

Dovey Yacht Club / Clwb Hwyllo Dyfi Policy Statement on Volunteering

DYC is, by its very nature, a member's club run in the large part by volunteers. However, to fill the gaps and relieve the pressure on these volunteers, we do employ people to do safety boat cover, instruct, run the bar cook meals, clean the club house and paint the walls and so on. The club cannot operate entirely by volunteers, though there would be considerable savings if it were to do so. Equally the club could not afford to pay for all these functions all the time.

There is therefore a hybrid of function where a volunteer sits or stands side by side with a paid employee be it on a safety boat or in the bar. This can only work with good will and understanding on both sides. Safety is non-negotiable neither are food handling standards, honesty with cash and indeed how you prepare woodwork for painting. In all areas we should aim to achieve high standards.

You may be a volunteer but that doesn't make you a second-class citizen. Equally you might be paid for the job but that doesn't mean you can't be treated with respect. Nor does it mean that you can, as an employee, disregard the opinions of a volunteer.

Volunteer or employee we are all in the same boat!

Reference should be made to whistleblowing, safeguarding and other policies.

The following document produced by the RYA is very relevant to DYC and its operations

Key Principles as laid out by the RYA

There are a number of key principles that underpin volunteering within the RYA and affiliated clubs.

- Volunteers are an essential, unique and invaluable part of the RYA and affiliated clubs, which complement and support the work of employed staff.
- Volunteers are a key group of individuals within the organisation and are represented at all levels of decision making, from clubs to RYA Council.
- The RYA, and affiliated clubs will ensure that all volunteers are properly integrated into the organisational structure and expects that staff, at all levels will work positively with volunteers and will actively seek to involve them in the work of the club or organisation.

Dovey Yacht Club / Clwb Hwyllo Dyfi Policy Statement on Volunteering

- The RYA, and affiliated clubs recognise that volunteers require satisfying work and personal development and will seek to help volunteers meet these needs as well as providing the induction and training for them to do their work effectively and safely

Volunteers, the Club and Employment Law

One area that potentially affects sailing clubs is the relationship between the club and individual volunteers and how this should be managed in a way that does not create a contract of employment with the associated (employee) rights and (employer) responsibilities and liabilities.

To raise awareness of the potential risks, provide guidance and to stimulate discussion within clubs the RYA has prepared the information sheet entitled Volunteers, the Club and Employment Law. Also a recommended read is the document Volunteers and The Law created by Volunteering England.

The RYA want to ensure that this topic is raised and discussed within clubs in the right context, as it is likely that many clubs will have relationships with their volunteers that will cause little or no concern.

If after reading the information sheet, there are any areas you want to discuss or seek further guidance, please email volunteering@rya.org.uk

RYA policy Volunteers the Club and Employment Law

Introductory Statement

Volunteers, the Club and Employment Law

The RYA has recognised the need to help clubs build, support and train their volunteer teams. One area that potentially affects sailing club is the relationship between the club and individual volunteers and how this should be managed in a way that does not create a contract of employment with the associated (employee) rights and (employer) responsibilities and liabilities.

The RYA Volunteer Development Officer, Jackie Bennetts, has researched this subject extensively and is now gathering examples of good practice in managing this relationship effectively for clubs and the individuals. To raise awareness of the potential risks, provide guidance and to stimulate discussion within clubs, Jackie has prepared the attached information sheet entitled "Volunteers, the Club and Employment Law".

The RYA want to ensure that this topic is raised and discussed within clubs in the right context, as it is likely that many clubs will have relationships with their volunteers that will

Dovey Yacht Club / Clwb Hwyllo Dyfi Policy Statement on Volunteering

cause little or no concern.

If, after reading the information sheet, there are any areas you want to discuss or seek further guidance please feel free to contact Jackie Bennetts on 02380 604199 or email to volunteering@rya.org.uk.'

January 2006

Jan 2006

Information Sheet

Volunteers, the Club & Employment Law

When a person carries out work for or on behalf of your club it is important for both parties to understand and agree the relationship between them. An individual may be either

1. An employee –with employment rights
2. A contractor – with worker rights
3. A volunteer – with very few rights

There are an increasing number of situations where volunteers have, or are attempting to take organisations to employment tribunal to claim compensation for discrimination or unfair dismissal, or to claim minimum wage payments for their services. To do this, it must be established that a 'contract' exists between the volunteer and the organisation. If a contract is found to exist, it is likely to be one that changes the legal status of the volunteer to that of worker or employee, and therefore giving them a number of rights in law. It is therefore essential that clubs take steps to avoid creating a 'contractual' relationship with its volunteers.

What is a Contract?

