

## Asylum Seekers and Volunteering: Good Practice and Safeguarding

### 1. Introduction

This resource provides guidance on good practice relating to asylum seekers and volunteering and then explores how this relates to safeguarding issues in third sector organisations.

There does appear to be confusion about refugees, asylum seekers and volunteering. Often Home Office caseworkers will tell asylum seekers verbally that they cannot volunteer. However, **the law is clear that asylum seekers can volunteer**<sup>1</sup>. There is also a wide range of research which shows that this is beneficial for individual asylum seekers and the organisations they volunteer for.

For clarification; an 'asylum-seeker' is someone who has left their country in search of international protection due to a fear of persecution but is yet to be recognised as a refugee.

Being a 'refugee' is the legal status of someone who has been granted permission by the Home Office to reside in the UK (1951 Refugee Convention and 1968 Optional Protocol). A refugee has the same rights to work or volunteer, under the same terms and conditions, as any other resident.

It should be noted that in Wales the inclusion process begins when asylum seekers arrive in the country, whereas in England, the UK government believes that it takes place when asylum seekers become refugees. Welsh law and policy places an emphasis on volunteers being supported as a way of encouraging inclusion and developing their English or Welsh language skills. More information about the Welsh approach to refugee inclusion can be found within the Welsh Government Refugee Inclusion Strategy and the latter delivery plan<sup>2</sup>.

### 2. Current Guidance

As discussed above, the recent guidance which was issued in 2017 is clear and unequivocal about asylum seekers and volunteering. It now states:

- All asylum seekers are allowed to volunteer – no matter what the status of their claim is;

<sup>1</sup>See

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/583192/Permission-to-work-v7.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/583192/Permission-to-work-v7.pdf)

<sup>2</sup> See <http://www.wsmf.org.uk/documents/wsmf/Refugees/Refugee%20Inclusion%20Strategy.pdf> and <https://gov.wales/topics/people-and-communities/communities/communitycohesion/asylum-seekers-and-refugees/?lang=en>

- Asylum seekers are allowed to volunteer in the public sector, as well as for non-profit organisations and charities;

It makes some key changes from the 2014 guidance in that it is:

- updated to include reference to criminality and delay when considering permission to work applications;
- contains improved guidance on applying for permission to work to provide clarity for claimants on what is expected;
- updated information about the difference between working for a voluntary organisation and volunteering to make it clearer that asylum seekers are able to volunteer.

## The 2017 Guidance clearly states

*Volunteers are those who give their time for free to charitable or public-sector organisations without any contractual obligation or entitlement. They are not employees or workers as defined by various statutory provisions.*

*Volunteering can be undertaken at any stage of the asylum process, but such activities must not interfere with scheduled events such as a substantive asylum interview, regular reporting event or re-documentation interview. These events will not be rescheduled to accommodate volunteering. Organisations offering such opportunities will need to allow some flexibility so that volunteers can attend interviews or appointments around their volunteering. Volunteering must also not undermine the effective removal of those who do not need protection and do not qualify to remain in the UK on any other basis.*

*Asylum seekers can volunteer whilst their claim is considered without being granted permission to work. It is Home Office policy to support asylum seekers volunteering for charities or public-sector organisations. However, this must not amount to engagement as an 'employee' or a 'worker' and it is the responsibility of the individual and the organisation they are volunteering for to check that such activity does not mean they are working in breach of conditions. The organisation should also undertake all relevant safeguarding checks required. Any personal details provided by the claimant as part of the immigration process cannot be confirmed by the Home Office for use in any other context other than immigration matters.*

*Key elements in establishing whether someone is a volunteer rather than an employee or worker are whether there is an obligation on the individual to perform the work, and an obligation on the organisation to provide it; and whether the individual is rewarded for the work, through money or benefits in kind. Volunteers may be reimbursed for expenses incurred whilst volunteering, for example, for travel and food but should not receive any other payment. If any other payment is received the role may be classed as an employee or worker. Working or being employed by a charity or voluntary organisation is subject to the same restrictions*

as employment in other sectors. Genuine volunteering roles are not subject to these restrictions.

