

Volunteering Canterbury

Avoiding Discrimination when involving Volunteers

It is important to remember that the Human Rights Act makes **no distinction between volunteers and paid workers** regarding discrimination in the “employment” area.

Human Rights in this country are based on international treaties to which Aotearoa New Zealand is a signatory.

Direct discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances. Discrimination is illegal if it is based on one or more of the following grounds:

- Age
- Colour
- Disability
- Employment status (e.g. being on a benefit)
- Ethical belief
- Ethnic or national origin
- Family status
- Marital status
- Political opinion
- Race
- Sex (including pregnancy)
- Sexual orientation

Indirect discrimination occurs when an action or policy that appears to treat everyone in the same way, actually has a discriminatory effect on someone. For instance, access to a venue which requires people to climb stairs to enter it, indirectly discriminates against someone who uses a wheelchair. It is therefore important that any public meeting is held in a venue which is accessible.

When **writing a volunteer position description** you need to use actual requirements, not ‘dream’ requirements. Think about what you absolutely need for the task to be done. Consider the behaviour, knowledge, skills, and experience required, and describe these objectively.

It is not unlawful to discriminate against people under the age of sixteen years on the basis of their age. Young people have the same protections as others for all other grounds of discrimination. It’s fine to target your advertising towards older people, e.g. place an advertisement in “Older and Bolder”, but you may not make it a requirement of the position that the volunteer be over twenty years (or under 50 years). Once a volunteer has been accepted it is permissible to consider age when matching them with a client, provided that all ages will have the opportunity of being matched with someone.

Exceptions may be made under "authenticity and privacy". Some examples are:

- Female staff may be required for a shop that sells women's lingerie.
- An actor who will play an aging Napoleon may need to be male and older
- A client requiring a volunteer to visit their home may specify a particular gender

If an applicant for a volunteer position has a disability you are required to make "reasonable accommodation" to enable them to take on the position.

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. For example if staff (volunteer or paid) ask clients inappropriate questions the "employer" is liable. This liability also applies to people working on contract for your organisation. A defence to this liability is that you've taken all reasonably practicable steps to avoid discrimination. Such steps might include:

- Having non-discriminatory policies and communicating these policies to all workers
- Ensuring compliance with such policies, e.g. training
- Taking complaints seriously
- Alertness to factors that might cause harassment

Freedom from **discrimination under Ethical belief** includes the freedom to have any religion or to have no religion.

It's important to remember that Human Rights are non-absolute, i.e. one person's right may need to be balanced against another's. Sometimes we may have to balance one person's right to practice their religion against another's right to their ethical belief, including the right to be free from religion. This is an issue that sometimes arises if an organisation has a commitment to start meetings with a karakia, and may require discussion within the organisation and some accommodation to ensure different beliefs are recognised equally, e.g. some people may choose to join the meeting after the karakia.

Further information is available from the Human Rights Commission

Phone 0800 496 877 (tollfree)

E-mail infoline@hrc.co.nz

Or visit www.hrc.co.nz