

Te Toi Mahana – Volunteer Policy

27/12/2023

Purpose

The purpose of this policy is to assist Te Toi Mahana (the Trust) in fulfilling its obligations under the *Health and Safety at Work Act 2015* in respect to the use of volunteers to assist in its operations.

Scope

The policy will apply to all Trust employees and its contractors and volunteers (as defined in the *Health and Safety at Work Act 2015*) providing services on any sites under the control of the Trust.

Definitions

HSWA	<i>Health and Safety at Work Act 2015</i>
PCBU	Person conducting a business or undertaking i.e. the Trust.
Volunteer	<p>Volunteer is defined by the Health and Safety at Work Act 2015 as a person who is acting on a voluntary basis (whether or not the person receives out-of-pocket expenses).</p> <p>A volunteer is neither expecting nor receiving payment for tasks.</p> <p>Volunteers do not include those on work experience or training.</p> <p>Volunteers will not be under the age of 16.</p> <p>Volunteers are not deemed to be employees of the Trust under the Employment Relations Act 2000, or amended legislation.</p>
Worker / Volunteer Worker	<p>Clause 19(3) of the Health and Safety at Work Act 2015 outlines the following:</p> <p>(3) In this Act, a volunteer worker—</p> <p>(a) means a volunteer who carries out work in any capacity for a PCBU -</p> <ol style="list-style-type: none"> 1. with the knowledge or consent of the PCBU; and

	<ul style="list-style-type: none"> 1. on an ongoing and regular basis; and 1. that is an integral part of the business or undertaking; but <p>(b) does not include a volunteer undertaking any of the following voluntary work activities:</p> <ul style="list-style-type: none"> 1. participating in a fund-raising activity 1. assisting with sports or recreation for an educational institute, sports club, or recreation club: 1. assisting with activities for an educational institute outside the premises of the educational institution: 1. providing care for another person in the volunteer’s home.
Other Volunteers	Volunteers that are not regarded under the Health and Safety at Work Act 2015 as volunteers are defined as those persons who take part in activities for the Trust but do not meet the volunteer criteria under Clause 19 of the Health and Safety at Work Act 2015
Employee	<p>Any person with an employment agreement with the Trust on a permanent basis and any person with a fixed-term contract.</p> <p>For the purposes of this policy, all paid workers, contractors, trainees, and Trustees are considered as “employees”.</p>

Policy Statement

The Trust is committed to providing a professional and efficient service for all volunteers.

The Trust recognises that in order to achieve its objectives it may engage volunteers.

The Trust aims to always present a model of good practice in volunteer management.

The Trust regards volunteers as a valuable resource and encourages volunteers to be involved at all levels of the organisation and within all appropriate activities. The Trust will train (where appropriate), support and supervise all volunteers and act quickly and fairly if difficulties arise.

Policy Content

Background

To be defined as a volunteer, the individual must not expect payment and they must not receive payment. It is often obvious when someone is a volunteer, for example, volunteering once weekly for a charity or community with no expectation of payment.

Volunteers are defined in the *Health and Safety at Work Act 2015*. The Trust will comply with all requirements in accordance with this Act.

Legal position of a volunteer

A volunteer is not an employee; therefore, employment law does not apply (with the exception of the *Health and Safety at Work Act 2015*).

If the Trust wishes to engage a volunteer, the Trust must make it clear that the worker does not expect payment and does not receive payment. Otherwise, the worker may come within the definition of employee under the law and will be eligible for minimum entitlements.

Payment does not include:

- reimbursing the volunteer for the expenses they incurred when performing the volunteer work
- a koha or honoraria
- any personal satisfaction a volunteer may get from the work.

Unpaid work experience, trials, and internships

Where the Trust engages someone for voluntary work to undertake unpaid work experience, trials and/or internships, the Trust must:

- make absolutely clear that the position is a volunteer position, and that the person does not expect payment or other reward. This should be done in writing
- make sure that the volunteer does not receive any payment
- avoid getting an economic benefit from the work done by the volunteer

- avoid having the volunteer do work which is integral to the business, that is, work that a full-time employee would ordinarily do
- limit the duration of work and the hours worked by the volunteer.

Volunteer versus Volunteer Workers

The Health and Safety at Work Act 2015 draws a distinction between “volunteers” engaged in activities such as fund raising (not included by the Act) and “volunteer workers” who perform work such as gardening and minor maintenance.

Volunteer workers are treated as workers under the Health and Safety at Work Act 2015 except for worker engagement, participation, and representation purposes.

