

Understanding the Difference

How do you tell the difference?

While there are many similarities, understanding the difference between a volunteer and an employee is important because legal entitlements and obligations can vary.

Volunteer

Volunteering Australia describes a volunteer as someone who gives time willingly for the common good without financial gain.

Employee

The Fair Work Ombudsman describes an employee as an individual hired to provide a service to an organisation in exchange for payment.



The relationship between a volunteer and an employee can be differentiated in three ways:

1. Lack of intention to create a legally binding relationship.
2. No agreed exchange between the parties has been negotiated (eg: payment for time).
3. No expectation of obligation between a volunteer and the organisation.

Why differentiate between volunteers and employees?

It is essential to differentiate between an employee and a volunteer as different entitlements and obligations will apply. Organisations need to:

1. Understand that they have legal responsibility for the safety of both employees and volunteers
2. Ensure that volunteers understand the basis on which they are engaged
3. Make certain that volunteers are covered by the organisations' insurance
4. Know the legal requirements for involving volunteers in organisational activities.

How to avoid inadvertently entering into an employment relationship

Organisations can inadvertently enter into employment relationships. There are four key factors that can create a legally binding employment relationship. These can be evidenced in the following ways:

1. Intention: the creation of a relationship that could be legally enforced
2. Consideration: each party agrees to provide a benefit or reward to the other party
3. Mutuality of obligation: work is being performed in exchange for a benefit (payment)
4. Certainty and completeness: are the terms of any agreement clearly stated (eg: volunteering or employment role).

Source: Justice Connect, 2018.

Both volunteers and paid employees bring enormous value to a common cause or purpose. An organisations' commitment to good people-management practices is critical to its success. Providing robust policies, procedures and adequate insurance coverage; and ensuring that the appropriate resources are available to support their contribution is paramount. Some considerations in relation to strong volunteer management are outlined below.

Best practice framework

The National Standards for Volunteer Involvement (2015) is a framework for organisations to assess their volunteer management practices. The eight standards can be used as a baseline for continuous improvement.

To view the standards visit: www.volunteeringaustralia.org

8 National Standards for Volunteer Involvement

- | | |
|--|--|
| 1. Leadership and management | 5. Support and development |
| 2. Commitment to volunteer involvement | 6. Workplace safety and wellbeing |
| 3. Volunteer roles | 7. Volunteer recognition |
| 4. Recruitment and selection | 8. Quality management and continuous improvement |

Role Design

The most successful workforces are designed with the purpose, goals and objectives of both the organisation and the volunteer or employee in mind. Well-defined, meaningful roles that are documented and communicated are an essential ingredient in a successful working relationship.

Rosters/commitment of time

In contrast to a paid employee, volunteering involves freedom of choice on the part of the volunteer in when and how they contribute to an organisation. The Fair Work Ombudsman cautions that the line between an employment and a volunteer relationship has the potential to be blurred if a volunteer is required to commit to regular rosters. However if rosters are required in an organisation, the volunteer needs to be able nominate their availability for shifts.

Can volunteers replace paid staff?

Despite there being no hard and fast rules to this situation, one thing remains – volunteer involving organisations must comply with the law. Although it is an individual business decision whether to engage someone as an employee or a volunteer, the following factors should be considered:

- Compliance with the definition and principles of volunteering and the National Standards for Volunteer Involvement (2015)
- The potential risk of employees or unions taking industrial action
- Ensuring that relationships between employees and volunteers remain harmonious and that organisational culture is maintained
- Consultation with and consideration of the views of stakeholders including employees, volunteers, service users, funding bodies and others
- Risk is appropriately managed, particularly relating to the nature and extent of the roles to be performed
- Personal motivations and expectations of volunteers are considered.

Also see:

Resource 2 - Employees and Volunteers: Management of Roles

Resource 3 - Employees and Volunteers: Other factors to consider

