A RIGHT TO VOLUNTEER

Giving asylum seekers the opportunity to give back to their communities

FACTSHEET ON ASYLUM SEEKERS AND VOLUNTEERING

MAY 2013
WHAT IS THE PROBLEM?

Asylum seekers are legally allowed to volunteer in the UK but current Home Office guidelines are preventing many of them from doing so.

At Refugee Action, we believe that people claiming asylum should be able to give their free time, unpaid, to benefit the community they live in.

Asylum seekers have little money, poor housing and are prevented from working. Giving their free time through volunteering is one of the few positive activities they can take part in. Volunteering has a positive impact on people’s health and wellbeing. Being told you can’t even give your free time away is both degrading and humiliating. This has to change.

Refugee Action is calling on the Home Office to urgently draw up clear and straightforward guidance. The charity is also highlighting to volunteer-involved organisations that they can legally involve asylum seekers in their activities.

This factsheet outlines the current position of asylum seekers and volunteering, with links to further reading which we will hope will help inform the policy positions of volunteer involving organisations.

Refugee Action is calling on the Home Office to urgently:

- Change their guidance which currently states that asylum seekers can only volunteer for a registered charity or voluntary organisation and bring it in line with the widely accepted definition of volunteering which includes public sector organisations.

- Remove the line in their guidance which states that refused asylum seekers cannot volunteer. The Home Office have verbally agreed with us that refused asylum seekers are legally allowed to volunteer. But we urgently need them to change their guidance.

“Through volunteering I’ve kept busy so I don’t have time to think about what happened back home. Volunteering with Refugee Action has really helped me integrate into the community, meet new people and make friends.”

Adam, Refugee Action volunteer
Refugee Action, with the support of other organisations, has raised its concerns with the Home Office.

Following a meeting we had with the Home Office in December 2012, they confirmed that they have no legal authority to prevent volunteering by anyone at any stage in the asylum process and will not take action against or prevent any organisation from involving volunteers who are seeking asylum or who are appeal rights exhausted.

The Home Office agreed to update the guidance to reflect this, but so far, no changes have been made.

In the meantime, Refugee Action has been given a contact at Home Office who has agreed to escalate any case where a refused asylum seeker is prevented from volunteering by a regional Home Office team.

So far, we have successfully escalated several cases and would like to hear from anyone who has experienced this.

Our campaign is supported by a number of voluntary sector organisations including NCVO.

“Rules that prevent asylum seekers from volunteering in the public sector need an urgent rethink. Many people seeking protection in this country want to contribute to the communities they live in and they should be allowed to do so. Refugee Action is absolutely right to press for the Home Office guidance to be reviewed.”

Dr Justin Davis Smith, NCVO’s Executive Director of Volunteering and Development
## WHO ARE REFUGEES AND ASYLUM SEEKERS?

<table>
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<tr>
<th>Role</th>
<th>Definition</th>
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<tr>
<td>Refugee</td>
<td>The 1951 UN Convention defines a refugee as: 'A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country'²</td>
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<td>Refugee status is usually granted for an initial period of five years, but other types of protection are sometimes also awarded.</td>
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<td>Asylum seeker</td>
<td>An asylum seeker is a person who has crossed an international border in search of safety and is waiting to hear whether the government recognises them as a Refugee under the 1951 Geneva Convention.</td>
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<td>Refused asylum seeker</td>
<td>A refused asylum seeker is someone who has had their initial claim for asylum rejected by the Home Office.</td>
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<td>Asylum law is very complex, and people may have the right to appeal their decision or to submit new evidence to support their claim. During any appeal stage, the person continues to be an asylum seeker.</td>
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<td>Appeal rights exhausted asylum seeker</td>
<td>Unless there is an obstacle beyond their control preventing return, the person is expected to return voluntarily to their country of origin.</td>
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<td>It is at this stage that people are liable to be detained and forcibly removed from the UK. An appeal right exhausted asylum seeker may present a fresh claim for asylum, in which case they will become an asylum seeker again.</td>
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<td>What about ‘bogus asylum seekers’?</td>
<td>There is no such thing as bogus asylum seeker. Everybody has the right to claim asylum in another country. A rejected claim for asylum is not the same as a bogus one.</td>
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WHAT IS VOLUNTEERING?

