

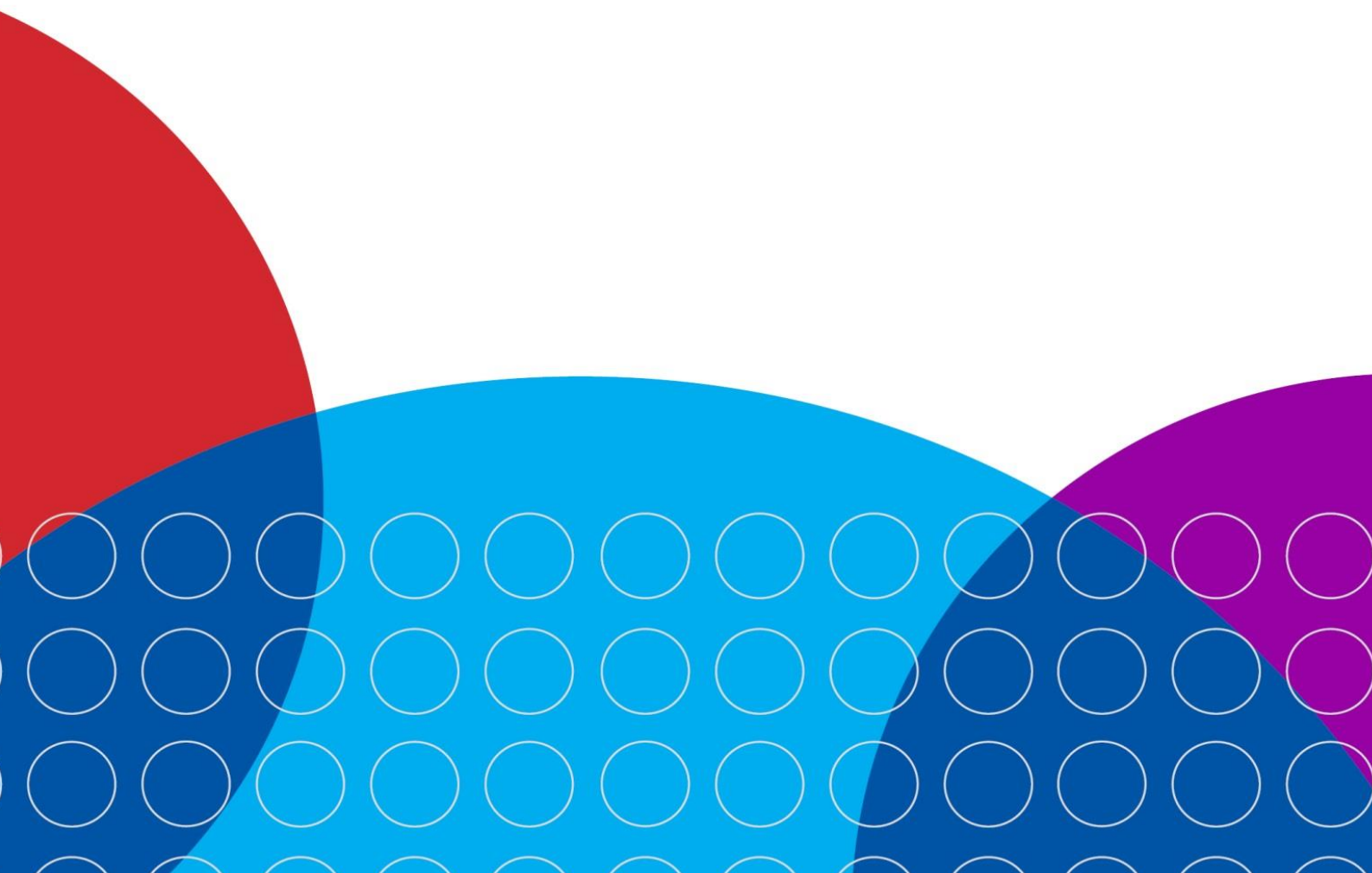


**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

GUIDELINE OF THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

VOLUNTEERS



Guideline of the Commissioner for Public Sector Employment

Volunteers

Date of Operation: 24 January 2020
Review Date: December 2021

Who is covered by this Guideline?

