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## Heritage Railway Association GUIDANCE NOTE

# Working with Young Volunteers

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### Disclaimer

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## Interpretation

The term 'railway' should be taken to include heritage tramways and similar bodies where appropriate.

## 1. Introduction

As volunteers, young people offer enthusiasm, commitment and energy. They can make a very special contribution to the work of the railways. Perhaps even more important, a positive volunteering experience can lead to a young person developing a life-long commitment to the railways. In this respect, they represent the volunteers of the future.

Involving young people depends, however, on members understanding their needs in the context of the work to be done and planning ahead. This guidance outlines issues which members should consider if they are thinking about taking on young volunteers. It aims to help them create a stimulating environment which supports young people in growing and developing a wide range of railway interests and skills whilst also keeping them safe.

A wide range of guidance on the topic of volunteering and young volunteers is available through organisations such as Volunteering England,<sup>1</sup> Wales Council for Voluntary Action,<sup>2</sup> Volunteer Scotland,<sup>3</sup> and Volunteer Now (Northern Ireland).<sup>4</sup> This guidance does not seek to duplicate what is already available elsewhere, but instead seeks to signpost members to appropriate sources whilst raising issues which are of particular relevance to young people in the railway environment.

The guidance covers topics including the recruitment of young volunteers, recommended age limits on volunteering, health and safety and insurance. The Association also recommends that rather than producing standalone policies and procedures specific to young volunteers (much of which would duplicate policies which apply equally to older volunteers), members should incorporate information relevant to young volunteers in existing documentation. To this end, the guidance includes a list of key policies and documents which the Association recommends members to review and update when considering the recruitment and management of young volunteers.

## 2. Age Limits on Young Volunteers

The law divides those under 18 into two categories:

- **Children:** individuals under compulsory school age.
- **Young People:** individuals over compulsory school age, but under the age of 18.

A child ceases to be of compulsory school age if he/she reaches the age of 16 before the last Friday in June of the specified academic year, or if he/she reaches 16 after the last Friday in June, but before the start of the new school year.

Employment of children is a highly regulated activity and more stringent rules apply than to the employment of young people. The Association has recently taken legal advice on whether the law permits children, outside of a formal work experience programme, to volunteer on railways. The issue turns on the legal definition of 'employment' (as outlined in the Children and Young Persons Act 1933) and whether the employment of children on a railway (which extends to any activity

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<sup>1</sup> <http://www.volunteering.org.uk>

<sup>2</sup> <http://www.wcva.org.uk>

<sup>3</sup> <http://www.volunteerscotland.net>

<sup>4</sup> <http://www.volunteernow.co.uk>

associated with the running of a railway) is explicitly prohibited by the Employment of Women, Young Persons and Children Act 1920. Employing children in contravention of the rules is a criminal offence which could leave members (and any person whose act or default contributed to the contravention) exposed to the risk of prosecution and liability for a financial penalty.

**Although the position is not completely clear, there is sufficient risk that children are not permitted to undertake such roles that, until the law is clarified, members are advised to limit 'young volunteering' activities to young people and not children (unless the children are participating in a formal work experience programme).**

Members may consider outlining the age limits applicable to their volunteering roles within their general Volunteering Policy.

### Work Experience Programmes

Children of compulsory school age can, however, take part in work experience schemes in their last two years of school.<sup>5</sup> The employment must be in line with arrangements set out by the local authority (or by the governing body of a school on behalf of the authority) and aimed at providing work experience as part of education. Such programmes offer members the opportunity to engage with slightly younger children subject to the same rules which apply to the employment of young people.<sup>6</sup>

The Department of Education has issued guidance which provides more detailed information to members interested in running work experience programmes.<sup>7</sup>

## 3. Recruiting Young People

Many young people will not be aware of the opportunities available. Publicity and promotional material should be targeted around these opportunities and reviewed to ensure it appeals to younger people. It should describe the range of exciting activities on offer and highlight the other benefits of volunteering e.g. how it can enhance CVs.

