

Volunteers and Equality Law

Charities rely heavily on volunteers. Individuals give their time to volunteer for charities in a number of ways, including:

- Acting as trustees of the charity
- Volunteering on short-term mission teams
- Volunteering in a charity shop
- Volunteering to help with office admin
- Fundraising

Most charities would be unable to function without their loyal volunteers supporting their staff teams. It is right and proper that charities treat their volunteers with respect and value their contribution to the charity. But what, if any, legal rights do volunteers have if they feel they have been discriminated against?

Employees and applicants for employment have the right not to be unlawfully discriminated against under the Equality Act. For organisations with an ethos based on the Christian faith with advancement of religion as a charitable aim, a job must be shown to be required to be undertaken by a Christian or it will be unlawful to insist that a Christian must be appointed to it or even to recruit for the role in a way that will give Christians an advantage.

However, the nature of a volunteer's relationship with a charity is fundamentally different to that of an employee. An employer and an employee enter into a legal relationship. The nature of a volunteer's relationship with a charity is that there is no intention to create a legal relationship. Neither party makes legally binding commitments to the other.

Current legislation and case law make it clear that volunteers do not have the right to bring claims of discrimination under the Equality Act. So, a charity based on the Christian faith is free, if it wants, to insist that its volunteers (including trustees) must be Christian without fear of falling foul of the Equality Act.

It is worth mentioning that the government has recently consulted on this issue. In July 2019, a consultation opened on "Sexual Harassment in the Workplace" and one of the points for consideration in the consultation was whether or not volunteers are adequately protected. The current status of this consultation is that the government is reviewing feedback from those who contributed to the consultation. So, it is possible that there may be a shift at some stage to give volunteers some protection under the Equality Act. As soon as we are aware of any developments in this area, we will update this article.

Mark Mason, December 2020

For specific advice on working with volunteers or for anything else to do with employment law or HR in your organisation, please do not hesitate to get in touch.

Mark Mason is an employment lawyer and network associate of Global Connections. Mark advises employers and employees on all aspects of employment law and human resources practice and represents Claimants and Respondents in Employment Tribunal proceedings. Mark is experienced in advising churches and mission agencies on employment law and HR in their particular context. Mark has agreed to write regular articles on some of the topics that he is most commonly asked to advise on by churches and mission agencies.

These articles are intended to provide general information and guidance and are not to be relied upon as legal advice. For specific advice on a particular situation, you can contact Mark on 028 9084 8899 or email him at mark@markmasonlaw.co.uk. Please note that Global Connections members can benefit from an initial 30 minute no-cost telephone consultation.

To receive Mark's monthly employment law articles, please email mark@markmasonlaw.co.uk and ask him to add you to his mailing list.