This Guideline is intended as a Whole of Government Policy for public sector agencies as defined by the *Public Sector Act 2009* (SA) and may be adopted and applied by individual agencies. For further information, see section 5 of this document.

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1. INTENT

The intent of this Guideline is to assist in ensuring persons acting as volunteers in public sector agencies are managed and otherwise treated in a fair and equitable manner.

2. COMMENCEMENT AND APPLICATION

- This Guideline will come into effect on 24 January 2020.
- This Guideline applies to “public sector agencies” as defined in section 3(1) of the *Public Sector Act 2009*.

3. INTERPRETATION

In this Guideline:

- ‘agency’ means a public sector agency that falls within the scope of application of this Guideline as noted above in clause 2 of this document;
- ‘volunteer’ means a person who performs functions in a public sector agency on a voluntary basis;
- ‘volunteer manager / coordinator’ means public sector employees with primary responsibility for managing the relationship with and services provided by persons acting as volunteers, regardless of the actual title of the relevant role, duties or position;
- a reference to any legislation, regulation or statutory instrument in this Guideline shall be deemed to include any amendment, repeal or substitution thereof; and
- A ‘permission or licence to act as a volunteer’ means that the volunteer has been assessed to meet the requirements of an organisation/agency’s volunteer position and has been approved to occupy the position by an appropriate chief executive, agency head or delegate.

4. CONTEXT

South Australian public sector agencies work in partnership with thousands of persons who act as volunteers in a variety of ways to deliver a range of services to the South Australian community.

Public sector agencies have an obligation to take a consistent approach to the management and support of volunteers, with an emphasis on maximising the effective use of their skills and experience, and appropriate recognition of the contribution they make.

5. SCOPE

This Guideline applies to all public sector agencies and is intended to cover all volunteering to the State/Crown (with the exception of specific categories that are covered by legislation (i.e. SES and CFS):

- provide services as a volunteer of their own free will and for the common good to both the volunteer, public sector and community;
- perform as a volunteer without financial gain;
- are not to perform functions that should be provided by employees (with exception to

volunteers performing duties under the *Fire and Emergency Services Act 2005*); and

- provide an important role in the delivery of government services to the community.

This Guideline is limited to persons who become volunteers through direct liaison with a chief executive, agency head or delegate and who perform volunteering functions in respect of public sector programs and service delivery within/by public sector agencies.

This Guideline does not apply to people contributing to an agency as part of work experience or work placement.

6. AGENCY LEVEL POLICIES

The provisions of this Guideline are deliberately broad in scope and are intended to accommodate the many diverse relationships between public sector agencies and volunteers.

To help reduce any risks associated with using volunteers, agencies should develop appropriate volunteering policies specific to their needs and update them regularly. Any agency specific policy must be complementary with this Guideline.

7. REGULATION OF VOLUNTEERING

Persons who perform volunteer duties for a public sector agency are provided with a permission or licence to act as a volunteer by a chief executive, agency head or delegate. That permission or licence is subject to conditions and may be revoked due to a breach of these conditions by the volunteer, subject to the volunteer being afforded procedural fairness.

Volunteers are not public sector employees or otherwise engaged pursuant to any form of contract. Consequently, governing legislation, such as the Public Sector Act 2009, and industrial instruments such as awards and enterprise agreements, do not apply to them. Workplace policies, procedures and guidelines applicable to employees do not apply to volunteers, however it is expected that volunteers will, as appropriate, be required to act in a manner consistent with them as a condition of the license or permission granted to them to act as a volunteer. Legislation that applies to all volunteers:

7.1. *Work Health and Safety Act 2012 (SA) (WH&S Act)*

For the purposes of the WH&S Act volunteers are to be treated as workers. Section 7 of the WH&S Act defines a person as a worker “if the person carries out work in any capacity for a person conducting a business or undertaking work as a volunteer”.

This means that public sector agencies must ensure health and welfare of volunteers (as far as reasonably practicable) and that volunteers are to be consulted with respect to work health and safety matters and provided with the necessary information, training and supervision.

Volunteers must also take reasonable care for their own health and safety, ensure that their actions do not adversely affect others, and comply with any reasonable instructions, policies and procedures relevant to the health and safety within the agency.

