

Volunteer Rights Inquiry

Interim Report

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Acknowledgement

Members of the Volunteer Rights Inquiry are indebted to all those who submitted evidence and helped with this report. We would like to thank them for making the time, for drawing on their expert knowledge and relevant experience and for approaching the discussion with such openness and frankness. We have learned a great deal from them and hope to have been able to communicate that understanding to a wider audience by means of this report.

All direct contributions from participants included in this report have been anonymised and corrected for spelling and grammar.

Introduction

According to the Prime Minister David Cameron, ‘Big Society demands a big social response, mass engagement.’ Against this backdrop, we are poised to see volunteering on the rise. Already, plans for the National Citizen Service are being drawn up. The Communities First Fund looks set to further animate local communities. Within a year, the recruitment of thousands of volunteers for the Olympics should start to mobilise and motivate enthusiasts. Well over 20 million people are currently active as volunteers. Undoubtedly, this figure will rise further and not just in episodic or casual volunteering, but also in the semi-formal delivery and care of day to day services.

From time to time, volunteers are celebrated and championed but the bulk of their work goes unsung. By and large, volunteers are driven by their commitment, empathy, goodwill and self-interest and expect little external reward. Is there a risk though, that we could be taking volunteers for granted? Are they entitled to any rights comparable with the responsibilities they choose to embrace? More importantly, could deregulation make volunteers even more vulnerable?

This report is about the growing importance of volunteers in the way we live and their interaction with paid staff. It is about augmenting and enhancing existing practices to protect the volunteer experience and ensuring it remains positive and mutually productive.

Earlier last year, when newspapers reported of serious breaches of trust between volunteers and their organisations, Volunteering England was prompted to set up the Volunteer Rights Inquiry to begin to understand the nature and scope of the problems experienced by volunteers and identify suitable remedies.

Members of the Volunteer Rights Inquiry heard from numerous volunteers recounting shocking stories of bad management, poor governance, bullying and improper behaviour. The sheer scale and diversity of volunteering in its settings across the public, private and voluntary sectors presents some challenges in identifying a universal solution. In this report, our aim is to share the findings with those responsible for recruiting and resourcing volunteers. By working together, perhaps we are better placed to design solutions and fail-safes that are proportionate to the range of voluntary action, maintain the reciprocal nature of volunteering and which uphold parity of esteem between volunteers and paid staff.

This background and context is detailed in section 1 of this report. Most significantly, the individual stories we heard and comments we received are set out in section 2. These illustrate the nature of the problems that volunteers face and provide a snapshot of the stress suffered as a result. Section 3 flags up the opposing views about how much enforcement and external pressure, is required. As a result, section 4 goes on to summarise the range of options that have been proposed thus far.

One of the solutions outlined is the need for an independent redress mechanism. An Arbitration Service, Volunteer Complaints Commissioner or a Volunteering Ombudsman are serious considerations. Members of the Inquiry felt that, despite the preponderance of Codes of Practice and guides on managing volunteers, standards remained low, especially in the voluntary sector. Clearly organisations need to become better at preventing and resolving problems internally. But when things go badly wrong, does the humble volunteer have, at least, the right to be heard?

Sukhvinder Kaur-Stubbs

On behalf of the Volunteer Rights Inquiry

1. The Volunteer's Voice

“Just a thank you for being able to tell my story. I literally feel so chewed up and spat out at having dedicated so many really dedicated volunteer hours. In a way I want the general public to know just how badly this particular organisation treats their volunteers (and staff too) - but ultimately it has to be kept quiet as ultimately the patients who are dying will be the ones to suffer due to people not giving of their money.”

These words by a volunteer submitted to the Volunteer Rights Inquiry illustrate very graphically how things can go wrong for volunteers within organisations. The members of the Inquiry wish to address these concerns about the changing relationships between volunteers and volunteer involving organisations.

It is easy to take volunteers for granted. Every day millions of people volunteer in England, sometimes organised and highly visible like during the London Marathon but mostly informally and unrecognised. Organisations large and small rely on the contributions of volunteers – from the local charity shop to national debt counselling centres. Thousands of corporate employees provide pro bono advice or simply help in their local communities. Our police forces and health and social care services are heavily indebted to voluntary action. Volunteering pervades every aspect of our daily life with no shortage of those prepared to participate in and support civic life.

By all accounts, volunteering is set to become an even stronger facet of local life. Against this backdrop, headlines featuring volunteers staging ‘walk-outs’, taking ‘legal proceedings’ and other public disputes with volunteer involving organisations are disconcerting and potentially damaging to the reputation of and good will towards volunteering. These high profile events have caused profound unease in parts of the volunteering community. The members of the Inquiry aim to identify solutions and a practical way forward.

The Volunteer Rights Inquiry received written and oral evidence which demonstrated deep hurt and grievance among volunteers. As described in the next section, ‘when things go wrong’, the examples cover a wide range of situations and seem particularly problematic at local level. The examples range from simply treating volunteers unkindly to much more serious allegations of harassment and abuse.