To find young volunteers, members can approach volunteer centres or organisations already engaged with young people e.g. schools, colleges, youth clubs, Scout and Guide units, young networks, job centres, youth offending services and social services.

As with adult volunteers; young volunteer candidates should be interviewed to assess what they would like to do, their skills, suitability and how best to realise their potential. Such interviews are important to the risk assessment process (see below) because although age is a guiding factor to capability, it is not the only consideration because the maturity of young volunteers of the same age can vary considerably. Young volunteers should therefore be assessed as far as possible in relation to individual motivations and supervision and training needs.

Drawing up role or task descriptions is good practice because it helps volunteers know what is expected of them and what support they will get. It is particularly important to avoid jargon in role/task descriptions for young people. If young people are to undertake a specific role or task, the description should state specifically any additional supervision or training needs or other considerations identified by the risk assessment.

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<sup>5</sup> Section 560 Education Act 1996

<sup>6</sup> s.560(4) and (5) Education Act 1996

<sup>7</sup> Part 3 of [Keeping children safe in education \(July 2015\)](#) and [Post-16 work experience as a part of 16 to 19 study programmes and traineeships \(March 2015\)](#)

Young volunteers should receive an induction and be given copies of all relevant policies. Members should ensure that young people are able to understand the policies and provide support to help them as required. Relevant training should also be offered. This is important not only for health and safety, but also because for many young people, the offer of training is a significant motivation for volunteering. Accredited training will be particularly attractive to young people given that it carries more weight on their CVs.

It is best practice to keep a database of all volunteers' details; however, this is particularly important for young volunteers who are under the age of 16 because the law requires that a register of such individuals (which includes their dates of birth) is kept and available for inspection.<sup>8</sup>

Template role descriptions, induction and interview checklists, volunteer agreements and detailed guidance on how to carry out effective volunteer recruitment can be found on the websites listed in the Resources section at the end of this guidance.

## 4. Safeguarding and Child Protection

Effective safeguarding goes far wider than criminal background checks and includes how an organisation recruits, inducts, trains and supports its volunteers. Effective safeguarding is also about striking a balance which ensures young people are protected whilst at the same time encouraging members not to become overly risk averse.

Child protection legislation generally applies to anyone up to the age of 18. The main responsibility is to protect young people as far as reasonably possible from harm while they are volunteering. This includes minimising the risk of abuse. Policies are therefore required to deal with suspected or disclosed abuse. It is also important to consider whether Disclosure and Barring Service (DBS) checks (equivalent schemes in Scotland and Northern Ireland are detailed below) are required for staff and volunteers working alongside young volunteers and whether such individuals should undergo more robust recruitment procedures, including written applications, interviews and references.

In general:

- Young volunteers should never be left unsupervised. Best practice is that they are supervised by two or more adults at all times.
- Ensure child protection policy and procedures are in place to deal with issues of concern and that a Youth Protection Officer is appointed. A comprehensive template is on the Volunteering England website.<sup>9</sup>
- Ensure all adults working with and supervising young people have been appropriately recruited and trained and know how to deal with situations where young people may be at risk.
- In their own volunteering roles, young volunteers should never have unsupervised access to, or formal responsibility for children or vulnerable adults.
- Parental or guardian consent should be sought when involving young volunteers. Both the young person and their parent or guardian should fully understand what the voluntary work entails. Members should provide clear information about their organisation and the work the young person will be expected to do, preferably identifying and describing specific tasks and roles. Members should also make sure the young volunteer and their parent or

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<sup>8</sup> Section 1(4) of the Employment of Women, Young Persons and Children Act 1920

<sup>9</sup> <http://www.volunteering.org.uk/component/gpb/example-child-protection-policy>

guardian are aware of the time commitments involved, the location where the work will be carried out and the supervision arrangements.

