



Are you ready?

Voluntary work and
workplace health and safety



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DEPARTMENT OF
LABOUR
TE TARI MAHI

OSH
occupational safety
& health service
te taurangi oranga

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Introduction

Organisations who involve volunteers are covered by changes to the Health and Safety in Employment Act, which take effect from 5 May 2003.

A **volunteer** is a person who expects and receives no material reward for their work, even where they are performing duties that might otherwise be performed by an employee.

The changes cover volunteers because the aim is to reduce employment-related accidents and illnesses in New Zealand, regardless of the particular employment relationship.

The Act recognises that workplace safety is the mutual obligation of everyone involved. It encourages a systematic approach to dealing with health and safety in the workplace, and is principally administered by the Occupational Safety and Health Service (OSH) of the Department of Labour.

The Act recognises that many voluntary activities happen irregularly and are self-supervised, and that voluntary organisations operate with limited resources.

There are two levels of responsibility for organisations who involve volunteers:

The general duty

All organisations that utilise the work of volunteers have a duty of care to provide for the safety of those volunteers. That duty of care requires them to consider, and put in place plans for dealing with, safety arrangements appropriate to the tasks performed. There are no penalties in the Act applying to this duty.

Duties for employers and self-employed persons

Where volunteers undertake activities for an employer or self-employed person additional responsibilities apply when the volunteer performs work that is similar to employment. In that case:

- the organisation is subject to the same responsibilities as if it was an employer/employee relationship, and
- the volunteer has the same responsibilities as if they were an employee.

Exclusions from these additional responsibilities

In some cases, employers, self-employed persons and the volunteers involved are excluded from the additional responsibilities above. In these circumstances, there is still a general duty of care.

To identify the level of responsibility for your particular arrangements, view the checklist overleaf.

Checklist: Which category of volunteer?

Where a volunteer is working for an employer or self-employed person¹:

If the volunteer is:

- participating in fundraising
- assisting with sports and recreation for a sports club, recreation club or educational institution
- assisting in any other activities for an educational institution offsite, **or**
- providing care for another person in the volunteer's home

then the arrangement is covered by the general duty of care, and the organisation is encouraged to ensure that the volunteer is safe within the workplace.

1. If the volunteer is not working for an employer or self-employed person then a general duty of care applies and there are no penalties under this Act applying to this duty.

If the voluntary work does not fall into those categories and the volunteer is:

- working for an employer or self-employed person who has approved the voluntary work, **and**
- working on an ongoing and regular basis, **and**
- the work is integral to the business activity

then the organisation has the mandatory duty of an employer to take all reasonable steps to systematically manage hazards in the workplace.

People participating in on-the-job training or a work experience programme are classed as employees, not volunteers under this legislation.

If you are still unclear about whether the voluntary work falls within the area where enforceable duties apply, contact the Occupational Safety and Health Service's Workinfo line at 0800 20 90 20.

To meet these obligations

The Act has a broad definition of the **workplace**. Essentially, it is anywhere that activities are performed, whether inside or outside. It includes places like clubrooms, forecourts and corridors that people may pass through during the course of their activities. Where a vehicle or commercial vessel is used by people doing your business, it is also defined as a workplace, even if they provide their own motor vehicle.

All organisations are encouraged under their duty of care, and those in the second category are required, to make the place where the volunteer is undertaking activities safe by reviewing the **workplace** and:

- systematically identifying **hazards**
- systematically managing hazards by eliminating them, isolating them or minimising them, in that order of preference
- providing suitable protective clothing and equipment
- providing safety information, training or supervision so that work is done safely.

A **“hazard”** is any potential or actual source of harm. Examples of potential hazards include:

- a work process (for example, how machinery, equipment or vehicles are used)
- the physical environment (for example, working at height, fundraising on busy footpaths, working at high or low temperatures and being exposed to the elements)
- the equipment used (for example, is electrical equipment properly installed? are brakes effective? are Meals on Wheels deliveries properly secured?)

- an external factor (for example, is door-to-door fundraising occurring late in the evening and/or involving young persons who may be exposed to risks to personal safety)
- an input to the work process (for example, are cleaning materials toxic in some circumstances?)
- the way the work is organised (for example, are shifts and breaks designed to minimise fatigue and disruption of sleep?)
- access to critical information (for example, are instructions available at an appropriate literacy or language level?)
- the construction of the premises (for example, is flooring safe when wet? are people working from makeshift temporary structures?)
- the impairment of an individual (for example, where a diabetic misses meals due to work pressures).

Organisations are required to take **“all practicable steps”** to prevent harm to employees, volunteers, visitors and passers-by.

“All practicable steps” means doing everything that is reasonable in the circumstances, having regard to the harm that might occur, available knowledge about what can be done to eliminate or reduce the hazard, and the cost of doing something relative to the harm that could occur if you do nothing. Cost alone is not an excuse for failing to take action. But the Act makes it clear that you are required only to manage hazards that you know about, or that it is reasonable to expect you to know about.

The Accident Compensation Corporation (ACC) and the Occupational Safety and Health Service (OSH) have produced a guide to assist small businesses develop health and safety systems, much of which is applicable to the voluntary sector. It is titled *Improving Workplace Safety and Health – for small business* and is available from Workinfo (0800 20 90 20 or www.workinfo.govt.nz) or from ACC (on 0800 THINKSAFE (0800 844 657) or www.acc.co.nz/injury-prevention).

Organisations should record all work-related injuries, illnesses and near misses that occur to anyone in the workplace. Building up a history of all small occurrences is important information to help you avoid serious problems in the future.

Cases of serious harm arising in the workplace should be reported to OSH as soon as practicable after you are aware of them. “**Serious harm**” means work-related activity that causes significant injury or illness, whether permanent or temporary. Examples include broken bones, amputations, burns requiring specialist attention, loss of consciousness caused by exposure to any substance, damage to hearing or eyesight, and poisoning. It also includes any accident or illness that causes a person to be hospitalised for a period of 48 hours over the following week.

You can notify OSH by telephone, fax or e-mail as soon as possible after you are aware of the event. If the serious harm is caused by an accident, don't interfere with the scene (except to prevent further injury or damage) until an OSH Inspector has decided what to do.

The Act has penalties available when an organisation involving volunteers in the second category fails to meet its responsibilities. For other organisations, OSH will bring to the attention of the organisation any potential hazards it becomes aware of and encourage the organisation to rectify the problem.

OSH is available with information and assistance to help you understand the Health and Safety in Employment Act. Its staff also provide information to help you develop a health and safety plan. For more information or advice, contact the Department of Labour's Workinfo service (0800 20 90 20 or www.workinfo.govt.nz).

ACC can also provide information on injury prevention and safety issues (0800 THINKSAFE 0800 844 657 or www.acc.co.nz).

This booklet is a guide only and may not be accurate for all situations. It should not be used as a substitute for legislation or for legal or other expert advice.

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