We don't know from this snapshot how widespread the problems are. Other reports suggest that volunteers are more satisfied today than they were a decade ago. The government's 2007 Helping Out survey, for example, reported that about a third of volunteers (31%) felt their volunteering could be better organised. This is not a precise measure of satisfaction but a useful proxy – and one which compared favourably with the almost three quarters (71%) of volunteers who had expressed doubts about their management ten years earlier. However, even at 30% this still leaves many millions of volunteers who feel some level of dissatisfaction with the way their volunteering is managed.

The truth is that volunteering is rarely a purely philanthropic gesture. Motivations vary from empathy and affinity with the cause, to the desire to develop personal skills and responsibilities. At the very least, volunteers become stakeholders in the organisation. In addition, they can undertake critical roles such as providing health advice or even becoming regional managers in charge of thousands of other volunteers. Where they are founders and trustees, they have legal and fiduciary duties.

Quite often, volunteers can end up carrying substantial responsibilities. They bear a huge moral duty to the cause and can feel strongly about their own personal sense of integrity. However, these obligations are rarely reflected in any formal entitlements. By law, volunteers do not have specific employment rights, albeit, they are afforded some protection in law, for example, through health and safety guidelines.

Volunteering is often a preferred choice for people who can't work, especially those with disabilities or suffering from poor mental health. This can make them especially vulnerable but also places more demands on supervision and management.

By its very nature, volunteering is unpaid and non-compulsory. While the volunteering world increasingly sees the use of incentives (as a pathway into work for example or in some educational settings), it is imperative that volunteering is and remains distinct from employment. Volunteers should not be fettered by the compliance required from staff or stifled by regulations designed for salaried workers. It should respect the informality and social networks that endear and engage so many volunteers.

Numerous problems that emerged in the cases the Volunteer Rights Inquiry heard could have been dealt with by better management or stronger governance. In some cases out of date grievance policies or poor internal communications were a factor. One of the lessons from this Inquiry is just how important volunteer management and leadership is to a quality volunteering experience. We see further improvement in this area as crucial to dealing with the volunteer rights issue. Better volunteering management might not be the whole solution to the problems raised by this Inquiry but it clearly has a key role to play.

Yet, it has become obvious to members of the Inquiry that there are cases which cannot be resolved within current arrangements. They found a clear gap in provision dealing with the consequences of incidences when things go wrong. There is currently no mechanism to help overcome the difficulties that can be faced by both volunteers and organisations they work with when disputes arise.

Overwhelmingly, volunteers expressed the need for an independent means of obtaining redress when things go wrong. Deep commitment to the cause constrains volunteers from wanting to engage in 'whistle-blowing' or make external complaints. Equally, a substantial investment in time and self belief in effort prevents people from just walking away. However, their low structural position within organisations usually denies volunteers the ability to turn things around by themselves.

The Volunteer Rights Inquiry considers the need to protect volunteers and the reputation of volunteering while at the same time balancing the need to maintain diversity, flexibility and informality of the activity.

In looking for a potential solution, three principles were paramount:

- *proportionality*: any solution should respect the full range of volunteering activity including the local toy library, the national charity, the public agency and the private sector organisation delivering services across the country. It should not harm volunteering as a whole, make volunteering for individuals more difficult or place undue burden on volunteer involving organisations. It should also avoid unnecessary red tape.

- *reciprocity*: while volunteering is an action that benefits others and society as a whole, it is a relationship which also benefits the volunteer. The challenge of volunteer management – and why it is such a complex task – is to find the balance between the needs and interests (and rights) of the host organisation, the end user (where they exist) and the volunteer themselves. Often they will be in harmony, but where they differ, good volunteer management and leadership will seek to reach an accommodation.

- *parity of esteem*: volunteering is not the same as employment and volunteers should not be treated as unpaid workers. The distinctiveness of volunteering needs to be recognised and cherished. The goal should be to treat volunteers with the respect and esteem accorded to paid staff but without wrapping volunteering in, what some see, as the suffocating cloak of employment legislation. Searching for a solution to the conundrum of how to safeguard the rights and interests of volunteers whilst championing their distinctiveness is the fundamental challenge raised by this Inquiry. This challenge might be ever more pertinent when increasingly volunteers and staff work side by side in ever changing settings, for example, in transformed public services and in the proposed National Citizen Service.

Based on these principles, the members of the Volunteer Rights Inquiry put forward a range of options for review with volunteers, trustees, policy makers, those responsible for managing volunteers and indeed anyone with an interest in the issue.

This report sets out the case from a wide range of volunteers for an independent means of obtaining redress and seeks to engage a wide range of stakeholders, including leaders and regulators, in discussing its implementation.

A full and final report will be published in late 2010 after the proposals have been consulted upon, refined and developed.

