

Volunteer recruitment: discrimination, induction and spontaneous volunteers

Legal information for Victorian community organisations

This fact sheet covers:

- ▶ discrimination in the recruitment process
- ▶ induction and training of volunteers, and
- ▶ spontaneous volunteers.

It is important to make sure that the recruitment, induction and training of volunteers is thorough and consistent.

Volunteers are essential to the success of community organisations. Your organisation should recruit its volunteers in a fair and non-discriminatory way and implement a well planned and relevant induction and training plan, so that your volunteers can perform the role expected of them competently and safely.

1. Recruitment of volunteers and discrimination

Discrimination may occur in the recruitment process and the law protects workers, which may include volunteers, in a number of ways. We recommend that your organisation has a policy against discrimination across the whole organisation, in both an employment and volunteering context.

Not only is it favourable to those working in your organisation, it will also prevent any bad publicity and reputational damage that may arise from a complaint of discrimination.

Your organisation should take all reasonable steps to eliminate discrimination by being proactive and taking steps to prevent discriminatory practices, such as:

- having an anti-discrimination policy, with a section on discrimination in recruitment of both employees and volunteers
- conducting regular training for both volunteers and employees in relation to this policy so that people recognise discriminatory practices
- turning your mind to the language you use in the volunteer recruitment process
- preparing a volunteer description that focuses on the skills required for the role rather than the personal attributes that may be desirable, and
- use the same language in the role description across advertisements and in the interview process. For an example of a volunteer role description, go to Not-for-profit Law's Recruiting and engaging a volunteer fact sheet on the Information Hub at www.nfplaw.org.au/volunteers.



TIP

Ask all volunteer candidates the same questions and record their responses in writing. This will not only be helpful to compare candidates but also to refer back to in the event of an allegation of discrimination.

✘ Avoid focusing on personal attributes	✔ Focus on the skills and requirements of the role
Do you have kids? We really need someone reliable.	Are you able to commit to volunteering regularly between 9am and 3pm on Tuesdays?
You look a bit old – are you really going to be able to lift boxes of donated goods?	This job requires lifting. Is there anything that will prevent you from being able to perform such duties?
Do you have a disability?	Would you require any support that would assist in performing this role?
We weren't expecting a female volunteer to apply for the driving role. How many crashes have you had?	Are you able to provide evidence of a safe driving history?

When might discrimination be lawful?

Generally, discriminatory conduct will not be against the law if:

- it is necessary to comply with an order of a court or tribunal, or is authorised by legislation
- a religious body or organisation discriminates in:
 - ordaining or appointing priests, ministers of religion or members of a religious order (or training or educating those people seeking appointment)
 - selecting or appointing people to perform functions relating to, or participating in, any religious observance or practice.
- conforming to the doctrines, beliefs or principles of the religion or where it is reasonably necessary to avoid injury to the religious sensitivities of people who follow the religion (where discrimination is on the basis of a person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity)
- it is necessary to protect the health and safety of any person, including the person being discriminated against (where discrimination is on the basis of disability, pregnancy or physical features)
- it is necessary to protect property (where discrimination is on the basis of disability or physical feature)
- if the person is unable to carry out the 'inherent requirements' (essential duties) of the role (and no reasonable adjustments can be made to accommodate the person)
- if avoiding the discrimination causes unjustifiable hardship on the organisation
- your organisation is providing special services, benefits or facilities to meet the special needs of people with a particular personal characteristic, or
- it is a special measure being taken to promote substantive equality for a group of people who have one or more of the protected attributes.

EXAMPLE



Protecting health & safety

An elderly person applies for a position in an organisation. The role requires some lifting and packing of shelves. The organisation is not comfortable with hiring this person as she is clearly frail and unstable on her feet and it believes she will likely be injured performing the duties. This discriminatory conduct appears to be necessary to protect the health and safety of the elderly person, other workers and potential visitors and therefore would not be against the law. We suggest that your organisation asks for an independent medical report or other evidence when assessing risks to health and safety. This could later be produced in support of your organisation's decision not to engage the person on this basis.

Increasing employment opportunities for Indigenous Australians

An organisation chooses to target Indigenous people in their recruitment strategy as a part of its broader Reconciliation Action Plan – a policy document that outlines practical action that an organisation can take to build strong relationships and enhance respect between Aboriginal and Torres Strait Islander peoples and other Australians.

