VOICES - Briefing Paper 17

Refugees and Asylum Seekers and Volunteers from Overseas

Asylum Seekers

Since April 2000, asylum seekers (people in the process of applying for refugee status) have been allowed to volunteer in certain types of organisation. Asylum seekers generally receive a document which states that they cannot take up paid or unpaid employment, but this does not apply to volunteering.

Guidance issued by the UK Border Agency of the Home Office in 2008 states “Asylum seekers are allowed to volunteer, as long as they are carrying out the work on behalf of a registered charity, voluntary organisation or body that raises funds for either. Any voluntary activity undertaken should not amount to either employment, or job substitution."

Asylum seekers are entitled to receive out-of-pocket expenses just like other volunteers.

Further Information

- “Prevention Of Illegal Working: Immigration, Asylum And Nationality Act 2006: Comprehensive Guidance For Employers On Preventing Illegal Working” – guidance published by the UK Border Agency, Home Office, February 2008

Volunteers from overseas

There is no restriction on people from European Union member countries coming to the UK to volunteer. (This also applies to countries in the European Economic Area – EEA). People from outside the EEA who have a visa to work or study in the UK may volunteer as long as they are still undertaking the activity that is stated on their visa and as long as their visa allows them to undertake ‘unpaid work’ or volunteering.

Legal restrictions on employment and “illegal working”

The Immigration, Asylum and Nationality Act 2006 makes it a criminal offence to employ a person who does not have the right to work in the UK.

Because the rules relate to employment, they should not apply to taking on genuine volunteers who are not working under a contract of employment. However, note that the 2006 Act explains that a contract could be “express or implied” and “oral or written”.

While organisations are free to take on any person for a genuine volunteer role, an individual could be in breach of their visa or entry clearance conditions if he/she volunteers when not permitted to. As part of good practice in working with volunteers, it is sensible for organisations to remind potential or new recruits to check whether they are allowed to volunteer. The ultimate responsibility does rest with that individual.

People from the European Union (or the European Economic Area)

There are no restrictions on volunteering by people from Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary,

Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden (members of the European Union).

The same freedom is extended to nationals of Iceland, Norway, Liechtenstein and Switzerland which are members of the European Economic Area (EEA).

Recent accessions to the EU

Romania and Bulgaria joined the European Union in 2007. At this time, freedom of movement and work has not been extended fully to citizens of these countries. If someone from Bulgaria or Romania wants to volunteer, they should contact the UK Border Agency (UKBA) to confirm what they are allowed to do.

People from outside the European Union or EEA

There are two main scenarios for a person from outside the EU or EEA who wants to volunteer in the UK:

A) Volunteering alongside other activities during their stay

The person has come to the UK for a different activity, such as employment or studying. Volunteering is not their primary reason for being in the country, but they want to volunteer as an additional activity.

If your organisation is approached by a potential volunteer from outside the EU/EEA, you should explain that they must check their visa or entry clearance conditions. The person must make sure that they are allowed to volunteer in addition to their main purpose for entering the country.

On official documents, this will probably be described as ‘unpaid work’, rather than as ‘volunteering’. It is important that individual volunteers take responsibility for this, because, as a worst case scenario, a person could jeopardise their visa status by working or volunteering when they are not allowed to.

If a potential volunteer cannot find the answer clearly on their immigration documentation, you can suggest that they contact the UK Border Agency.

B) Applying to come to the UK with the main intention of volunteering

As of 27 November 2008, the UK Border Agency has launched a new immigration category for migrants who want to visit the UK in order to work on an unpaid basis for a charity. It is called the "charity workers" sub category and replaces the previous category for "voluntary worker visas".

Rules for specific groups

- **Visitors** - anyone holding a ‘visitor visa’ is not allowed to take up paid or unpaid work during their stay in the UK, which includes volunteering.
- **Students** - a person with a genuine ‘student visa’ should not need permission to take part-time or holiday work, including volunteering. Some restrictions remain in place, including a limit of 20 hours per week during term time, unless the college agrees otherwise. A new short-term category of ‘student visitor visa’ was introduced in 2007. This is different from a ‘student visa’, and has the same rules as visitor visas meaning that these individuals aren’t allowed to volunteer.