

LANDSCAPE OF INTERNATIONAL & NATIONAL VOLUNTEER EXPERIENCE

BACKGROUND

November 2009

UK Volunteer Rights Inquiry set up following call for external means of complaints redress and defined volunteer rights.

Recommendations:

- **Prevention** is better than cure
- Breakdowns can **often** be resolved simply
- Seeking **independent support** ie Volunteer Centres



2012-2013

In response to the UK inquiry, the Australian Volunteer Rights and Advocacy Working Group established to investigate the nature of volunteers' rights in Australia.



Identified issues:

1. Bullying (**40%**)
2. Bad management and governance (**15%**)
3. uninteresting tasks, discrimination, insufficient work, grievance procedures, and exclusion by other staff/volunteers (less than **5%**)

December 2017

Volunteering SA&NT election proposal:

Establish a Volunteering Advocate position to fill gaps in dispute resolution, protection for volunteers and risk mitigation



February 2018

Marshall Liberal Government commitment to work with the sector to **determine how best to manage volunteer disputes**, including governance training, resourcing and potential changes to legislation.

March 2020

Minister for Human Services approved progressing this matter through the Volunteering Strategy for South Australia.

THE VOLUNTEERING ENVIRONMENT

Volunteering takes place in:

- the community sector (volunteer associations and PCBUs)
- schools
- hospitals
- public sector agencies
- the private sector.



900,000+

South Australian volunteers



1.7 million volunteer hours p/w

Worth **\$5 billion** p/a

The nature of volunteering is **changing:**

- volunteering as a pathway to work
- volunteering in the delivery of commissioned services.



This **may** lead to increased scrutiny of the relationship between volunteers and volunteer involving organisations.

The Volunteering Strategy for South Australia seeks to

improve the experience of volunteers and volunteer involving organisations.



SUPPORT & ADVOCACY MECHANISMS IN SOUTH AUSTRALIA

Independent supports

- Australian Charities and Not-for-profits Commission – national regulator of charities
- Consumer and Business Services – incorporated associations can give some protection for individual members
- Country Fire Service Volunteers Association – representing the interest of members of SACFS organisations
- Equal Opportunity Commission – discrimination and harassment
- Fair Work Commission – workplace bullying
- Legal Services Commission – legal advice and assistance

- Office of the Australian Information Commissioner – handling of personal information
- Ombudsman South Australia – complaints by volunteers engaged by South Australian State government agencies, statutory authorities, South Australian local councils
- S.A.S.E.S. Volunteers' Association Incorporated – representing the interests of members of SASES units.
- SafeWork SA – workplace health and safety
- Sport SA – information, advice and assistance about sport disputes
- Volunteering SA&NT – general advice and training for volunteer involving organisations and volunteers

Existing standards / guidelines

- National Standards for Volunteer Involvement
- Guideline of the Commissioner for Public Sector Employment - Volunteers
- Organisational grievance policies and procedures

LEGISLATION

LEGAL ISSUE	RELEVANT LEGISLATION	APPLIES TO VOLUNTEERS?
Discrimination	Age Discrimination Act 2004 (Cth)	The Act does not explicitly cover volunteers. It may apply to volunteers as the Act prohibits discrimination in relation to the provision of goods, services and facilities, club and incorporated associations and some aspects of sport
	Sex Discrimination Act 1984 (Cth)	The Act does not explicitly cover volunteers. It may apply to volunteers as the Act prohibits discrimination in relation to the provision of goods, services and facilities, club and incorporated associations and some aspects of sport
	Australian Human Rights Commission Act 1986 (Cth)	The Act may apply to volunteers as the Commission can inquire into 'employment' or 'occupation', which are undefined
	Racial Discrimination Act 1984 (Cth)	The Act does not explicitly cover volunteers. It may apply as the definition of 'racial discrimination' is broad and not confined to the employment relationship. Definition of employment 'includes a contract for services' and does not mention volunteers or unpaid workers.
	Disability Discrimination Act 1984 (Cth)	The Act does not explicitly cover volunteers. It may apply to volunteers as the Act prohibits discrimination in relation to the provision of goods, services and facilities, clubs and incorporated associations, and sport.
	Equal Opportunity Act 1984 (SA)	Volunteers are protected by the Equal Opportunity Act 1984 (SA) (the 'SA Equal Opportunity Act') pursuant to the definitions of employee and employment, which include unpaid worker and unpaid work respectively (s 5).
Sexual harassment	Sex Discrimination Act 1984 (Cth)	The Act does not explicitly cover volunteers. It may apply to volunteers as the Act prohibits discrimination in relation to the provision of goods, services and facilities, clubs and Commonwealth laws and programs or requests for information.
	Equal Opportunity Act 1984 (SA)	Volunteers are protected by the Equal Opportunity Act 1984 (SA) (the 'SA Equal Opportunity Act') pursuant to the definitions of employee and employment, which include unpaid worker and unpaid work respectively (s 5).
Bullying	Work Health and Safety Act 2012 (SA)	The SA WHS Laws only apply to "persons conducting a business or undertaking" (a 'PCUB'), essentially, organisations that have employees. If an organisation is covered by the SA WHS Laws, they will apply to employees and volunteers in the same way. The SA WHS Laws do not apply to organisations that only engage volunteers.
	Fair Work Act 2009 (Cth)	Bullying provisions of the Act will only apply if your organisation is a 'constitutional corporation' and not wholly volunteer run.
Payment for work	Fair Work Act 2009 (Cth)	Only applies to employees, employers and employment.
Unfair dismissal	Fair Work Act 2009 (Cth)	Only applies to employees, employers and employment.
Superannuation rights	Superannuation Guarantee Administration Act 1992 (Cth)	Applies to employees and employers.
Paid and annual leave sick	Fair Work Act 2009 (Cth)	Applies to employees, employers and employment.
Redundancy	Fair Work Act 2009 (Cth)	Applies to employees, and employers.
Privacy	Privacy Act 1988 (Cth)	Applies to organisations with an annual turnover of more than \$3 million, or that provide a health service, collect and provide the personal information of others, provide services under a Commonwealth contract, or is a related body corporate to a body that meets any of the above criteria.
Protection	Volunteers Protection Act 2001 (SA)	Provides some protection for volunteers doing community work from being sued for damage, loss or injury they may have caused to others during their volunteer work. Only individual volunteers doing 'community work' for 'community organisations' are covered by the Act.
	Return to Work Act 2014 (SA)	By virtue of Schedule 1 of the RTW Act, certain prescribed volunteers performing a prescribed class of work are deemed to be employees of the Crown. The class of volunteer and the class of work is set out in section 69 (1) of the Return to Work Regulations 2014 . The class of volunteers are volunteer fire fighters, volunteer SA State Emergency Services members and volunteer marine rescue. The provision imposes on the Crown the liabilities of a self-insured employer in relation to such people. The Crown is presumed to be their employer and they are entitled to workers compensation if they are killed or injured in the course of their duties.
	Fire and Emergency Services Act 2005 (SA)	Limits the extent to which volunteers may be liable for negligence. Any liability is moved to the organisation or the Crown.