



involve



Screening volunteers – time for decisions

The current debate about screening has polarised opinion. ROGER WATKINS urges both 'sides' to dig themselves out of their entrenched positions.

Children are at risk, we are told, more than ever before. They must be protected. We are also told that the opportunity to volunteer is a right that must be defended.

The screening debate raises crucial issues for those concerned with the co-ordination and support of volunteers. Civil liberties, discrimination against marginal groups, inadequate resources, adequate protection for those at risk, relationships with the police —

all these are highly-charged topics guaranteed to divide most groups. And they are all present in any discussion about screening.

The fact is, the Government, with unfortunately little consultation among those concerned with volunteers in the statutory services, has already introduced procedures for paid workers and volunteers who have 'substantial access to children'. Now the Government is consulting with the voluntary sector about how the procedures can be extended to voluntary organisations.

A Home Office/DHSS steering committee was set up following the Colin Evans case. Its first report focused on the work of the statutory services, reviewed the various traditional ways of screening newly-appointed workers who would have substantial access to children (such as teachers and social workers), and concluded that these were no longer adequate. New procedures were agreed, and looking back it is extraordinary that little consideration appears to have been given as to whether the screening of volunteers could be absorbed into them.

At this stage the committee turned its attention to extending the procedures to volunteers and paid workers in voluntary organisations, and only then were voluntary sector representatives invited to join in. These included The Volunteer Centre and the National Councils for Voluntary Organisations, for Voluntary Youth Services and of Voluntary Child Care Organisations.

The newcomers to the committee realised they had two immediate responsibilities:

- to alert volunteer organisations to the implications of the procedures already agreed for the statutory services
- to consult as widely as possible about appropriate procedures for voluntary organisations.

Take Care and *Screening Volunteers*, both published by The Volunteer Centre, have been contributions to alerting volunteer organisations to the issues relating to volunteering in the statutory services.

In the consultative process, some organisers are becoming aware of the issues for the first

time (as conferences in London and Leeds showed). But the process has been extremely useful in identifying the principles which should inform the voluntary sector's contribution to decision-making.

The first principle is that we cannot ignore the risks and threat to children. It would not be acceptable for voluntary organisations to be less circumspect than the statutory services on this issue. The second principle is that we seek to encourage voluntary involvement by all members of the community, recognising that an equal opportunities approach to volunteering extends to individuals and groups who may have become marginalised the opportunity to regain lost ground and enjoy an equal right to become involved in society. This means we want as few barriers as possible to community involvement.

Are these principles in hopeless conflict? I think not if we try to keep matters in perspective. If we are recruiting volunteer drivers we would be unwise and rightly considered reckless towards the safety of clients not to check driving licences for evidence of driving offences. Endorsements >

IN THIS ISSUE

- 2 Can volunteers win political battles?
- 4 Learning through international volunteer effort
- 5 The Young Ones
- 6 Paying to volunteer — on the air
- 7 Legal liability — VBx position clarified
- 8 Volunteer management — support must come from the top
- 10 Developing Local Voluntary Action
- 12 Old Stubbings' Almanac



Mickey Mouse on the air for Radio Whittington? Find out about hospitals broadcasting on page six.

resulting from convictions for speeding or driving under the influence of alcohol give volunteer organisers difficult decisions to make — but they cannot avoid them if they are taking their job responsibly.

The right to volunteer must be upheld, but there is no right to volunteer *as a driver* if there are indications that this would put other people at risk. To harmonise the spirit of apparently conflicting principles, the organiser will offer alternative volunteer opportunities which avoid driving.

The same fundamental issues underlie the question of volunteers working with children. If the job involves 'substantial access' — for example one-to-one contact with children in an unsupervised situation, the volunteer organiser would be acting irresponsibly by not making enquiries about the background of the applicant. Most volunteers will understand that and would be no more affronted by it than would drivers asked if they have any driving convictions. All that is required is a level-headed approach to volunteer recruitment.

