

Managing the return of volunteers to the workplace

Legal information for community organisations

This fact sheet considers:

- ▶ Who are the categories of people that may be at increased risk of a serious COVID-19 infection?
- ▶ Can (and should) we ask volunteers to return to the workplace?
- ▶ Can we ask our volunteers to tell our organisation if they fit into an 'increased risk' category?
- ▶ Do we have any special obligations for handling this type of health information about volunteers?
- ▶ How does our organisation decide whether to ask volunteers to return to the workplace?
- ▶ Our organisation has undertaken a risk assessment, consulted with volunteers and we think we need to pause or change the volunteering model – is this OK?
- ▶ How does our organisation know if the steps we are taking are 'reasonable steps' or that we are doing what is 'reasonably practicable'?
- ▶ Can we put a blanket policy in place that prevents specific volunteers from returning to the workplace?
- ▶ If we ask a volunteer to stop volunteering with our organisation could we be in breach of anti-discrimination laws?
- ▶ Can we ask our volunteers for a medical clearance before allowing them to return to the workplace?
- ▶ What happens if a volunteer contracts COVID-19 and is not covered by volunteer personal accident insurance? Could we be held liable (legally responsible)?
- ▶ Can we ask our volunteers to sign a waiver to protect the organisation from liability in the event they contract COVID-19?
- ▶ What should we do if a volunteer refuses to follow a COVID safe plan or follow preventative measures?

As government restrictions ease, and organisations make plans to transition workers back to the workplace, many organisations are asking whether they can or should ask volunteers to return to the workplace.

It has been particularly tricky for organisations to understand what to do if they have volunteers that fall into the categories that government has declared to be at increased risk of a serious COVID-19 infection.



Caution

The information in this fact sheet is general in nature and is intended as a guide only.

The laws relevant to these FAQs are different in each state and territory in Australia, and the answer will often depend on the circumstances of your organisation. This topic is complex and we encourage organisations to seek independent legal advice. Your organisation may be eligible for free legal advice through Justice Connect – [contact us to find out](#).



We answer some of the questions being asked by volunteer-involving organisations below. We use a fictional case study of 'Placedale Neighbourhood House' to demonstrate some of the issues.



Case study

Placedale Neighbourhood House is a community organisation that relies heavily on volunteers. The volunteers perform a range of activities such as delivering meals in the community, reception duties and sorting through donations. Many of the volunteers are between 60 and 80 years old. Now that Placedale is reopening its doors Mary, the volunteer co-ordinator, is unsure whether she should ask volunteers to return to the workplace. She wants to make sure she protects the safety of the volunteers while also protecting the neighbourhood house from liability.



Note

The [National COVID-19 Safe Workplace Principles](#) state that 'All workers, regardless of their occupation or how they are engaged, have the right to a healthy and safe working environment'. We believe that this workplace principle includes volunteers.



Remember

- Volunteers don't have a legal obligation to attend the workplace, or to continue to volunteer for your organisation (even if they have signed an agreement or committed to volunteering with your organisation for a certain period of time).
- Check in with your volunteers regularly and ask if they feel comfortable continuing to volunteer.
- Listen if a volunteer informs you that they would prefer not to volunteer at this time.

Who are the categories of people that may be at increased risk of a serious COVID-19 infection?

The Australian Government Department of Health has identified people who are more likely to suffer moderate or severe illness due to COVID-19. Examples include:

- people 70 years and older, and
- people with chronic health conditions or weakened immune systems

These categories continue to change as we learn more about the impact of the virus. For the most up to date medical advice on higher risk categories, see the [Australian Government Department of Health website](#).

SafeWork Australia and the Australian Health Protection Principal Committee refer to these people as a 'vulnerable person', 'vulnerable employee' or a 'vulnerable worker'. In this fact sheet we refer to these people as 'vulnerable volunteers'.



Caution

The categories of people that may be at increased risk of a serious COVID-19 infection may change depending on the latest evidence. Make sure you keep up-to-date with advice from the Federal [Department of Health](#).



Related resources

[SafeWork Australia](#) has released some guidance on transitioning vulnerable people (employees) back to the workplace. Although these resources are targeted at employees, many of the risk management principles apply to volunteers.

Can (and should) we ask volunteers to return to the workplace?

As at 30 July 2020, the Commonwealth [Department of Health advice](#) is that people at increased risk of moderate or severe illness due to COVID-19 can still work or volunteer, particularly where there are few or no local cases.

