



# Section I

## Responsibilities to Employees



RESPONSIBILITIES | HEALTH & SAFETY | LIABILITY | RISK CONTROL | CLAIMS PROCEDURE | SPECIAL EVENTS | MINIBUSES | WORKING WITH CHILDREN



Section I Responsibilities to Employees

**An employer, whether it be a charity, church or other type of non-profit organisation has a general duty of care to its employees to ensure that, as far as possible, they work in an environment which protects their health, safety and welfare. Both our Government and the EU are keen that employers take full responsibility for looking after their staff in relevant areas whether they be voluntary workers, part or full-time.**

**The Health and Safety at work Act 1974, other legislation and continuing developments have added to the responsibilities. We have produced separate sheets specifically on the subject of health and safety, which provide details on those responsibilities generally and for particular types of organisations e.g. Care Homes and Churches etc.**

To ensure that independent funds are available with which to compensate employees who have suffered as a result of an employer's negligence, organisations employing staff are required under the **Employers Liability (Compulsory Insurance) Act 1969** to take out employers' liability insurance. This is against their liability for personal injury, illness sustained, or disease contracted by their employees in the course of their employment. A copy of the certificate of insurance must be displayed at each of the premises where employees are based. Some volunteers may be deemed to be employees for the purposes of this Act, for example, where fixed expenses are paid regularly.

Ansvar's Employers Liability insurance cover specifically includes voluntary workers to ensure they can potentially receive the same benefits as paid employees. The standard limit is normally £10 million.

Regarding the welfare aspect there is a need for employers to be aware of their responsibilities in this area, not only because a happy work force is more

effective, but also from protecting the organisation from potentially disruptive and expensive problems.

An error in handling staff matters, ranging from recruitment to dismissal issues could readily result in costly involvement with an employment tribunal not only in legal costs, but also lost management time. It is as well to remember that responsibilities are owed also to both potential and past employees, and as tribunals were primarily instigated to protect the interests of the employee they will look upon the employee's case sympathetically.

Examples of areas where if a dispute arises may result in an appearance at an industrial tribunal are:

- i) Sexual discrimination or harassment.
- ii) Racial discrimination.
- iii) Discrimination against those with a disability.
- iv) Unfair dismissal.
- v) Religious beliefs.
- vi) Political opinion.

Keeping up with developments is essential from every point of view but is difficult due not only to the amount of domestic legislation but also because of new regulations emanating from the EU.

1999 saw the following important changes to existing employees individual rights:

- i) Continuity requirement for unfair dismissal reduced from two to one year.
- ii) Maximum compensation limit on unfair dismissal increased to £50,000 (and index-linked).
- iii) It is no longer possible to negotiate fixed term contracts where an employee will forgo his or her unfair dismissal rights.

The following are some of the latest areas of legislation:

- i) **The Disability Discrimination Act** which gives disabled workers and applicants the right to be treated as non-disabled employees and basically applies to organisations with over 15 employees. Suitable toilet facilities would be an example, but the Act also requires positive steps to be taken generally to accommodate an individual disabled employee or applicant
- ii) **The Working Times Regulations** introduced the 48-hour week and other rights of employees regarding working time, breaks, voluntary overtime and holidays. Should any more time be needed the written consent of the employee is required. For night workers the rules are even tighter and employees working from home or pursuing their rights are also protected.
- iii) **The Employment Rights Act 1999** puts into effect the Government's policies and European requirements in respect of pregnant and part-time workers.
- iv) **The National Minimum Wage Act** was introduced on 1st April 1999 and set the minimum rates of pay at £3.60 per hour for over 21's and £3 for those aged between 18 and 21. Inappropriate training programmes cannot be used as an excuse to avoid this.

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**Responsibilities to volunteers**

The charity or church has responsibilities to volunteers who may be considered as employees for the purposes of the Health & Safety at Work Act.

It is important to provide in all cases, where a person is undertaking work of whatsoever nature and in whatsoever role, prior guidance, training or instructions and safe conditions in which they have to carry out their task whether he or she be a worker, service provider or ancillary volunteer.

When, for example, a volunteer is asked to undertake even a comparatively simple task at a small event and an accident happens, it can create bad publicity and liability for the organisation if it cannot clearly demonstrate that it had undertaken an assessment of any risks involved and taken any action necessary to remove or reduce those risks to an acceptable level.

A tragic example of insufficient training and guidance occurred when a volunteer was killed by a disturbed client of a charity he was working for. Not only did the charity concerned pick up heavy criticism, but also the probability of an expensive liability claim.

**Responsibilities to the public and other third parties.**

Because a church or charity is a non-profit making organisation this in no way reduces their responsibility to members of the public or third parties such as those receiving services from the organisation. In the past people would have been reluctant to have sued either type of organisation but, regrettably, this is not the case in the litigious climate in which we live today.

Sadly, there has been many cases where for example a spectator or participant in a fund-raising event or a beneficiary of free services have alleged that they have been caused mental or physical injury and have sued for compensation.

It is probable that Public Liability insurance is the minimum cover required for all non-profit organisations, regardless of type or size. Typically limits range from £1-5 million.

The message is clear. Organisations must be aware of their responsibilities and act accordingly by installing the necessary procedures and safeguards.