



COVID-19 Position paper No.2: Safeguarding Volunteers and Volunteer Involving Organisations

In the coming weeks, Federal and State/Territory Government advice is likely to change as COVID-19 restrictions are reviewed. We are urging all organisations to ensure they are aware of the most up to date advice which applies within their jurisdiction.

This paper was updated on 29 April 2020

Amendments/additions:

- New sections on:
 - Essential and non-essential gatherings
 - Advice for older volunteers
 - When a volunteer contracts COVID-19
- Some re-ordering of the sections

This paper was updated on 6 April 2020

Amendments/additions:

- Some changes to WHS requirements
- Additional information re Informal Volunteers
- New section on 'replacing paid workers with volunteers'

Original version published 25 March 2020

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Introduction

Volunteering Australia and the State and Territory volunteering peak bodies are providing advice and guidance to volunteers and Volunteer Involving Organisations as the COVID-19 situation evolves. This position paper sets out our shared views on how volunteers can be safeguarded during the COVID-19 emergency and how volunteers can best support the emergency response to COVID-19. Overall, our aim is to provide guidance which draws directly from official sources of advice and expertise, and which is mindful of rapidly changing State and Territory priorities.

The aim of this position paper is to help guide decision-making of Volunteer Involving Organisations and of volunteers in these very challenging times.

The COVID-19 situation is changing by the hour. This position paper is a live document and new versions will be produced as the situation and official advice changes.

This paper is by way of general information and is designed for discretionary use. It does not replace the requirement for the reader to obtain specific operational, legal, insurance, or other advice.

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Volunteering Australia accepts no responsibility for any errors in the information provided, nor the effect of any such errors.

Issues

Adapting your volunteering programs

Volunteering Australia recommends adapting volunteering roles to minimise or remove face-to-face contact to reduce the risk of infection of COVID-19.

Adjustments to volunteering roles may include:

- Postponing volunteer work that cannot be done safely within COVID-19 requirements
- Moving volunteering online so volunteers can work from home
- Replacing face-to-face contact with telephone contact
- Ensuring volunteers keep a distance of 1.5 metres during instances of face-to-face contact
- Reducing face-to-face contact to less than 15 minutes

Safeguarding volunteers¹

Work Health and Safety Requirements

Volunteering Australia recommends that due to the unpredictability of COVID-19, including limited measures available to control the spread of the virus, Volunteer Involving Organisations cease volunteering roles that cannot be done safely within COVID-19 requirements. This aligns with the Australian Government's advice to practice social distancing.

In Australia, there are three sets of work, health and safety (WHS) laws so organisations need to be mindful of variations between states and territories. If your organisation has one or more paid employees it is legally required to adhere to your jurisdiction's relevant work, health and safety (WHS) laws. In some jurisdictions (Victoria and West Australia), this legislation can apply even if an organisation is entirely run by volunteers². Under WHS legislation your organisation has an obligation to protect the physical and mental health wellbeing of your volunteers. This means that your organisation has the same obligations to your volunteers as it does to your employees, which includes the duty to provide a safe working environment.

Your organisation should consider whether it is able to comply with WHS laws to provide a safe working environment for volunteers as COVID-19 continues to spread throughout Australia. It is important to remember that people can be asymptomatic carriers of the virus and unknowingly pass it onto others, including at risk populations.

Regardless of whether WHA laws apply, all organisations have a duty of care under common law and state and territory-based negligence laws to ensure the safety and well-being of volunteers.

¹ Further guidance is available from your State or Territory volunteering peak body – see links at end of this document.

² See pages 37 and 47 of the Justice Connect Not-for-profit Law National Volunteer Guide <https://www.nfplaw.org.au/volunteers>

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If your organisation decides to continue involving volunteers at this time, organisations should review their safety policies and practices and implement the measures necessary to comply with WHS obligations and their duty of care under negligence laws.

Insurance Requirements

Volunteering Australia strongly recommends that Volunteer Involving Organisations seek advice from their insurer about the implications of the pandemic regarding their volunteer workforce if they choose to continue involving volunteers at this time. *Please be aware this is a complex area and, as States and Territories declare 'states of emergency' and enact emergency legislation, advice may change.*

Volunteers are generally not covered by worker's compensation and therefore your organisation needs to consider specific volunteer insurance to cover them for injury in the workplace. This is sometimes known as Voluntary Workers Personal Accident insurance. There is no legal requirement for your organisation to have volunteer insurance, but it is highly recommended. It is critical to note that volunteer insurance does not cover volunteers for illness, so your organisation should be exercising exceptional risk management with regards to volunteers and policies typically do not cover pandemics. This means that the health and safety of volunteers needs to be considered, more than ever, in these challenging times. There may also be further insurance considerations associated with volunteers working remotely, for example cybersecurity concerns with the use of personal or work-owned devices. If your organisation does have Voluntary Workers Personal Accident insurance, you should check with your broker about what is and what is not covered, including asking volunteers to work remotely.