- Make sure young people have a safe way of getting home, especially after dark.

### Disclosure and Barring Service checks (formerly CRB checks)

A Disclosure and Barring Service (DBS) check forms one part of the wider safeguarding process. It helps members determine whether a person is a suitable candidate for a particular role, e.g. to supervise young people, by providing information about their criminal history. DBS checks are free for volunteers. There are two levels of check:

- **Standard checks** reveal information relating to spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC).
- **Enhanced checks** reveal the same information as Standard Checks but also check information held by local police forces. When specified, an Enhanced Check can also be used to check against lists of people prohibited from working with children and vulnerable adults.

Which check is required depends on the nature of the role the individual will undertake. Further information and guidance can be found on the Volunteering England website.<sup>10</sup>

In Scotland, the equivalent scheme is called Protecting Vulnerable Groups (PVG). For further information, refer to the Disclosure Scotland website.<sup>11</sup> In Northern Ireland the criminal history disclosure service is called AccessNI.<sup>12</sup>

## 5. Health and Safety

Having appropriate Health and Safety practices in place reduces the risk of accidents, damage to property and incidents of physical, emotional or financial harm. It also makes volunteers more likely to enjoy their work and to appreciate that their safety has been considered. A clear commitment to safety also makes it more likely that members will be viewed positively from outside, especially by potential volunteers.

Despite the increasing importance and prevalence of volunteering, the legal obligations of organisations towards their volunteers with regard to health and safety are not as clear as they are for employees.

At a basic level, organisations have a duty of care towards their volunteers. In practice, this means taking all reasonable steps to reduce the likelihood of them coming to harm, either through action or inaction.

The Health and Safety at Work etc. Act 1974 is the primary piece of legislation covering occupational health and safety in the United Kingdom. The Health and Safety Executive (HSE) is responsible for enforcing this act and a number of other acts and statutory instruments relevant to the working environment, but for railways the enforcing authority is the Office of Rail and Road.

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<sup>10</sup> <http://www.volunteering.org.uk/component/gpb/protectionandsafeguarding>

<sup>11</sup> <https://www.disclosurescotland.co.uk/disclosureinformation/pvgscheme.htm>

<sup>12</sup> <http://www.nidirect.gov.uk/accessni>

Section 3 of the Health and Safety at Work etc. Act 1974 imposes a duty on employers (i.e. organisations which employ at least one paid member of staff):

*“... to ensure, as far as reasonably practicable, that persons not in their employment, who may be affected by their undertaking, are not exposed to risks to their health and safety,” and, “to give information as might affect their health and safety.”*

These legal duties imply that members should be aware of the potential risks to volunteers and take steps to reduce such unacceptable risks. If a member is found to have breached their duty, a legal liability may be imposed.

The recommendation from organisations such as Volunteering England is that an organisation should implement the same health and safety requirements for volunteers as are required by law for employees. This applies particularly if it has both employees and volunteers. An organisation without employees is not legally required to meet the same standards, but by doing so, it protects its position and demonstrates that it values its volunteers.

The Association therefore recommends that its members ensure young volunteers' safety is protected to the same standards as would be required if they were employees.

To that end, a Health and Safety Policy should be provided in accordance with Section 2(3) of the 1974 Act. The policy should explicitly cover young volunteers and volunteers' induction should include a briefing on the policy and the arrangements set out in it.

### **Risk Assessments**

The Management of Health and Safety at Work Regulations 1999 compel employers to carry out risk assessments for all activities, taking into account all those who might be affected by their work. For organisations with five or more employees, these risk assessments must be written and this is good practice for any organisation.

Risk assessment is a way of identifying and mitigating the hazards involved in an activity. Risk is assessed by identifying the hazard and assessing the degree of harm it could cause, compared with the likelihood of it occurring. The assessment indicates what measures, if any, need to be put in place to reduce the risk to an acceptable level by, for example, providing information, training or protective equipment. This information can then be included in the relevant task or role description.

