

VOLUNTEERS IN PUBLIC LIBRARIES

UNISON policy and guidance for branches

'Does he think the job of a librarian is so simple, so empty of content that anyone can step up and do it for a thank-you and a cup of tea?'

Author Philip Pullman, responding to the then-leader of Oxfordshire County Council's call for increased use of volunteers in libraries, January 2011¹

Introduction

This guidance document sets out UNISON's policy on the use of volunteers in public libraries alongside staff and offers guidance to branches on dealing with the issue of volunteering. It provides information on the instances where volunteers should be receiving the National Minimum Wage. This guidance does not cover the issue of volunteers in 'community managed libraries' which are no longer under the control of the local authority.

Background

Members and branches report that the use of volunteers in public libraries is not new and has been a feature for a number of years. However, what is of concern is the changing nature of volunteering and how this may encroach upon the roles of paid staff, if left unchecked.

Many of our members report that volunteers taking on tasks which are supplementary to the work of staff are a welcome resource – such as running a fundraising 'friends of the library' group, hosting coffee mornings for parents and toddlers, or assisting with specific initiatives such as the Summer Reading Challenge.

The swingeing cuts imposed on local government by the 2010 Comprehensive Spending Review prompted many councils to reduce expenditure on a range of vital services. Some local authorities felt that libraries were an easy target for some swift cost-cutting, however the threatened loss of many local facilities galvanised communities and campaigns into action.

Aside from outright closures, library budgets for those remaining open have been slashed and levels of staff have fallen. Under the guise of the 'big society' some authorities have launched major drives to increase the number of volunteers in libraries. Where this occurs, members and branches need to ensure that they engage with the employer to ensure job substitution does not become an issue.

Increasing usage

The number of volunteers in libraries has increased over recent years. In 2006/07 there were 12,708 volunteers in UK libraries. By 2010/11 the figure stood at 21,462 – up 22% on the previous year and a massive 69% since 2006/07.

¹ Full text of the speech available on False Economy <http://falseeconomy.org.uk/blog/save-oxfordshire-libraries-speech-philip-pullman>

Corresponding figures for the number of paid staff in libraries shows a worrying decline. In 2006/07 there were 26,591 FTE staff employed in public libraries in the UK. By 2010/11 the figure stood at 23,681 – down 4% on the previous year and 11% overall since 2006/07².

UNISON policy

UNISON believes that public library services should be sufficiently resourced and professionally staffed. Volunteers may have a role to play, but they should not be used as replacements for employed, paid, trained staff in the public library service. In the current economic climate, employers may try to do exactly that. We must be clear that the way to deliver high quality and fully accountable public library services, is to employ professional staff, pay them properly, and make sure they are trained and developed.

Many library authorities already use volunteers alongside paid staff. It is vital that we make sure that relations between paid staff and volunteers at a local level are constructive, with everyone understanding everyone else's role, ensuring that staff and volunteers can work together effectively.

We do not believe that local authorities should use volunteers as a cost-cutting exercise or to make up for the loss of staff through cuts and redundancies. Volunteers should only be used in a limited number of circumstances to complement the work of paid staff. We would view a scenario where volunteers are used for job substitution, either outright or to cover for staff absence, very seriously.

Differing views

Professional bodies representing librarians and staff differ in their stance on the issue of volunteering. The Society of Chief Librarians' policy states that the organisation 'strongly supports volunteering in libraries. The Society firmly believes that volunteers add value to the public library service, as long as all volunteering activity is contained within a professionally managed and delivered framework'³. When pressed by campaigners to clarify whether this extended to job substitution, the organisation admitted that 'in some cases local policy will mean that this can result in job substitution'⁴.

The Chartered Institute of Library and Information Professionals (CILIP) revised their policy in June 2012 after members expressed their dismay that it appeared not to outright oppose job substitution. Their policy now states that 'we do not believe that volunteers should undertake core service delivery or be asked to replace the specialised roles of staff who work in libraries'.