Whether or not 'vulnerable volunteers' should come into the physical workplace will depend on a number of matters, including:

- the options the volunteer has for getting to and from the workplace
- the nature and setting of the work (is there a potential exposure to infected people)
- the physical conditions of the workplace (is physical distancing possible)
- the level of interaction with other people

If your volunteers are 'vulnerable volunteers' and there are increasing levels of cases in your region, it's reasonable to ask your volunteers not to come into the physical workplace for now. This is because current government advice is that people who are at greater risk of more serious illness with COVID-19 should continue to stay at home, and be supported to work from home where possible.

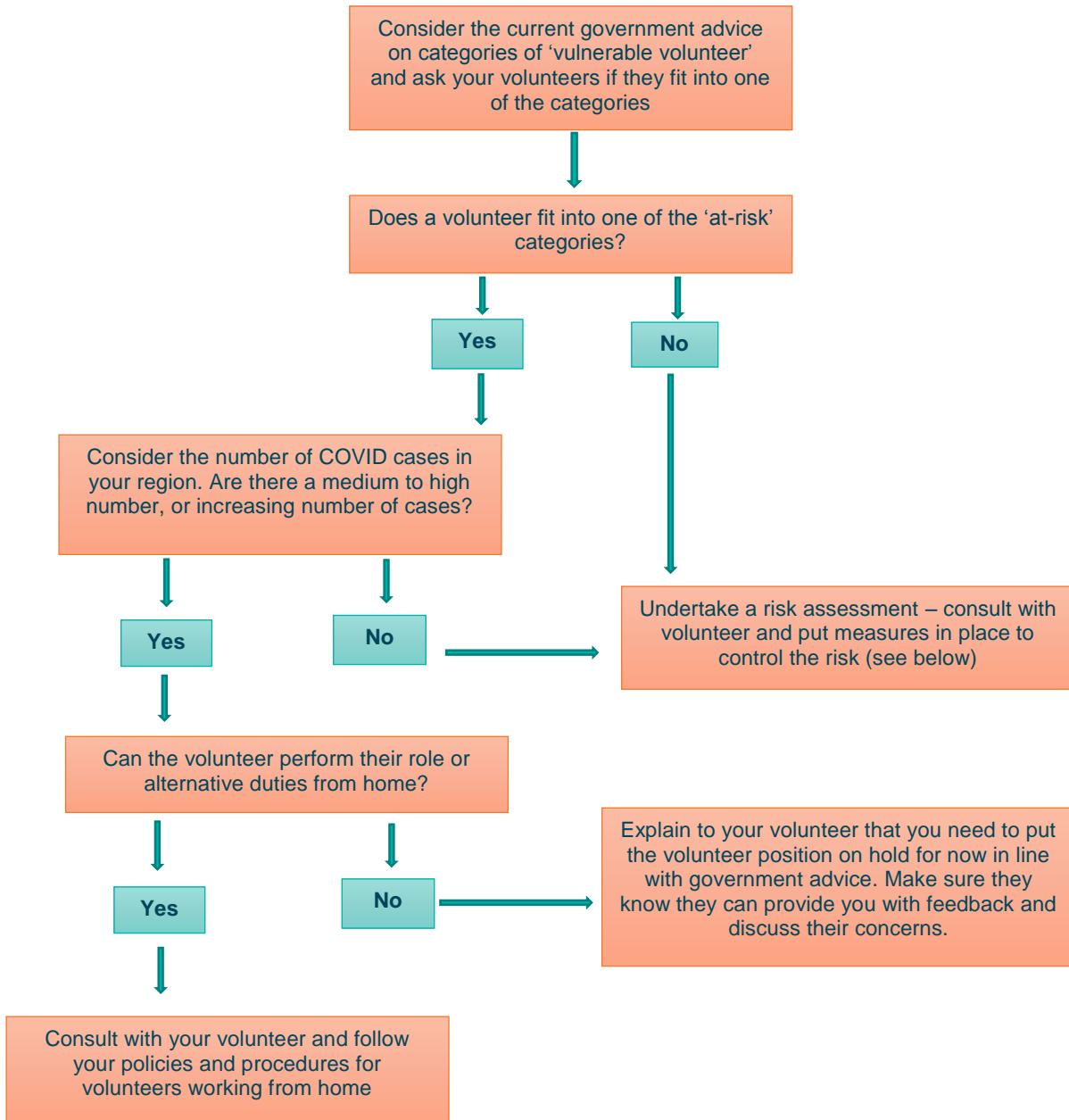
Before reaching this decision, make sure you ask your volunteers to identify whether they fall into one of the at-risk categories (see question below 'Can we ask our volunteers if they fall into a 'vulnerable person' category?') and don't make assumptions. Talk to your volunteers about the reasons behind your decision – that is, you are following current government advice and it's important that you protect the health and safety of your volunteers.