The organisation is hoping to assist in reducing unemployment amongst this racial group. This would be considered a special measure and lawful under anti-discrimination laws and is sometimes called 'positive discrimination'.

NOTE



The above list is not exhaustive, and there may be other situations in which discrimination is lawful under specific Federal legislation. Organisations should be careful relying on exceptions and may need to seek legal advice. See the Australian Human Rights Commission website at www.humanrights.gov.au for more information.

FURTHER READING



For more information about discrimination, read our Not-for-profit Law guide on Volunteers and unlawful workplace behaviour on the Information Hub at www.nfplaw.org.au/volunteers.

Volunteer screening

Before engaging a volunteer it is important to undertake the background checks required by law, as well as to consider other appropriate background screening checks to manage risk and ensure the safety of people working at and engaging with your organisation, such as:

- Working with Children Checks (**WWC Check**) – mandatory under legislation for all of your organisation's workers, including volunteers, who undertake 'child-related' work to have a WWC Check (unless an 'exemption' applies)
- Police Checks – not required under legislation but may be a contractual requirement for your organisation, and
- other qualification, reference checks, ID checks and Google searches.

CAUTION

If you decide that applicants are required to undergo a police check prior to recruitment, you must not refuse an applicant simply because he or she has a prior conviction revealed for an offence that has no relevance to the available position. There are legal protections against discrimination on the basis of criminal record.

However, your organisation has obligations to create a safe and effective environment, and you can refuse an applicant on the basis of a criminal past when you believe that the prior offence prevents the applicant from performing the inherent requirements of the position (as discussed above).



If a volunteer has a WWC Check from another state or territory and wants to volunteer in Victoria, they may also need to obtain a Victorian WWC Check, depending on the circumstances.

Interstate visitors can engage in child-related work in Victoria, without a Victorian WWC Check, for a period of up to 30 days in the same calendar year for:

- several events or occasions – provided they have a WWC Check from their state or territory, and
- only one event or occasion – without a WWC Check from their state or territory.

If members of your organisation are travelling to another state or territory outside of Victoria and will engage in child-related work, you need to ensure that you comply with the laws of the particular state they visit – which may mean them having a valid WWC Check for that state.

Generally, most states will recognise the WWC Check of a worker from another state, if their state or territory is part of the national scheme and they are visiting and working on a short-term basis. However, if your organisation's employees or volunteers work in multiple jurisdictions on a regular basis, it is likely that they will need a WWC Check for each state. It is also worth pointing out that the offences considered relevant for the purposes of a WWC Check differ across states and territories. The Victorian Department of Justice and Regulation's [website](#) has a fact sheet detailing each state's screening requirements. See Resources, below.

RELATED RESOURCES

For more information about volunteer screening, read our Not-for-profit Law Volunteer screening fact sheet on the Information Hub at www.nfplaw.org.au/volunteers.

Even if the law does not require it, if volunteers will have contact with children, we strongly recommend that your organisation undertake thorough screening checks.

2. Induction and training of volunteers

In line with best risk management practices, a volunteer should be inducted into an organisation and provided with copies of all relevant policies and key documents, and other relevant guidance or training in relation to the position.

We suggest completing an induction checklist for each new volunteer. We have included an example below. This is not exhaustive and should be tailored to your particular organisation.

Item	Completed	Follow up required? By when?
Screening (where necessary)	<input type="checkbox"/>	
<ul style="list-style-type: none"> Working with Children Check 	<input type="checkbox"/>	
<ul style="list-style-type: none"> Police Check 	<input type="checkbox"/>	
<ul style="list-style-type: none"> Other vocational checks (amend to reflect position) Check references Google check 	<input type="checkbox"/>	
Volunteer Agreement signed	<input type="checkbox"/>	
Provided background about organisation and the role	<input type="checkbox"/>	
Welcomed and introduced to staff and volunteers	<input type="checkbox"/>	
Work station prepared	<input type="checkbox"/>	
Office facilities tour	<input type="checkbox"/>	
Discussed work premises, facilities and OH&S (emergency procedures, first aid, safety considerations in the role, reporting health and safety concerns, critical incident policies)	<input type="checkbox"/>	
Provided copy of detailed role description	<input type="checkbox"/>	
Discussed role description, expectations and reporting structure	<input type="checkbox"/>	
Key contact person allocated (to go to with any concerns, feedback or queries about role and duties)	<input type="checkbox"/>	
Policies read, returned and signed by volunteer:	<input type="checkbox"/>	
<ul style="list-style-type: none"> Privacy Policy 	<input type="checkbox"/>	
<ul style="list-style-type: none"> Workplace behaviour policies 	<input type="checkbox"/>	