There is currently no legal definition of what volunteering is, or any current legislation defining the rights of volunteers.

Volunteer England definition
The generally accepted definition of volunteering, as defined by Volunteering England is:

‘Any activity that involves spending time, unpaid, doing something that aims to benefit the environment or someone (individuals or groups) other than, or in addition to, close relatives.

‘Central to this definition is the fact that volunteering must be a choice freely made by each individual. This can include formal activity undertaken through public, private and voluntary organisations as well as informal community participation.’

Home Office definition
The Home Office, in its guide for employers on preventing illegal working in the UK, has chosen to define volunteering much more narrowly than this. Its definition is:

‘[Volunteering is] ...carrying out the work on behalf of a registered charity, voluntary organisation or body that raises funds for either. Any voluntary activity carried out should not amount to either employment or job substitution.’

Mariam, Refugee Action volunteer

“Volunteering helps improve your language, confidence and knowledge – lots of positive things. As an asylum seeker you go from being powerless to helping other people.”
For refugees
There are no restrictions for people who have been granted refugee status to working or volunteering in the UK. Refugees have the same rights to housing, health and work as UK citizens and the UK government have committed to the integration of refugees into civil society.

For asylum seekers
The Home Office has made it clear that anyone with an ongoing asylum claim is legally allowed to volunteer for non-profit organisations or a body that fundraises for this.

For asylum seekers wanting to volunteer in the public sector
The Home Office has chosen to restrict its definition of volunteering to the voluntary sector. This means public sector organisations such as NHS trusts, schools and local councils often prevent asylum seekers from volunteering with them.

Although we have had verbal agreement with the Home Office, Refugee Action, with the support of others, is calling for the Home Office to urgently change its definition of volunteering in the written guidance.

For refused asylum seekers
In 2012, the Home Office updated its guidance on preventing illegal working. Before this, the 2008 guidance stated:

‘On the grounds that a failed asylum seeker should not be in the United Kingdom at all, he or she should not be volunteering following a final decision on their claim, or if they have exhausted all their appeal rights.

‘Although there is no specific legal power to prevent a failed asylum seeker from volunteering, the normal course of action should be for the Border and Immigration Agency to issue removal directions and to discourage further voluntary activity’.

In 2012, the clause, ‘there is no specific legal power to prevent a failed asylum seeker from volunteering’ was removed. This insinuated that volunteer-involving organisations could not involve refused asylum seekers in their activities.

The Home Office has verbally confirmed that they have no legal authority to prevent volunteering by anyone at any stage in the asylum process and will not take action against or prevent any organisation from involving volunteers who are seeking asylum or who are appeal rights exhausted.

Volunteer involving organisations should therefore not exclude people from volunteering on the grounds they have been refused asylum.

“I have been claiming asylum since 2006 and found the process very demoralising. Through volunteering my confidence was boosted. I now feel am giving something positive back to my community”

Chenayi, Refugee Action volunteer
If like us you feel that everyone seeking protection in the UK should be treated fairly, with dignity and respect then join our campaign to give asylum seekers the right to volunteer.

Register your support
Tell the Home Office to give asylum seekers the right to give back to their communities by signing our petition.
We will take this petition to the Home Office and ask them to remove the barriers which are preventing asylum seekers from sharing their skills and giving back to their communities.

Get in touch
If you would like to share any experience related to asylum seekers and volunteer we would love to hear from you.
Also, please do get in touch if you would like any further information, help or advice.

Email volcampaign@refugee-action.org.uk
Visit www.refugee-action.org.uk

Share this factsheet
We hope that this factsheet has answered some of your questions about the issue of volunteering whilst claiming asylum. We want all volunteer-involving organisations to be made aware of asylum seekers’ right to volunteer, so please share this factsheet where possible.

References
1 This is to the best of our knowledge and as of May 2013. Refugee Action cannot take responsibility for the decisions made by organisations around volunteer involvement.
3 Volunteer England: www.volunteering.org.uk/iwanttovolunteer/what-is-volunteering

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