However, it is all more complicated than this. In the interests of civil liberties it is rightly much more difficult to obtain information about most convictions not recorded on a driving licence. The information is held by the police and is highly confidential: it should only be requested with the permission of the person concerned and an elaborate system has to be developed to obtain it. When, in the interests of protecting children, volunteer organisers have obtained that information about a volunteer who wants to work with children, they will be either reassured there is 'nothing known' or they will be presented with the need to make a difficult judgement. The voluntary sector has to make its voice heard on these principles and procedures.

The Volunteer Centre, together with the other voluntary sector representatives on the committee, is saying:

- it is government policy that a measure of protection should be given to children in this way. It is therefore necessary for the government to make available appropriate resources for this to be achieved

- we want to see funds made available to enable a local committee to be set up in each social services area, perhaps initiated and convened by an appropriate local development agency (LDA), to advise on good practice, to ensure that all voluntary organisations have the opportunity to consider the screening procedures, and to provide training and support. A national committee and development staff are needed to encourage these developments

- it seems in the spirit of LDA developments for the local committee to develop a working relationship with the four authorities (probation, education, social services and health) who, under the procedures announced for the statutory services alone, will have the right through their senior nominated officers to liaise with police on the disclosure of criminal records. A separate 'fifth channel' in which the voluntary sector would have its own senior nominated officers looks unlikely, given the resource implications for funding it. So the four channels — notably social services who would bear the brunt of liaising with the local voluntary sector — have to ask govern-

ment to consider the resource implications of work with the local voluntary sector in this way

- it will be important to devise a system to enable information to be disclosed and considered at an appropriate level for decisions to be made in the best interests of the would-be volunteer as well as to protect children. In other words, where criminal convictions are revealed, the volunteer organiser will have all known facts available — including the date and seriousness of any offence — to be able to judge whether or not to allow the applicant 'substantial access to children' or offer other kinds of voluntary work

- resources are going to be needed for training and supporting volunteer organisers since new, complex and sensitive judgements will have to be made. Counselling skills will be required. Local procedures will have to be developed for analysing highly confidential information and storing it no longer than

THE 'UNFEELING KILLER' OF MARIE PAYNE

In December 1984, Colin James Evans, a 45-year-old lorry driver from Reading, was sentenced to life imprisonment for the murder of four-year-old Marie Payne.

Evans had pleaded guilty and Mr Justice Kenneth Jones told him: "I regard you as an evil, dangerous and unfeeling man, and as long as you are at large there is always a danger that you will murder again in pursuit of your filthy perversions."

The case caused a stir for the 'glaring gap' it revealed in our social, legal and penal systems. For Evans was known to police as a persistent child sex offender with 13 previous convictions. Yet his record was unknown to social services who unwittingly helped him in his pursuit of child victims.

Evans was introduced to Toc H and became their 'job master' in assigning volunteers to help certain families. He assigned himself to babysitting duties and was charged, but acquitted, of sexually assaulting two girls from one family he sat for.

The murder of Marie Payne came soon after his acquittal. Three later incidents of attempted child abduction led to Evans' arrest. At first he denied the attempted abductions and the murder, but later he confessed.

absolutely necessary. There are civil liberties to be guarded.

We are pressing for these resources and we need the support of volunteer organisers. We are seeking and accepting every opportunity to consult and we are also aware of the need to protect vulnerable groups other than children (eg elderly people). We need to be kept informed about how procedures in the statutory services are working so that we can alert the appropriate bodies at an early stage and also learn any lesson that might be appropriate to the voluntary sector. For example, if it is taking more than the promised one week to respond to enquiries about individuals, please tell us.

Above all, please help us to recommend a way of working that is effective in extending the opportunity to volunteer as widely as possible while keeping at a minimum the risk of that opportunity being exploited by the determined wrongdoer. ❁

Liability for placement of volunteers — see page 7.

Volunteers have let me down badly over the last 10 years. I wanted them to revolutionise two great institutions, the post-war Welfare State and the British way of work. But their vague muddle of self-interest and love meant that politicians were left to fight out the big issues. Whenever the ideals of volunteers got in the way of either the New Left or the New Right, they were ground up in the battle.