Each role or task a young volunteer may carry out should be subject to a risk assessment specific to the task and the particular young volunteer's capabilities (as to the suitability of the particular young person engaged in the role or task, see the section on 'Specific Restrictions Relevant to Young People' below). If there are concerns about the competence of individuals to draft relevant risk assessments, outside expertise from a Health and Safety Consultant should be engaged.

Organisations without employees are not legally required to conduct risk assessments, but again, for the reasons outlined above, they should do so to ensure they meet their duty of care. Risk assessments are in any case a very good way of avoiding potential problems and helping organisations understand how best to support their volunteers.

Members will be familiar with workplace risks through their experience of working with adult volunteers and should therefore be well placed to consider what is or is not appropriate for young people. When completing risk assessments for a particular task; age is a guiding factor but, as described previously, not the only consideration because the maturity of young volunteers of the same age can vary considerably. Young volunteers should therefore be assessed on an individual basis.

Risks can be mitigated by activities such as induction, supervision, training, site familiarisation and provision of protective equipment. According to Volunteer England, young volunteers should not generally be left unattended. Safe practice is to provide supervision by at least two adults and any potentially dangerous activity should have constant adult supervision.<sup>13</sup> Providing supervision for young volunteers and monitoring their progress will help members identify where additional adjustments may be needed.

The HSE provides template risk assessments, policies and guides to assessing risk which all assist members to undertake this important task thoroughly.<sup>14</sup>

### Specific Restrictions Relevant to Young People

Regulations 3 and 19 of the Management of Health and Safety at Work Regulations 1999 contain provisions relevant to the type of work young people should undertake. Again, these are specifically applicable to employers of young people, but the Association recommends that its members apply the same rules in relation to young volunteers. Accordingly risk assessments specific to the particular young person should be carried out before that young person can engage in the task or role in question. The areas to be covered by the risk assessment must include inter alia: ensuring that young people are not exposed to risks arising from lack of experience, awareness or maturity. Specific risks to be considered include those posed by:

- the layout of the workplace
- the physical, biological and chemical agents that young people will be exposed to
- how young people will handle work equipment
- how the work and processes are organised
- the extent of health and safety training needed
- risks from particular agents, processes and work

Because railways are a high-risk workplace, the risks are likely to be greater than, for example, an office environment and therefore require more attention.

A child must never carry out work involving the risks described below, even under a work experience programme. Although there are some circumstances where a young person could be exposed to such risks,<sup>15</sup> arguably these should not arise in a volunteering context. The Association therefore recommends that children and young people should not be allowed to undertake roles which:

- Are beyond their physical or psychological capacity. In relation to physical capability, young people may be more at risk because their muscle strength may not be fully developed. They may therefore be less skilled in handling techniques or in pacing their work. In relation to psychological capability, the requirement could be as straightforward as making sure young people understand what is expected of them, that they are able to remember and follow instructions and have been given the necessary training and supervision.
- Involve harmful exposure to substances that are toxic, can cause cancer, can damage or harm an unborn child or can chronically affect human health in any other way. Harmful

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<sup>13</sup> [Volunteering England: a summary of legal issues involving volunteers](#)

<sup>14</sup> <http://www.hse.gov.uk/risk/casestudies/index.htm>

<sup>15</sup> If the work is necessary for their training, properly supervised by a competent person and the risks are (so far as reasonably practicable) reduced to the lowest level.

exposure in this context means exposure that has long-term health effects on a young and therefore still-developing body.

