

# Guidance notes

## Legal requirements for Voluntary Organisations ...

The management committee of a voluntary organisation or community group has a number of responsibilities, some of which are legal responsibilities. The main legal requirements voluntary organisations need to be aware of are:

### I - Health and Safety

The management committee of any voluntary organisation must ensure that the organisation complies with **Health and Safety legislation** - i.e. health and safety of employees, volunteers and others using the organisation's premises and equipment.

- Legal requirements
  - ⇒ The duty of care is a general legal duty that applies to all organisations regardless of size, income or whether the organisation has paid staff.
  - ⇒ Under the Health and Safety at Work Act 1974, employers have the responsibility to ensure the health and safety of its employees and those who may be affected by their work activities. A health and safety policy, as well as a risk assessment (covering the working place and the activities of the organisation) are legal requirements for organisations with 5 or more employees.
- Good practice
  - ⇒ All organisations with employees or that use volunteers should implement a health and safety policy and carry out a risk assessment if possible.

### II - Insurance

The management committee is responsible for ensuring that the organisation has necessary insurance in place.

Compulsory insurances (required by law) are:

- Public liability insurance (it will cover your organisation in case of injury or death of a person using your premises, it will also cover you in the event that you damage property or equipment while using somebody else's premises).

- Employer's liability insurance (if the organisation has paid staff)
- Road traffic insurance (if the organisation uses vehicles)

Other discretionary insurance, which maybe necessary depending on the type of activities, include:

- Professional indemnity insurance, Buildings insurance, Contents insurance (including cover for cash), etc.

### **III - Equal Opportunities**

It is the responsibility of the Management Committee to ensure the organisation complies with **Equal Opportunities legislation**.

#### ▪ Legal requirements

- ⇒ All organisations are obliged by law not to discriminate against workers in these six areas: sex, race, sexual orientation, religion, age and disability.
- ⇒ It is also unlawful for employers to discriminate because of pregnancy, childbirth, or maternity leave, because a person is a member or non-member of a trade union or because they are part-time workers or on a fixed term contract.
- ⇒ Under the Disability Discrimination Act (DDA), all organisations employing staff are obliged to make 'reasonable adjustments' to the workplace and work practices so that a disabled person is not disadvantaged.
- ⇒ In terms of service delivery, organisations cannot discriminate on the basis of gender, race, ethnic origin and nationality, disability, as well as sexual orientation. It is expected that in 2007 discrimination on the basis of religion or belief in the supply of goods or services will also be outlawed. Under the DDA, all organisations providing services have to take reasonable steps to make their services accessible to people with disabilities.

#### ▪ Good practice

- ⇒ Voluntary organisations should ensure that their services, recruitment and employment procedures, and decision making processes are accessible and non-discriminatory, as well as taking positive action, if needed and practicable.
- ⇒ All organisations should implement an equal opportunities policy covering areas such as membership of the organisation and management committee, service delivery, recruitment of staff/volunteers.

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### **III - Data protection**

Under the **Data Protection Act 1998**, all organisations are legally obliged to protect any personal information they hold, either in paper or electronically.

- Legal requirements
- ⇒ The Data Protection Act requires all organisations which handle personal information to comply with a number of important principles regarding privacy and disclosure. The Act also allows people to find out what personal information is held about them.
- ⇒ Any organisation processing personal data must comply with the 8 enforceable data protection principles (refer to 'Guidance Notes' : *Data protection*).
- Good practice - all organisations should develop and implement a data protection policy (probably linked with a confidentiality policy).

