Legal Compliance
Education and Awareness

Volunteers Protection Act 2001

(South Australian)
What does the Volunteers Protection Act do?

- Provides protection for volunteers from being held personally liable for damage, loss or injury they may have caused to others while undertaking volunteer work.

- Seeks to strike a balance between the need to protect volunteers & the interests of those who suffer injury.

- The intent of the Act is to encourage people to volunteer by reducing risk to the individual & transferring the liability to the community organisation.
What is a Volunteer?

• A volunteer is a person who undertakes ‘community work’ & who is not paid for the work they do

• Volunteering is undertaken:
  – to be of benefit to the community & the volunteer
  – of the volunteer’s own free will & without coercion
  – for no financial payment
  – in designated volunteer positions only

• A person carrying out work under the order of a court or as a condition of a bond is not regarded as a volunteer
Volunteer ‘payment’

• If you are being paid, you are not a volunteer

• The following does not constitute payment:
  – being reimbursed for expenses incurred in carrying out voluntary work; or
  – monetary gifts given in recognition of a volunteer's work (an honorarium)

• But the gift must be a 'true honorarium': the gift must not be relied on or expected by the volunteer as a source of income
What is ‘community work’?

*Community work* is work done for any of the following purposes:

- for a religious, educational, charitable or benevolent purpose
- for promoting or encouraging literature, science or the arts
- for looking after, or providing medical treatment or attention for, people who need care because of a physical or mental disability or condition
- for sport, recreation or amusement
- for conserving resources or protecting the natural environment from harm
- for preserving historical or cultural heritage
- for a political purpose
- for protecting or promoting the common interests of the community generally or a particular section of the community
How does the Act apply to the University?

• The University is considered a ‘community organisation’ for the purpose of the Act as it:
  – directs & co-ordinates the carrying out of work by volunteers; &
  – is a body corporate

• The University has people volunteering in a variety of ways & in a variety of areas, for example;
  – preserving records for University Archives & Collections
  – gardening at Waite Campus
  – directing tours of Urrbrae House
  – assisting with publicity for the Theatre Guild
  – producing & presenting programs for Radio Adelaide
Volunteers Protection Act 2001 (SA)

What protection from liability is provided to a volunteer?

• The Act provides volunteers immunity from personal liability for an act or omission in the course of carrying out community work

  – For example: A volunteer gardener at Waite campus digs a hole into which a member of the public steps & breaks a leg

  – For example: A volunteer assisting at a graduation ceremony does not erect a row of seats correctly & a visitor falls to the ground, injuring their back

• Protection from liability only applies where the volunteer acts within the scope of their allocated tasks, in good faith & without recklessness

• Non-compliance with the Act by a volunteer will cause the individual to lose the ‘safety net’ of immunity, making the individual personally responsible for damage, loss or injury they may have caused
When does protection from liability not apply?

Volunteers will not be protected under the Act:

- For defamatory comments

- For situations covered by compulsory third-party motor vehicle insurance
  - For example: where a volunteer was driving a car & was involved in an accident where someone was injured. In this case, the injured person follows the normal procedure for making a claim

- Where the volunteer's ability to carry out the work properly was significantly impaired by drugs or alcohol

- Where the volunteer was acting & knew (or ought to have known) they were acting outside the scope of the activities authorised by the University

- Where the volunteer was acting & knew (or ought to have known) they were acting, contrary to instructions given by the University
What should you do if you wish to engage volunteers?

• Ensure volunteers tasks & responsibilities are documented & agreed to (eg: through a volunteer agreement)

• Provide induction & training to enable volunteers to be fully aware of:
  – their tasks & responsibilities
  – the process for reimbursements for out of pocket expenses
  – occupational health & safety conditions & procedures
  – insurance coverage
  – equal opportunity, grievance & disciplinary policies
  – support & supervision
  – privacy, security & confidentiality issues
  – Other applicable policies & procedures

• Identify potential risks involved in the work of volunteers & take measures to minimise the risk of damage, loss or injury to others

• If you become aware of an insurance claim against a volunteer, notify the University’s Insurance Officer, Tom Pontt
  – thomas.pontt@adelaide.edu.au
  – 8313 3878
Additional Resources

- **Celine McInerney**, General Counsel
  - 8313 5033

- **Richard Duddy**, Legal Counsel
  - 8313 0085

- [University of Adelaide volunteers website](#)

- [University Volunteer Policy & Handbook for Volunteer Co-ordinators](#)

- [Volunteers Protection Act 2001 (SA)](#)

- [Volunteers Protection Regulations 2004 (SA)](#)

- [Volunteering Australia](#)
Disclaimer

The content of this material is intended only to provide a summary & general overview of the Volunteers Protection Act as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact Richard Duddy or Legal & Risk if you are unsure of your compliance obligations under the Act.

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