

# LEGAL AND POLICY ISSUES AND VOLUNTEERS

## INTRODUCTION - WHAT ARE POLICIES

- A governing tool
- A framework

They provide guidelines, and a framework for all sectors of the organisation.

Policies should be formed after consultation at all levels, discussion, debate and shared experiences.

They should be a fundamental tool of the organisation and be held in a “Policy Manual” which is available to all sectors of the organisation.

Policies should not be implemented to react to a current challenge. They should be implemented proactively so that when a challenge arises, they can be referred to for guidance.

The Governing Body, whether it be the Management Committee, executive, or board, should formulate policy. The body is responsible for the standards of the organisation and the formation of the policy. Manager/CEO/Executive officer is responsible for the implementation of the policy.

Policies do not have to be lengthy wordy documents, sometimes a one paragraph statement is sufficient.

## A CONTRACT FOR VOLUNTEERS

There are now many organisations that make, in employment terms little distinction between paid and unpaid workers - except of course in the matter of remuneration. Volunteers have job descriptions, training plans and contracts.

## WHAT IS A CONTRACT?

It is a formal agreement that acknowledges the benefits for, and obligations of, the worker and the employer. It lets people know the expectations of the organisation, and it allows them to decide whether or not to accept the work. Volunteers, like paid workers, need an answer to these points.

## **INSURING THE AGENCY'S PROPERTY AND WORKERS**

A Voluntary agency is usually regarded as a business when it comes to insurance rates and cover. Agencies need to consider the following areas for insurance cover:

### **VEHICLE INSURANCE**

Vehicles used for business purposes carry high insurance premiums, especially when driven by a number of different people. If they are used to transport clients, extra passenger cover must be considered.

Third party insurance is automatically paid for when a vehicle is registered.

- Volunteer agencies need to follow the guidelines established by the Land Transportation Act and the Health and Safety in Employment Act. This means that where volunteers have come to the voluntary organisation for the first time, some method of driver selection should be used. It is suggested that there be an application form noting:
  - (1) name
  - (2) address & telephone number
  - (3) drivers' license number
  - (4) date of birth
  - (5) car registration number
  - (6) warrant of fitness
  - (7) expiry date
  - (8) make & model
  - (9) seating capacity
- The applicant should also complete a declaration as to his or her physical health, eyesight defects, any criminal or serious traffic offending or any alcohol or drugs problems or history of mental health/serious behavioural problems. Volunteer drivers should also familiarise themselves with their vehicles and the tasks they are expected to carry out.
- Volunteer drivers should also ensure that their vehicles are insured before using their vehicles for voluntary driving. If unsure, they should contact their insurance company to see if their insurance covers accidents where they are carrying clients. The volunteer should agree that the cost of obtaining insurance will not be recoverable from the voluntary organisation and should agree to wear the excess of loss on any policy and any loss of no claims bonus.
- The overall scheme of protection is to ensure that reasonable steps and care are taken so that transport services are as safe as those provided by commercial organisations covered by the Acts.

## ACC AND VOLUNTARY ORGANISATIONS

Voluntary organisations are affected by the ACC in the following way. If a volunteer is injured in any way they are not covered by the Act, or if a third party is injured, she or he may have to sue the voluntary organisation. It appears that voluntary organisations may be liable for injuries caused by volunteers in several instances:

- If a volunteer or a third party suffers personal injury by medical misadventure caused by someone who is a registered health professional, a volunteer or third party could sue; (for example, a volunteer wrongly administering a medicine to a client of the voluntary organisation).
- If a person suffers a battery or assault and there is no physical injury but which caused a mental injury of some kind then this would not be covered by the Act and the volunteers or third party might be able to sue. A battery is the direct and intentional or negligent application of force to the person of another and assault is an intentional or negligent act which causes the plaintiff to apprehend immediate harm, no actual physical harm being necessary.
- If a volunteer has been negligent. Negligence means failing to exhibit the standard of care that a reasonable person would exhibit in the same situation. If a volunteer negligently caused an injury not covered by the Act, then the voluntary organisation may also be liable in negligence for failing to select volunteers adequately or failing to adequately train and supervise volunteers.

## GIVING ADVICE

A Voluntary organisation should also be aware that it could be liable for any negligent advice that is given and take steps to ensure that volunteers have adequate training and expertise before giving advice. Volunteers should be aware of their limitations and should consult somebody more senior if unsure about something.

## ACCREDITATION REQUIREMENTS FOR VOLUNTEER SERVICES

Many organisations, particularly in the Health and Disability field, have adopted “Standards”. As the cost of this process is outside the reach of smaller organisation, you can adhere to the following.

Where the organisation uses volunteers, there are documented policies and procedures regarding:

- confidentiality of information
- Volunteer selection, training, identification, role, supervision, lines of communication and reporting.

- All volunteers should have a documented, dated job description which is kept current and which includes specification of responsibilities, job functions and activities and the frequency and process for performance appraisal.
- Where staff members are engaged as volunteers in another role, then there are separate job descriptions and performance appraisals.

## **FURTHER READING**

Volunteers A Guide for Volunteers and Their Organisations by Mary Woods

Legal Issues Affecting Voluntary Organisations - Dunedin Volunteer Centre

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