It's also important to make sure you listen to and consider any feedback from 'vulnerable volunteers' that you have told not to return to the workplace for now. This doesn't mean you have to individually consult each volunteer, but that you allow volunteers to provide feedback and work with you on a way forward.

Before reaching a decision on whether you should ask other volunteers to return to the workplace, it's important to undertake a risk assessment, consult your volunteers and put measures to control or reduce the risk in place (see 'Our organisation is considering whether to ask volunteers to return to the workplace, how do we reach a decision?' below). This is because your organisation has obligations under safety laws to take reasonable steps (also framed as 'do what is reasonably practicable') to avoid harm. What is reasonable will depend on the circumstances of the volunteer, the nature of your workplace and the nature of the work that the volunteer is performing. It's important that you consider these reasonable steps on a case-by-case basis.



A framework for reaching the decision – should a volunteer return to the workplace?





Case study

After consulting with volunteers, Mary discovers that ten of her current volunteers fit into an 'at-risk' category. There are still cases in the community and the numbers are increasing, so the neighbourhood house determines that it's best if the volunteers don't physically return to the workplace for now. Mary contacts each volunteer and explains the reason behind the decision of the neighbourhood house.

Mary considers whether there are roles or tasks that can be performed from home by these ten volunteers. One of the volunteer roles is to call neighbourhood house clients to check what groceries they need for the week as part of their senior's shopping program. This role can be performed from home. Mary consults with the ten volunteers to see whether they would be interested in performing this role. She makes it clear that there is no pressure to say 'yes', the volunteer can put their volunteer position on hold, and that she will be in contact as government advice changes.

Can we ask our volunteers to tell our organisation if they fit into an 'increased risk' category?

Yes - it's important not to make assumptions about a group of people based on an attribute they share, for example, being over a particular age, having a disability or being of a particular race or ethnicity, so asking your volunteers to tell you if they fit into an 'at-risk' category is an important step.

Be careful about how you ask for, how much you ask for and how you handle and store this particularly sensitive type of health information (see 'Do we have any special obligations for handling this type of health information about volunteers?' below).

If your organisation decides to ask volunteers for this information, make sure you ask all volunteers (and other staff), not just those you think or assume are in an 'at-risk' category.



Tip

List the categories in the Department of Health's advice for people at increased risk of a serious COVID-19 infection and ask volunteers to tell you if they fit into one of these categories. They don't need to specify which category they fall into, just that they fall into one of the categories.



Case study

Mary reads the most up to date government advice on people at greater risk of COVID-19 and decides to consult all volunteers to determine if they fit into one of the at-risk categories. Before taking this step, Mary consults the organisation's privacy policy and privacy officer. Mary circulates the latest government information to all volunteers and lets them know that, as part of the neighbourhood house return to work plan, they need to know if any staff member (including volunteers) fit into any of the government determined 'at-risk' categories.

Mary asks volunteers to tell her (by email or phone) whether they fit into one of the categories. She is very clear that volunteers don't need to specify which category, just whether they fit into a category.

Because of the neighbourhood houses privacy law obligations, Mary will need to be very careful with how she uses, stores, and discloses this sensitive information. Let's say one of the volunteers, John, discloses that he is in an 'at-risk' category. Mary and John make the decision that John is not to return to the workplace, or will perform different volunteer duties from home. Mary will need to be careful when answering seemingly innocent questions such as 'where is John today?', 'when is John coming back?', 'why has John not returned to the workplace yet?' or 'why does John have different duties now?' (see 'Do we have any special obligations for handling this type of health information about volunteers?' below).

Do we have any special obligations for handling this type of health information about volunteers?

If your organisation is required to comply with privacy laws (or chooses to comply as a matter of best practice), it will need to take steps to make sure any sensitive or health information collected about volunteers is handled properly. Ask your organisation's privacy officer or consult your organisation's privacy policies if you are unsure.

Even if your organisation is not required to comply with privacy laws, we strongly recommend you follow the below steps as a matter of best practice.