The definition as per the *Health and Safety at Work Act 2015*, Clause 19 is as follows:

A volunteer is a “volunteer worker” when:

- *they work for a PCBU (i.e. the Trust) who knows they are doing the work or has given consent for the work to be done.*
- *the volunteer does the work on an ongoing and regular basis.*
- *the work is an integral part of the business or undertaking.*

and the work is not:

- *participating in fundraising.*
- *assisting with sports or recreation for an educational institute, sports club or recreation club.*
- *assisting with activities for an educational institute outside its premises; or ♣ providing care for another person in the volunteer’s home e.g. foster care.*

in which case, they are then a “volunteer”.

While this policy is primarily directed towards volunteers, “volunteer workers” and “other volunteers” will be treated with the same standards and consideration.

Principles

The following principles should guide the relationship of the Trust to any volunteers it may engage:

Volunteers are a valuable asset to the Trust and should be treated fairly and with respect:

- The Trust will aim for a culture of appreciation and acknowledge the contribution of volunteers
- The Trust will provide appropriate training sessions for all volunteers
- A risk assessment is to be made prior to the commencement of all projects
- Adequate safety precautions are to be made for work undertaken by volunteers and they will be briefed on any safety issues/hazards that might be identified, and be supplied with any necessary protective clothing and training where required
- Volunteers are not to be allocated tasks deemed to be high risk. They should specifically not undertake tasks that involve the use of equipment such as; chainsaws, ladders, hedge trimmers, or any other potentially dangerous machinery/equipment
- High risk is defined as any risk determined by a Manager that has potential for harm. Lawn mowing to be determined on a case-by-case basis
- Volunteers are not to be used to displace permanent roles, or to undertake work which should be undertaken by qualified and certified tradespeople
- Projects on which they may be used should mainly consist of minor maintenance and the provision of entertainment, recreational and educational activities for the benefit of other residents
- The Trust will review the results/outcomes of volunteer programmes on a regular basis
- All volunteers must present a satisfactory police check/clearance prior to undertaking any voluntary activities for the Trust.

Objectives

- That the Trust fully complies with its obligations under the Health and Safety at Work Act 2015 in respect to the employment of volunteers.
- That volunteers engaged by the Trust feel satisfied with any work they undertake, feel recognised for their efforts, and make a positive contribution to the experience of other residents.
- That no workplace accidents or injuries are incurred by volunteers while engaged in Trust business on Trust premises.

Recruitment of Volunteers

Trust employees may identify suitable tenants or directly seek expressions of interest from complexes for volunteers defining the scope of any projects and the volunteer attributes sought.

Orientation of Volunteers

The intention of the Trust is to provide a safe environment for all volunteers in Trust places of work. As part of this process volunteers will receive an orientation/briefing which covers the following aspects:

- Location of any qualified first-aid providers and the location of first aid kits
- A discussion/briefing on any hazards/ risks in the workplace and how to work safely
- An outline of the project scope, timelines and expected outcomes
- Who they will report to and who they should contact in respect to any safety issues that may arise and or queries that they might have.

Rights of Volunteers

- To work in a healthy and safe environment, and to be fully briefed on any potential hazards
- To be selected in accordance with equal opportunity and anti-discrimination legislation
- To have a job description/task outline and an indication of the likely time commitment and expected outcomes
- To be provided with orientation and relevant safety briefings and training.
- To have any personal information collected from them dealt with on a confidential basis
- To be provided with safe and appropriate equipment and, appropriate clothing for their role and be advised of the location of first- aid equipment and qualified first-aid providers
- To be treated fairly and respectfully by other volunteers, staff, and contractors of the Trust, and have their service valued and appreciated

- To be able to raise a grievance about any aspect of their role confidentially with their supervisor.

Responsibilities of Volunteers

Volunteers are expected to:

- Make reasonable endeavours to undertake the tasks outlined in any position description or otherwise agreed
- Treat fairly and respectfully other volunteers, staff, and contractors of the Trust
- Maintain and respect any information identified as confidential, and use common sense with any information that could reasonably be considered as sensitive
- Give a timely response to any reasonable request from Trust employees
- Respect the confidentiality and privacy of other tenants
- Carry out the duties of the role and be reliable
- Report any injuries or hazards they may notice to their supervisor's attention.
- Ask for support when needed
- Support other volunteers
- Complete a volunteer information form (**Appendix 1**) and declaration form (**Appendix 2**) to allow the Trust to keep records of the volunteers matched to a project.

