that might arise from the work activity will rest primarily with the third party organisation.

However, in certain circumstances an authority may owe a non-delegable duty of care in the provision of the service and where this is the case full responsibility for liabilities arising out of the service delivery cannot be delegated to another body regardless of the commissioning arrangements in place. This does not prevent an authority from contracting or outsourcing the provision of services, nor

does it prevent the authority from seeking an indemnity from the service provider. It does however add a level of complexity to the transfer of risk.

In the case of *Woodland v Essex County Council* (2013)⁵, the Supreme Court identified the characteristics of statutory service provision which, if met, would mean the authority would retain the duty of care even when this is delivered by an independent outsourced provider. The characteristics encompass core statutory functions, delivered to vulnerable individuals under the care of an authority.

In practical terms this means that even when every care has been taken to commission, select and appoint competent third party service providers, and even where contract terms are included that require the contractor to indemnify the authority for liabilities arising from service failures, if the contractor is negligent and harm results the authority may still be sued.

The Risk and Insurance Manager must therefore guard against a mistaken belief that because the function has been commissioned and outsourced the financial risk has been fully transferred. *Woodlands v Essex CC* (2013)⁵ confirms that this is not the case and to protect the authority the Risk and Insurance Manager has a very legitimate reason to scrutinise and challenge all models of outsourced delivery to seek assurances that service providers are:

- Competent (and so have policies and procedures in place that make failure unlikely). If volunteers are widely used how do they ensure they are trained and competent to do the work?
- Adequately insured (and so able to respond to liability claims and the authority is less likely to be joined in an action – see below for further information)
- Standards of service are regularly monitored by commissioning officers and improvements effected as required.

Checking Insurance Arrangements

Ensuring that those commissioned to provide a service have suitable and adequate insurance cover is an area where the Risk and Insurance Manager can provide expert advice and assistance.

It is not sufficient to merely specify within a tender that the service provider has adequate insurance. Depending on the type of service, there may be expectation that a service provider holds employers liability, public liability, products, motor and professional indemnity insurance. Limits of indemnity should be specified and based upon an assessment of the risks inherent in the activity and the potential scale of loss. It is also important to check that

there are no relevant exclusions (for example child abuse claims may be excluded from some policies) and whether the policy is written on a 'claims occurrence' or 'claims made' basis.

These should be checked at the start of the arrangements and periodically throughout its tenure.

Good Practice Checklist

The following may be regarded as a good practice summary checklist against which to check the adequacy of arrangements for managing the risk of a volunteer workforce.

- A volunteer policy is in place which links to the corporate health and safety and risk management policy
- All tasks which volunteers are expected to undertake have been risk assessed and control measures implemented
- Higher risk activities in which volunteers are to be engaged are notified to the insurer
- A detailed record / register of volunteers is maintained by the organisation and available to the Risk and Insurance Manager
- Documentation on volunteers is retained for an adequate period, in-line with document retention policies applied to employees exposed to similar hazards
- Robust volunteer selection procedures and practices are followed to ensure volunteers have the appropriate knowledge, abilities, and attitude for the tasks allocated
- Where volunteers will be working with children or vulnerable clients / service users, care must be taken to ensure the safeguarding responsibilities of the authority are fully met. This would include ensuring that background checks (such as DBS / PVG) are undertaken prior to work activities commencing
- All volunteers are provided with induction and task-related instruction and training to ensure they are able to carry out their role competently and safely. Training should be provided to all volunteers regardless of their 'underlying' trade or profession and records of training should be maintained.

- The volunteer workforce is provided with appropriate levels of management support and supervision which is proportionate to the risks presented by the tasks assigned.

There is regular monitoring and evaluation of the volunteer programme to review the adequacy of risk control measures in place, identify any new or emerging risks and develop and implement solutions to improve risk management.

- Commissioned services that make use of volunteers should be scrutinised to ensure they are competent to deliver the service, adequately insured and standards of service delivery are regularly monitored and reviewed.

The golden rule: primarily, a volunteer should be afforded the same level of information and instruction, training and supervision, and protection as a paid employee engaged in the same or similar activity would receive.

References

1. 'Five insights about the state of the voluntary sector', NVC, available at: <https://www.ncvo.org.uk/news-and-insights/news-index/five-insights-voluntary-sector-civil-society-almanac-2022/#/>
2. What is volunteering?, NVC, available at: <https://www.ncvo.org.uk/help-and-guidance/involving-volunteers/understanding-volunteering/what-is-volunteering/>
3. The Health and Safety at Work etc Act 1974, available at: <https://www.legislation.gov.uk/ukpga/1974/37/contents>
4. The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, available at: <https://www.legislation.gov.uk/uksi/2013/1471/contents/made>
5. Woodland v Essex County Council (2013), available here: <https://www.supremecourt.uk/cases/docs/uksc-2012-0093-judgment.pdf>

Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

Get in touch

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