2. When things go wrong

The Inquiry was set up after a series of high profile incidents when things appeared to go badly wrong and the Inquiry received further reports of incidents where volunteers and volunteer involving organisations were left dissatisfied or extremely vulnerable. The Inquiry classified three categories of situation where things went wrong:

- **in the context of the Management of volunteers**, which can be by designated volunteer managers but more often is by any member of staff from chief executive to receptionist, other volunteers or trustees.
- **in the context of the Governance of charities**, which sometimes leads to conflict between trustees or conflict between the board and other volunteers.
- **in the context of service volunteering**, which relates to volunteering where organisations or individuals are bound by a formal agreement or legal requirement to act in a certain manner. For example, when in charity shops or in advice centres, prisons or museums, volunteers are obliged to operate to the same standards as employed staff.

The submissions to the Inquiry offer views from a range of perspectives. However, the Inquiry cautions that the sample is self selected and small. Findings based on this sample should not be generalised. The available wider evidence suggests that the vast majority of volunteer experiences are positive yet the submissions to the Inquiry make it clear that not all are and that they can cause serious damage with negative effects on volunteers' well-being and reputational and resource implications for organisations. Responses have been anonymised but are attributed in brackets behind quotes with 'R' for respondent and a number.

2.1 Experiences

The review of the submissions makes very uncomfortable reading with a majority of volunteers in the sample vividly sharing their negative experiences:

“While working as a volunteer I was verbally abused.” (R2),

“I have been left physically and mentally in pieces.” (R8),

“I was continually harassed, bullied, and worn down.” (R43)

Two thirds of all volunteers submitting evidence to the Inquiry reported problems, many of them serious.

Reports of problems are not restricted to a particular field. Volunteers reporting problems came from at least 10 different fields such as environment, disability, health and hospices.

Two thirds of trustees submitting evidence to the Inquiry also reported problems, some directly linked to their roles as trustees.

“For 11 months they ‘suspended’ me from my trusteeship on the grounds that they considered me a risk to the charity, despite the fact that there is no provision in the charity’s governing document to allow them to do this and despite the Charity Commission warning that their actions in this respect were unlawful.” (R53)

Fewer volunteer managers reported personal experiences of problems, yet they too recounted instances of when ‘things go wrong’.

“I am also very aware that there are a fair number of badly behaved volunteers out there. Most Volunteer Managers have their fair share of horror stories about volunteers who attend costly training courses and then immediately leave, people who use their voluntary status to emotionally blackmail their organisation around policies and procedures they don’t like. I have even come across groups of volunteers who have actually bullied staff or other volunteers into leaving.” (R49)

“The service delivery organisation was almost scared of its volunteers.” (R59)

Some respondents suggested that negative experiences of both volunteers and of volunteer involving organisations are not isolated instances:

“I have been contacted by both member organisations and their volunteers with various grievances and allegations.” (R20)

“I have often been the first point of contact for volunteers who believe they have been unfairly treated. There have been at least two very serious incidents ... involving volunteers, which have resulted in court action.” (R66)

“During her four years in the team she has dealt with some very upset and distressed calls from volunteers.” (Inquiry Minutes, 25.11.09)

It is important to point out that some volunteers also reported that they had had no problems or that their problems with one organisation did not reflect the experiences they had had with others.

While we know that millions of people are choosing to volunteer every day, we don't know how many of them experience problems. Some respondents suggested that the number of serious disputes is small:

“We have very few disputes with our volunteers for the number of people we have involved.” (R70)

What is clear, however, is that conflict can affect individuals dramatically with negative effects on their well-being.

“I was ill for two years following my experience.”(R11)

It can also leave volunteer involving organisations in an impossible position.

“We have had one example of an issue with a volunteer that resulted in over 500 letters/emails from that individual. ... The amount of management time and charitable resource this situation has taken up in our attempts to resolve it amicably has been immense.” (R70)

2. 2 Types of incidents

36 respondents reported problems, some referring to more than one incident. These may be summarised, albeit not exhaustively, under the following headings.

Management

Problems were reported in many different areas of management. In some cases volunteers felt treated badly and inappropriately, for example by:

“Bullying and intimidating manner of new CEO towards volunteers.” (R3)

“Bullying and sexual harassment.” (R45)

In other examples change seems to have been managed badly.

“...with an entirely new management structure and philosophy. Compassion has disappeared...” (R27)

A further example is the way volunteers were managed if their conduct or performance was questioned.

“My reply...seemed to be considered by management as the excuse they had been looking for to get rid of me and I was suspended.” (R42)

“I was spoken to by this individual at the end of the weekend, and told that ‘I was not in the right role’ and should be found a more ‘suitable role’. This comment was made without any prior verbal or written warnings, without any personal development review.” (R56)

The way organisations dealt with complaints or criticism also appeared to be a problem.

“It appears that all whistleblowers suffer injustice and the people responsible for the offences get away with it.” (R37)

Others reported a breach of trust.

“I’ve had the results of confidential assessments on me made public.” (R15)

Some felt their views were ignored.

“Any attempt to discuss / seek to change a procedure / protocol deemed inappropriate was met with blanket contempt.” (R26)

Taking advantage of volunteers was also reported.