We strongly encourage you to communicate with your volunteers about the limitations of your insurance policies (and that no insurance may be applicable) and give volunteers the option to suspend their involvement for the time being. Your volunteers are important and they will likely value the opportunity to stay connected with your organisation so that they may choose to reengage in the future.

Keeping Volunteers Safe

If your organisation decides to continue running programs and services that involve volunteers, it is imperative you take every measure possible to keep your volunteers safe in the workplace. This includes following all advice provided by the Australian Government with regards to hygiene and social distancing. Where possible, consider how face-to-face contact can be lessened or removed altogether. Where face-to-face contact is an essential requirement, ensure your volunteers strictly comply with handwashing and sanitising guidelines. Further, consider how you can assist service users to comply with guidelines to minimise the risk to your volunteers.

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Business Continuity and Risk Management Considerations

Volunteering Australia is urging all Volunteer Involving Organisations to prepare further for how COVID-19 will disrupt operations including updating or creating a business continuity plan. Several resources are available to help organisations undertake this planning³.

Volunteering Australia also recommends your organisation revisit the risk management plan that governs your volunteering program/s to consider any new or heightened risks posed by COVID-19. It may be the case that existing risks will now have a higher risk rating due to COVID-19 and require new treatments and mitigation strategies. When considering the risks posed by COVID-19 to your volunteers remember that volunteer insurance does not cover volunteers for illness. As part of this process, it is advised that you seek independent legal and insurance advice about your organisation's requirements to remain compliant with legislation.

Essential and non-essential gatherings

Volunteer Involving Organisations need to undertake risk assessments and decide which volunteering programs and activities can continue during the COVID-19 emergency.

Our advice to Volunteer Involving Organisations⁴ is to first consider whether or not (and in what circumstances) a person is allowed to leave their primary place of residence for the purpose of volunteering and then consider what Federal and State/Territory governments have defined as 'non-essential gatherings'⁵. If their activity is listed, then the organisation should cease the program (if it cannot be undertaken remotely). If their activity is not listed, then we are recommending that organisations carefully consider their Work, Health and Safety (WHS) and duty of care obligations before proceeding with the volunteering activity.

We are urging the Federal and State and Territory governments to provide further guidance on the distinction between essential and non-essential gatherings and activities. This lack of clarity has made it very challenging for Volunteer Involving Organisations to determine whether a volunteering program should continue.

Advice for older volunteers

The Australian Government⁶ has advised that people aged 70 years and over, people aged 65 years and over with chronic medical conditions, people with compromised immune systems, and Aboriginal and Torres Strait Islander people over the age of 50 are at greater risk of more serious

³ See links to State and Territory peak volunteering bodies at the end of this document and <https://www.volunteeringaustralia.org/contact/#/>

⁴ For further guidance, see https://www.nfplaw.org.au/sites/default/files/media/State_and_territory_government_guidelines_and_order_s_restricting_gatherings_and_movement.pdf

⁵ <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/how-to-protect-yourself-and-others-from-coronavirus-covid-19/limits-on-public-gatherings-for-coronavirus-covid-19>

⁶ See <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/advice-for-people-at-risk-of-coronavirus-covid-19/coronavirus-covid-19-advice-for-older-people>.

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illness if they are infected with COVID19. We are recommending that everyone follows official advice⁷ which for these groups is to stay home and to avoid contact with others.

Volunteer Involving Organisations need to undertake their own risk management activities in deciding how to continue with volunteering programs for volunteers in these categories. We are encouraging organisations to consider whether older volunteers, and those in other high-risk groups, may be involved in phone or virtual volunteering, which may continue to bring them and the community benefits. Organisations continue to have a duty of care to manage their volunteers' safety.

If organisations are short of volunteers as a result, the State and Territory volunteering peak bodies can provide support.

Replacing paid workers with volunteers?

COVID-19 is a health and economic crisis. In these very challenging times, many not-for-profits are experiencing an increase in demand for their services but a decline in revenue. In addition, paid staff might be unable to work because of COVID-19 requirements, or because they are self-isolating or have contracted COVID-19. In these circumstances, organisations might be considering whether volunteers could replace paid staff so that service provision can be maintained.

