

### **Case Study 1**

#### **Armitage v Relate [1994]**

The Claimant was a volunteer counsellor for Relate. She entered into a service agreement under which Relate would provide training and she would provide 600 hours of unpaid counselling. If she failed to complete her hours, she was required to repay part of the costs of her training. There was also the possibility of paid counselling work after volunteers had completed a certain number of hours.

### **Case Study 2**

#### **Migrant Advisory Service (MAS) v Chaudri [1997]**

Mrs Chaudri worked four days per week, from 10am to 1pm each day and received £40 per week in respect of her expenses but this did not relate to actual expenses incurred. MAS paid Mrs Chaudri even when she was on sick leave or holiday.

### **Case Study 3**

#### **Murray v Newham Citizens Advice Bureau [1999]**

Mr Murray applied for a post as a trainee voluntary advisor at Newham CAB. He argued that his application had been rejected due to his history of mental illness (he had suffered from paranoid schizophrenia, which was, at the time of his application, controlled by medication) and a violent incident that was connected to his schizophrenia. He made a claim for disability discrimination.

The Tribunal noted that if successful, a volunteer CAB advisor was required to sign an agreement. Advisors were required to commit to a certain number of hours each week for a minimum length of time. They were also required to notify their manager of absences and give reasonable notice if they wished to leave. There was also a procedure for booking holidays.

In return, advisors received formal and informal training and support and reimbursement for travel expenses. The agreement also set out disciplinary and grievance procedures.

### **Case Study 4**

#### **X v Mid Sussex Citizens Advice Bureau & Another [2012]**

The Claimant was a CAB volunteer who was asked to cease her volunteer work. She worked 4-5 hours per week and had a "volunteer" agreement with CAB which stated that it was "binding in honour only... and not a contract of employment or legally binding". When asked to step down as a volunteer, X brought a claim for disability discrimination.

In this case, the complainant, who was a volunteer for the CAB and was told her services were no longer needed. The complainant alleged that being a volunteer is an occupation, and so is covered by the EC Framework Employment Equality Directive, which prohibits discrimination in employment and occupation on the grounds of disability, age, religion and sexual orientation.

### **Case Study 5**

#### **Gradwell v CVS Blackwell, Wyre and Fylde 1997**

All volunteers sign a written volunteer agreement and are expected to attend monthly meetings and induction training. There is no minimum time commitment by volunteers and the CVS reimbursed actual out of pocket expenses only

## **ANSWERS**

### **Case Study 1**

#### **Armitage v Relate [1994]**

The Claimant was a volunteer counsellor for Relate. She entered into a service agreement under which Relate would provide training and she would provide 600 hours of unpaid counselling. If she failed to complete her hours, she was required to repay part of the costs of her training. There was also the possibility of paid counselling work after volunteers had completed a certain number of hours.

The tribunal based its ruling largely on the requirement to repay training, the obligation to work a minimum of 600 hours and the fact the training led to paid work. This was seen as a clear case of the exchange of something of value i.e. consideration.

### **Case Study 2**

#### **Migrant Advisory Service (MAS) v Chaudri [1997]**

Mrs Chaudri worked four days per week, from 10am to 1pm each day and received £40 per week in respect of her expenses but this did not relate to actual expenses incurred. MAS paid Mrs Chaudri even when she was on sick leave or holiday.

The 'expenses' payments are clearly consideration. Regularly paying these amounts, including holidays and sick leave, meant they became wages for employment.

### **Case Study 3**

#### **Murray v Newham Citizens Advice Bureau [1999]**

Mr Murray applied for a post as a trainee voluntary advisor at Newham CAB. He argued that his application had been rejected due to his history of mental illness (he had suffered from paranoid schizophrenia, which was, at the time of his application, controlled by medication) and a violent incident that was connected to his schizophrenia. He made a claim for disability discrimination.

The Tribunal noted that if successful, a volunteer CAB advisor was required to sign an agreement. Advisors were required to commit to a certain number of hours each week for a minimum length of time. They were also required to notify their manager of absences and give reasonable notice if they wished to leave. There was also a procedure for booking holidays.

In return, advisors received formal and informal training and support and reimbursement for travel expenses. The agreement also set out disciplinary and grievance procedures.

The Tribunal looked at the overall relationship between the organisation and the volunteer and concluded that while there was no one significant issue as in the Relate or the Migrant Advice Service case there was an agreement between the two parties which was enough to create a contract of employment.

### **Case Study 4**

#### **X v Mid Sussex Citizens Advice Bureau & Another [2012]**

The Claimant was a CAB volunteer who was asked to cease her volunteer work. She worked 4-5 hours per week and had a "volunteer" agreement with CAB which stated that it was "binding in honour only... and not a contract of employment or legally binding". When asked to step down as a volunteer, X brought a claim for disability discrimination.

In this case, the complainant, who was a volunteer for the CAB and was told her services were no longer needed. The complainant alleged that being a volunteer is an occupation, and so is covered by the EC Framework Employment Equality Directive, which prohibits discrimination in employment and occupation on the grounds of disability, age, religion and sexual orientation.

The employment tribunal rejected this argument.

The complainant appealed to the Employment Appeals Tribunal. The president of the Employment Appeals Tribunal, Mr. Justice Burton, rejected the argument. He found that the use of the word "occupation" in the Directive is not intended to include unpaid employment of the volunteering type within its scope. The complainant argued further that doing the work of a volunteer put her in an advantageous position to obtain paid employment with the CAB, and thus it could be said to fall within the arrangements made by the CAB for determining who to offer employment. These words appear in all the anti-discrimination laws to describe the recruitment activities in which employers must not discriminate (e.g. job descriptions, personnel specifications, advertising, shortlisting, interviewing, etc). The judge pointed out that this is mixing up purpose and possible consequence. A person who volunteers may get a paid job with the organisation later, but that is only a possible consequence of the experience and knowledge they gain in the course of their service. It is not the actual purpose of the service in the first place.

Update 19 Dec 2012: Supreme Court Ruling-The Employment Appeal Tribunal agreed, and the Court of Appeal later upheld that decision that Mrs X was not entitled to bring an employment tribunal claim because she was not an employee. Mrs X took the case to the Supreme Court. The Supreme Court ruled that European law clearly states that protection from discrimination in the workplace does not extend to volunteers. It turned down her application to take the case to Europe.

### **Case Study 5**

Gradwell v CVS Blackwell, Wyre and Fylde 1997

All volunteers sign a written volunteer agreement and are expected to attend monthly meetings and induction training. There is no minimum time commitment by volunteers and the CVS reimbursed actual out of pocket expenses only

The tribunal decided that an employment contract had not been created based on the fact that although volunteers all signed a written agreement:

Volunteers were not obliged to attend training and monthly meetings.

There was no other minimum time commitment required of volunteers.

Volunteers were reimbursed for actual expenses only.

The tribunal decided that repayment of genuine expenses and the provision of training did not amount to 'consideration'. They also decided that even though the agreement was written it was not intended to be legally binding.