But now a new opportunity has arisen for volunteers to tighten up their values and become less vulnerable. The fight for equal opportunities has become a layperson's campaign, fought out in many contexts. If the volunteer world can integrate these concerns, it will become part of a wider citizens' movement asserting certain human values too strong to be overridden by the vested interests of the major political institutions.

In the last decade, the large majority of volunteers have been refugees from larger institutions which have failed to meet their needs. As recent research suggests (see for example, Darvill, G, *Still Moving*, Volunteer Centre 1985) people have been fleeing from the failure of the workplace to engage them, from the aridity of family life when children have left home, from the coldness of neighbours to the new arrival, from the authoritarian, sexist and theologically credulous churches. When people start to volunteer, it is more as a result of the pressure of unsatisfied needs than of love for the person helped, the other volunteers or the organiser, though after a while these new loyalties and loves take over as the main motivation.

Central to most volunteer activity is the value volunteers place on identifying with people they have hitherto experienced as 'other'. These 'others' have unfamiliar disabilities or are from other social classes, age groups, neighbourhoods, religions or races. The common experience is: "I never thought I'd feel at one with such people. I never knew I had it in me to care like that. I've found a part of myself I must have shut away."

Unfortunately, these myriad acts of identification are all too easily lost in the big political battles. Two examples may illustrate what I mean.

In the mid-1970s, although a Labour government was in power, cuts in the growth of public spending were beginning to be felt. The simple Right solution was to bring in more volunteers. The traditional Left, notably the unions, took a strong, but not completely hostile, line against volunteers, relegating them to the flower vase and the weeding hoe, but did not follow the New Left in attacking volunteers directly.

During this period, only weak sounds were heard advocating a new vision of the Welfare State involving a realignment of paid and unpaid work. Let volunteers take over some paid jobs, we feebly piped, and let paid staff move in on areas where volunteers are inappropriately involved. Look, we shrilled, there are even some statutory frameworks for brave new experiments. Look at social services patch teams, for example.

Our optimism seemed like naive innocence

'DANGEROUSLY MISLEADING'

From: Sarah Buckmaster

You reported (Involve 52) that The Volunteer Centre refused to withdraw the Take Care booklet at the request of the National Association of Volunteer Bureaux (England). Bureaux had objected to the claim that they are likely to be held legally responsible for the acceptance of volunteers they refer on to other organisations.

Volunteer Centre staff defend that statement in Take Care on the basis that legal opinion was twice sought on the matter. But they have missed the point, which is that organisations reading the booklet will now think they can rely on their volunteer bureau (VB) to assess their volunteers and blame the VB if there is a disaster. This is dangerously misleading, whatever the lawyers think, and the booklet should therefore be amended or withdrawn.

The publication of a very different statement would have been useful: a warning to organisations that volunteers who are referred by another agency (eg a VB) may not have been assessed for their suitability for the work in

— Letter to the editor —

question. In particular, it could have been explained that individual VBx work very differently: for instance some do not even interview new recruits, whereas a few take up references on all volunteers, whatever their destination.

The appropriate advice to organisations might therefore have been: "Check how your local VB operates and don't assume that a volunteer referred by another agency is arriving with a recommendation."

The Volunteer Centre could then usefully have issued a second warning — but not in the Take Care booklet. This would have been a warning to VBx that there is a risk they might, in certain circumstances, be held responsible — by another organisation and/or by the law — for the placement of a volunteer. VBx could have been advised they should therefore make organisations aware of the limits of their service — so that there are no misunderstandings or assumptions about the VB's role in placing volunteers.

If people who have read Take Care now deploy volunteers they think have been 'accepted' by a VB, is there a risk The Volunteer Centre will be held legally responsible if a disaster occurs?

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ROGER WATKINS replies: The lawyers tell us that Take Care was too cautious and potentially misleading in the reference it makes to volunteer bureaux on page two. We did not allow for the variety of ways in which volunteer bureaux relate to the volunteers they recruit. The Volunteer Centre accepts that view. No more copies of Take Care will be issued in the present form and any reprint will be revised in the light of that advice. The legal advice which the National Association of Volunteer Bureaux (England) and The Volunteer Centre are jointly circulating also makes it clear that volunteer recruiting agencies have a responsibility to inform the organisations receiving the volunteers exactly what enquiries, if any, have been made about them.

