



**Policy No 11**

**Version: 1**

## **Right to work or volunteer in the UK Policy**

Date approved	10 May 2021
Approved by	Board of Trustees
Review date	May 2023

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### Version control

<b>Approved/amended date</b>	<b>Version</b>	<b>By</b>	<b>Issue</b>
10 May 2021	1	Board of Trustees	New policy

# The Right to work or volunteer in the UK - Policy

## 1. Introduction

To comply with current legislation FOYH must ensure that paid employees and volunteers have the legal right to work/volunteer in the UK. This policy sets out the legal requirements for carrying out the checks on employees and volunteers and it will follow FOYH recruitment policy at all times. The FOYH application form will ask for nationality and at this early stage a copy of the applicant's passport, driving licence or a document with national insurance number will be required. The document will be verified later in the process for successful applicants.

It is the policy of FOYH to have a diverse and vibrant group of people and we value the impact our colleagues from overseas bring. To comply with the law FOYH will undertake checks to ensure that everyone applying to join FOYH is eligible to join our team. At all times the trustees will refer to the Home Office guide 'An Employer's Guide to Work Checks.' Every applicant will be asked for sight of original documents which must be viewed with the applicant present. Copies of the documents will be made, certified and kept in line with the Retention of Documents Policy. Copied documents must be endorsed '**certified as a true copy as seen by me**' and signed and dated.

If the applicant cannot show their documents FOYH must ask the Home Office to check the employee or potential employee's immigration employment status. FOYH must not allow the employee or volunteer to carry out any work.

## 2. Purpose

The purpose of this policy is to ensure that the FOYH complies with legislation and Home Office guidance. For the purpose of this policy and with effect from 1 January 2021 the term 'foreign national' refers to all non UK citizens excluding Irish citizens or EU citizens who have successfully applied for settled or pre-settled status.

FOYH has a responsibility by law to comply with employment legislation and to ensure that everyone in our team is eligible to work or volunteer for us. As a charity we are as liable as any other business to significant penalties if found to be in breach of 'The Immigration, Asylum and Nationality Act 2006' so it is important that the instructions contained in this policy are always followed.

## 3. Definition of Volunteers

The Home Office defines volunteers as either –

**Volunteers** – do not have a contract, they must not be a substitute for an employee and they must not be doing unpaid work i.e. receiving payment in kind although they can be reimbursed for reasonable expenses.

**Voluntary Workers** – will usually have obligations to perform the work which if tested in law would be found to be contractual e.g. to attend at particular times and carry out specific tasks with the employer being contractually required to provide the work. The contract does not have

to be written. The voluntary worker is sometimes remunerated in kind in this situation for example through free training, building their CV for future employment or free products or services from the charity.

The distinction rests on whether the individual considers there to be an obligation for them to commit their time to the charity in order to run the service. Volunteers are under no such obligation. If a person meets the definition of a volunteer there is no requirement for them to have the right to work in the UK and therefore no Right to Work check is necessary.

If however there is any possibility that a volunteer could be deemed to be a voluntary worker then a check must be carried out and the relevant documents must be produced by the applicant for copy and retention as outlined in the Retention of Documents policy. All documents must be originals and must be received before any offer of a volunteer role or paid employment is offered. A clear copy should be made and endorsed '**certified as a true copy as seen by me**' and signed and dated.

A list of acceptable documentation is contained in the Home Office – an Employer's Guide to Right to Work Checks'

#### **4. UK and Irish Citizens Volunteer Workers and Employees**

For UK or Irish citizens, applicants for both paid and volunteer roles will be asked to provide:

- An official document with their national insurance number, and
- A passport or driving licence, and
- A document confirming their address

The documents must be original documents. Copies will be made of the original documents and endorsed '**certified as a true copy as seen by me**'. Copied documents will be held under the terms of our Retention of Documents policy.

#### **5. Volunteer Workers or Employees from EU Countries**

Since the UK left the EU in January 2021 the rules for EU citizens volunteering or working in the UK have changed.

Until the 31<sup>st</sup> May 2021 the rules remain the same for those from the EU who were in the country before 1<sup>st</sup> January 2021. They can be a volunteer worker without restriction.

From 1 June 2021, EU citizens who are not Irish citizens can still be a volunteer worker if they have one of the following:

- Settled or pre-settled status
- A visa that does not prevent them from volunteering
- Enrolment in any EU funded volunteering programme with a placement in the UK

FOYH Trustees must verify this and take copies of the original documents and endorse them '**certified as a true copy as seen by me**' to verify this.

## **6. Student Volunteer Workers or employees from outside the UK**

Students can volunteer while they are studying but the following restrictions may apply:

- Students following a degree course or a foundation course can do no more than 20 hours per week of paid or unpaid work (including voluntary work) in term time
- Students following a course of study below degree level can do no more than 10 hours per week of paid or unpaid work (including voluntary work) in term time.
- Anyone who has a visa that does not prevent volunteering.

FOYH Trustees must ensure that verification of the type of course the student is enrolled on is seen and verified. FOYH will need to verify this and take copies of the original documents and endorse them '**certified as a true copy as seen by me**' to verify this.

## **7. All Others**

If none of the above applies, then FOYH will need to ensure that the volunteer worker or employee has the existing right to work.

FOYH must complete the Right to Work Check found at: [WWW.gov.uk/check-job-applicant-right-to-work](http://WWW.gov.uk/check-job-applicant-right-to-work).

In other cases if FOYH employs a non UK citizen (foreign national) as a paid member of staff enquiries will need to be made to check if a sponsor licence is required and anyone recruited will need to fulfil the conditions in force at the time. Before proceeding with the recruitment it is incumbent on FOYH trustees to appraise themselves of the current legislation as contained in 'The Government's Recruiting People from Outside the UK'.

## **8. Monitoring of policy and procedure**

The board of trustees will be informed by the vice-chair or the trustee with responsibility for volunteers of all instances of any 'foreign national' being considered for either a volunteering role or paid employment. The trustees will ensure that all necessary checks have been carried out before any offer is made.

## **9. Review of policy**

This policy will be reviewed every 2 years or sooner in the event of changes in guidance or legislation.

## **10. Queries**

Any queries relating to this policy should be addressed to Judith Whitehead Vice-Chair FOYH

### Verification of Documents

To verify a document FOYH must check that all documents are genuine and that the person presenting them is the prospective volunteer/employee. It must also be checked that the individual is the rightful holder and is legally allowed to do the role.

Check any photographs are consistent across all documents and with the person's current appearance.

Are dates of birth consistent across all documents?

Are there any expiry dates for permission to be in the UK?

Are there any work restrictions?

Has any documentation been tampered with?

Are there reasons for different names, i.e. marriage, divorce etc? If so is there any supporting document – if so copy it.

Clear copies must be made of each document and endorsed '**certified as a true copy as seen by me**'. Copies of passports must be any page with the document expiry date, nationality, date of birth, signature and photo. Also copy any page which states the holder has an entitlement to enter or remain in the UK and undertake work.

A comprehensive guide to acceptable documents is included in '**An Employer's Guide to Acceptable Right to Work Documents**' issued by The Home Office.