#### **IV - Protection of children, young people and vulnerable adults**

- Legal requirements
- ⇒ Charity trustees have a duty of care towards those to whom they provide services.
- ⇒ Under the **Protection of Children Act 1999**, child care organisations (i.e. which are concerned with the provision of accommodation, social services or health care services to children or the supervision of children) are obliged to carry out Criminal Record Bureaux (CRB) checks for prospective employees before offering employment.
- ⇒ Since July 2004, registered care providers have a statutory requirement to request Criminal Record Bureaux (CRB) checks when considering a person for a care position. This includes care homes, domiciliary care agencies and adult placement schemes and applies to both paid and unpaid staff.
- Good practice
- ⇒ All organisations working with young people or vulnerable adults should have in place principles of good practice relating to the protection of their clients.
- ⇒ All organisations working with young people or vulnerable adults should develop and implement policies to reduce the risk of abuse. ***This is now a condition for funding, charitable status, insurance and other purposes.***
- ⇒ Voluntary organisations working should carry out Criminal Record Bureaux checks on employees or volunteers working directly with children and vulnerable people.
- ⇒ Voluntary organisations should treat all applicants for positions who have a criminal record fairly and not discriminate unfairly against potential employees or volunteers on the basis of a conviction or other information revealed. They should have a written policy on the recruitment of ex-offenders.

### III - Employment and volunteers

In most voluntary organisations the management committee is legally the employer, and therefore responsible for recruiting, supporting, managing and dismissing staff.

- Legal requirements

As employers, voluntary organisations are expected to comply with several employment regulations, these include, contractual obligations, pay regulations, dismissal and grievance procedures, sickness and absence regulations, maternity and paternity rights, time off and other regulations. Organisations' might not have contractual employment obligations in relation to volunteers (i.e. if they don't receive fixed allowances), but they will have health and safety responsibilities, as well as public liability.

- Good practice

- ⇒ Organisations should have in place policies guiding the recruitment and management of employees and volunteers covering aspects such as, recruitment, management, equal opportunities, grievance, disciplinary and redundancy proceedings, etc.
- ⇒ *Organisations need to keep up to date with changes in legislation.*

### IV- Fundraising

The key laws and regulations governing fundraising are: the Charities Act (2006); Charities and Gaming laws; the Data Protection Act (1998) and other laws that happen to impact upon fundraising such as Health and Safety.

- Legal requirements

- ⇒ Money collections - To collect money on private premises (e.g. shops) the organisation simply needs the owner's permission. An organisation wishing to raise money by house to house or street collections must apply in writing to the licensing authority. In London this is the Metropolitan Police Service Charities office.
- ⇒ Lotteries and raffles - The law on lotteries and gaming is quite complicated and these notes should be taken as a rough guide only. There are some things you can do without asking permission, such as: small lotteries which are run during a bazaar, sale of work, fete, dinner, dance, sporting or athletic event or other entertainment of a similar character. For all other types of lotteries and raffles contact the Institute of Fundraising for further advice ([www.institute-of-fundraising.org.uk/](http://www.institute-of-fundraising.org.uk/), 020 7840 1000).

⇒ Car boot sales - they constitute a market and therefore you must submit an application to the local council.

▪ Good practice

All organisations should develop and implement policies to ensure that they are exposed to minimum financial risks, are accountable to funders and meet the expectations and needs of their beneficiaries.

### **Last but not least ...**

The management committee of any voluntary or community organisation is also responsible for the following:

- Ensuring that the organisation carries out its objects (aims and purpose) and operates within the powers given to it by the constitution.
- Making sure the organisation is meeting its legal obligations and any legally binding commitment (e.g. renting premises, hiring staff, leasing equipment).
- Ensuring that the organisation has enough money to carry out its work, meets its financial obligations and accounts for all its financial dealings, and does not misuse the organisation's resources.
- Complying with legal obligations if the organisation is a registered charity, a company limited by guarantee, an industrial and provident society, or a friendly society.
- Legal and moral responsibilities related to its activities, such as agreements with funders, and any legislation which applies to the specific activities conducted (e.g. working with vulnerable groups, handling food, public events, public collections, etc.)

**If you would like further information or advice on any of the issues in this 'Guidance Notes', contact the Wandsworth Voluntary Sector Development Agency (WVSDA) on 020 8875 2843/4/5/6 or Email: [smallgroups@wvsda.org.uk](mailto:smallgroups@wvsda.org.uk), or [outreach@wvsda.org.uk](mailto:outreach@wvsda.org.uk)**

*The Wandsworth Voluntary Sector Development Agency (WVSDA) provides information, advice and training to assist voluntary and community groups with issues relating to setting up and managing effective organisations. Whilst every effort is taken to ensure the information, advice and support we offer is current, relevant and accurate, it does not constitute legal advice.*