CILIP's policy goes onto oppose job substitution 'where paid professional and support roles are directly replaced with either volunteers or untrained administrative posts to save money'. The policy asserts CILIP's view that where this happens 'services will suffer and will be unsustainable'. Furthermore, 'CILIP will not assist in recruiting or

² According to CIPFA returns <http://www.cipfastats.net/news/newsstory.asp?content=14508>

³ *Policy on volunteering* (SCL, August 2012) – note this applies to England only

⁴ *The SCL spells it out* (Public Libraries News blog, 29 August 2012)
<http://www.publiclibrariesnews.com/2012/08/the-scl-spells-it-out.html>

training volunteers who will be used to substitute the role of qualified, trained and paid library and information workers⁵.

Volunteers and the National Minimum Wage

By law, in order to be a volunteer, individuals must agree to work completely voluntarily and for free. However they are entitled to claim out-of-pocket expenses related to their volunteer role, including food, travel and childcare costs.

Any expenses paid should only cover genuine out of pocket costs – for example, bus fares incurred travelling to a library. If a volunteer walks to the library but still receives travel expenses, this could be deemed as payment. Payments are made to employees or workers, not volunteers. If a volunteer is treated as a worker or employee in this way, then they may have a claim to certain employment rights including the National Minimum Wage.⁶

Branches must be aware that library volunteers might be deemed workers for NMW purposes if they effectively are working to a contract and monitor their activities accordingly.

Branches also need to monitor whether volunteers receive any expenses. If a volunteer receives reimbursement of reasonable out of pocket expenses then it is unlikely to change their status from a volunteer to a worker.

However if they start receiving expenses for costs that they are not incurring then this could amount to a contract for employment or services and they consequently could be eligible for the NMW.

Employers may be reluctant to produce any kind of written statement of a volunteer's duties as this may give individuals recourse to employment tribunals. However, a recent test case brought against the Citizens Advice Bureau ruled that volunteers (those who are unpaid and have no binding contract) are not covered by equality legislation, including the Disability Discrimination Act⁷. This makes volunteers vulnerable to potential discrimination in the workplace, with no means via which to challenge this.

Many employers may not have considered their legal duties towards volunteers. These include ensuring Criminal Records Bureau (CRB) checks for people working with vulnerable adults and children, completion of risk assessments and ensuring sufficient levels of insurance cover. Furthermore, employers may also be liable under equality legislation for the actions of volunteers if they unlawfully discriminate against a service user. Clearly this indicates the need for a level of investment in volunteers in terms of support and training.

Key questions to ask:

- Are volunteers proposed as substitutes for jobs currently filled by paid staff? If so, there may not be a genuine redundancy situation

⁵ *Use of volunteers in public libraries policy* (CILIP, June 2012)

⁶ Volunteers' rights, expenses and placements <https://www.gov.uk/volunteering/pay-and-expenses>

⁷ X v Mid Sussex Citizens Advice Bureau (March 2009) <http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2009/340.html>

- Volunteers are not free – this is a common misconception. Employers need to think carefully about the costs of developing and maintaining a volunteer programme. How will the appropriate infrastructure to provide recruitment, support and training be established and managed?
- How will the employer ensure that volunteers are genuine and that the lines between voluntary work and employment rights are not blurred?

Agreeing a policy with your employer

Most local authorities should have a policy in place about the use of volunteers in council services, which will be broader than libraries. Check what the policy says, particularly around issues such as CRB checks and job substitution. Branches should consider talking to their employer about a libraries-specific policy if they are proposing to start using volunteers or increase current usage. This will enable you to set out concerns early on and guard against a job substitution scenario.

Without a written policy in place it may be that the use of volunteers ‘creeps’ and encroaches upon the jobs of paid staff, particularly library assistants. Showing the employer that the branch is wise to this threat may discourage them from pushing for a large volunteer programme. Key points to ensure are included in the policy:

- A clear statement that volunteers are there to complement the work of paid staff, not replace them
- A clear statement ruling out the use of volunteers to undertake the duties of paid staff during industrial action
- A commitment to ensure **all** volunteers working in library services undergo a CRB check, as all will potentially come into contact with children and vulnerable adults
- A clear policy and process for the resolution of disputes between paid staff and volunteers

Branches should encourage the involvement of staff in drawing up a policy as they will be best placed to comment on the day-to-day activities that take place in the library and where volunteer usage may or may not be appropriate. We would encourage clarity on the roles volunteers will be allowed to undertake and would strongly argue that these do not overlap with the duties of paid staff.

