

Voluntary Action-**Leeds** Volunteer Insurance

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VOLUNTEERS AND INSURANCE

ORGANISATIONS NEED TO PROTECT THEIR VOLUNTEERS!

Although volunteers work for free, they often play an integral part in helping an organisation deliver its services. This may involve people being exposed to a variety of risks, so it is essential that volunteers, like paid employees, are insured. If something goes wrong, the organisation may find itself legally responsible, so it is in their best interest to offer maximum protection to all those concerned.

When is an organisation legally liable for injuries or damage?

- The legal position is complex, generally, organisations can be held liable if it can be demonstrated their practice fell below a 'reasonable' standard. Liability means an organisation can be sued for compensation relating to injuries sustained or damages caused. This liability arises from the 'duty of care' of an organisation (see below).
- In addition to the 'duty of care', there is the organisation's liability concerning the health and safety of its volunteers. Under the 'Occupiers Liability Act 1957' any 'occupier of premises' must take reasonable care to ensure the health and safety of all visitors. A 'visitor' is anyone, other than employees of the occupier, who is legally allowed on the premises. If a visitor is injured, depending on the circumstances, the organisation could be liable and be sued. Any final decision lies with the courts.
- The 'Health and Safety at Work Act 1974' stipulates that employers have a duty to take 'reasonable care' to ensure their premises are safe and the general health and safety of any non-employees is not adversely affected through the type of work being undertaken. Ideally, organisations should have a copy of the Act and develop their own Health and Safety policy.

What is the 'duty of care' of an organisation?

- The 'duty of care' is a common law, binding an organisation to a legal duty to '...avoid carelessly causing personal injury or damage to property...'. A 'duty of care' is something an organisation owes to its volunteers, the client/user group and members of the public. Adequate insurance cover should be an integral

part of this 'duty of care' and, as such, the following points need to be considered when an organisation is looking for protection.

What risks do volunteers face?

- Personal injury resulting from accidents that occur during their voluntary work. (Remember- this could be as a result of inadequate health and safety procedures!)
- Personal injury resulting from physical assault.
- Claims for damages arising from accidents that result in personal injury or damage to property, and for which the volunteer can be held responsible.
- Loss of, or damage to, the personal property of a volunteer.
- Claims for compensation for losses resulting from negligent or inappropriate advice given by a volunteer working for an advice agency.

Here are three examples: -

1. A volunteer is injured in an accident involving a piece of equipment, the organisation could be held liable because, for example, the equipment was either faulty or the volunteer inadequately trained to use it.
2. A volunteer is injured lifting a client, the organisation could be held liable because, for example, the volunteer was unsuitable for the task or were inadequately trained.
3. A volunteer is assaulted while doing voluntary work, the organisation could be held liable because, for example, it gave insufficient warning of the risks or the volunteer was not instructed on how to handle challenging behaviour or simply, the volunteer was left alone with a difficult client.

What about the negligent acts of volunteers?

If a volunteer acts negligently, improperly, incompetently or works in inappropriate ways with a client and their work has been sanctioned by the organisation, that organisation could be held liable. A 'duty of care' covers client as well as volunteer!

Here are three examples: -

1. If a disabled client is injured as a result of a volunteer being unable to control a wheelchair properly, the organisation may be liable, because, for example, they failed to ensure the volunteer was capable of carrying out this task.

2. If a child is hurt while in the care of a volunteer the organisation can be held liable on the grounds that it failed to take reasonable care to prevent the injury.
3. If a volunteer assaults someone the organisation may be held responsible for selecting an unsuitable person, or having inadequate selection procedures.

How can an organisation minimise risks?

Eliminating every single risk is practically impossible. Taking certain measures can greatly reduce the likelihood of problems arising. If these are followed insurance companies are more likely to regard organisations as fulfilling their 'duty of care'.

1. Follow good practice in the recruitment, selection and induction of volunteers, this includes interviews, references, other checks, supervision etc.
2. Volunteers need adequate training. This training should be relevant and evaluation needs to be made of the volunteers understanding of what the training involved. Do not forget to include 'Health & Safety' as part of that training.
3. There is supervision and support for each volunteer and this is regularly reviewed.
4. Job descriptions are drawn up for each volunteering task and when undertaking the voluntary work, volunteers do not deviate from these assigned tasks.
5. All volunteers undergo the above process and become 'registered'. Do not rely on friends/relatives of existing volunteers; they too should go through the process.
6. Keep records, including assigned activities and any training undertaken.
7. Check all aspects of health and safety (e.g. look for faulty equipment etc.).
8. Give clear guidelines regarding the handling of personal property (e.g. having a suitable place to store things), keys and especially money.
9. Ensure that the working environment is as safe as possible.
10. Check all relevant documents, e.g. driving license and insurance details for volunteers who are to be driving as part of their voluntary work.

If there is any doubt, the person responsible for supervising volunteers should check with them they understand and are confident about what their task is, what they can and cannot do and that they are competent when working any equipment.

Are there other issues for organisations to consider?

