

Organisations that work with volunteers have obligations under Victorian law to ensure that safety is maintained in the workplace. Workplace health and safety is governed by a system of laws, regulations and compliance codes which set out the responsibilities of employers and workers to ensure that safety is maintained at work.

Protect them, protect yourselves

It has always been a good idea to protect volunteers from harm – indeed, it is one of the National Standards for Volunteer Involvement. Many volunteer organisations will engage both volunteers and paid employees. If you are a volunteer organisation with paid employees you are an “employer” for the purposes of the Occupational Health and Safety Act 2004 (Vic) (the Victorian OHS Act). This Act governs how you manage health and safety and respond to issues.

While some of your legal obligations under the Victorian OHS Act relate specifically to employees and will not apply to volunteers, treating your volunteers as if they were paid employees will demonstrate your commitment to their health, safety and wellbeing and it will also prevent duplication of the safety systems that you implement.

The duties will be in the detail

As an employer you will have a primary duty of care to provide and maintain a working environment that is safe and without risks to the health of employees, so far as reasonably practicable. You will also have a duty to ensure that other persons, including your volunteers, are not exposed to risks to their health or safety arising from the conduct of your organisation’s business, so far as reasonably practicable. Some of your other duties and responsibilities as an employer under the Victorian OHS Act include:

- involving employees in decision-making around health and safety through consultation on risk management and safety
- monitoring the health of employees and the conditions at the workplace
- notifying WorkSafe of certain incidents and preserving the site where an incident has occurred
- arranging for the representation of employees through the election of health and safety representatives
- complying with any non-disturbance, improvement or prohibition notices issued by WorkSafe.

If you are an employer, your volunteers will also have a duty not to recklessly engage in conduct that places or may place another person at your workplace in danger of serious injury.

If you don’t comply

Workplace health and safety laws are taken seriously. The aim of the law is to make workplaces safer for everyone who comes in contact with them. Prosecution is a possibility for organisations that fail significantly in their duties. (N.B. Volunteer committee/board members are generally exempt from prosecution under the Victorian [Occupational Health and Safety Act 2004](#))

Creating a safe environment for volunteering however, is not just about avoiding punishment. Everyone has the right to work safely, whether they are paid or not. Regulators such as WorkSafe are also there to support, advise and guide workplaces and workers—including volunteers.

Play it safe and adopt a high standard

So where do you start? Volunteering Victoria recommends that you:

- Develop an Occupational Health and Safety policy and processes for involving volunteers and handling incidents
- Examine your working procedures and environment to identify and minimise hazards – risk management planning processes can help with this, so see the related Fast Facts sheet make sure your insurance is adequate
- Get help if you need it – depending on your activities, you may have specific or additional legal responsibilities.

WorkSafe has developed a Volunteer Health and Safety handbook, which is a useful resource that provides an overview of the matters volunteer organisations should consider in relation to both volunteers and paid employees.

No money, no worries?

If you are a volunteer organisation that does not have paid employees you may or may not be subject to the Victorian OHS Act. But even if you do not have a legal obligation to maintain a safe working environment for your volunteers does not mean that you shouldn’t eliminate or reduce risks to your volunteers’ health and safety.

Volunteering Victoria recommends adopting the spirit of the law by making health and safety a priority for the sake of your volunteers and the public generally. This means adopting a safety conscious approach and treating your volunteers with the same regard as you would for paid employees.

First aid

Volunteers are not required to be trained in first aid, however you should consider first a first aid policy as part of your risk management strategy. To develop a first aid policy, consider whether staff are required to have a first aid certificate and whether you are able to reimburse volunteers for the costs of training.

As well as the resources listed below, Justice Connect can provide free legal advice to community organisations and WorkSafe can provide more detailed advice on OHS issues including when or how Victorian laws may be changed.

Around the country

Most of the other States in Australia, and the Commonwealth, have implemented a model Work Health and Safety Act (the Model Act). Under the Model Act there is no difference between the legal duties and obligations owed to volunteers or workers in circumstances where the Model Act applies. This means you will need to specifically address health and safety for volunteers as well as paid workers, for example, by providing necessary training and instruction.

If your organisation operates across State borders or at a Federal level you should seek further advice as to what specific legislation applies to you and what your legal obligations are under the new laws.

More information

www.worksafe.vic.gov.au/laws/ohs

www.nfplaw.org.au/OHS

<https://www.worksafe.vic.gov.au/resources/volunteer-health-and-safety-handbook-community-service-organisations>

<https://www.worksafe.vic.gov.au/resources/victorian-occupational-health-and-safety-compliance-framework-handbook>