



Volunteers on Marae

Health and safety in the workplace

The Health and Safety in Employment Act aims to promote the health and safety of everyone at work and of other people in or around places of work.

To achieve this, it requires people who are responsible for work and those who do the work to take steps to ensure their own health and safety and that of others. This includes duties for individuals or groups who use volunteers to carry out work and for the volunteers themselves.

Volunteers have coverage under the Act

The Health and Safety in Employment Act recognises that volunteers doing work for other persons should have their health and safety protected, because their well-being is as important as that of employees.

Under the Act any person who uses volunteer workers has a **general duty** to ensure their health and safety while they are doing the work. This duty is not enforceable. Additionally, where an employer or self-employed person uses volunteer workers on an ongoing basis, there are more extensive and **enforceable** duties that are owed to their volunteers - who are employees in all but name.

What has this got to do with our marae?

The extent to which any duties will apply to the use of voluntary labour on your marae will depend on the nature of the activities, and whether or not the marae employs staff.

Where a marae trust or committee organises an event using voluntary workers, it has a general duty to provide for the safety and welfare of those workers. The duty is not enforceable, but is a legal statement of volunteers' right to remain safe while carrying out voluntary work.

In some cases — such as where the trust board or committee of a marae employs people, and volunteers are working alongside those paid employees, in commercial, educational or other activities (e.g. a kohanga reo, or kokiri) — the trust board or committee may have enforceable duties towards the volunteer workers.

This fact sheet answers some questions directly relevant to marae. Where you think the Act's duties to volunteers may apply to your marae, refer to the fact sheet on **Volunteers** for further information.

Volunteers are defined

A "volunteer" under the HSE Act is a person who neither expects nor receives any material reward for the work. This does not include those who are receiving training or

gaining work experience, who are considered "employees" while at work.

Coverage of volunteers

The Act applies to all people doing voluntary work and encourages steps to be taken to keep all volunteers safe.

For some voluntary work, the Act places additional duties on employers, self-employed persons and to some extent, the volunteers themselves. These duties are subject to the Act's enforcement provisions.

To do this the Act considers volunteers to be "employees" and they have most of the same protections as employees where:

- the volunteer is doing work for an 'employer' or a 'self-employed person' who has given consent to, or has knowledge about, the voluntary work; and
- the volunteer does the work on an ongoing and regular basis for that employer or self-employed person; and
- the work is an integral part of the business of that employer or self-employed person.

Exclusions

Some volunteers who meet the criteria above are nevertheless specifically excluded when they are involved in the following activities:

- › participating in fundraising
- › assisting with sports or recreation for
 - a sports club; or
 - a recreation club; or
 - an educational institution
- › assisting in activities for an educational institution offsite
- › providing care for another person in the volunteer's home.

For all users of volunteers, the Act provides for a general duty of care. This duty provides that all practicable steps should be taken to ensure the health and safety of volunteers.

This would be achieved in particular by considering hazards when planning the work. If the Department of Labour becomes aware of a hazard, it is required to notify the organiser and discuss how this could be managed.

While this general duty of care is not enforceable, it is the message that is important. All work should be planned and organised with health and safety in mind. All volunteers should be safe when performing their voluntary work.

FAQs

Below are the answers to some frequently asked questions which illustrate the application of the Act in relation to volunteers on marae:

Q: When whanau organise a tangi or similar event, prepare food and participate in other ways, are they “volunteers” in terms of the Act?

A: They will be “volunteers” under the Act, strictly speaking, but only the general duty will apply to the organisers of the event. This means the organisers should think about volunteers’ health and safety when planning an event and when carrying out the work.

If the marae trust board or committee has not organised the event, it does not have any duty to the “volunteers”.

Q: Am I a volunteer if I live on or about the marae?

A: If you do work for the marae as a volunteer, yes. The general duties will then apply to you. If the trust board or committee employs people, and you work with them regularly, then the enforceable duties may apply in relation to your work.

Q: What happens if people are employed to come on to the marae to work alongside volunteer workers?

A: The general duty will apply to all the volunteers, regardless of whether or not they are working with paid people. Whether the enforceable duty will apply depends on whether the trust board or committee employs people or not. If it does, and volunteers work on a regular and ongoing basis for the board, and the work they do is part of the “business” of the marae, then the enforceable duties apply.

If workers employed by other people come on to the marae, they will have their own duties under the Act to make sure they don’t harm anyone, including your marae volunteers, when they are working. Those workers’ employers will also have duties to make sure they are safe. In addition, if your marae trust board has contracted those people to do the work, the trust board will have the duties of a principal under the Act to ensure they are safe.

Q: What if volunteers assist with an activity, such as a concert party, where people are paying to come on to the marae?

A: If the marae trust employs people, such as performers, and the volunteers work regularly in the marae’s business, then the enforceable duties will apply. Otherwise, if the trust board doesn’t employ anybody, and the activities are carried out by volunteers, then only the general duties under the Act will apply.

Q: Does the marae trust have to tell the Department of Labour if a volunteer worker is injured while working on the marae?

A: If the trust is an employer or principal, it must maintain an accident register in an approved form and notify the Department of Labour of any instances of serious harm to its employees or anyone else in the place of work controlled by the trust, including to volunteers. Refer to the fact sheet in this series for more information on accident recording and notification requirements.

Q: Because the law extends to volunteers, does that mean Health and Safety Inspectors have powers to enter and inspect marae?

A: Inspectors’ powers of entry only relate to “places of work”, i.e. where the work is being performed for gain or reward. If all the work being done on a marae is voluntary, the marae won’t be a place of work. If paid employees are working there, it will be.

However, if an inspector becomes aware of a significant hazard faced by a volunteer worker on a marae, he or she is required to contact the trust or other organising body and discuss management of the hazard.

Q: Is koha treated as “gain or reward”?

A: Koha in the traditional sense — i.e. a tribute to the hosts that is given unsolicited — is not considered “gain or reward” in terms of the Act.

Q: How do I find out more about making our marae safe?

A: Start with your own people. Once you focus your thinking on making the marae safe, people will be able to bring all their skills and knowledge to bear. If issues go unresolved, there are a number of good sources of assistance.

Any Department of Labour office can provide general information on workplace health and safety, which has the same application to volunteers as it does to employees. The Department also has a factsheet on **Volunteers** on the website. ACC also has information which can assist you. Any information that helps to keep employees safe will do the same for volunteers.

Further information

This information is a guide only and may not be accurate for all situations. It should not be used as a substitute for legal or other expert advice.

For further information, call us on 0800 20 90 20, or visit the website at: www.dol.govt.nz