“I have seen many instances where volunteers seem to have been ‘taken advantage of’ or ‘not treated well.’ This can range from not receiving expenses to being asked to do unpleasant, boring and dull tasks, to receiving inadequate and inappropriate support and supervision.” (R32)

A particularly difficult problem appeared to be when conflict arose during overseas volunteering.

“I was told that if I visited my wife (who had had a miscarriage), it would be taken out of my holidays. Also, if I left before completing 18 months, I would have to refund the money for the plane ticket. That is a reasonable demand if you are not being harassed constantly, but I was...” (R43)

The initial problems seem then to have been exacerbated by the way conflict was handled either by not dealing with a complaint or by unfairly treating the complainant:

“The complaint was ignored for over 4 months.” (R4)

“On one occasion they held a kangaroo court type meeting against me.” (R11)

“I was tried, found guilty and punished without knowing my crime, with no proper process and no right of appeal.” (R42)

2.3 Governance

Some trustees reported problems which seem directly related to their trustee role. Despite some regulation about trusteeship they did not find an authority to deal with their cases with legal representation being too costly.

“The Chairman did not consult the other trustees. The Chairman then created a team made up of members of his choice. I sought advice from the Charity Commission and my own solicitor, who wrote to the General Secretary of the Society. However the whole topic was dismissed by both the General Secretary and Chairman. The charge by my solicitor was over £500.” (R31)

“I was a disabled member and volunteer chairman of a branch of a national charity and was removed without recourse to natural justice and my solicitor was concerned that my human rights had been infringed. I was also the subject of a false allegation with defamatory letter circulated by the charity to branch members...” (R61)

2.4 Service volunteering

While there seems very limited evidence within the submissions, some snippets indicate that volunteer involving organisations can find themselves in very difficult situations when they deliver services. For example, one submission suggests that in a particular instance the financial relationship an organisation had with a funder influenced its decision on how to approach a certain conflict situation.

“My suggestion that public funding ... might be subject to an adjournment debate...led the organisation to commission an independent review.” (R72)

If, however, a conflict situation or a formal inquiry arises there is no obligation on volunteers to collaborate.

“When facing any formal inquiry about the volunteering they have undertaken” this “is the most difficult if volunteers chose to resign rather than engage with any inquiry.” (R21)

The conundrum posed by the need to manage the performance of volunteers to meet certain service standards set contractually by funders can be difficult for organisations and funders alike.

“Most funders will check that organisations have the staffing and financial systems in place to be able to run the programmes they bid for, but a bid where an organisation has said that it will involve volunteers, but hasn’t put anything in the budget for this, does not seem to raise any eyebrows.” (R49)

3. Opposing views

3.1 General

Participants appear overwhelmingly in favour of volunteering. While not every submission contained a clear statement to this effect, the majority who submitted evidence seemed in favour of the concept of volunteering and did not wish to see it – or, sometimes, the organisation they had volunteered for – adversely affected, even if they reported difficulties they experienced themselves.

The evidence submitted to the Inquiry, however, points to strongly held and often fundamentally opposing views possibly linked to experience and position. The views of those who had experienced difficulties seem to differ most from those who haven't and the views of volunteers appeared to differ from those of volunteer managers.

The issue of strongly opposing views also applies to any suggested solutions as the following quotes may illustrate.

“I firmly believe that there should be a national body set up, financed and supported by the government, in order to legislate and oversee all organisations which engage volunteers.” (R56)

Government should “stop interfering with unnecessary laws and regulations.” (R14)

There also appear to be fundamentally opposing perspectives regarding the introduction of legislation.

“We believe that extending employment rights to volunteers would be wrong and inappropriate.” (R71)

“Legislation should be enacted similar to Employment Law.” (R27)

Related areas such as conflict resolution, redress and enforceability appear also contentious. For example, on the question of who should have authority some suggest that there should be a body outside organisations while others suggest that the responsibility lies firmly with the trustees of charities.

“If an organisation fails in this duty, there should be an external body to give support and act where necessary.” (R31)

“I firmly believe that the trustees of a charity have to be able to call the shots and should not end up being found liable (potentially financially) because of some imposition of volunteers' rights akin to employment rights.” (R20)

On the question of redress some suggest that the situation will only change if there is a possibility of action while others argue that this would make organisations much more risk averse.

“The “employer” knows that it will hardly ever have to justify its actions formally.” (R14)

“My guess is, organisations think it would cause them problems if volunteers had redress for shoddy treatment from those organisations and their employees.” (R64)

“I would not support any suggestion that fines or compensation should be imposed.” (R71)

“Do not saddle the sector with a further raft of regulations that may make organisations even less likely to embrace volunteering.” (R63)

“Any formalised rights for volunteers in law, or otherwise, is highly likely to encourage organisations to be far more formal and structured in their volunteering and be far more risk averse with their volunteer programmes.” (R70)

However, views expressed seem to suggest a range of potentially acceptable options.