To summarise, the principal difference is that volunteering must not amount to unpaid work, or job substitution. In particular:

- there should be no payment, other than reasonable travel and meals expenditure actually incurred (not an allowance for the same)
- there should be no contractual obligations on the volunteer and they should not enjoy any contractual entitlement to any work or benefits
- the volunteer is helping a registered voluntary or charitable organisation, an organisation that raises funds for either of these, or a public-sector organisation
- volunteering is not a substitute for employment, that is fulfilling a role that a salaried worker would normally fulfil

Organisations need to be clear about the legal status of volunteering roles they create before they recruit people to such roles. The guidance above is to help organisations understand the distinctions. However, if in doubt about whether a specific opportunity constitutes engagement as an employee or worker or volunteering, organisations should seek independent legal advice before taking on volunteers who are asylum seekers and who do not have permission to work.

As an asylum seeker you will be able to get expenses which cover travel and lunches if this is offered by the organisation. However reasonable expenses are allowed by the HMRC and are not defined as income.

More information about this can be found at <https://www.gov.uk/volunteering/pay-and-expenses>

### 3. Benefits of Volunteering for Refugees and Asylum Seekers

There are enormous benefits to anyone volunteering. However, some recent research which focussed on volunteers who were asylum seekers or refugees has found additional benefits<sup>3</sup>. Volunteering creates more direct pathways to work and can contribute to positive media coverage. It can build social capital and of course, good volunteering opportunities can improve language skills, specifically, and a wide range of other skills<sup>4</sup>. It can also help to update an individual's CV and professional skills as part of a work search and support building links with a wide range of communities.

<sup>3</sup> COMPAS 2004 – refugees and new migrants [https://www.compas.ox.ac.uk/2004/er-2004-diasporas\\_uk\\_poverty\\_reduction\\_dfid/](https://www.compas.ox.ac.uk/2004/er-2004-diasporas_uk_poverty_reduction_dfid/)

<sup>4</sup> See <https://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2015/working-paper-series/IRIS-WP-6-2015.pdf> and <https://www.outdoorrecreation.org.uk/wp-content/uploads/old-downloads/Volunteering%20in%20the%20natural%20outdoors%20in%20the%20UK%20and%20Ireland%20-%20a%20literature%20review.pdf>

The volunteer centre in Sheffield has produced some helpful advice on supporting asylum seeker and refugee volunteers and it can be found here (English only):

<http://www.sheffieldvolunteercentre.org.uk/involving-refugees-asylum-seeker-volunteers>

## 4. Good Safeguarding Practice

Organisations that want to recruit asylum seekers and refugees as volunteers need to consider how they will ensure good safeguarding practice, both in relation to the recruitment process and safeguarding of the volunteers, some of whom may themselves be vulnerable, or at risk of harm, abuse or exploitation.

When it comes to safeguarding, it may be that volunteers have different beliefs about issues such as reporting, boundaries and confidentiality, due to their cultural background or experiences in their home countries. For example, they may not understand how to apply the term “confidentiality”, so safeguarding terminology will need to be explained. This should be covered as part of the volunteer induction and recruitment process.

There will also need to be consideration of English and Welsh language skills. It may be that improving language skills is a focus of the volunteering; however, this should be clear from the outset

## 5. Volunteer Recruitment and DBS Checks

Whilst asylum seekers should be encouraged to volunteer, traditional police background check approaches (DBS) are not helpful in the case of new arrivals, as the checks only cover UK jurisdiction.

Guidance on the UK Gov website on a page entitled ‘Criminal record checks for overseas applicants, does suggest that some countries can provide some information:

*“The application process for criminal records checks or ‘Certificates of Good Character’ for someone from overseas varies from country to country. You’ll have to apply in the country or to the relevant embassy in the UK”.*<sup>5</sup>

The organisation can read that guidance and consider contacting the person’s Home Embassy. However, caution is advised, as this may put asylum seekers at risk of being targeted in this country, or relatives at home may be identified and targeted.

Any organisation considering this should take advice from a specialist refugee organisation such as the Welsh Refugee Council.

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<sup>5</sup> See <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

While there are right to work checks for paid staff, these do not apply to volunteers. As with all volunteering roles, it is therefore important that role descriptions etc, do not create the impression of a contractual relationship.

You can find more information about volunteering and the law here <http://www.wcva-ids.org.uk/wcva/1081>

## 5.1. Regulated Activity

It's particularly important to be aware that for some activities, an enhanced DBS check with barring list is required by law for specific areas of work which are known as “**regulated activity**”.