- Involve harmful exposure to radiation.
- Involve risk of accidents that the young person cannot reasonably be expected to recognise or avoid because of insufficient attention, experience or awareness (tailored training or closer supervision may help make such risks more obvious).
- have a risk to health from extreme cold, heat, noise or vibration

Other regulations and legislation place specific restrictions on the tasks which young people are permitted to undertake in employment (and therefore by analogy which they should not be allowed to do as volunteers). For example under:

- The Factories Act 1961, young people are prohibited from painting any part of a building with lead paint;
- The Provision and Use of Work Equipment Regulations 1998, young people are not permitted to use certain woodworking machines without approved training;
- The Lifting Operations and Lifting Equipment Regulations 1998, young people are prohibited from giving signals to or operating any mechanically powered lifting appliance unless supervised by a competent person.

Further information can be found on the HSE's website.<sup>16</sup>

### Safety Accreditation

Given the critical importance of ensuring the safety of young volunteers, members are encouraged, wherever possible, to demonstrate their commitment to health and safety by getting certification for their safety arrangements from an external organisation.

## 6. Volunteering Hours

The law places restrictions on the hours which young people can work. As with the health and safety laws, these restrictions only apply strictly to young people in employment rather than volunteering, but the Association recommends that its members take them as best practice and comply with them in relation to young volunteers.

To this end, young people should not work for more than 8 hours a day or more than 40 hours a week. They should have 12 hours' rest between each working day and 48 hours' rest per working week. They are entitled to a 30-minute break when they work for more than 4.5 hours and should not be allowed to work between 10pm and 6am.<sup>17</sup>

## 7. Insurance

It is the position of the HRA that all volunteers should be insured under public or employers' liability insurance (and potentially professional liability insurance).

Employers' liability insurance covers paid employees in the event of accident, disease or injury caused or made worse as a result of work or of the employer's negligence. This insurance does not automatically cover volunteers. There is no obligation to extend the policy to cover volunteers,

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<sup>16</sup> <http://www.hse.gov.uk/youngpeople/index.htm>

<sup>17</sup> Working Time Regulations 1998



but it is good practice to do so. The policy must explicitly mention volunteers if they are to be covered.

Public liability insurance protects an organisation against claims by the public (generally anyone other than employees who come into contact with the public) for death, illness, loss, injury, or accident caused by the negligence of the organisation. It also protects against loss or damage to property caused by the negligence of someone acting with the authority of the organisation, which would include volunteers. In some cases a volunteer could be sued as an individual for damage caused to a third party. Public liability cover should therefore clearly cover loss or injury caused by volunteers.

When purchasing insurance, it is important that the underwriters are well informed about the tasks and roles that young persons (and indeed all volunteers and paid staff) will be undertaking. Where insurers wish to impose unrealistic conditions, or costs, then the risk assessments of the railway concerned would be a valuable tool to demonstrate that the risks are much lower than the underwriters believe, or that adequate mitigation is provided. It might also be worthwhile for the railway to inform the underwriters that it has carried out adequate risk assessments for all the significant tasks and roles that it undertakes and that copies of these are available on request.

## 8. Avoiding Creating Employment Contracts

Volunteers are not included in most legislation around the workplace. As a result, they are not protected by anti-discrimination legislation (although work experience participants are) and do not have access to employment rights such as remedies for unfair dismissal.

Legal definitions of employment are based on the existence of a contract between the employer and employee (a contract can be created without a written document or even a verbal agreement, i.e. it can be implied from all the circumstances and the way the parties conduct themselves). Two key elements signalling the existence of a contract are consideration (i.e. payment) and intent. If a volunteer is deemed to be either an 'employee' or a 'worker', they can be entitled to:

- National Minimum Wage
- Protection under anti-discrimination and health & safety legislation
- Paid holiday
- Statutory sick pay

The legal status of volunteers is not therefore clear-cut and a small number of volunteers have succeeded in proving that they were legally employed, hence gaining access to employment rights. This risk applies equally to all volunteers, but is included in this guidance because of the importance of ensuring the risk is mitigated.