One effective way to make your employer think twice about the use of volunteers is to stress the amount of training, support and coordination a volunteer programme needs. However, be aware that you don’t get into a situation where the training programme for volunteers surpasses that of staff. Local authorities should place the training and development needs of their paid employees ahead of that of volunteers. Volunteers may benefit from the council’s time and money through training, although all the while there is no legal obligation on them to continue volunteering and they can decide to cease activities at any time.

Case study: Surrey County Council

A recent legal case in Surrey highlighted that volunteers cannot be left unsupported⁸. Campaigners launched judicial review proceedings against the council over its plans to hand 10 libraries over to volunteers. The decision was challenged on the basis the council had failed to discharge its public sector equality duties under the Equality Act 2010, as volunteers would not have the necessary skills and experience to be able to support vulnerable users as well as paid staff.

TUC guidelines The TUC and Volunteering England produced a set of guidelines in 2009 about the role of volunteers and responsibilities of employers, entitled the *Charter for strengthening relations between paid staff and volunteers*⁹. The main points of the Charter are as follows:

- All volunteering is undertaken by choice, and all individuals should have the right to volunteer, or indeed not to volunteer
- While volunteers should not normally receive or expect financial rewards for their activities, they should receive reasonable out of pocket expenses
- The involvement of volunteers should complement and supplement the work of paid staff, and should not be used to displace paid staff or undercut their pay and conditions of service
- Effective structures should be put in place to support and develop volunteers and the activities they undertake, and these should be fully considered and costed when services are planned and developed
- Volunteers and paid staff should be provided with opportunities to contribute to the development of volunteering policies and procedures
- Volunteers, like paid staff, should be able to carry out their duties in safe, secure and healthy environments that are free from harassment, intimidation, bullying, violence and discrimination
- All paid workers and volunteers should have access to appropriate training and development
- There should be recognised processes for the resolution of any problems between organisations and volunteers or between paid staff and volunteers
- In the interests of harmonious relations between volunteers and paid staff, volunteers should not be used to undertake the work of paid staff during industrial disputes.

These guidelines offer a good starting point for initiating discussions with your employer about volunteering in public libraries.

⁸ Surrey library volunteer decision ruled unlawful by High Court <http://www.bbc.co.uk/news/uk-england-surrey-17597811>

⁹ More information on the Charter and advice on volunteers in the workplace is available on the TUC website: <http://www.tuc.org.uk/workplace/index.cfm?mins=349&minors=4&majorsubjectid=2>

Case study: internships and the National Minimum Wage

There are parallels with the increase in volunteers in libraries and the rise in 'internships' in a wide range of industries. Whilst employers argue they are offering work experience to enable young people to more easily access the labour market, many feel the term is cynically used 'to disguise underpaid worker positions'¹⁰.

As there is no legal definition of 'intern' they may in reality be workers, volunteers or employees. Again, there is a fine line between what is constituted as volunteering and what is work in relation to internships, but the Low Pay Commission stated their concern in 2012 that 'labelling opportunities as internships may be seen as a loophole to undermine the minimum wage'. Their recommendation to the Government was for clear guidance for employers as to when interns were actually employees or workers and therefore entitled to NMW, and for greater enforcement of the existing rules on payment of the minimum wage.

Whilst library volunteering positions are not generally being advertised by local authorities as a route into the librarian profession, there are clear parallels in the need for monitoring to ensure the line between volunteer and worker is not crossed.

Useful sources of information

TUC website advice on volunteering

<http://www.tuc.org.uk/workplace/index.cfm?mins=349&minors=4&majorsubjectid=2>

Volunteering England website

<http://www.volunteering.org.uk/>

Volunteers and the law: an update

<http://www.dsc.org.uk/PolicyandResearch/news/legaleyesvolunteersandthelawupdate>

National Council for Voluntary Organisations: The legal status of volunteers

<http://www.ncvo-vol.org.uk/advice-support/workforce-development/hr-employment-practice/managing-volunteers/legal-status>

¹⁰ *National Minimum Wage* (Low Pay Commission report, 2012)

http://www.lowpay.gov.uk/lowpay/report/pdf/8990-BIS-Low%20Pay_Tagged.pdf