“At the very least there should be a code of conduct for organisation’s treatment of volunteers, but probably this problem will not be fixed until the rights of volunteers are enshrined in law.” (R1)

“I believe that at the very least there should be an external complaint procedure and/or advice centre available to volunteers when all due process in internal complaint procedure has been exhausted and parties still remain in dispute.” (R61, R38)

“I believe that extending employment rights to volunteers would be wrong and inappropriate... I would welcome an external panel or ombudsman...” (R70)

There are also a number of areas where the perspectives seem to be less contentious such as the need for reliable information, advice and good practice. Suggestions put forward were for example:

“National campaign across major charities with possibly input from the Charity Commission to promote good practice.” (R68)

“I think if more people were aware of what good volunteer management ‘looked’ like it would help immensely...” (R49)

3.2 Suggested solutions

Most respondents offered possible solutions, often in combination or depending on the severity of the cases they reported. These may be summarised, albeit not exhaustively, under the following headings.

3.2.1 Information and advice

Some submissions considered clear information and advice an important component of any solution. This included advice regarding ‘where to turn to’ but also authoritative information about specific situations.

“More information given to both management and volunteers at their induction. There is a great deal of confusion around.” (R12)

“I can assure you that I have tried absolutely every organisation I can think of in my efforts to get help for myself and the beneficiaries of the charity I am involved in.” (R53)

3.2.2 Standard setting

Submissions appear to suggest that while there is guidance on good practice, standards might need to be set nationally, should be readily available and that a mechanism ensuring they are implemented would be helpful.

“I can assure you that I have tried absolutely every organisation I can think of in my efforts to get help for myself and the beneficiaries of the charity I am involved in.” (R53)

“Time and resources would be better spent ensuring best practice advice is readily available.” (R18)

“Ensure good practice standards of volunteer management are in place.” (R63)

There are further submissions suggesting some forms of self regulation in the setting of standards.

“Create a national ‘Volunteer Charter’ that, if not legally binding, will ensure charities are aware of the importance of their volunteers and the impact of bad management/issue resolution on the overall pot of volunteers in the UK.” (R13)

“All ‘reputable’ volunteer organisations should sign up to a Volunteer Code, with some overseeing body.” (R41)

“A code of conduct should be devised incorporating rights as above, to which any organisation obtaining any funding from national or local government should be obliged to agree to.” (R25)

3.2.3 Arbitration and adjudication

A number of respondents made suggestions relating to arbitration or adjudication.

“If a dispute cannot be resolved in-house volunteers need access to support and if necessary the services of an ombudsman; totally independent and willing to make sure matters are investigated fully and equally.” (R51)

Some suggested procedures that are similar to ones in place elsewhere.

I think there should be a complaints procedure for volunteers to raise issues of unfairness but that this should be like the ACAS disciplinary/grievance code - compelling guidance but not law. (R35)

However, some also explained that this would require prior agreement by all parties. For example:

“Before entering into arbitration, both parties need to agree to be bound by the outcomes.” (R70)

3.2.4 Enshrining the definition of volunteer and associated rights for volunteers in law

At least 20 respondents suggested changes in law albeit there did not appear to be a consensus on which laws would need to be introduced.

“Amend any Statute employment laws which currently exempt volunteers. Give volunteers the right to a set period of notice, like their paid colleagues, and the right to a reference under the terms of the Servants’ Characters Act.” (R22)

“Legislation should be enacted similar to Employment Law.” (R27)

“Volunteers should be able to take a charity to the courts if they have been abused.” (R43)

3.2.5 No change

Fewer respondents seemed to suggest that there was no or little need for change because of the nature of volunteering or because they felt that volunteering was working well.

“I am concerned that this can be taken too far. The more formal we make the rights, processes and procedures, the less ‘voluntary’ the activity becomes. A light touch is required to preserve the very nature of volunteering.” (R48)

“Volunteers are not (or should not be) offered a contract and therefore have no contractual rights. What they can expect, however, is fair treatment and good manners. If this was universally understood, the system would work even better than it does - and it works exceptionally well now.” (R7)

4. Proportionality, reciprocity, parity of esteem

The evidence considered by the Inquiry has brought into sharp focus the difficulties that can be faced by both volunteers and organisations they work with when disputes arise. Volunteers may live with the emotional consequences of an unresolved complaint for years to come and organisations may find themselves embroiled in bitter disputes that they have neither the skills nor resources to cope with. As things stand, neither volunteers nor organisations have anywhere to turn when complaints cannot be resolved.

Having considered fully the evidence in front of it, and applying the principles of proportionality, reciprocity and parity of esteem, the Inquiry is considering a range of solutions which include those summarised below.

Proportionality

Given the huge diversity of volunteering in civic society, any mechanism to protect volunteers should not result in increased burdens for others or cause unintended consequences.

Solutions for when things do go wrong are possible at organisational, local or national level. For example:

Volunteering Trustee: Like the senior independent non-executive on corporate boards, volunteer involving organisations would have a trustee with oversight for volunteering. The Volunteering Trustee might have personal skills in mediation and complaint handling but more importantly, is able to ensure that volunteers are well managed in the organisation.