Determining what work should be done by paid staff and what work could be done by volunteers is increasingly complex. What is properly paid work in one organisation may be legitimate volunteer work in another; what was traditionally paid work in the past may now be widely accepted as volunteer work, and vice versa. We recommend seeking legal advice about this highly complex area.

Justice Connect⁸ has written extensively on the topic and the importance of correctly classifying different working relationships, including the basic legal differences between volunteers, employees and independent contractors and the main legal obligations an organisation owes to its volunteers, employees and independent contractors.

Volunteering Australia recommends that organisations should:

- *Comply with the law*⁹ including adhering to legislative requirements about termination of paid staff and redundancy of paid positions.
- *Comply with the definition of volunteering*¹⁰, as “time willingly given, for the common good and without financial gain”.
- *Carefully consider relationships with paid staff, volunteers and other stakeholders*, so that there is support and understanding of any changes.

⁷ See <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/advice-for-people-at-risk-of-coronavirus-covid-19/coronavirus-covid-19-advice-for-older-people>

⁸ See Part 2 of the Justice Connect Not-for-profit Law National Volunteer Guide for further information www.nfplaw.org.au/volunteers

⁹ See the Fair Work website for further information – <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets>

¹⁰ <https://www.volunteeringaustralia.org/resources/definition-of-volunteering/#/>

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- *Carefully consider risk management issues*, as the nature and extent of risks, and strategies for addressing them, may be different when roles are performed by volunteers rather than paid staff.
- *Carefully consider the motivations and expectations of volunteers*, as these will be different to paid workers.
- *Carefully consider the resources needed for professional volunteer management and potential additional costs*, such as reimbursing expenses, insurance and other expenses.

Volunteering Australia recognises that we are in exceptional times and ultimately these are difficult business decisions, but we urge consideration of the above guidance.

Contact your State and Territory volunteering peak body¹¹ for further guidance as they have extensive experience and can support your organisation in its decision making.

Relaxing contractual obligations

Volunteering Australia is recommending that Volunteer Involving Organisations contact their funding bodies to explain how their operations are being affected and to discuss their contractual obligations during this crisis.

Volunteering Australia is urging all funding bodies to relax their contractual requirements so that if a Volunteer Involving Organisation has to close or change their business operations due to COVID-19, they are not penalised for failing to meet their contractual obligations. Many Volunteer Involving Organisations are already having to operate with reduced volunteering capacity, and this is affecting their ability to meet contractual requirements.

When a volunteer contracts COVID-19.

If a volunteer contracts COVID-19, the same procedures apply as for paid employees. Guidance is available at Safe Work Australia¹² and the Department of Health¹³. What needs to be done to meet your work, health and safety duties, or your overall duty of care to volunteers, will depend on your circumstances. If someone has contracted COVID-19 in connection with your organisation, the best course of action is to contact a government department such as the WHS regulator or health department in your state or territory for specific advice.

Please be aware that your organisation could be held liable¹⁴ if you asked your volunteers to keep volunteering during the pandemic and did not take reasonable precautions to ensure their safety. To work out how WHS laws and the common law of negligence apply to your organisation, see Part 3 of the Not-for-profit Law National Volunteer Guide.¹⁵

Generally, you are required to identify hazards (for example: were they at the workplace while they may have been infectious or have they been identified by a public health authority as a 'close contact?'), control the risks (for example: deep cleaning of areas may be required), and review your

¹¹ <https://www.volunteeringaustralia.org/contact/#/>

¹² <https://www.safeworkaustralia.gov.au/covid-19-information-workplaces/what-do-if-worker-has-covid-19>

¹³ <https://www.health.gov.au/resources/publications/coronavirus-covid-19-information-for-employers>

¹⁴ See FAQ#4 at <https://www.nfplaw.org.au/covid19/people-involved#Q4>

¹⁵ <https://www.nfplaw.org.au/volunteers>

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control measures (if someone became sick whilst at your workplace, then this may mean your control measures are not working as intended.) Further action is likely to be required and you should contact your state or territory WHS regulator for specific advice on your situation.

Mutual obligation and volunteering

Our advice to individuals unable to meet their mutual obligation requirements because of the COVID-19 situation is to contact Centrelink to discuss.

Volunteering Australia welcomes the extension of the pause on mutual obligation requirements until 22 May 2020.