When asking your volunteers for this type of information, make sure:

- only the minimum amount of personal information reasonably necessary to prevent or manage COVID-19 is collected, used or disclosed (for example, ask the volunteer to identify if they fit into one of the 'at-risk' categories and don't ask them to specify which one)
- you assign a direct point of contact for the volunteer to provide this information to (for example, is it by email or a 1:1 conversation with their direct supervisor, the volunteer co-ordinator or HR?)
- you seek consent to collect this information and explain why you are collecting this type of information, what your organisation will do with this type of information and who it will be disclosed to (for example, HR or the volunteer manager)
- you use this personal information only for the purpose for which it was collected (if in doubt seek their consent)
- you don't disclose this information to anyone outside of those you have told your volunteer it will be disclosed to (if in doubt seek their consent), and
- you store the information securely



Tip

If you are unsure if your organisation is required to comply with privacy laws, or how to comply, more information about Privacy Laws can be found in Part 5 of our [National Volunteer Guide](#).



Our organisation is considering whether to ask volunteers to return to the workplace – how do we make this decision?

Your organisation has obligations under safety laws to take reasonable steps (also framed as ‘do what is reasonably practicable’) to avoid risk or harm to volunteers – including contracting the coronavirus. Before reaching a decision on whether you should ask volunteers to return to the workplace, it’s important to undertake a risk assessment, consult your volunteers and put in place measures to control or reduce the risk.

1. Undertake a risk assessment

Identify the risks and assess the likelihood and impact of the risks.

SafeWork Australia has a [template risk register](#) and a fact sheet on the [key considerations when undertaking a COVID-19 risk assessment](#). Remember this is an ongoing process, the situation is constantly changing and your risk assessment will need to be continually reviewed.



Note

It’s OK if your organisation undertakes a risk assessment and decides it would prefer volunteers don’t return to the workplace for now. Just remember to clearly communicate the reasons behind your decision with your volunteers.



Case study

Mary starts a risk register to map out the potential risks, assess the risks and the plan to minimise the risks.

Mary identifies that several volunteers traditionally deliver food packages to people in the community. She identifies that there is a risk of community transmission of COVID-19 to those volunteers who are delivering food packages. She notes that the likelihood of the harm occurring is low as there haven’t been any community transmissions for several weeks. However, given medical advice she determines that the level of risk is high, and the consequences may be severe.

2. Consult with volunteers

It’s important to consult with your volunteers about the proposed course of action. There is no one size fits all approach to consultation, but be careful to consult in a way that gives volunteers a reasonable opportunity to consider the risks and express their views in a forum that respects their confidentiality. This may not be a strict legal requirement for all organisations (the laws differ in each state and territory), but regardless of whether (and which) work health and safety laws apply to your organisation, consultation with your volunteers about the transition back to the workplace is best practice.



Case study

Mary decides to consult the volunteers who traditionally deliver food packages to people in the community. She tells each volunteer why she is consulting them and identifies some of the risks that are associated with the delivery of food packages into the community. She canvases some options for reducing the risks. Each volunteer is given the opportunity to express their views on returning to the workplace and some of the safety aspects of their volunteer role. Some volunteers express a desire to continue to volunteer, but only if they can drive in a vehicle by themselves and drop the food packages at the front door with no contact with the client or other members of the public. Other volunteers express a desire not to perform this role for now.

3. Consider measures to control the risks

These are sometimes referred to as 'control measures' or 'reasonable steps to prevent reasonably foreseeable harm'. These measures should align with up-to-date government and medical advice. When you implement 'control measures' it's important to take into account the particular circumstances of the volunteer and the nature of the role that they perform for your organisation.

Examples of control measures could include:

- physical distancing in the workplace
- undertaking frequent cleaning
- wearing personal protective equipment
- asking volunteers to volunteer from home
- asking volunteers to perform a different role, and
- reducing the level of interaction volunteers have with clients or members of the public, or other staff that have high levels of interaction with clients or members of the public



Tip

Remember that any decision you make about a volunteer performing a different role with the organisation or working from home needs to be done in accordance with your existing risk management and insurance policies (see [this FAQ](#) on asking volunteers to volunteer from home).



Case study

Risk scenario 1

Mary considers the 'reasonable steps' the organisation can take to reduce the likelihood of harm. She considers whether she can adapt the role. She looks into the organisation's risk management and insurance policy and discovers that it is against Placedale's risk management policy to have volunteers use their own vehicle; instead they must use the neighbourhood house van. It's also against the risk management policy for volunteers to conduct food deliveries by themselves (this means they will always be in close proximity with other staff members or volunteers). The nature of the role means that it will be difficult to eliminate client contact as the food package drop offs are an important way for the service to decrease social isolation. Very often clients also need help lifting the food packages into their homes.