Arbitration Scheme: the mediation service set up under the Compact already provides a means of resolving difficulties between partner organisations in the voluntary sector. It doesn't charge and appears to be working well. They have a local presence so are understood by and trusted by the local community and there is no need for large national promotional campaigns. There appear to be good examples of mediation protocols from Coventry, Gloucestershire, Islington, North East Lincolnshire, Leeds, Surrey, Bury and Sheffield among others. Surrey has made some of the most extensive arrangements, for example, training the mediators in the local mediation service, which they have anyway for problems like differences over garden fences, rather than training their Compact implementation group on mediation. Surrey's dispute process is available on www.compactvoice.org.uk/category/resources/surrey-positive-dispute-resolution-process

Any of these models could be developed to provide a Volunteer Arbitration Scheme across the public, private and voluntary sectors.

Volunteer Complaints Commissioner: The role of a Volunteer Complaints Commissioner is to settle individual complaints and support good management practice and more effective governance. The Volunteer Complaints Commissioner would not have a regulatory role, but through recommendations would be able to promote better understanding of good volunteering practice for the benefit of organisations involved in complaints, the sector as a whole and, of course, individual volunteers. There are a number of organisational models for complaint handling schemes that can be drawn on to identify the appropriate mechanism for establishing the role of the Commissioner. Possible characteristics of a Volunteer Complaints Commissioner are described in more detail in Annex D.

Reciprocity

What are appropriate levels of obligation and entitlement for volunteers? Motivations of volunteers may be very different from paid staff and require skillful and sensitive management, agreed boundaries and clear procedures. Problems can often be pre-empted or stemmed early on with good communications and fair policies. Various mechanisms exist to drive up management standards and performance.

Code of conduct: Up to date grievance policies are essential. In addition, numerous codes of conduct exist about working with volunteers. These need to be applied more robustly and consistently.

Management kitemark: Investing in Volunteers and Investing in People both represent acknowledged standards of good practice in managing people. Either of these standards could be developed further to drive up the quality of volunteer management.

Modeling and promoting good practice: Websites, such as that of Volunteering England, already identify and showcase examples of good policies. The Capacitybuilders-funded volunteer management programme is expected to help drive up standards even further by developing an electronic portal of materials on volunteer management. It is also running a campaign to encourage organisations to recognise the importance of volunteer management and the need to invest in it. Organisations should be compelled to adopt good practice. When they don't, a more comprehensive signposting service would direct both volunteers and their organisations to alternative sources of help.

Parity of esteem

One of the most startling indications is that problems often arise when volunteers feel their perspectives and views are dismissed. Volunteers do not necessarily seek equal rights alongside paid staff, but they do want equal respect. While the concept of volunteering is praised and promoted individually, volunteers are at risk of being treated like cheap alternatives, second class workers or even worse, a disposable resource. How can parity of esteem be maintained?

Exemplary leadership: Raising awareness of the range of activity and the extent to which our communities already depend on volunteers will help. Especially in less well known areas such as social care, safer communities and debt management, attention on the efforts and achievements of local people may raise the status of volunteers.

Census: It is only really possible to guess at the scale of volunteering in England. Inserting a question in the census will help build understanding of how relevant volunteering is across the population and in day to day life.

Legal rights: While the desire to maintain volunteering as distinct from employment is paramount, perhaps the legislation should be reviewed to ensure that volunteers are not systematically disadvantaged or discriminated against.

Ombudsman: A number of services are protected by Ombudsmen with statutory powers to investigate complaints, penalise poor practice and raise standards. To ensure that volunteers are not taken for granted and that their civic rights are not undermined, a Volunteering Ombudsman should be established within the existing regulatory structure.

A range of ten possible solutions are summarised here. Which of these warrants greater research and development?

5. Questions for consultation

Given the scope of the options and their possible impact, the Inquiry now seeks the engagement of key stakeholders in designing and developing the most appropriate solutions. Points for us to consider as we prioritise action are highlighted below:

- Proportionality, reciprocity and parity of esteem: are these the right principles to deploy in the search for practicable, affordable and sustainable solutions?
- What is the right balance between flexibility and prescription in the solutions and how much emphasis should be on local compared to national mechanisms?
- What incentives or sanctions, if any, are required to ensure that standards of volunteer management improve? Would accreditation help and if so, what would encourage its take-up?
- On balance and given the evidence available, would you support the introduction of a Volunteer Complaints Commissioner? Alternatively, would you prefer to see an Arbitration Scheme or a Volunteer Ombudsman?
- Does the issue warrant the deployment of additional resources and if so, where might these come from?
- Are there other solutions or models of good practice that should be considered?

Annex A

About the Inquiry

The Inquiry is independent and impartial.

The members of the Inquiry provide a range of perspectives including those of campaigners for volunteer rights and volunteer welfare, volunteer managers, large volunteer involving organisations, infrastructure organisations and existing regulators.