Item	Completed	Follow up required? By when?
• Conflict of Interest Policy	<input type="checkbox"/>	
• Photo use consent and release form	<input type="checkbox"/>	
• Volunteer complaints policy and process	<input type="checkbox"/>	
• <i>[Add other key documents, policies and procedures]</i>	<input type="checkbox"/>	
Conducted training in relation to the role including machinery and equipment use	<input type="checkbox"/>	
Conducted/scheduled training in relation to workplace behaviour policies and risk management	<input type="checkbox"/>	
Discussed insurance coverage as a volunteer (what cover is available under the organisation's insurance)	<input type="checkbox"/>	
Signature of volunteer		

Date:		
Signature of volunteer manager		

Date:		

RELATED RESOURCES

A Volunteer Agreement can outline the process of screening and induction in further detail. For a Sample Volunteer Agreement, go to the Information Hub at www.nfplaw.org.au/volunteers.

It may be useful to obtain consent from the volunteer to release to your organisation any photos or footage they take while performing their volunteering role.



3. The spontaneous volunteer

Spontaneous offers of assistance and volunteering may arise following an emergency, crisis or issue resulting in significant media coverage. The community response may include donations of goods or money, or offers of physical assistance through volunteering.

Individuals may also offer to volunteer on a one-off basis at an event or for a short period of time when the needs of the organisation are high.

Spontaneous volunteers may create challenges for organisations, especially where organisations are already managing significant workloads due to an emergency or other incident, for example:

- managing the scale of volunteers at any given time and their respective roles
- performing appropriate screening and other background checks in a short time frame
- ensuring volunteers have the skills, training or experience to perform the role, and
- difficulty in administering adequate training, safety procedures, guidance and supervision to manage workplace risks.

RELATED RESOURCES

Volunteering Victoria's new HelpOut emergency service helps link individual volunteers with organisations working on disaster relief. Organisations can pre-register with HelpOut and can receive information from Volunteering Victoria in relation to identifying suitable roles for HelpOut volunteers, policies and induction procedures and preparation for taking on these volunteers. This service is being piloted in 2016 and is limited to particular regions during this time. For more information about HelpOut visit Volunteering Victoria's website at <http://www.volunteeringvictoria.org.au/10002-2/>.



TIP

We recommend that your organisation reviews its insurance policies to ensure that coverage extends to its spontaneous volunteers. For more information about risk management and insurance considerations go to our Not-for-profit Law fact sheet on Safety, risk management and volunteers at www.nfplaw.org.au/volunteers.



Resources

Related Not-for-profit Law Resources

✔ Recruitment www.nfplaw.org.au/recruitment

For more information about discrimination in recruitment, go to our guide on Discrimination in recruitment of volunteers and employees.

✔ Volunteers www.nfplaw.org.au/volunteers

The Volunteers page on the Information Hub features further information on specific issues covered in this fact sheet and the laws as they relate to volunteers, including resources on:

- Safety, risk management and volunteers
- Volunteer screening
- Volunteers and workplace behaviour
- Recruiting and engaging a volunteer
- Sample Volunteer Agreement

Related Resources

✔ Volunteering Victoria www.volunteeringvictoria.org.au

Volunteering Victoria has a range of resources in relation to the recruitment of volunteers in its [Volunteer Management Toolkit](#) as well as information about Victoria's new [HelpOut](#) volunteer matching service.

✔ Victorian Department of Justice and Regulation – Working with Children Check www.workingwithchildren.vic.gov.au

The Working with Children Check website provides information about the requirement for your employees and volunteers to obtain WWC Checks if they are involved in 'child-related work'. The site includes application forms and details of the fields of work covered by the legislation.

✔ Australian Human Rights Commission (AHRC) www.humanrights.gov.au

The AHRC website features further information on issues relating to discrimination.



A NFP Law Information Hub resource. Access more resources at www.nfplaw.org.au

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