7.2. *Equal Opportunity Act 1984 (SA) (EO Act)*

For the purposes of the EO Act an unpaid worker is treated as an employee. This means that volunteers not only have the right to lodge a complaint of unlawful discrimination or harassment, they also have the same legal obligations as a paid employee – they must not discriminate against employees, other volunteers or people using government goods or services on unlawful grounds.

The Equal Opportunity Commission has the capacity to investigate and conciliate

complaints of unlawful discrimination and harassment, including those made by volunteers.

7.3. Volunteer Protection Act 2001 (SA)

The primary purpose of this Act is to protect volunteers in the community from personal liability for events that occur during their period of volunteering.

Other legislation that applies to specific volunteers is listed in Attachment A.

While certain employment policies may provide guidance on managing volunteers, they cannot apply to volunteers per se.

8. RESPONSIBILITIES OF VOLUNTEERS

Volunteers are accountable for their actions and are expected to observe similar ethical, policy and/or legislative requirements as employees.

Volunteers have a responsibility to perform their role and act in a manner consistent with the conditions of the permission or licence provided to them. Conditions that should always apply to the permission or licence to act as a volunteer are that the volunteer is to:

- treat agency, personal, and confidential information in accordance with relevant privacy instructions;
- engage in orientation and other training activities as required;
- provide accurate and honest information to public sector employees and officers of the Crown, other volunteers, customers and members of the public; and
- comply with the Principles of Conduct for South Australian Public Sector Volunteers outlining the values and standards of professional conduct expected of public sector volunteers (Attachment B).

Volunteers should also make a realistic commitment in terms of both time and area of involvement and at the time they seek a licence or permission to act as a volunteer, acknowledge that the agency which they are volunteering expects these commitments to be fulfilled.

The responsibilities of volunteers must be made clear to them in the permission or licence granted to them to act as a volunteer and they should be provided with the information, training and/or resources necessary to enable them to meet these responsibilities.

9. RESPONSIBILITIES OF CHIEF EXECUTIVES, AGENCY HEADS OR DELEGATES

Agencies that engage persons as volunteers should:

- establish the role of prospective volunteer activities guided by agency guidelines and procedures;
- weigh up the costs and benefits involved in engaging volunteers;
- identify the relevant skills and/or knowledge volunteers can provide;
- ensure volunteers have the mental and physical capacity to perform the specific tasks required;

- consult appropriately with employees, unions and existing volunteers (where matters affect volunteers directly);
- ensure volunteer involvement is adequately resourced;
- consider the potential liability/risk exposure to the agency in using volunteers; and
- ensure volunteers are not used where employment should be utilised.

10. RECRUITMENT

Agencies that utilise volunteers should aim to foster the enlistment of a diverse range of persons as volunteers.

Creating a variety of volunteering opportunities that are flexible in terms of the availability and interests of potential volunteers is important in both recruitment and retention.

11. SCREENING AND SELECTION PROCESS

The main aim of screening and selection processes is to identify persons whose backgrounds may indicate they are unsuitable or prohibited to act as a volunteer. In addition, these processes assist in matching the expectations, interests, availability, commitment, and skills of prospective volunteers with activities to be undertaken.

A range of screening and selection processes needs to operate in respect of prospective volunteers including: expressions of interest, interviews, reference or character checks, screening and regular police checks, and induction sessions.

Volunteers who will be working with children (under 18), people with disability or the elderly will be required to undergo specific assessments in line with the relevant legislation.

12. ACTIVITIES

Creating a variety of volunteering opportunities that are flexible in terms of the availability and interests of potential volunteers is important in both recruitment and retention.

Agencies need to ensure that volunteer activities positively support the achievement of program and organisational objectives. The volunteer activity should be meaningful, both to the volunteer and in contributing to the work of the agency.

Agencies must make sure volunteers are provided with clearly written role descriptions.

Volunteers should not be exploited or expected to perform tasks that employees are reluctant to undertake.

13. TRAINING

Volunteers may require specialised skills or knowledge to perform volunteer activities. In these instances, volunteers should be provided with the necessary training, either informally through mentoring or on the job training, or formally through accredited training.