Members:

Sukhvinder Kaur-Stubbs (Chair)	Chair, Volunteering England
Caroline Aldiss	A lead campaigner for volunteer welfare
Jodi Berg	Independent Complaints Reviewer, Charity Commission
Judith Brodie	Director, VSO UK
Sean Copley	Chair, Association of Volunteer Managers
Victoria Cook	Solicitor, Bates Wells and Braithwaite
Julia Dennis	Volunteering Development Manager, Citizen's Advice
Robyn Harrison	Manager, Volunteer Centre Ripon
Lewis Smith	Chair, Volunteer Rights Group

The Inquiry was set up after a number of people raised concerns that volunteers have no rights in dealing with volunteer involving organisations when problems occur. Good practice in dealing with problems is often not applied or fails to resolve the situation; this has been demonstrated in a series of high profile cases.

The Inquiry provides a neutral space for the discussion and deliberation of the issues and concerns. It is intended to be a short, focused exploration of the issues and potential solutions around the subject of 'volunteer rights,' in particular regarding the relationship between volunteers and volunteer involving organisations in an increasingly complex field of volunteering activities.

The overall aim of the Inquiry is to encourage volunteering.

It specifically aimed to:

- explore the issues leading to the concerns that volunteers have no rights in dealing with volunteer involving organisations when problems occur.
- explore current good practice in engaging volunteers and what can be done to prevent problems occurring.
- explore the possible solutions to address these growing concerns.

At the time of this interim report the Inquiry had met three times.

The first meeting explored the background and issues that have led to the formation of the Inquiry and allowed for an initial exploration of possible solutions and an appropriate way forward.

Following this, in early 2010, three evidence gathering sessions were organised which allowed Inquiry members to hear from interested parties and explore the issues they have faced in more detail. There was also a range of other ways for people to submit evidence to the Inquiry, for example, via Volunteering England's website and its YouTube channel and Twitter. In all the inquiry received 72 submissions.

The second Volunteer Rights Inquiry meeting reviewed the evidence submitted and discussed the issues arising, providing the necessary direction to allow the production of the Inquiry's report.

The third Volunteer Rights Inquiry meeting reviewed the draft report. At this meeting the Inquiry confirmed that because of its proposal this should not be its final report but that it should form the basis for a consultation with key stakeholders.

Following this consultation the final Inquiry meeting will be in autumn 2010 after which a final 'call to action' is expected to be issued by the Inquiry.

Annex B

To provide context Inquiry members considered the following:

Reference points in the volunteering landscape

Volunteering is extremely complex. The following highlights briefly some of the crucial reference points for the Inquiry in the volunteering landscape, in particular: definition, boundaries, how we think of volunteering, volunteering and paid work, good practice in volunteer management, the sanctification fallacy, bound volunteering, expected growth and the concept of volunteer rights.

Definition

“The UK does not actually have one common national definition of volunteering” (Volunteering England 2008, p.1) Definitions are as varied as those from The Job Seeker’s Allowance Regulations 1996, The Criminal Records Bureau, The Compact and the United Nations.

It is useful to think of five crucial components which appear in definitions. Each of these components can be interpreted on a wide spectrum.

- Volunteering is not for financial gain, but you might be given some money. For example, some volunteers receive out of pocket expenses such as those for travel, others might receive incentives such as concert tickets and employer supported volunteers are usually released during paid work time in order to volunteer.
- Volunteering is a matter of choice, albeit you might find yourself volunteered, occasionally. For example, universities recruiting social work students explicitly look for previous experience in social care, which for many ‘would be students’ means having volunteered. Internships or work experience in schools might not be undertaken entirely voluntarily, which also applies to the extreme of court ordered community service in lieu of incarceration.
- Volunteering should benefit someone else, yet that doesn’t mean you cannot benefit from it too. The less benefit an individual has for him/herself and the greater the benefit is for others the higher we seem to think of volunteering. However, it can be very difficult to see who benefits more, for example, the volunteer who enjoys helping to maintain our heritage or the family which enjoys visiting it at the weekend.
- Formal volunteering happens in organisations in the voluntary, public and private sectors; however, such organisations come in many shapes and sizes. The smallest organisations might neither be registered as charities nor have any significant income, instead simply offering mutual benefit and conviviality with every member having an equal voice. Conversely, the largest organisations might be multi million pound businesses in which a volunteer becomes merely a cog in an enormously complex machine.
- Informal volunteering happens outside organisations, however, while sometimes defined as unpaid help by an individual, the spectrum can also be seen as wider. It can be individual or collective action. It might be just one person offering neighbourly help but could also be hundreds forming a flash mob as Santa Clauses, or thousands forming a web campaign as friends or foes. The distinction between formal and informal volunteering is not yet clearly defined.

Boundaries

Formal volunteering is not necessarily seen as restricted to areas which are recognised as charitable in law in England or to statutory bodies such as schools, hospitals or courts of law. It can also be, for example, volunteering in campaigning organisations, unions or political parties or for leisure. These categories are unlikely to cover all volunteering but illustrate that it is practiced in all areas of life. Importantly, it is likely that most volunteering is undertaken informally, i.e. not in organisations and therefore even more difficult to encapsulate.