- If a volunteer has been recruited by one organisation but then referred to assist another, it is the organisation with whom they are directly working that is normally responsible for arranging insurance cover.
- Volunteers managed by and working for local authorities, should be covered by the insurance policy of that local authority.
- Organisations contracted to provide a service need to be wary of the insurance implications. It may be useful to discuss particular issues with an insurer or solicitor.
- There may be lower and upper age limits on certain policies. This is particularly relevant for organisations that have volunteers aged 70 and over - check the policy. If there is an age limit the insurers may be open to negotiation, or it might involve asking the volunteer to agree to not being covered.
- There may be exclusions in some policies, for example, people who are HIV+. Issues around whether or not this information would be disclosed and ensuring people are not excluded/discriminated against need to be addressed by the organisation.
- If volunteers are accepting clients into their homes, they need to check out their contents insurance to ensure they are covered in the instance of theft or breakage.
- Any claims involving legal liability need to be notified to insurers immediately or as soon as possible.
- Organisations should not enter into correspondence or otherwise negotiate with a claimant. Advise the claimant that details have been passed to the Insurers.

There is a list available of insurance companies who provide cover for volunteer drivers under their standard motor policy without an increase in premiums. (See below for address.)

Organisations requiring volunteers to be minibus drivers may find the insurance procedures complex. There is a publication available, 'Volunteers in the Driving Seat', which helps to clarify the situation. (See below for address.)

How can an organisation begin to assess its insurance requirements?

No organisation can afford to risk a claim for damages without adequate insurance protection, however, deciding on which policies are necessary does need some careful thought. A useful starting point is to ensure that four main areas (a to d listed below) are sufficiently covered. Examples of the policy required for each of these are referred to in the following section.

- a) Protect the organisation against its legal liability for injury suffered by a volunteer.
- b) Protect the organisation against its legal liability to third parties (e.g. users) arising from the actions of a volunteer.
- c) Protect volunteers against legal liability arising out of their own actions.
- d) Compensate volunteers for injury suffered in the course of volunteering.

One further, but very important, point should be noted. The types of insurance given below are primarily concerned with issues, which may arise when working with volunteers. Some, if not all, will be relevant. However, although comprehensive, it is not the complete list of policies needed to cover all aspects of managing an organisation (e.g. it does not include buildings/contents/equipment insurance, Trustee Liability insurance etc.). If in doubt consult an insurance company or broker.

Which insurance policies are needed by organisations?

- Public Liability Insurance indemnifies an organisation against claims, which arise from accidents that cause injury to persons or damage to property.
- Organisations should ensure that each volunteer is protected against claims from clients or members of the public (Third Party cover), as well as claims from other people within that organisation, whether other volunteers or paid staff (Member to Member cover. Also, organisations need to consider the limit of cover required.
- Personal Accident Insurance provides payments in the event of injuries or death, which occurs during the course of work for an organisation. These payments are made irrespective of who is responsible. There are often exclusions for this type of policy, e.g. people aged over 70, and so details need to be checked with the insurance company.
- Professional Indemnity Insurance (also known as an Errors and Omissions policy) is particularly relevant to organisations offering advice to members of the public. If a volunteer gives advice which results in a client experiencing a financial loss, for example, the organisation could find itself legally liable for damages.

- Insurance for 'Special Events' may be required if volunteers participate in activities which are not included in the normal work of an organisation. An example could be a sponsored event such as a parachute jump.
- Motor Insurance is required for all motor vehicles, the onus being on the vehicle owner. If an organisation owns a vehicle, which is used by volunteers, it is responsible for arranging appropriate insurance cover. Likewise, if the vehicle belongs to the volunteer, they need to advise their insurance company. With this last point in mind, it is important for organisations to check this is actually done and that any increase in cost of the premium is met by the organisation and not the volunteer. Organisations can also take out policies, which protects the 'no claims bonus' of a volunteer.
- Contingent Motor Liability Insurance protects the organisation against legal liability, which may arise if a volunteer is involved in an accident during the course of their voluntary work. This applies even if the organisation does not own the vehicle concerned. If, for example, the volunteer has failed to inform their insurers a vehicle is being used for voluntary work and as a result the insurers deny liability, then the organisation could be liable.
- Money insurance can be taken out to cover cash on the premises or being taken to the bank or in the house of volunteers. The cover usually includes personal accident assault cover for those carrying cash.
- Fidelity Guarantee covers against any possible loss of property or cash arising from fraud by employees/volunteers/management committee.

If there is any doubt, an organisation should always check with their insurers!

Finally, the numerous risks, which can arise in relation to involving volunteers, have been highlighted and, as such, it is important for organisations to be clear about what they are seeking to achieve before arranging insurance cover. However, it should be noted, insurance is not all protecting and the organisation will still be expected to follow good practice procedures and take all reasonable steps to avoid or minimise claims.

Where is it possible to get further information?

The National Centre for Volunteering, Regent's Wharf, 8 All Saints Street, LONDON, N1 9RL, Tel. 0171 520 8900, Fax. 0171 520 8910, e-mail centrevol@aol.com guides

Publications include:

'Protecting Volunteers'

'Volunteers in the Driving Seat'

'List of Insurers providing cover without increasing premiums'
Plus other 'good practice' information.

V. O.D.A. North Tyneside V.O.D.A, Room 1 b, Linskill Centre, Linskill Terrace, North Shields, NE30 2AY, Tel. 0191 2960929

Publications include: 'Charities & Insurance'
'Insurance Protection: a Guide for Voluntary Organisations'
'Insurance Services for Voluntary Organisations'
'Insurance (briefing no.2)'

The National Council for Voluntary Organisations (NCVO).
Tel. 0171 7136161.

Nat West Financial Management Advisers are available to give free advice to voluntary organisations. They can be contacted between 2.00pm & 5.00pm on Monday, Tuesday and Wednesday.

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