Risk scenario 2

Consider this alternative factual scenario for Placedale Neighbourhood House. Mary considers the 'reasonable steps' the organisation can take to reduce the likelihood of harm. She considers whether she can adapt the role. She looks into the organisation's risk management and insurance policy and determines that volunteers can use their own personal vehicles to deliver food packages. She thinks that it would be possible to ask volunteers to pick up the packages from the neighbourhood house with minimal interaction with staff. The packages can be cleaned by staff and the volunteers can use personal protective equipment when handling the food packages. When the volunteers drop off the packages, they can leave them at the front gate and call the client to let them know they have been dropped off without having physical contact with the client.

Our organisation has undertaken a risk assessment, consulted with volunteers and we think we need to pause or change the volunteering model – is this OK?

Yes! The nature of the legal relationship is that it is 'voluntary' and can be ended by either party at any time. If, after the above steps, your organisation forms the view that:

- the 'reasonable steps' your organisation can take are not enough to protect the health and safety of volunteers
- volunteers are not comfortable with returning to the workplace, or
- the cost or impact of the 'reasonable steps' you would need to take is significantly disproportionate to the resources of your organisation,

you can put volunteer positions 'on hold' for the foreseeable future (or ask volunteers to perform different duties or volunteer remotely).



Caution

Your organisation may need to seek legal advice if you are under a government funding contract that requires you to have volunteers as a part of service-delivery. If your volunteers are court-ordered or mutual obligation volunteers, seek advice from the relevant government department.



Tip

Remember to document your decision-making process. It's important that your organisation can justify that the steps it took to control or manage the risks were reasonable to ensure the health and safety of the volunteer. This is particularly important for any decision that treats or impacts one volunteer differently from another.



Case study

In **risk scenario 1** above, it was difficult for Mary to adapt the role for volunteers. Mary discusses her risk assessment with senior team members and together they decide this volunteer role will need to be put on hold for the time being. Mary documents the decision-making process and the reasons behind the decisions in the risk-register

In consultation with volunteers, Mary explains the safety obligations the organisation has and the nature of the food delivery role. She notes that the neighbourhood house is going to have to make changes to the way this service operates for the health and safety of all and that, for the meantime, they are going to have to put this volunteer position on hold. She asks the volunteer to decide if they would like to stop volunteering with the organisation for now or perform another volunteer role with the organisation.

In **risk scenario 2** above, Mary is confident the volunteer role can be adapted. Mary discusses her risk assessment with senior team members and together they decide this volunteer role could continue in an adapted form. Mary documents the decision-making process and the reasons behind the decisions in the risk-register.

Mary explains the proposed alternative arrangements to the volunteers and checks whether they are comfortable with performing the adapted role. She implements the control measures.

How does our organisation know if the steps we are taking are 'reasonable steps' or that we are doing what is 'reasonably practicable'?

What is 'reasonably practicable' will depend on the circumstances of your organisation and the risk in question.



Related resources

See SafeWork Australia's fact sheet on ['risk assessments'](#) and part 3 of our [National Volunteer Guide](#) for more information.



Can we put a blanket policy in place that prevents specific volunteers from physically returning to the workplace?



Case study

Mary queries whether the neighbourhood house should be extra cautious and implement a policy that, 'anyone over the age of 55 is not allowed to volunteer with Placedale Neighbourhood House until further notice'. Mary is unsure if this is the best decision for the organisation and if she is legally allowed to do this.

If your organisation decides to put in place a blanket policy of not having **any volunteer** return to the workplace – that's OK. Just make sure you clearly communicate this decision with your volunteers and the reason behind your decision.

If your organisation is being selective about which volunteers can return to the workplace, we recommend your organisation tread with caution and avoid blanket policies that prevent or restrict **particular volunteers** from returning to the workplace. This is because:

- ▶ There may be an overlap between the personal circumstances of volunteers and 'protected attributes' under anti-discrimination legislation (for example age, race and disability). Blanket policies that treat one category of volunteer differently to another category of volunteer could increase the perception (and likelihood) that you are breaching anti-discrimination laws (more on this below).
- ▶ Your obligations under 'safety laws' are to take 'reasonable steps' or do what is 'reasonably practicable' to eliminate or minimise foreseeable risk of harm from occurring. What is reasonable will depend on the circumstances of the volunteer, the nature of your workplace and the nature of the work that the volunteer is performing. It's important that you consider these reasonable steps on a case-by-case (or role-by-role) basis and in accordance with a risk management plan (see above 'Our organisation is considering whether to ask volunteers to return to the workplace – how do we make this decision?').
- ▶ Under harmonised work, health and safety laws, organisations have an obligation to consult workers (including volunteers) about the risks to their health and safety. This may not be a legal requirement for all organisations, but regardless of whether (and which) work health and safety laws apply to your organisation, consultation with your volunteers about the transition back to the workplace is best practice and an important component of meeting your overall legal duties (see above 'Our organisation is considering whether to ask volunteers to return to the workplace – how do we make this decision?').