How we think of volunteering

The concept of volunteering can be understood very differently. For example, is volunteering simply a private action, is it a commodity to be invested in or is it a means to an end for the State to promote a better society? If we think of it as private action volunteers would seem not to be in need of 'rights' other than those afforded to a private individual already. If, on the other hand, we think of volunteering as unpaid work, volunteers might seek and need protection similar to that of paid staff. If volunteers are seen as a means to an end there will always be those who don't agree with the purpose.

Volunteering and paid work

Volunteering is different from paid work and this difference needs to be protected. When the boundaries get blurred they need to be clarified.

Good practice in volunteer management

Many volunteer involving organisations have clear policies on good practice in volunteer management, some employing dedicated volunteer managers to implement them. Volunteering England and others provide comprehensive guidance on developing policies and practice for organisations and volunteers alike. Yet, it is clear that many organisations still need to improve their engagement with volunteers. This includes how boards, senior management and members of staff engage with volunteers and deal with volunteer issues, as well as how volunteers engage with one another.

Sanctification

Volunteering appears to have been sanctified with consistently expressed views that all volunteering is, and by default all volunteers and all volunteer involving organisations are, 'good.' This is not supported by the evidence. However, views contrary to this sanctified position seem discouraged for fear of damaging the image of volunteering, volunteer involving organisations and volunteers.

Service volunteering

Service volunteering, in this context, relates to volunteering that takes place in a context where organisations or individuals are bound by a formal agreement or legal requirement to act in a certain manner. As volunteering is often perceived to be an entirely voluntary act this can cause tensions. For example, the way volunteer involving organisations deliver services may cause difficult situations when one party enters a contractual agreement with another party to have services delivered by volunteers with whom neither of the two signatories has a contractual agreement. In many circumstances there is an expectation of organisations to provide a professional service with the help of volunteers. Whether in charity shops, advice centres, prisons or museums, volunteers are obliged to operate to the same standards as employed staff according to existing law. In such situations organisations are liable for wrongdoing whether undertaken by a staff member or a volunteer.

Volunteer rights

As with volunteering there is no single definition of the term 'rights' we can use. In the discussion surrounding the questions of the Inquiry the term 'rights' seems to encapsulate a number of concepts both moral or legal, for example, entitlements and permissions.

Mark Restall in 'Volunteers and the Law' (2005) provides information about volunteers and employment rights, benefits and tax, safety and security, data protection, copyright and the Human Rights Act, as well as looking at some specific volunteering situations. The Inquiry has also been provided with a detailed explanation of when volunteers might qualify for employment rights; essentially they must fall within the definition of "employees" or "workers" as set out under Section 230 of the Employment Rights Act 1996.

The question of protection from bullying or general abuse does not seem to be covered above but might be covered under different legislation such as the Protection from Harassment Act 1997.

The question of rights and responsibilities in governance would also need to be considered further especially given that trustees of volunteer involving organisations are mostly volunteers themselves.

The term 'volunteer rights' is currently also used to encompass statements of best practice, for example, 'a right to get a reference' or 'a right to take holidays.'

Annex C

Possible characteristics of a Volunteer Complaints Commissioner

The Inquiry has looked at the way in which the Fundraising Standards Board, the Housing Ombudsman Service, the Press Complaints Commission, the Independent Police Complaints Commission and Investing in Volunteers were established and are governed. The Inquiry identifies possible key characteristics of a Volunteer Complaints Commissioner as follows:

- the Volunteer Complaints Commissioner's role would be to enhance public confidence in volunteering and to support the good management of complaints systems within volunteer involving organisations in the voluntary, public and private sector.
- the Volunteer Complaints Commissioner might be an independent office, with authority to impartially examine and report on complaints about poor practice or behaviour, with the expertise to consider the way complaints have been handled by volunteer involving organisations.
- the Volunteer Complaints Commissioner could be appointed through an appropriate public appointment process.
- there could possibly be a membership scheme for volunteer involving organisations that wish to enter an agreement with the Volunteer Complaints Commissioner. The Commissioner could be able to offer member organisations guidance on appropriate complaints handling procedures and scheme accreditation. The Commissioner could also withdraw accreditation.
- the Volunteer Complaints Commissioner should be able to consider complaints referred by volunteers, irrespective of whether volunteer involving organisations are members. The Commissioner should also be able to accept referrals from scheme members unable to resolve a complaint through internal procedures and may be facing continuous challenge from a complainant or public reporting.
- the Volunteer Complaints Commissioner might only consider complaints by volunteers or member organisations that have already been addressed by the organisation itself but have not been resolved through internal systems or procedures.
- the Volunteer Complaints Commissioner's services to volunteers should be free.
- the Volunteer Complaints Commissioner could issue an annual report outlining the year's activity and giving examples of the kinds of complaints referred during the year and their outcomes, in order to encourage sector learning and practice improvement.

Annex D

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