14. CONFIDENTIALITY

The responsibilities of volunteers to maintain confidentiality must be made clear to them in the permission or licence granted to them to act as a volunteer. They should be provided with the information, training and/or resources necessary to enable them to meet these responsibilities.

15. PRINCIPLES OF VOLUNTEER CONDUCT

The Code of Ethics for the South Australian Public Sector (the Code) does not apply to volunteers in public sector agencies. However, as a condition attached to the permission or licence granted to a person to act as a volunteer in a public sector agency, there should be a requirement for volunteers to act in a manner consistent with the Code.

The Principles of Conduct for South Australian Public Sector Volunteers (Attachment B) which are based on the Code outlines the values and standards of professional conduct expected of public sector volunteers. A requirement for volunteers to act in a manner consistent with these principles may be attached to the permission or licence granted to a person to act as a volunteer in a public sector agency.

There should also be reference to any other relevant legislation, industrial instrument or government guideline in the permission or licence granted to a person to act as a volunteer in a public sector agency.

Public sector agencies may choose to issue agency specific conduct standards. Such additional standards must be consistent with the Code and any other relevant legislation, industrial instrument or government guideline. Such standards must not be labelled as a 'code'.

As noted previously in this Guideline (section 7 Regulation of Volunteering) if a volunteer breaches the conditions attached to their permission or licence to act as a volunteer, this permission or licence may be withdrawn.

16. REIMBURSEMENT OF OUT-OF-POCKET EXPENSES

Agencies should provide all equipment and resources needed for a volunteer to undertake their role effectively. Where this is not possible, volunteers should be reimbursed for reasonable out-of-pocket expenses incurred as part of the performance of that role. These may include but not limited to: parking expenses; motor vehicle mileage or fuel allowance when volunteers use private cars, administrative costs associated with volunteer representative groups, training costs, uniform costs, volunteering related phone calls, and other incidental out-of-pocket expenses of individual volunteers.

Where agencies provide reimbursement of expenses, current rates for employees should provide a guide to appropriate levels and rates of reimbursement. Rates should be consistent across individual volunteer programs within an agency.

Volunteers may be required to seek and obtain permission to incur expenses prior to any expenditure and, where appropriate, provide receipts or other evidence of expenses incurred.

17. RECOGNITION

Volunteers should be recognised and acknowledged for their contribution, commitment and the valued roles they undertake within public sector agencies. This should be done on an ongoing and regular basis with a balance between formal and informal recognition and acknowledgement strategies.

For many volunteers, the provision of an environment in which their time, skills and experience are utilised in such a way that they receive the satisfaction of a 'job well done' may be sufficient recognition in itself. However, volunteers may also enjoy coming together as a team for a combined thank you from time to time. Some will appreciate public recognition whilst others may prefer more low key acknowledgement.

18. INSURANCE COVER FOR SOUTH AUSTRALIAN GOVERNMENT VOLUNTEERS

Uniform cover is provided to volunteers on the basis detailed below. The provision of this cover represents government policy but there is no contractual agreement entered into by government.

All registered volunteers that act in public sector agencies are covered by SAICORP, the insurance division of the South Australian Government Financing Authority, for bodily injury and death under certain criteria:

- The amount payable will reflect and be equivalent to the benefits that would have been payable to your volunteer under the *Return to Work Act 2014 (SA)* (the RTW Act).
- Weekly income is paid where a loss of income can be demonstrated and then only up to the RTW Act ceiling.
- For long term incapacities, benefit reductions in line with the RTW Act rules apply.
- Lump sums for death and for serious disability are paid on the same basis as the RTW Act schedule.
- In the event of injury, non-Medicare medical expenses incurred will be payable as set out in *section 18 – Definitions of this agreement* of the SAICORP Agency Agreement.
- The amount of any benefit payable will take account of benefits available to the volunteer under any private health insurance fund and will be less amounts recovered from that fund.
- No benefit is payable in respect of the Medicare gap between payments made by Medicare and charges incurred. Volunteers are covered in respect of civil liability as set out in the *Volunteers Protection Act 2001 (SA)*
- Agencies will follow the principles set out in their Agency Agreement with SAICORP when settling a claim below their nominated deductible (excess). Depending on the circumstances and the nature of an incident, agencies have the option of informing SAICORP of the incident including where the total claim is likely to be less than the excess.
- SAICORP makes no distinction between volunteers performing functions on private or public land.