Note – approach to 'vulnerable volunteers'

If a volunteer falls into a 'vulnerable person' category, and there is a medium to high number of cases or increasing cases of COVID-19 in your region, it's reasonable to ask the volunteer not to come into the physical workplace for now. This is based on current government advice that, where there are increasing numbers of COVID-19 in the community, people who are at increased risk of a serious COVID-19 infection should continue to stay at home and be supported to work from home where possible.

It's important that you ask the volunteer to identify this information (not make assumptions) and that you talk to your volunteer about the reasons behind your decision. Don't frame your decisions around 'protected attributes' or 'personal characteristics' and instead keep your message clear – your decision is based on current government advice and you will continue to update your decisions as current government advice changes.

It's also important that you provide 'vulnerable volunteers' an opportunity to provide feedback on your decision.

If we ask a volunteer to stop volunteering with our organisation could we be in breach of anti-discrimination laws?

There may be an overlap between the personal circumstances of volunteers and ‘protected attributes’ under anti-discrimination legislation (for example age, race and disability).

Given current government advice, if a volunteer falls into a ‘vulnerable person’ category, asking those volunteers not to attend the physical workplace under safety laws is likely to be a ‘reasonable step’ or ‘reasonably necessary’ to prevent harm, is in-line with current government advice and it will be difficult to argue that you are breaching anti-discrimination laws.

It is, however, important that your organisation:

- considers the number of COVID-19 cases in your region (if there are no cases in your region, and no sign of this increasing, it might not be as ‘reasonably necessary’ as it would be if there were increasing cases)
- asks for the volunteer to self-identify whether they fit into a category of person at increased risk of a serious COVID-19 infection (and not make assumptions)
- talks to the vulnerable volunteer about the reasons behind your decision – that is, you are following current government advice and it’s important that you protect the health and safety of your volunteers
- makes these decisions in line with current government medical advice, and
- continually updates your approach to meet current government advice



Caution

If your organisation is not sure, seek legal advice. Your organisation may be eligible for free legal advice through Justice Connect – [contact us to find out](#).

For volunteers that don’t fit into a category of person at increased risk of a serious COVID-19 infection, whether your decision breaches anti-discrimination laws will depend on the circumstances.

Discrimination laws exist at a federal level, and in each state and territory. Whether volunteers are covered by anti-discrimination laws is a complex legal question that differs from organisation to organisation and from jurisdiction to jurisdiction.

In some states and territories (such as the ACT, QLD, TAS and SA) volunteers are covered by anti-discrimination laws. In other locations (such as Federal laws, NSW, NT, VIC and WA), whether your volunteers are covered by anti-discrimination laws is less clear and may depend on a range of factors such as the work that your organisation does (for example the provision of ‘goods and services’) and the work the volunteer is performing.

Further, even if your volunteers are covered by anti-discrimination laws, some states and territories have an exception that allows discrimination to occur if it is necessary for the protection of public health or the health and safety of a person (you would need to clearly demonstrate with strong evidence that it was reasonably necessary).

Regardless of whether the anti-discrimination laws apply to your organisation and its volunteers (or only in limited circumstances, or only to your employees) it’s best practice to comply with the laws (as much as reasonably practicable).

In the current context, this means organisations should:

- carefully consider the impact of the decisions you make to protect volunteers during the transition back to work
- avoid blanket policies that treat one category of volunteer differently from another category (note this may be different for ‘vulnerable volunteers’, see note on approach to vulnerable volunteers above)



- not make assumptions about a group of people based on an attribute they share such as being over a particular age, having a disability or being of a particular race or ethnicity
- balance 'safety law' obligations with anti-discrimination laws – are your decisions 'reasonably necessary' to protect the health and safety of the volunteer or can you make adjustments to the role or put in place control measures to minimise the risk?
- document the reasons for any decision that treats or impacts one volunteer differently from another

Not only is this favourable to your volunteers (and workers, clients and members of the public in contact with your organisation), it will help prevent any reputational or other damage to your organisation that may arise from a complaint of discrimination.



Related Not-for-profit Law resource

More information about anti-discrimination laws can be found in part 4 and 5 of our [National Volunteer Guide](#).

Can we ask our volunteers for a medical clearance before allowing them to transition back to the workplace?

The short answer is that it depends on the circumstances. Organisations should be cautious about asking for this type of sensitive health information without it at least being 'reasonably necessary' and connected to the requirements of the role.