Many job seekers currently volunteer¹⁶ as part of their mutual obligation requirements¹⁷. As many volunteering programs are suspending or altering operations, job seekers may be unable to fulfil their mutual obligation requirements through no fault of their own. In addition, many people will be self-isolating and so will be unable to fulfil their mutual obligation requirements. An extended pause on mutual obligation requirements is essential to ensure people, particularly many who are very vulnerable, continue to receive income support in these challenging times. Further, pausing mutual obligation requirements may reduce the burden on Volunteer Involving Organisations to find work for mutual obligation participants where these organisations are considering how to pare back their operations to respond to the risks of COVID-19. Suspension of requirements will enable both participants and organisations to manage the risks posed by COVID-19 to themselves and their service users.

Informal, self-organising volunteers

We are seeing many examples across the country of people stepping up to help and support those in need. Some people help out their neighbours; others form groups (often via social media platforms) to come together to support members of their community.

Volunteering Australia, together with the State and Territory volunteering peak bodies, recognise the important role that this 'informal volunteering' plays, particularly in times of crisis and want to ensure that it is conducted safely.

Our collective aim is to reduce the spread of COVID-19. We are therefore urging people to exert caution in embarking on informal volunteering. Individuals need to consider issues of privacy and self-care and avoid putting themselves and others in the community at risk. This means adhering to recommended social distancing guidelines and other official guidance as it emerges in the coming months.

For those individuals wishing to engage in informal volunteering, guidance is available on how to do this safely and appropriately.¹⁸

¹⁶ See <https://www.volunteeringaustralia.org/wp-content/uploads/Definition-of-Volunteering-27-July-20151.pdf> for discussion of definition of volunteering.

¹⁷ <https://www.volunteeringaustralia.org/resources/volunteering-and-mutual-obligation-requirements-for-unemployment-payment-recipients/>

¹⁸ See <https://www.volunteeringtas.org.au/2020/04/08/informal-volunteering-guide/>

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For those who are organising an informal volunteer group, either on social media or in the community, you have a duty of care¹⁹ to provide a safe experience for volunteers. This means providing opportunities for volunteers to access information on COVID-19, on how to stay safe and keep others safe, and constantly reinforce these messages with volunteers.

At this stage, Australia is expecting the recovery to last for several months which will present new challenges over time. While we are working together in Australia and internationally to ‘flatten the curve’, the incidence of COVID-19 will continue to grow for at least some weeks. Particularly for unincorporated²⁰ and informal volunteering, consider starting small so that you can understand the scale of your undertaking and how best to sustain it and provide protection to you and the community if you choose to continue to volunteer.

Particular care should be taken in volunteer interactions with vulnerable people – especially children, seniors, people with disabilities and those experiencing homelessness. Police and other screening checks²¹ on volunteers are typically undertaken by Volunteer Involving Organisations providing services.

Individuals wishing to volunteer and those organising informal groups can contact their volunteering peak body for further advice.

Spontaneous volunteers supporting the emergency response

The State and Territory peak bodies for volunteering register offers of assistance from spontaneous volunteers. If you are interested in volunteering in response to the COVID-19 public health emergency, we encourage you to contact your State and Territory peak volunteering bodies and register your interest.

Conversations are continuing to take place at the state/territory level about how volunteers might help as the crisis develops.

Volunteering Australia and the State and Territory peak volunteering bodies are keen to engage with their relevant governments on how volunteers might support efforts going forward, and how volunteers can be protected in doing so.

¹⁹ See Part 3 of the Justice Connect Not-for-profit Law National Volunteer Guide for further information on what it means to have a duty of care. www.nfplaw.org.au/volunteers

²⁰ See factsheet on what it means to be unincorporated and the risks involved. www.nfplaw.org.au/incorporationdecision

²¹ See Part 5 of the Justice Connect Not-for-profit Law National Volunteer Guide for further information on screening checks. www.nfplaw.org.au/volunteers

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Authorisation

This submission has been authorised by the Chief Executive Officer of Volunteering Australia.



Ms Adrienne Picone
Chief Executive Officer

Endorsements

This position statement has been endorsed by the seven State and Territory volunteering peak bodies.



About Volunteering Australia

Volunteering Australia is the national peak body for volunteering, working to advance volunteering in the Australian community. The seven State and Territory volunteering peak bodies work to advance and promote volunteering in their respective jurisdictions and are Foundation Members of Volunteering Australia.

Volunteering Australia's vision is to promote strong, connected communities through volunteering. Our mission is to lead, strengthen, promote and celebrate volunteering in Australia.

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State and Territory Volunteering Peak Bodies

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