

## Asylum Seeker Volunteering Legislation

### Asylum seekers and volunteering

Since 2000 it has been Home Office policy that asylum seekers are allowed to volunteer, and the April 2014 guidance attempts to further reinforce this position and states (p7):

*"It is Home Office policy to support asylum seekers volunteering" - April 2014 Policy*

There are **no restrictions on asylum seekers volunteering**, and all opportunities registered with the Chelmsford Volunteer Centre are legally classed as Volunteering.

The Home Office defines Volunteering as follows:

Volunteering must not amount to unpaid work, or job substitution. In particular:

- There should be no payment, other than reasonable travel and meals expenditure actually incurred (not an allowance for the same);
- There should be no contractual obligations on the volunteer;
- The volunteer is helping a registered voluntary or charitable organisation (or organisation that raises funds for either);
- The volunteering is for a public sector organisation; and the volunteering is not a substitute for employment (i.e. fulfilling a role that a salaried worker would normally fulfil).

### **IMPORTANT: Volunteering and Voluntary Work are legally very different**

Asylum seekers are **not allowed to do Voluntary Work**.

Most people are unaware Volunteering and Voluntary Work are different. Many asylum seekers will say for example 'I'm doing voluntary work for a charity shop'. In the eye of the law they are volunteering, not doing voluntary work because they are freely choosing, without obligation or payment (except expenses) to help a charity.

The Home Office guidance explains:

*"With Voluntary Work there is an obligation on the individual to perform the work, and in return an obligation on the organisation to provide it; and ... the individual is rewarded for that work, through money or benefits in kind."*

Key elements of voluntary work:

- Mutual legal obligation: volunteer is obliged to perform the work and the organisation is obliged to provide it.
- The volunteer receives some payment for the work (e.g. an honorarium) or some benefit in kind such as access to free professional training resulting in a recognised qualification, free accommodation, or guaranteed access to future paid work opportunities
- The work involves some form of job substitution.
- An example of voluntary work might be an internship or a post with a private sector employer where, because of its "investment" in the volunteer, the employer expects the volunteer (or intern) to complete the training course and obtain the qualification and to work regular hours on demand.

**Can permission be given for paid or voluntary work?**

YES. But it will only be given:

- (a) If the asylum seeker has been waiting for more than 12 months for a decision and he or she has not contributed to the delay through her/his fault or actions

AND

- (b) The post is one contained in the Shortage Occupation Lists published by the Home Office. Broadly speaking, these include scientists, highly skilled engineers, software professionals, consultant doctors or specialist nurses, secondary school science teachers, special needs teachers, head teachers, economists and statisticians (plus a number of others)

**Chelmsford Volunteer Centre** is happy to provide volunteers with an official letter stating that the roles we refer them to comply with the legal definition for 'volunteering'.

**If in doubt, ASK.**