The agency agreement between SAICORP and agencies does not provide cover for a volunteer's vehicle and other personal property. If a volunteer's vehicle or other asset were to be damaged while volunteering or involved in State Government business, the volunteer would need to make a claim through their own insurance company. Any claim having the potential to exceed the excess, as per agency agreement, will be forwarded to SAICORP by the agency with sufficient information to support the claim. Specific insurance related questions by a volunteer or prospective volunteer should be directed to the agency's volunteer manager. For insurance purposes, SAICORP requires the details and numbers of all volunteers associated with public agency programs to be declared by each agency annually. Agencies are required to keep a

register of all volunteer groups operating in association with it and to report the number of volunteers to SAICORP through submission of the SAICORP Agency Agreement.

ATTACHMENT A: REGULATION OF VOLUNTEERS IN THE SOUTH AUSTRALIAN PUBLIC SECTOR

OTHER RELEVANT LEGISLATION

- *Return to Work Act 2014 (SA) (RTW Act) (replacing the Workers Rehabilitation and Compensation Act 1986)*

By virtue of Schedule 1 of the RTW Act, certain prescribed volunteers performing a prescribed class of work are deemed to be employees of the Crown. The class of volunteer and the class of work is set out in section 69(1) of the *Return to Work Regulations 2014*. The class of volunteers are volunteer fire fighters, volunteer SA State Emergency Services members and volunteer marine rescue. The provision imposes on the Crown the liabilities of a self-insured employer in relation to such people. The Crown is presumed to be their employer and they are entitled to workers compensation if they are killed or injured in the course of their duties.

- *The Fire and Emergency Services Act 2005 and the Volunteers Protection Act 2001 (section 4) limit the extent to which volunteers may be liable for negligence. Any liability is moved to the organisation or the Crown.*
- *Aged care providers funded by the Australian Government under the Aged Care Act 1997 are required to have staff and certain volunteers undergo a police check to assess their suitability to work in aged care. Organisations may choose to obtain a National Police Certificate or a National Criminal History Record Check as part of their recruitment process. As of 1 July 2014, new screening processes have been introduced through amendments to the Disability Services Act 1993 (SA) and corresponding Disability Services (Assessment of Relevant History) Regulations 2014. South Australians who volunteer in certain roles for disability service providers, funded under the Disability Services Act 1993 are now legally required to undergo Disability Services Employment Screening by the DHS Screening Unit.*
- *Health Care Act 2008 – An act to provide for the administration of hospitals and other health services and to establish systems to support the provision of high quality health outcomes, to provide licensing systems for ambulance services and private hospitals, to assist with the provision of laboratory services and facilities associated with veterinary science and for other purposes.*
- *The Independent Commissioner Against Corruption Act 2012 (the ICAC Act) established the Independent Commissioner Against Corruption (the Commissioner) and the Office for Public Integrity (OPI). OPI's role is to identify, investigate and refer for prosecution, corruption in public administration. The ICAC Act creates reporting obligations for public officers (as defined in Schedule 1 of the ICAC Act) where corrupt conduct or misconduct or maladministration that is 'serious or systemic' is reasonably suspected. In some circumstances, public sector volunteers may be deemed to be public officers.*
- *The Children and Young People (Safety) Act 2017 replaces the Children's Protection Act 1993 and ensures that keeping children and young people safe from harm is paramount. The new Act has been implemented in two phases, the first phase commenced on 26*

February 2018 and the remaining sections of the Act commenced on 22 October 2018 (these are the majority of the sections, including those that place obligations upon organisations to provide safe environments for children and young people).

- The *Children and Young People (Safety) Act 2017* imposes an obligation on certain organisations to be safe (which in turn means undertaking screening checks).
- *Child Safety (Prohibited Persons Act) 2016* commenced on 1 July 2018 and governs the undertaking of screening checks and aims to ensure that a person who is assessed as being of high risk to the safety of children will be prohibited from working or volunteering with them. It will be an offence for an organisation to engage a person in a work or volunteer role where this is the case. Once the new law is completely enacted, certain people will not, unless they are a prohibited person or provide certain education or early childhood education services, need a working with children check.