A contract doesn't have to be a written piece of paper which is signed or even verbal agreement between two parties. A contract is merely a description of a relationship. A contract can be created inadvertently or unwittingly, even if neither party has explicitly said they've intended a contract to be created.

In terms of employment, a contract can arise when;

- a payment is made in return for work (legally known 'as consideration'),
- there is an 'intention' to create a 'legally binding' relationship and
- there is 'mutual obligation' on the parties concerned.

Could this affect your club?

If any of the following statements apply there is a potential risk that one of your 'volunteers' they could claim they have 'worker' or 'employment' rights.

- 'Volunteers' receive payments which are over and above out-of-pocket expenses, (i.e. lump sum payments, flat rates for sessions, regular or expected honorarium), or there
- is an inability to account for genuine expenses.
- 'Volunteers' receive something of economic value in return for 'volunteering', i.e.

Dovey Yacht Club / Clwb Hwyllo Dyfi Policy Statement on Volunteering

- money, gift vouchers, goods in kind, training or equipment that is unrelated to their role.
- 'Volunteers' are obliged to give a set amount of time in return for something that the club gives them. i.e. goods in kind or training provided in return for 6 months service.
- What are the consequences of getting it wrong?
-

In reality there may be little or no consequences whilst the relationship between the volunteer and the club is positive. The real problems begin if something within the relationship changes, the volunteer becomes disenchanted, disgruntled, or you want them to leave.

If the relationship breaks down the volunteer may argue that the relationship was in fact contractual, and seek compensation for discrimination, unfair dismissal, or the right to minimum wage payment for their service. The process of defending this action will be both time consuming and costly, not to mention the negative publicity.

What can clubs do to avoid this?

When deciding to involve volunteers, it is essential that clubs take every possible step to ensure that the relationship created is not a contractual one. In reality, it is virtually impossible to avoid all risk factors but it is possible to reduce some of the elements that move the relationship towards a contract.

Good Practice

Clubs can have an agreement with volunteers which outlines mutual expectations. But the following points should be noted.

- Avoid giving Volunteers income

Don't pay volunteers more than reasonable out-of-pocket expenses and try to get them to provide receipts. If you pay a flat rate, any sum over actual expenses may be regarded as 'consideration'. Making 'honorarium payments' can be problematic and should be avoided.

Reduce perks that could be seen as consideration

This can be difficult as many clubs will want offer volunteers something in return for their time, and many volunteers will expect to get something back. Ensure that any perks are described as 'purely at the discretion of the club', rather than an enforceable right, and take care not to let discretionary perks become customary.

Reduce obligations on the part of the volunteer

Again this can be problematic when as a club you may rely on a volunteer to turn up on a specific day, at a specific time, to do a specific role i.e. RO duty. Clubs should be flexible in order to accommodate the volunteers' availability and acknowledge that they are free to cease volunteering at any time, while expressing the hope that the volunteer will turn up as agreed and continue for an agreed period of time i.e. the season.

Dovey Yacht Club / Clwb Hwyllo Dyfi Policy Statement on Volunteering

Don't make the relationship sound contractual

If you don't want the relationship to be contractual, don't make it look like one. Avoid using language/terms such as 'contract', 'job', 'payment', and 'obligation'. Instead use terms such as 'agreement', 'role', 'reimbursement of expenses,' and 'expectation or hope'.

Make it clear that you don't intend to create a contract

It is often not possible or reasonable to remove all benefits or obligations, so it is important to state in any volunteer documents, such as agreements or policies, that there is no intention to create a legally binding relationship.

Create a distinction between paid workers and volunteers

This does not mean treating volunteers as 2nd class citizens, or regarding their work as being of less value or importance. Clubs may want to adopt a 'Volunteer Charter' or other volunteer policies to define the relationship between the club and volunteers.

Treat you volunteers fairly

Tribunal cases occur when volunteers feel they have been discriminated against or unfairly treated. Clubs should adopt procedures and practices which ensure that volunteers have no grounds to bring such cases. Having a clear process for dealing with problems or grievances will reduce the likelihood that volunteers will feel the need to take cases further.

Don't discriminate

Even if the club ensures that volunteers are not seen as 'workers' or 'employees' they still may be able to claim that by offering volunteering opportunities that the club is 'providing a service'. If the club then discriminates on the basis of sex, race, or disability, a volunteer could potentially say they were discriminated against in the delivery of that service.

Acknowledgement

Extracts are taken from 'Volunteers and the Law' by Mark Restall (June 2005).

This publication offers a readable overview of legal issues for anyone who works with volunteers.

It is written to cover the law as it applies to England and Wales.

Copies are available from Volunteering England, (www.volunteering.org.uk)

Further information

RYA Club Support Advisor E-mail: volunteering@rya.org.uk