

Accepting volunteers from outside the UK

Summary

Generally there should be no problem with an organisation accepting someone from outside the UK as a volunteer, but the individual must ensure that immigration rules allow them to do so.

This Information Sheet looks at recruiting or accepting potential volunteers from outside the United Kingdom. It covers the following:

- The UK Border Agency
- European citizens
- Refugees and asylum seekers
- Citizens of other countries
- Voluntary workers
- Illegal working

Please note that this document is a simple summary for information purposes and should not be regarded as a substitute for immigration or legal advice.

UK Border Agency

If there is any doubt about someone's right to volunteer, the organisation or individual should contact the [UK Border Agency](http://www.ukba.homeoffice.gov.uk)¹.

The UK Border Agency is an executive agency of the Home Office and manages border control, migration and customs rules for the UK. It is also responsible for considering applications for permission to enter or stay in the United Kingdom, citizenship and asylum.

¹ <http://www.ukba.homeoffice.gov.uk>

European citizens

European Union (EU) member states (pre-2005)

Citizens of pre-2005 EU member states are allowed to volunteer.

Pre-2005 EU member states are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden.

Recent accessions to the EU (post- 2005)

At the time of writing, freedom of movement and work has not been extended fully to citizens of Bulgaria and Romania, which joined the EU in 2007.

If a citizen of these countries wants to volunteer, they should [contact the UK Border Agency](#)² for advice. Information is also available on the [UK Border Agency website](#)³.

European Economic Area (EEA)

Citizens of Iceland, Norway, Liechtenstein and Switzerland are also allowed to volunteer.

Refugees and asylum seekers

Refugees

People who have refugee status or who have exceptional leave to remain, and their family members, are allowed to volunteer.

Asylum seekers

Asylum seekers are allowed to volunteer with

- registered charities;
- voluntary organisations; and
- bodies that raise funds for either.

Current UK Border Agency advice is that an appeal rights exhausted (ARE) asylum seeker, by definition, should not be in the UK and therefore should not be volunteering. However, in December 2012 the Agency confirmed to Refugee Action that it has no legal authority to prevent volunteering by anyone at any stage in the

² <http://www.ukba.homeoffice.gov.uk/contact>

³ <http://www.ukba.homeoffice.gov.uk/eucitizens/bulgarianandromaniannationals/>

asylum process and will not take action against or prevent an organisation involving volunteers who are appeal rights exhausted.

Citizens of other countries

This section covers the following two scenarios:

- someone whose central reason for coming to the UK is to work for a charity on an unpaid basis; and
- someone who wishes to volunteer in addition to their central reason for being in the UK.

Coming to the UK to work for a charity on an unpaid basis

If an organisation wants to engage a volunteer or unpaid worker from outside the EU, it will need to apply to become a 'sponsor' organisation. This means the organisation will be licensed to issue certificates of sponsorship for their workers.

For more information, consult the following information from the UK Border Agency website:

- [guidance for Tier 2 and Tier 5 sponsors \[PDF\]](#)⁴
- [sponsor application checklist](#)⁵
- [ten steps to sponsorship](#)⁶
- [sponsorship and employers' helpline](#)⁷

People who wish to come to the UK as a charity worker should consult the UK Border Agency [information for charity worker applicants](#)⁸ and the [register of sponsors](#)⁹.

Volunteering in addition to the central purpose of the stay

If someone is already in the UK and wants to volunteer they must check their own visa or entry clearance conditions to ensure they are allowed.

However, someone who is in the UK on a **visitor** or **student visitor** visa is **not** allowed to volunteer. Someone on a **student** visa should be allowed to volunteer, although there may be restrictions so they should check the conditions.

⁴<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/guidancefrom31mar09/guidance-t25-from-060411.pdf?view=Binary>

⁵<http://www.ukba.homeoffice.gov.uk/employers/points/getting-started/checklist/>

⁶<http://www.ukba.homeoffice.gov.uk/employers/points/getting-started/toptips/>

⁷<http://www.ukba.homeoffice.gov.uk/contact/contactpage/sponsorship/>

⁸<http://www.ukba.homeoffice.gov.uk/workingintheuk/tier5/charityworkers/>

⁹<http://www.ukba.homeoffice.gov.uk/workingintheuk/tier5/charityworkers/sponsorship/registerofsponsors>

It is important that individual volunteers take responsibility for ensuring they are allowed to volunteer, because they could jeopardise their immigration status. If in doubt they should [contact the UK Border Agency](#)¹⁰ for advice.

¹⁰ <http://www.ukba.homeoffice.gov.uk/contact/>

Voluntary workers

It should be noted that the UK Border Agency does not distinguish between a 'voluntary worker' and a 'volunteer'.

A 'voluntary worker' is someone who works under contract without payment. They must work for a charity, voluntary organisation, associated fund raising body or statutory body. The benefits in kind and expenses they can receive are limited, and certain conditions must be met to ensure that the voluntary worker does not qualify for the National Minimum Wage.

For further information about voluntary workers visit the [Business Link website](#)¹¹.

Illegal working

Because the illegal working rules relate to employment, they should not apply to genuine volunteers who are not working under a contract of employment.

However, there have been cases in which an employment tribunal has found that a volunteer is actually an employee.

There are steps an organisation can take to ensure that it does not unwittingly create a contract of employment with its volunteers. For details, refer to Chapter 1 of the Volunteering England publication [Volunteers and the law](#)¹².

The UK Border Agency also provides [comprehensive guidance on preventing illegal working \[PDF\]](#), which states the following on page 61:

The Immigration Rules prevent certain categories of entrant from engaging in voluntary work or voluntary activity, such as visitors and au pairs. However, the legal distinction between an employee and a volunteer can be quite complex and there are huge differences between the types of voluntary work or voluntary activity that people can be engaged in. The UK Border Agency would not wish to give advice which might lay voluntary organisations open to prosecution for employing people illegally. Therefore, the UK Border Agency strongly recommends that organisations seek independent legal advice for their specific volunteering activity.

¹¹ <http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1081674285&type=RESOURCES>

¹² <http://www.volunteering.org.uk/law>

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