RELEVANT GUIDELINES

- **Volunteering Strategy for South Australia (2014–2020)**

The strategy was developed through a partnership between Volunteering SA&NT, the Government of South Australia, the Local Government Association and Business SA. It is a collaborative blueprint for action that sets in place the vision for volunteering in South Australia over six years.

- **A Strong Plan (Liberal Government)**
- **Department of the Premier and Cabinet Strategic Plan 2019-2020**

RELATED RESOURCES

- **National Standards for Volunteer Involvement, 2015 Volunteering Australia Inc.**

These Standards for best practice volunteer management developed by Volunteering Australia contain an overview of key areas with accompanying checklists.

- **Volunteering Australia's Model Code of Practice for Organisations Involving Volunteers**

Based on the national standards, the Code identifies policy considerations for organisations with volunteers.

- **An online learning module Implementing the Commissioner's Guideline – Volunteers**, has been developed to assist those who are responsible for public sector volunteer programs or who provide advice about managing volunteers.

ATTACHMENT B: EXPECTED BEHAVIOURS, RESPONSIBILITIES AND RIGHTS OF SOUTH AUSTRALIAN PUBLIC SECTOR VOLUNTEERS

PRINCIPLES OF CONDUCT

Public sector agencies should ensure that persons desiring to act as a volunteer in the agency and public sector, familiarise themselves with the content of these Principles, and as to the requirement that as part of the licence or permission granted to them to act as a volunteer, they are at all times whilst performing volunteering functions to conduct themselves in a manner consistent with the values and standards of professional conduct that are set out herein. They should also be informed that a possible consequence of a failure to act in a manner consistent with these Principles of Conduct may be revocation of the licence or permission to act as a volunteer. The values and standards outlined in these Principles of Conduct build upon the following foundations of public services:

DEMOCRACY

Public sector volunteers support the government of the day in achieving the common good, primarily by providing services to the community. An emerging feature of South Australia's democracy is a higher level collaboration between the public sector and the community in the design and delivery of services and the involvement of people in decisions that affect their lives.

IMPARTIALITY

Public sector volunteers must be detached from political influence and the influence of partisan interests within the community. Instead, public sector volunteers must rely on evidence to provide objective advice to Government and implement directions promptly and thoroughly.

Public sector volunteers must not publicly criticise the government, staff or other volunteers in any forum, including on social media sites.

ACCOUNTABILITY

Within a broad system of accountability under which ministers are accountable to parliament, public sector volunteers are accountable for exercising their delegated authority and for performing their role within the values and standards of conduct outlined in these principles.

DIVERSITY

Public sector volunteers should be as diverse as the community it serves. The views and experiences of all people should be respected, regardless of nationality, gender, cultural or social background, sexuality, religion, age or physical or intellectual ability.

VALUES

The South Australian Public Sector is continuously evolving. Values have been defined for the public sector which is in part based on the traditional tenets of public service. Yet they also reflect the evolution of the sector and the modern world in which it operates. All public sector volunteers should endeavour to embody the values in their volunteering efforts. The values are:

- Service: Proudly serve the community and Government of South Australia.
- Professionalism: Strive for excellence.
- Trust: Have confidence in the ability of others.
- Respect: Value every individual.
- Collaboration and Engagement: Create solutions together
- Honesty and Integrity: Act truthfully, consistently and fairly.
- Courage and Tenacity: Never give up
- Sustainability: Work to get the best results for current and future generations of South Australians.

VOLUNTEER CONDUCT STANDARDS

General compliance

Public sector volunteers will act in a manner consistent with all legislation, industrial instruments, policies and procedures and lawful and reasonable directions relevant to their role.

Professional and courteous behaviour

Public sector volunteers must at all times display professional behaviour and treat others with respect and courtesy. Volunteers are seen as representing the public sector agency in which they work and must act in a manner which will not in any way discredit the Government.

Public comment

Public sector volunteers will only make public comment in relation to their functions, the public sector or government policies and programs where specifically authorised to do so, and will restrict such comment to factual information and professional advice. Public sector volunteers have the right to contribute to public discussions on community and social issues in a private capacity.

