

Job Substitution

By following the advice in this guide, you will have a clear understanding about avoiding substituting paid staff with volunteers in your organisation.

Job substitution – Job Displacement and Job Replacement.

Job substitution implies when a volunteer takes on the complete duties of a paid member of staff, with the only difference being a lack of payment. As the issue is more complex than just remuneration. It is now generally accepted to use the term 'job displacement' to describe the situation when the recruitment of a volunteer, displaces the job of a member of staff. 'Job replacement' is the term used when volunteers are reallocated the work done previously by staff and the service changes in a different way, so that clients can still be supported if an organisation has suffered financial losses. Any attempt to displace paid employees with volunteers is not something that should be done without serious thought and should trigger concerns, if undertaken.

The problems with job displacement

Volunteers should complement and supplement the work of paid staff. They should not displace paid staff or undercut their pay and conditions of service. If volunteers are substituted for paid staff, the danger is a reduction in motivation and therefore satisfaction in their role. There could also be safeguarding issues, as volunteers are not expected to have the same level of training as paid staff and are not expected to have the same level of skills. Ultimately, the volunteer, the service user and the organisation can all suffer.

Organisations need to consider the careful supervision and coordination of volunteers. Replacement of paid staff with volunteers is not acceptable when there is a lack of provision for their management. Organisations may find that they also suffer negative publicity if they do not distinguish clearly between the volunteer role and that of paid staff.

The difference between paid staff and volunteers.

Volunteering is a choice and volunteers do not offer the same compulsory commitment as paid staff; nor should they be expected to. Volunteers are not paid for their role, although they should be reimbursed for expenses, usually outlined in a volunteer policy. A volunteer may sign an agreement as to standards and behavior, but these are not legally enforceable, as they have not signed a contract. A volunteer gives their time freely for the benefit of the organisation and the service users. By contrast someone in law is defined as a worker or employee if they receive payment, work a specified number of hours, have a contractual/verbal agreement where they must go to work and cannot get someone else to perform their tasks on their behalf.

A volunteer can still have responsibilities, and it is important to have a well-defined role with these responsibilities made clear. Therefore it is important to define your volunteer role, so it is obvious that they are different from employee roles or a replacement.

Legal issues when there is job displacement

There is no legal definition of what a volunteer is, and they have fewer rights in law than paid staff. The Equality Act 2010 and the Employment Rights Act 1996 do not apply to volunteers. However, a volunteer can argue that they are an employee or worker, as defined in law, if there is an intention to create an employment contract which can be implied by the circumstance in which they are being treated. If a court determines that a volunteer and organisation do have an employment relationship, then volunteers can argue for full employment and worker rights, including minimum wages, holiday pay and national insurance contributions.

What is a suitable volunteering position?

Clear principles should be in place for deciding what is the role of a volunteer and what is the role of paid staff. An organisation should ask why they are considering the involvement of volunteers. If an organisation can show reasons that acknowledge the benefits to the organisation and the volunteer, then a good volunteer policy should be developed and implemented. There should be a range of management procedures to ensure the volunteer role is suitable to be classified as such.

A volunteer position must not use employment law language and words such as 'must' and 'have to,' instead organisations should talk about what they 'expect' because volunteering is a choice. You should use documents such as a volunteer agreement, as opposed to a contract. It is wise to explicitly state in this document that the agreement is not intended to create an employment relationship. Volunteers can be given guidance as to time commitment of roles but not specified to undertake a certain number of hours or told not to take holidays. You may want to have a conversation with a volunteer as to their suitability for that role, but you cannot sanction a volunteer for not meeting your expectations, you can have a reasonable expectation but no more, and there may be 'arrangements' for this eventuality not a 'disciplinary process'. There should also be a separate recruitment process for volunteers with less emphasis on requirements and selection than paid positions.

Language is particularly important so as not to create an employment contract and should be less formal, your volunteer should have a 'role' not a 'job' description and should be 'reimbursed' not 'paid', the courts have determined that 'payments' can even include training that is not relevant to the volunteer role. You can have expectations from your volunteer but not obligations.

For more information

The National Council for Voluntary Organisations have great downloadable resources for members, free to groups with a turnover of less than £30,000 per annum:

[What is volunteering? | NCVO](#)

[Volunteers and employment rights | NCVO](#)

[Employment status | NCVO](#)

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