Duties of Volunteer Workers

Note: Volunteers who are classified as "Volunteer Workers", under the *Health and Safety at Work Act 2015*, have the same duties as other workers. These are to:

- Take reasonable care of their own health and safety
- Take reasonable care that their acts or omissions do not adversely affect the health and safety of others
- To comply so far as they are reasonably able, with any reasonable instruction given to them by the Trust to allow the Trust to comply with the Health and Safety at Work Act 2015 and related regulations
- Cooperate with any reasonable policy or procedure of the Trust relating to health or safety at the workplace that has been notified to Trust staff.

Duties of “Other Volunteers”

Volunteers who are not *volunteer workers* have the same duties that all other persons have at a workplace.

These are to:

- Take reasonable care for their own health and safety.
- Take reasonable care that their acts or omissions do not adversely affect the health and safety of others.
- Comply, so far as they are reasonably able, with any reasonable instruction that are given to them by the Trust to allow the Trust to comply with the HSWA and related regulations.

Duties of the Trust Towards Volunteers (Workers and Other Volunteers)

Hazards

Volunteers may face a range of risks that could cause them harm while at work. Harm can be physical or psychological:

Physical injury can be caused by work equipment or the work environment

- Falls from height
- Injury from equipment
- Exposure to hazardous substances
- Slips, trips, and falls etc.

Ill-health can result from work. Examples include:

- Melanoma from UV exposure
- Hearing loss from excessive noise

- Legionnaires disease from exposure to contaminated soil/potting mix etc.
- Working at height
- Using unfamiliar tools
- Muscular stress
- Bites and stings/heat and sun
- Fatigue

The Primary Duty of Care

The Trust has an obligation to think about how volunteer's health and safety could be put at risk while doing their work and do what is reasonably practicable to eliminate or minimise these risks.

The Trust employees also have an obligation to exercise due diligence to ensure that the Trust complies with its health and safety duties.

WorkSafe NZ has identified a number of requirements for PCBUs (i.e. the Trust) who engage volunteers. These are as follows:

1. Ensure, so far as is reasonably practicable, the health and safety of:

- Volunteers who work for the PCBU, while the workers are at work in the business or undertaking
- Volunteers whose activities in carrying out work are influenced or directed by the PCBU, while the workers are carrying out the work.

2. Ensure, so far as is reasonably practicable, that the health and safety of other people is not put at risk from work carried out as part of the business or undertaken by volunteers. The primary duty of care is a broad overarching duty. It includes but is not limited to providing:

- a work environment that is free from risks to health and safety

- safe equipment, structures, and systems of work
- provision for safe use, handling, and storage of plant, substances, and structures
- adequate and accessible welfare facilities
- the necessary information, training, instruction, or supervision to do the work safely
- monitoring of worker health and workplace exposures to assess effectiveness of controls.

The same level of protection required by the primary duty of care must be given to volunteers as paid workers (except for worker engagement, participation, and representation purposes).

3. What is Reasonably Practicable?

The primary duty of care to ensure health and safety is limited by what is reasonably practicable. PCBU's are not expected to guarantee the health or safety of their workers (or others who may be affected by work carried out as part of the business or undertaking), but they must do what can reasonably be done to ensure health and safety.

4. Factors that will affect what is reasonably able to be done include:

- the hazards and risks associated with the work and the likelihood of the hazard or risk occurring
- the severity of the injury or harm to health that could result from the hazard or risk
- what the person knows or reasonably should know about the hazard or risk and the ways of eliminating or minimising it
- what can be done to eliminate or minimise the risks and how available and suitable these risk controls may be
- as a final consideration, the cost associated with eliminating or minimising the risk, including whether it is grossly disproportionate to the risk.

ACC Claims

In general, when a volunteer suffers an injury as the result of an accident while volunteering, ACC will regard this as a "non-work injury". However, any accidents or near miss incidents will need to be recorded and reported to the Trust.

Compliance

Compliance with this policy is mandatory from all employees, Volunteers and Trustees.

Links with Legislation and Trust Policies

This policy is written regarding the following legislation and policy:

- Health and Safety at Work Act 2015
- Smoke Free Environments Act 1990
- Residential Tenancies Act 1986
- Privacy Act 2020
- Te Toi Mahana - Code of Conduct

Policy Review

This policy can be reviewed at any time, at the Board's discretion but must be reviewed within two years of its adoption. discretion, and must be reviewed within two years of the policy's approval.