If there is no access to a background check, the volunteer must not be placed in regulated activity, or must be subject to continuous supervision if in roles working with children. For further information, please see WCVA's guidance on what constitutes regulated activity:

Regulated activity for children

[https://www.wcva.org.uk/media/6040828/tssw\\_ra\\_for\\_children\\_pdf\\_e.pdf](https://www.wcva.org.uk/media/6040828/tssw_ra_for_children_pdf_e.pdf)

Regulated activity for adults

[https://www.wcva.org.uk/media/6040821/tssw\\_ra\\_for\\_adults\\_pdf\\_e.pdf](https://www.wcva.org.uk/media/6040821/tssw_ra_for_adults_pdf_e.pdf)

NB: In the context of regulated activity, “*Supervision*” is used as a specific term by the DBS for someone having continuous oversight of volunteers who are working with children. Where the volunteers are placed in a position that would be regulated activity, supervision by a person (staff or volunteer) who *is* in regulated activity (with an enhanced DBS check with barring list check - children's workforce), this removes the volunteers from regulated activity.

For further information, please see our guidance on Recruiting without access to DBS checks

[https://www.wcva.org.uk/media/6359329/tssw\\_recruiting\\_without\\_access\\_to\\_dbs\\_checks\\_mr\\_sm.pdf](https://www.wcva.org.uk/media/6359329/tssw_recruiting_without_access_to_dbs_checks_mr_sm.pdf)

## 5.2. Safer Recruitment

From a safeguarding perspective it is important that organisations do not rely on police checks only. Checks should be part of the organisation's overall safer recruitment policy and practice, such as using clear role descriptions, interviews, and appropriate supervision.

Interviews, in particular, are opportunities to determine if other safeguarding risks may apply, using methods such as values-based interviewing <sup>6</sup>.

Volunteer placement managers should consider carefully what kind of role is appropriate for the individual if they have any concerns regarding safeguarding risks.

Good practice in recruitment is a powerful safeguarding measure for all roles, but particularly where there is no eligibility for checks. It also acknowledges that the candidate may themselves be a vulnerable person, and in need of safeguarding.

## 6. Safeguarding Volunteers

Whilst it's important not to make assumptions about peoples' experiences, organisations recruiting asylum seekers and refugees as volunteers should consider the possibility that these volunteers could be vulnerable, or at risk, themselves and ensure that this is addressed in their wider safeguarding policies and procedures.

Each individual volunteer should know who to contact within the organisation if they are worried or feel threatened. Foreign nationals may not understand the role of agencies like the police and may need reassurance or support to seek help.

## 7. Useful Links

The following resources can offer information and support without stigmatising the individual:

- **Wellbeing in the Workplace**

Time to Change Wales <http://www.timetochangewales.org.uk/en/>

- **Violence Against Women Domestic Abuse and Sexual Violence**

Live Fear Free Helpline <https://livefearfree.gov.wales/policies-and-guidance/vawdasv-wales-act-2015?lang=en> etc)

- **Honour Based Violence, FGM, Forced Marriage, Modern Day Slavery, Trafficking**

BAWSO: <http://www.bawso.org.uk/>

- **Hate Crime**

Victim Support Helpline <https://www.reporthate.victimsupport.org.uk/hate-crime/>

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<sup>6</sup> See <https://www.farrer.co.uk/globalassets/news-articles/downloads/factsheet-value-based-interviewing-keep-children-safer-through-recruitment.pdf>

## APPENDIX A

A helpful link on the NCVO website lists all categories of migrants and whether they can volunteer: <https://knowhownonprofit.org/your-team/volunteers/recruiting/volunteers-from-overseas>

The rules are complex and can be confusing e.g. Tier 1 migrants can volunteer unless they are on the Entrepreneurial route so please check that page as the rules change regularly. Older guidance by the Home Office suggested that volunteers could be sponsored but this guidance no longer appears on the website. It should therefore be assumed that this option is no longer available. As there are many visa changes planned there will be a need to check for up to date advice. IF UKVI is consulted then you should insist on a response in writing.

**DISCLAIMER:** This information is intended for guidance only. It is not a substitute for professional or legal advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.