

Volunteers And the Human Rights Act (1993)

The Human Rights Act uses an expanded definition of 'employment' that includes volunteers. This means that organisations that involve volunteers must make sure that their selection of volunteers is based on areas such as skills, experience and qualifications, rather than issues such as race, gender or disability.

HUMAN RIGHTS ACT 1993

The Human Rights Act protects people from unlawful discrimination. The Act's intention is to ensure that everybody is treated fairly in key areas of life, including employment, and this includes the recruitment of volunteers.

The Human Rights Act also protects volunteers against Sexual and Racial Harassment.

PROHIBITED GROUNDS OF DISCRIMINATION

Discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances, because of one of the prohibited grounds of discrimination in the Act. These prohibited grounds for discrimination include:

- Sex - including pregnancy
- Marital status - including being in a civil union
- Religious belief (or lack thereof)
- Colour, race or ethnic origin
- Physical or mental disability
- Age - people are protected from discrimination based on their age if they are 16 or over.
- Political opinion
- Employment status
- Family status
- Sexual orientation

EXCEPTIONS

There are some exceptions to the prohibited grounds that are listed above. These are some examples of the exceptions:

- Age - where age is a genuine occupational qualification, for safety or another reason
- Disability - where the volunteer requires special services or facilities and it is not reasonable to provide them
- Gender - when a role needs to be held by one sex to preserve reasonable standards of privacy
- Support roles such as counselling services may be restricted to a particular sex, race, ethnic or national origin, or sexual orientation if highly personal matters are involved

IS OUR 'EXCEPTION' VALID?

If you want to recruit (or not recruit) a volunteer of a specific gender, age, ethnicity etc, and you believe that your organisation has grounds for an 'exception' - you need to check this out. To do this, contact the Human Rights Commission.

SEXUAL OR RACIAL HARASSMENT

Sexual or racial harassment are types of discrimination and are also unlawful under the Human Rights Act.

Sexual Harassment is:

- A request for sexual activity, together with an implied or overt promise of preferential treatment or threat of detrimental treatment; or



- Physical behaviour, language or visual material of a sexual nature which is unwelcome or offensive and either repeated or significant enough to have a detrimental effect on the person subjected to it.

Racial Harassment is:

- Language, visual material or behaviour which is racist, hurtful or offensive to a person subjected to it, and either repeated or significant enough to have a detrimental effect on the person subjected to it.

YOUR LIABILITY

Under the Human Rights Act organisations which involve volunteers are considered to be the “employer” of the volunteers. An employer is liable for anything that is done on their behalf, even if they didn’t know it was being done.

Organisations need to ensure that they have taken all practical steps to avoid discrimination. Such steps might include:

- Having non-discriminatory policies and communicating these policies to all workers
- Ensuring compliance with such policies
- Alertness to factors that might cause harassment.

COMPLAINTS ABOUT DISCRIMINATION

Complaints regarding breaches of the Human Rights Act in relation to volunteers are dealt with by the Human Rights Commission.

If a complaint looks like unlawful discrimination, mediation is generally the first step. If this does not resolve the issue, legal proceedings may follow. Settlements of disputes can include:

- An apology
- An agreement not to discriminate in future
- Undertaking education or training
- Compensation for any hurt to feelings and/or losses experienced by the person complaining

WHEN RECRUITING VOLUNTEERS

When writing a volunteer position description, or completing Volunteering Canterbury’s ‘Request for Volunteers’ form - you need to list actual requirements. Focus on the skills, experience and competencies required for the position, and describe these objectively.

Remember that if you believe you need to specify a specific age, gender, etc - you need to check that you have legitimate grounds for an ‘exception’. You can do this by phoning:

Human Rights Commission, InfoLine 0800 496 877

VOLUNTEERING CANTERBURY AND THE HUMAN RIGHTS ACT

Volunteering Canterbury upholds the rules and principals of the Human Rights Act (1993).

Community organisations which become members of Volunteering Canterbury must also adhere to the Human Rights Act to become members, and to retain their membership.

Volunteering Canterbury will not list any voluntary position that breaches the Human Rights Act.

FURTHER RESOURCES

For a range of detailed fact sheets regarding Human Rights and discrimination, visit:

The Human Rights Commission:

www.hrc.co.nz

You can view the entire Human Rights Act 1993:

www.legislation.govt.nz: