

If Things Go Wrong

Summary

For most people their volunteering experience is a positive one, and may result in them becoming lifelong volunteers. Sometimes, though, things do go wrong, and it's important to work out a course of action if this happens.

There are many reasons why a volunteering opportunity might not work out, and this Information Sheet attempts to suggest some possible courses of action that may be open to you.

Please note that Volunteering England is unable to investigate individual cases, so this Information Sheet is intended to signpost you to some organisations that may be able to offer you further assistance should you need it.

This Information Sheet covers:

- Good practice
- If things go wrong - mediation
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- Who can I complain to?
 - Governance issues
 - Health and Safety
 - Data Protection
 - Discrimination and harassment
 - Trade Unions
 - The role of Volunteer Centres

Sometimes things may not always work out during the course of a person's volunteering. This could be due to a complaint, issue, concern or problem raised either by or about a volunteer. Depending on the nature of the problem or concern, there are various ways it can be dealt with.

Good Practice

In terms of general advice, Volunteering England recommends that complaints or problems should initially be discussed between a volunteer and their supervisor or line manager through an ad hoc discussion or in a supervision meeting. In some cases, it may be that more training, support or supervision is needed, especially if the issue is related to a volunteer's performance, attitude or behaviour. The person who is responsible for the volunteer may set a time period in which they can monitor the volunteer to find out if the problem or concern has resolved itself.

For problems which cannot be solved informally, we recommend that organisations follow a 'problem solving procedure'. This should enable complaints, problems, issues or concerns (either raised by or about a volunteer) to be dealt with in a fair, consistent and equitable way.

Such a procedure would typically involve several stages, so that a volunteer has the opportunity to appeal to higher levels of management and – where appropriate - the organisation's governing body if they feel unhappy with the handling of the complaints process by their own supervisor (or their supervisor's manager). If the issue cannot be resolved in-house, then it may be necessary to involve another member of the organisation, such as a regional or head office representative with responsibility for volunteering (if the organisation has such a structure in place).

If things go wrong - mediation

Mediation can be a good solution for workplace disputes, and it is increasingly recommended for employment matters as well as for cases involving volunteers. Mediation by an impartial third party can be helpful in many situations, as it is a confidential process which is generally completed through discussions between the parties over the course of one day. It can also be a good method of resolving problems if the volunteer wishes to return to their regular volunteering role once the problem has been dealt with. Further information can be sought from ACAS: <http://www.acas.org.uk/>

Do I have any rights?

Whereas paid employees have 'grievance and disciplinary procedures' built into the terms and conditions of their employment contract, volunteers don't have a legal status in the same way that paid workers do in the UK. Volunteers are not covered by employment law and therefore do not have formal rights to redress in an Employment Tribunal. This is because employment law is usually based on having a 'contract' of employment or for providing work or services, and volunteers do not have such contracts with the organisations that they help.

This means that volunteers don't have the right to have an organisation follow proper investigative procedures when things go wrong, and they don't have the right to appeal a decision made by the organisation.

To sum up, in most situations there isn't very much a volunteer can do if they want to find an external body which can pass judgment on their situation. However, in a small number of cases, volunteers have been able to establish some form of employment rights. Summaries of these tribunal cases can be found in chapter 1 of the Volunteering England publication *Volunteers and the Law*, which can be downloaded for free at: <http://www.volunteering.org.uk/law>

Who can I complain to?

If you have an issue, concern or problem that relates to the governance of the organisation, health and safety, data protection or harassment, then there are some external agencies that may be able to help.

It should also be noted that whilst volunteers are not covered by employment legislation, they are covered by some types of legislation, such as health and safety law and data protection, as members of the public.

Governance issues - The Charity Commission

In terms of potential forms of external redress, the Charity Commission exists as the independent regulator of charities in England and Wales. Its website explains that its primary focus as regulator “is to work closely with charities to ensure that they are accountable, well run and meet their legal obligations in order to promote public trust and confidence”. Therefore, the Charity Commission is not able to act on complaints related to disagreements between individuals, but it will investigate if a volunteer’s concerns relate to the organisation's wider work or the fulfilment of its charitable aims.