Legal liability — VBx position clarified

Following the criticisms made about Take Care, The Volunteer Centre and the National Association of Volunteer Bureaux England (NAVbX) have taken steps to clarify what volunteer bureaux should do when placing volunteers to avoid being considered negligent in the eyes of the law.

As a result, bureaux may find they need to be more meticulous about the procedures they follow. Implicit in the legal advice now established is the need for careful record-keeping and documentation.

Roger Watkins, assistant director at The Volunteer Centre, commented: "There is no doubt that volunteer bureaux have certain legal obligations when placing volunteers. Take Care did not set out to explain exactly where bureaux stand with regard to this question. The leaflet offered general advice, but bureaux are in a special position."

Mr Watkins regretted any confusion that Take Care may have caused, but pointed out that the Centre was working very closely with NAVbX to come up with more specific advice. As Involve went to press, the Centre and NAVbX were liaising over the circulation of a detailed document to the bureaux network.

Legal advisers have made it clear that there are two ways in which bureaux may be tortiously liable — meaning that they may be in breach of a duty imposed by law, if not by contract, and therefore liable to action for damages. These are defined as direct liability (where bureaux act as a clearing house) and indirect, or vicarious, liability (where bureaux involve volunteers in their own schemes).

Duty of care

It can be fairly assumed that a volunteer bureau will have no negligent liability where a volunteer with no previous criminal conviction commits a first offence in the course of employment. Where a volunteer has

a criminal conviction of which the bureau is aware, or ought to be aware, negligence will depend on a number of factors.

Negligence will arise where a bureau has failed to observe a 'duty of care'. This duty of care is owed to a vulnerable third party (ie the client) and is determined by the 'reasonableness' of placing a particular volunteer. Reasonableness could depend on a number of factors including the need to fill a job vacancy, the choice of volunteers available, the responsibility involved, the nature of the work undertaken.

Any action for negligence would have to be based upon the extent to which the damage incurred was reasonably foreseeable. The legal advisers say that the criteria for establishing foreseeability would change depending on circumstances. They state: "Where a volunteer bureau undertakes no clearing house function other than merely to advertise jobs available and put volunteers in touch with employers, the onus will be on the employer to interview and take references, provided that the volunteer bureau has made it clear to the employer that it undertakes no such responsibility itself.

"Where a volunteer bureau operates an interviewing scheme, however cursory, it may become apprised of information which could be a relevant factor in determining a volunteer's suitability for a particular type of employment. As a matter of caution, bureau interviewers should be advised always to pass on to the employer any information, however sensitive, which could be relevant to the employee's suitability. In all cases, the bureau should make clear to the employer whether and to what extent interviews have been carried out and references taken up. Where references (including police records, where available) are not taken up, for whatever reason, the employer should be notified accordingly."

Vicarious liability

The legal advice also spells out the details of liability where a volunteer is working for the volunteer bureau. Here, the bureau has 'control' of the volunteer's work and may become vicariously liable for the acts and defaults of the volunteer.

The bureau would be vicariously liable where, for example, the volunteer steals money he or she has been engaged to handle, causing loss to a third party. Or where a volunteer, engaged to drive a coachload of children to school, causes a road accident that results in personal injury.

However, the bureau would not necessarily be liable if the volunteer stole money where he or she had no official access to it, or caused an accident after taking a coach against the bureau's instructions.

Previous convictions

The legal advisers emphasise that it is the volunteer bureau organiser's duty to ascertain as far as possible whether an interviewee has a criminal conviction and if so, whether that person is a suitable candidate for a particular voluntary job.

Where an interviewee misleads the interviewer as to the existence or nature of a conviction and then goes on to commit a similar offence in the course of the voluntary work, no negligent liability will attach to the bureau for failing to discover the previous conviction provided such information could not reasonably have been discovered from an alternative source.

The 'disclosure of criminal background of volunteers with access to children' procedure is, of course, designed as just the type of 'alternative source' that, as the legal advice implies, volunteer bureaux, if they choose to ignore it, will do so at their peril (see this issue's main article on pages 1 and 2). ☼