To minimise the risk of discrimination claims, it's important not to make assumptions about a group of people based on an attribute they share such as, for example, being over a particular age, having a disability or being of a particular race or ethnicity, and treating them less favourably than others who do not share that attribute, in the same or similar circumstances.

You should consider a person's particular circumstances before asking for medical clearance to attend work as a volunteer, not just because they are part of a group of people who share a common attribute (for example they are over a certain age). For example, it may be appropriate to ask the person to provide medical clearance before attending for volunteer work if a volunteer has travelled overseas recently, been exposed to someone who has been diagnosed with COVID-19, or has symptoms of the virus.

Remember medical clearance is only one piece of information for your organisation to consider. Even if you obtain medical clearance your organisation will still need to take reasonable steps to prevent harm to volunteers.

The [Commonwealth Department of Health](#) suggests that people at increased risk of severe COVID-19 fill in a COVID-19 Action Plan with their doctor.



Tip

Your organisation could ask volunteers that have identified as 'at-risk' if they have completed a COVID-19 Action Plan. If they have, ask whether there are any restrictions on their return to the workplace that you need to be aware of.

See 'Do we have any special obligations for handling this type of health information about volunteers?' above for more information on how to handle this type of information.



Tip

Ask your volunteers to let you know if they have travelled overseas recently, been exposed to someone who has been diagnosed with COVID-19, or if they feel unwell or have symptoms of the virus. It's a good idea to include this in an agreement with the volunteer before they return to the workplace and to regularly remind volunteers to keep you up-to-date. For more information, see 'Can we ask our volunteers to sign a waiver to protect the organisation from liability in the event they contract the coronavirus?'

What happens if a volunteer contracts the coronavirus and they aren't covered by volunteer personal accident insurance? Could we be held liable (legally responsible)?

Volunteer personal accident insurance will cover volunteers for expenses incurred in the event of accidental injury, disability or death which occurs while the volunteer is doing work for the community organisation. **It's important for each organisation to clarify coverage with their insurer**, but in general volunteer personal accident insurance **does not** cover sickness or illness, and there is very often a 'carve-out' or 'exclusion' for pandemics.

Given volunteers are generally not eligible for workers compensation insurance and public liability insurance covers injuries caused by volunteers (not injuries caused to volunteers), volunteers may not be able to seek compensation for things such as medical expenses or loss of income if they contract COVID-19 in the course of performing their volunteer role with your organisation.

It's difficult to say whether organisations will be held liable (legally responsible) for a volunteer contracting the coronavirus. At a minimum, the volunteer would need to prove they contracted the virus in the course of volunteering and that your organisation failed to take reasonable steps to prevent the harm from occurring (which led to the volunteer contracting the virus).

If your organisation is carefully following government and up-to-date medical advice, undertaking regular risk assessments, taking reasonable steps to prevent harm, and carefully documenting your decision making, the risk of being held liable is low.



Note

If a volunteer does not practise 'COVID-safe' behaviour it's highly unlikely your organisation will be held legally responsible.

Can we ask our volunteers to sign a waiver to protect the organisation from liability in the event they contract COVID-19?

We don't recommend that organisations ask volunteers to sign a waiver that is designed to protect it from the volunteer bringing a claim against the organisation. It's unlikely the terms of the waiver would be legally effective and the waiver would not replace your legal duty to protect the health and safety of your volunteers.

As a matter of best practice, it's important that organisations are up-front and clear about when volunteers are and are not covered by insurance. This will help volunteers to make an informed decision about resuming their volunteer duties.

Organisations could decide to ask their volunteers to sign a declaration that they:



- will practise 'COVID-safe' behaviour and update you with important information (for example, if they have travelled overseas recently, been exposed to someone who has been diagnosed with COVID-19, or if they feel unwell or have symptoms of the virus)
- acknowledge that the organisation can try and prevent risk, but can't guarantee all risk is eliminated, and
- if it is the case, acknowledge that the volunteer is not covered by volunteer personal accident insurance in the event they contract the coronavirus.



Tip

Not-for-profit Law has a freely available [sample volunteer agreement](#). Organisations could include the above information in clause 6 and 10 of this sample agreement and use this with all volunteers moving forward.

What should we do if a volunteer makes a complaint about the transition back to the workplace?

Start by following your organisation's complaint procedure or policy.

If your organisation is worried that the complaint is legal in nature, seek legal advice. Your organisation may be eligible for free legal assistance through Justice Connect – [contact us to find out](#).

What should we do if a volunteer refuses to follow a COVID safe plan or follow preventative measures?