<http://www.charity-commission.gov.uk/>

Health and Safety

If you have concerns regarding health and safety issues that you feel are not being addressed by the organisation, you can contact the Health and Safety Executive on: 0845 345 0055.

<http://www.hse.gov.uk/contact/>

Alternatively, you can contact your local council.

Data Protection

The Data Protection Act sets rules about the way organisations collect and use information about you (your personal information). If you have a complaint about the way an organisation has handled your personal information, you can contact the Information Commissioner’s Office, who may be able to help.

<http://www.ico.gov.uk/complaints.aspx>

Discrimination and harassment

Anti-discrimination legislation applies to employment and the provision of goods and services, so doesn’t cover volunteers because they are not employed under the relevant legal definitions. Volunteering England advises organisations to reflect the spirit of such legislation in their volunteer involvement as a matter of good practice, to help ensure that volunteers are treated fairly and equally.

Harassment differs from discrimination, and although the Protection from Harassment Act 1997 doesn't specifically refer to volunteers, it appears that anyone found guilty of harassment could face imprisonment and/ or a fine, as well as civil action by the person subjected to the harassment. To summarise, if a volunteer were found guilty of harassment then they could face legal proceedings as well as civil action (although their status would be that of an individual, rather than a 'volunteer'). Similarly, if a volunteer were subject to harassment, then they (as an individual) would be covered by this legislation.

⇒ **Protection from Harassment Act 1997:**

<http://www.opsi.gov.uk/acts/acts1997/1997040.htm>

The case of *Majrowski v Guy's and St. Thomas' NHS Trust* (2006) UKHL 34 suggests that it may not just be the abusive or threatening staff member who may be liable - their organisation may have vicarious liability as well.

⇒ ***Majrowski v Guy's and St. Thomas' NHS Trust* (2006) UKHL 34**

<http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060712/majro-1.htm#1>

To summarise, volunteers may have some form of redress against the worst forms of bullying or similar behaviour, but this does not give them protections against discrimination as such.

Trade unions

Some volunteers join trade unions and have sought union representation in cases of disagreement with the organisation they volunteer for. However, this can be difficult where volunteers are not a member of a trade union before the dispute occurs, because trade unions may not be able to offer representation for a case which precedes someone's membership. Even in cases where trade unions do represent volunteers, it can be a complex process because there is very little legislation to refer to. Trade unions that accept volunteers as members include:

⇒ **Unite:** <http://www.unitetheunion.com/>

⇒ **Unison:** <http://www.unison.org.uk/>

⇒ **Community and Youth Workers Union:** <http://www.cywu.org.uk/>

The role of Volunteer Centres

Volunteer Centres are organisations that provide support at a local level for individual volunteers and volunteer-involving organisations (such as charities and voluntary and community organisations). Part of their work involves promoting good practice in working with volunteers to all volunteer-involving organisations. This means that if things go wrong, sometimes a local Volunteer Centre may be able to intervene and help to suggest possible solutions to the issue or problem.

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Ultimately, if you do have a negative volunteering experience, try to remember that this is the exception rather than the rule, and that many people view their volunteering in a positive light. If the organisation you volunteer with is unable to provide a suitable solution, remember that you are under no obligation to stay and that there are numerous organisations, ranging from charities, voluntary organisations, community groups and statutory agencies, such as hospitals, schools or museums, which are actively seeking volunteers and would welcome an addition to their volunteering team.

When looking for another volunteering opportunity, don't be shy about asking if the organisation has a good set of volunteer policies in place, because this will indicate how committed they are to managing their volunteers as well as how prepared they are for with any difficulties that may arise in future.

Your local Volunteer Centre should be able to help you find a new volunteering opportunity.

⇒ Details of your nearest Volunteer Centre can be found at:

<http://www.volunteering.org.uk/finder>

Volunteering England Information Sheet

Problem Solving (VE members only)

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