

## Appendix B - Legislation

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This appendix gives a summary of important legislation that applies to volunteers, and where to find out more.

### The Human Rights Act (1993)

The Human Rights Act (1993) protects employees and volunteers from discrimination.

It is prohibited to discriminate on the basis of:

- sex – including pregnancy
- marital status – including civil union
- religious belief (or lack thereof)
- colour, race or ethnic origin
- physical or mental disability
- age – if 16 or over
- political opinion
- employment status
- family status
- sexual orientation.

There are some exceptions to the prohibited grounds which are:

- Age – where age is a barrier to achieving the tasks e.g. age may be a genuine occupational qualification, for safety or another reason.
- Disability – where the volunteer requires special services or facilities and it is not reasonable to provide them.
- Gender – when a role needs to be held by one sex to preserve reasonable standards of privacy.
- Support roles e.g. counselling services may be restricted to a particular sex, race, ethnic or national origin, or sexual orientation if highly personal matters are involved.

If you are unsure you can contact the Human Right Commission or go to:

<http://www.legislation.govt.nz/act/public/1992/0096/latest/DLM278829.html>

## Health and Safety in Employment Act (1992)

The Health and Safety in Employment Act (HSE Act) recognises that people doing volunteer work should have their health and safety protected in the same way as employees. A person is defined as a “volunteer” under the HSE Act if that person neither expects nor receives any reward for the work.

The HSE Act sets out steps that can be taken to help keep people safe. In particular, these focus on:

- providing and maintaining a safe working environment, particularly by identifying hazards and managing them
- providing and maintaining facilities for the health and safety of volunteers
- ensuring that plant, machinery and equipment is designed, made, set up, and maintained to be safe to use
- providing volunteers with any necessary protective equipment/clothing for plant, machinery or equipment they use
- ensuring that systems of work do not lead to volunteers being exposed to hazards
- providing volunteers with information about the hazards that they may come across in their work
- providing volunteers with orientation, training and supervision for tasks they do
- developing procedures for dealing with emergencies that might arise while volunteers are at work (fire exits, first aid kit location, location of accident and hazard registers, etc).

<http://www.legislation.govt.nz/act/public/1992/0096/latest/DLM278829.html>

## How to Check for Criminal Records

If you need to check for a criminal record and/or to obtain details of any convictions you can:

- Go to the Ministry of Justice website and download the ‘Request by Third Party for a Copy of an Individual’s Criminal Convictions’ and print the form.

See <http://www.justice.govt.nz/services/criminal-records/request-authorisation-to-view-someone2019s-criminal-record?searchterm=Request+by+third+party>

- The form needs to be completed and signed by both the person whose criminal record is being requested and the employer they are authorising to view their record.
- You need to attach a copy of a valid drivers’ licence or a passport belonging to the person you are checking. Do not send original identification. If they do not have a driver’s licence or passport, Section 4 of the form has a place for a person to confirm their identity.
- Post the completed form and copy of identification to:

Criminal Records Unit  
Ministry of Justice  
SX10161 Wellington

- The Ministry of Justice will post a copy of the applicant’s criminal record to the employer within 20 working days of the date they receive the completed form and identification.

## Criminal Records (Clean Slate) Act (2004)

Volunteers do not need to reveal previous convictions if they meet the general criteria for 'clean slate':

- No convictions in the last 7 years.
- Paid in full any fine, reparation, or costs ordered by the Court in a criminal case.
- Have never been sentenced to a custodial sentence (e.g. imprisonment, corrective training, borstal).
- Have never been ordered by a Court during a criminal case to be detained in a hospital due to his/her mental condition, instead of being sentenced.
- Have never been indefinitely disqualified from driving under section 65 Land Transport Act [1998] or earlier equivalent provision.
- Have not been convicted of a 'specified offence' (e.g. sexual offending children and young people or the mentally impaired).

<http://www.justice.govt.nz/services/criminal-records/about-the-criminal-records-clean-slate-act-2004>

For more information about exceptions to the clean slate scheme see:

<http://www.legislation.govt.nz/act/public/2004/0036/latest/DLM293515.html>

## Privacy Act (1993)

Volunteers are covered by the Privacy Act 1993.

Individual's information can only be used for the purpose for which it was intended. You need a person's prior written consent to:

- use any confidential information
- disclose any confidential information to a person or organisation
- copy any material containing confidential information for personal use or for use by an unauthorised person or organisation.

Once confidential material is no longer needed, it must be either archived or disposed of in way that maintains confidentiality (for example, shredded).

In brief the Privacy Act includes:

- all information collected on a volunteer must be collected for the purpose of volunteering
- all information must be collected directly from the volunteer
- you can collect information from other sources with the specific agreement of the volunteer
- the volunteer must be aware of the reasons and purpose the information is being collected
- the volunteer must be aware of the intended recipient of the information collected
- the volunteer has a right to access, and to correct, personal information
- personal information must not be collected by a means that is unfair, or intrudes on the person's personal affairs
- personal information must be kept secure
- information held on the volunteer must be correct, up-to-date and not misleading
- information held on volunteers must not be held for longer than is necessary
- there are limits on disclosure of personal information
- you must not assign a unique identifier to your volunteers.

For more information see:

<http://www.legislation.govt.nz/act/public/1993/0028/latest/DLM296639.html>