Handling official information

Public sector volunteers with access to official information will ensure it is only used for official purposes and will be handled according to relevant legislation and public sector agency policies and procedures. Volunteers will only disclose official information acquired through the course of their volunteering when required to do so by law or where appropriately authorised in the agency concerned.

Use of government/public resources

Public sector volunteers shall use government / public resources responsibly and only for the appropriate purposes as authorised. Government / public resources include physical, financial, technological and intellectual property.

Conflicts of interest

Public sector volunteers must guard against a conflict of interest by ensuring that personal interest does not improperly influence the way in which they carry out their duties. Volunteers must declare any known conflict of interest and not participate in any decision-making process where they have a conflict of interest.

Acceptance of gifts and benefits

Public sector volunteers will not, for themselves or others, seek or accept gifts or benefits that could be reasonably perceived as influencing them. Volunteers must comply with any policies of their public sector agency in relation to accepting, declaring and/or recording the receipt of gifts or benefits.

Criminal offences

Public sector volunteers will advise their manager / coordinator if they are charged with a criminal offence and if admitted or proven, there would be the propensity for the volunteer, agency, public sector and/or Government is brought into disrepute.

Reporting unethical behaviour

Public sector volunteers will report to the appropriate authority workplace behaviour that violates any law, is a danger to the environment or represents corrupt conduct and maladministration, as defined in the *Independent Commissioner Against Corruption Act 2012*. *The Public Interest Disclosure Act 2018* informs volunteers of their rights and responsibilities where applicable in the particular circumstances.

VOLUNTEER RIGHTS

The South Australian Public Sector is committed to applying the *Volunteering Australia National Standards* to processes and practices involving volunteers. Accordingly, it supports the following as the basic rights of a volunteer:

Volunteers have the right:

- To perform their duties in a safe working environment;
- To be engaged in a manner that does not offend equal opportunity and anti-discrimination legislation;
- To be adequately covered by insurance in connection with their volunteering functions;
- To be given accurate and truthful information about the organisation for which they are volunteering;
- To be reimbursed for out of pocket expenses upon the production of proof of expenditure;
- To be given a copy of the relevant agency's volunteer guideline;
- Not to do the work of paid staff during industrial disputes;
- To be provided with a description of their functions and agree as to the hours they will perform as a volunteer;
- To be provided with orientation to the organisation;
- To have their confidential and personal information dealt with in accordance with the principles of the Information Privacy Principles;
- To be provided with the appropriate training, assistance and information to meet the responsibilities of their volunteering role and functions;
- To receive support and feedback in relation to the performance by them of their volunteering role and functions;

- To receive support and feedback in relation to the performance by them of their volunteering functions; and
- To be acknowledged and appreciated for their contribution to the agency, public sector and community.

AGENCIES ARE TO MAKE PROSPECTIVE VOLUNTEERS AWARE THEY HAVE A RESPONSIBILITY TO

- provide current personal details in order for agencies to undertake the selection and registration of volunteers and administer their duty of care responsibilities (including undertaking a screening assessment);
- become familiar with and comply with this Guideline and any relevant agency-level policy;
- be reliable and accountable for their actions as a volunteer;
- respect the privacy of others;
- carry out volunteering functions according to the role description;
- in so far as is reasonably practicable, to work in a safe manner and take reasonable care for their own health and safety, ensuring their actions do not adversely affect the health and safety of others;
- be committed to the public sector agency, the public sector and its volunteer philosophy;
- undertake training as required;
- value and support others; and
- provide reasonable notice if unable to continue volunteering in the agency.

FURTHER INFORMATION

Legislation and regulations possibly relevant include:

- *Independent Commissioner Against Corruption Act 2012*
- *Equal Opportunity Act 1984*
- *Freedom of Information Act 1991*
- *Work Health and Safety Act 2012*
- *Return to Work Act 2014*
- *Public Interest Disclosure Act 2018*
- *State Records Act 1997*
- *Disability Discrimination Act 1992*
- *Fire and Emergency Services Act 2005*
- *Volunteers Protection Act 2001*

Other relevant information:

- *Information Privacy Principles*
- *Directions and Guidelines Issued By the Independent Commissioner Against Corruption*
- *Office for Public Integrity and Independent Commissioner Against Corruption*
- *Office for Volunteers*