The risk of members being seen to create a legally binding contract with their volunteers can be reduced in light of lessons from the case law, such as:

- a) Avoid making payments to volunteers which could be construed as wages. Payments to cover actual expenses should be clearly identified as such and reimbursed against receipts.
- b) Remove or minimise perks which could be seen as consideration under a contract, e.g. training which is not necessary for a volunteer to carry out their role.
- c) This does not mean that volunteers can never be rewarded. The rule of thumb is that a volunteer should not be rewarded with anything that either represents a cost to the member organisation or that the volunteer could use to make a profit. It is acceptable for an organisation to reward their volunteers with gifts, for example when they leave or after many years of service, but these should be small, such as flowers or chocolates. They should also be 'one-offs' to avoid creating an expectation that volunteers will be rewarded.

- d) Reduce obligations on the part of volunteers by, for example, giving volunteers the right to refuse tasks and to choose when to work. Phrase the volunteer relationship in terms of expectation and hope rather than obligation.
- e) Establish volunteer agreements which clearly outline what is expected and, in the case of young volunteers, the type of work which they may undertake. Again, phrase such agreements to avoid language which suggests the arrangement is contractual, adopting flexible terms such as “usual” and “suggested”. Do not insist on agreements being signed. Make it explicit that the arrangements do not give rise to a contract between the volunteer and the organisation.
- f) Treat volunteers fairly and have clear procedures for dealing with problems and grievances so as to reduce the likelihood of disputes.

## 9. Volunteer Policies and Documents

As stated above, rather than writing separate policies for young volunteers, members are advised to update existing policies to ensure young volunteers are covered adequately. Policies which members are particularly advised to review are:

- **Volunteer Policy:** a framework for the member’s volunteer programme. Typically this will summarise key policies and procedures and signpost onto the detail. Typically, this will place a member’s use of volunteers in context, explaining their role and their distinctiveness from paid staff.
  - **Specifically relevant to young people:** a member may wish to include the age limits and working hours applicable to young volunteers and the training and recruitment requirements for adult volunteers and staff working with young people.
- **Task or Role Descriptions:** in general terms, these will outline for volunteers what will be expected of them, what tasks they will undertake, what training they will need to undertake and what support they can expect.
  - **Specifically relevant to young people:** a member may wish to include any tasks or roles which young people (as a result of risk assessment) are explicitly prohibited from undertaking and, for example, what additional supervision, training and precautions are required in relation to young people undertaking other roles / tasks.
- **Health and Safety Policy and Risks Assessments:** outline a commitment to the health and safety of volunteers and the arrangements in place to protect them. Risk assessments evaluate the risk involved in all activities which employees and/or volunteers undertake.
  - **Specifically relevant to young people:** a member will wish to update these documents to explain the specific considerations relevant to young people as explained above. Young people’s involvement in each volunteering activity should be explicitly reviewed and assessed.
- **Child Protection / Safeguarding Policy:** outlines the precautions and arrangements in place to protect and promote the wellbeing of volunteers whilst under a member’s care.
  - **Specifically relevant to young people:** members will want to ensure they have a policy in place which explains adequately the arrangements and protection in place and, for example, the behaviour expected of adult volunteers and staff, the procedure for reporting concerns and naming the designated Youth Protection Officer(s).

## 10. Resources

The following list is not an exhaustive list of available resources available, but provides a starting point for members needing more information on a particular topic:

- The Health and Safety Executive publishes information relevant to [young people at work](#) which provides a model of best practice for organisations to use.
- Volunteering England published a [comprehensive database](#) of information sheets, templates and a 'good practice bank' of resources on a wide variety of topics relevant to volunteering.
- Volunteer Scotland has a selection of [Good Practice Guides](#) and [Templates](#) for organisations to use.
- Volunteer Now publishes a [database of template and guidance documents](#) on topics such as volunteer policies and agreements, recruitment, induction and training, legal issues, health and safety, insurance etc. which are free for organisations to access and use.
- The Wales Council for Voluntary Action publishes a series of [information sheets](#) on topics relevant to volunteering.

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