Your organisation has obligations under safety laws to take reasonable steps (also framed as 'do what is reasonably practicable') to avoid risk or harm to volunteers – including contracting COVID-19.

Equally, volunteers have a legal obligation to take steps to protect their own health and safety and the safety of others. If a volunteer refuses to comply with health and safety measures, start by having a conversation with them, explaining why it's important and asking for any feedback on why it isn't working for them. If this doesn't work, it's perfectly reasonable to put a pause on the volunteer relationship or to end the volunteer relationship; in fact it's part of meeting your legal duties!



Related Not-for-profit Law resource

For more information about reviewing or ending the volunteer relationship see part 5 of our [National Volunteer Guide](#).



Resources

Not-for-profit Law resources

Not-for-profit Law has developed a National Volunteer Guide, which sets out in detail the key legal issues affecting volunteer involving organisations. The guide is in six parts and includes a number of templates and sample policy documents, which should be read together. See [Not-for-profit Law's webpage on volunteering](#):

1. Part 2: Volunteer, employee or independent contractor
2. Part 3: Volunteer safety
3. Part 4: Volunteers and unlawful workplace behaviour
4. Part 5: Recruiting, inducting, managing performance and ending the volunteer relationship
5. Part 6: Organisational issues applicable to volunteers

Not-for-profit Law has also developed a number of free webinars for volunteer involving organisations, which can also be accessed from [Not-for-profit Law's webpage on volunteering](#)

Not-for-profit Law also has resources on the following related topics:

▶ [Insurance and risk](#)

For more information on insurance and risk management, read our Risk Management and Insurance guide.

▶ [Negligence](#)

For an overview of the common law of negligence, see our Negligence guide.

For a checklist covering what to do when an incident or accident occurs, go to our Checklist: Incidents and accidents.

▶ [The people involved](#)

This page sets out the special legal obligations and rights that apply to an organisation's relationships with employees, volunteers, funders, donors and service users.

Workplace regulators

To find out more about workplace health and safety and the workers' compensation scheme that applies to your organisation, contact the regulator in your state or territory:

▶ [WorkSafe ACT](#)

ACT WorkSafe has also published [numerous resources relating to workplace safety and minimising risk](#).

▶ [SafeWork NSW](#)

SafeWork NSW has published [numerous resources relating to workplace safety and minimising risk](#).

▶ [NT WorkSafe](#)

NT WorkSafe has also published [numerous resources relating to workplace safety and minimising risk](#).

▶ [Workplace Health and Safety Queensland, Office of Industrial Relations](#)



Workplace Health and Safety Queensland has also published [numerous resources relating to workplace safety and minimising risk](#).

▶ [SafeWork SA](#)

SafeWork SA has also published [numerous resources relating to workplace safety and minimising risk](#).

▶ [WorkSafe Tasmania](#)

WorkSafe Tasmania has also published [numerous resources relating to workplace safety and minimising risk](#).

▶ [WorkSafe Victoria](#)

WorkSafe Victoria has specific resources relating to the health and safety of volunteers.

WorkSafe Victoria has also published numerous resources relating to workplace safety and minimising risk. For example, a Job Safety Analysis Worksheet, will help you to assess your volunteer roles and activities for possible risks and to actions to eliminate these risks.

▶ [WorkSafe Western Australia](#)

WorkSafe WA has also published resources relating to workplace safety and minimising risk.

▶ [Safe Work Australia](#)

Safe Work Australia has published information for volunteer organisations on workplace safety including [The Essential Guide to Work Health and Safety for Volunteers](#).

Volunteering Australia resources

▶ [Volunteering Australia](#)

Volunteering Australia has published a suite of resources for volunteer managers including information on insurance and complaint handling.

▶ [National Standards for Volunteer Involvement](#)

Volunteering Australia's National Standards for Volunteer Involvement reflect best practice in volunteer management in Australia's current work environment.

▶ [Definition of volunteering](#)

Volunteering Australia's definition of volunteering has a set of explanatory notes, a detailed Issues Paper that provides background and context, and a set of FAQs around it.

State and territory peak bodies for volunteering

State and Territory peak bodies facilitate opportunities for people seeking to volunteer, and support volunteer involving organisations. These bodies are:

▶ [Volunteering and Contact ACT](#)

▶ [The Centre for Volunteering \(NSW\)](#)

▶ [Volunteering Queensland](#)

▶ [Volunteering SA&NT](#)

▶ [Volunteering Tasmania](#)

▶ [Volunteering Victoria](#)

▶ [Volunteering WA](#)