



# ACT

Government

Chief Minister and Treasury

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## GUIDELINES FOR THE GRANTING OF LEAVE TO ACT PUBLIC SERVANTS WHO APPLY TO DO VOLUNTEERING WORK

- HR Managers/Directors

### Purpose

1. To provide Agencies with information on:
  - general principles against which to assess volunteering applications for leave;
  - advice on the periods of paid and unpaid leave which can be granted;
  - details on how to apply for leave;
  - details on the authority to pay;
  - how delegates can approve leave; and
  - advice on workers compensation and insurance issues.

### ALL STAFF APPLYING FOR VOLUNTEER LEAVE SHOULD BE GIVEN A COPY OF THESE GUIDELINES AT THE TIME OF APPLICATION

### ACT Public Service Employment Framework

2. The main elements of the ACTPS legislative framework are detailed below. Background knowledge of this framework is useful for all employment related issues.
  - [Public Sector Management Act 1994](#) and [Management Standards 2006](#);
  - Agency Certified Agreements;

- Template Agreement comprising Part 1: Common Core Conditions and Part 2: Agency specific conditions;
  - Non Template Agreements (occupational specific agreements); and
  - Awards.
3. The following represents a basic view of the employment framework:
- a) Workplace Agreements (including current Certified Agreements and Australian Workplace Agreements);
  - b) (*Fair Pay Commission Standards*)<sup>1</sup>
  - c) Awards
  - d) *Public Sector Management Act 1994*
  - e) *Public Sector Management Standards 2006*
4. The [PSM Act](#) and [Management Standards](#) are subordinate to Workplace Agreements and Awards. This is because Workplace Agreements and Awards are made under provisions of Commonwealth laws, which override inconsistent ACT laws.
5. See [Recruitment in the ACT Public Service](#) for further information on the legislative employment framework.

## Application

- 6. Under the Template Agreement agencies are committed to supporting staff who wish to volunteer. This Information Note provides a framework to support the Template Agreement provisions. This Information Note does not deal with arrangements under occupational specific agreements, or Part 2 Agency agreements.
- 7. Both the HR Council and UnionsACT have endorsed the guidelines in this Information Note.

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<sup>1</sup> Until the first Fair Pay Commission determination, expected in Spring 2006, the full effect of the Fair Pay Commission Standards in relation to the legislative employment framework is unknown.

## Definitions

**Conflict of interest** occurs when there is a conflict between the volunteer's personal interest, pecuniary or non-pecuniary, and the volunteer's official ACT public service duties.

**Pecuniary interest** is an interest that the volunteer has in a matter because of the reasonable likelihood or expectation of appreciable financial gain or loss to the volunteer or the community organisation with which the volunteer has an association.

**Non-pecuniary interest** is an interest that the volunteer has in a matter because it may involve family or other relationships, friendships, positions in associations such as community organisations, childcare centres, school committees, religious groups, sporting and social clubs, or other interests that the volunteer may have which do not involve financial gain or loss.

## Principles

8. The Government recognises that participation in community volunteering:

- can greatly assist the community at large;
- can greatly assist a community organisation;
- is a matter of choice for the volunteer;
- can help the volunteer balance their work, family and personal life; and
- can give the volunteer useful skills and knowledge.

9. Any volunteering work undertaken must not:

- involve any payment in cash or kind for work performed;
- replace work ordinarily done by a paid worker;
- as a general rule, be undertaken solely for direct personal benefit (for instance, in the employees own home, with the employees family, or for the employees own organisation or business);
- place the volunteer within a conflict of interest situation;
- involve violence towards people or property;
- be work which does not have a community focus; or

- be primarily focused on promoting particular religious or political views.
10. For those ACT public servants who undertake community volunteering, it is expected that they will always behave in a way that upholds the values and code of ethics of the ACT public service.

## **Volunteering in own time**

11. Normally public servants do not need to seek approval from agencies to undertake community volunteering outside of agency business hours or while the volunteer is on other approved leave. However, if there is an actual or potential conflict of interest there is a need to declare that conflict of interest under s9(j)(i) of the *Public Sector Management Act 1994* and to take action to avoid the conflict of interest under s9(j)(2) of that Act.

## **Less than one-day absences**

12. Where possible, absences of less than a day to undertake volunteering work should be covered by the flexible working arrangements provisions of the agency's certified agreement.

## **Unpaid leave**

13. Leave without pay up to a maximum of 20 days p.a. approved under this guideline will count as service for all purposes.

## **Paid leave**

14. Volunteers may be granted annually up to three days paid leave under the "leave not provided for elsewhere" provision of Schedule E of the Template Agreement. That provision reads:

If, but for this section, an employee cannot be granted leave, a Chief Executive may grant leave to the employee up to a maximum period of 12 months.

The Chief Executive may direct, in special circumstances, that a period of leave granted is to be with pay and/or to count as service having regard to:

- the purpose for which the leave is being taken;
- the length of service of the employee; and

- the length of the period for which the leave is being taken.

## **Emergency leave**

15. In addition to the above unpaid and paid leave provisions paid emergency leave is available under Schedule E of the Template Agreement. That provision reads:

Up to 4 days for each emergency granted to an employee who is a member of a State/Territory Emergency Service, fire-fighting service, search and rescue unit or other volunteer service performing similar functions to fulfil an obligation in the event of a civil emergency.

Additional paid leave may be approved by the Chief Executive for any volunteer duties required to be performed by an employee who is a member of a State/Territory Emergency Service.

## **With other leave**

16. Leave granted for community volunteering work may be taken in combination with approved recreation leave or long service leave.

## **Eligibility for community volunteering leave**

17. In applying for leave staff should be asked to consider the following:

- will the proposed volunteering activity meet the requirements of volunteer work (see [paragraph 8](#));
- is the community organisation or project an acceptable organisation or project;
- is there any risk that the volunteer will be placed in a real or perceived conflict of interest situation (see [definitions](#));
- will the volunteering activity involve personal expense;
- can they be spared from their work unit at the time they would like to take the leave? – Discussions should take place with Managers and supervisors on the possible need to support a prospective volunteers work during a proposed absence;

- that Comcare advise that due to the voluntary nature of the work it is unlikely that should an accident or injury occur whilst undertaking volunteering work that a workers compensation claim made on the ACT Government would be successful; and
- does the community organisation or project have in place adequate public liability and volunteer personal accident insurance.

## **How staff should apply**

18. Applications for leave to undertake voluntary community based work should be made on the leave system under Miscellaneous Leave/Community Volunteering.
19. Staff must provide managers with written advice from the community organisation that they have approached to perform volunteering work, and that advice must include for what period the work will be performed.

## **Approving a community volunteering leave application**

20. In considering an application for community volunteering leave, a delegate should ensure that issues listed in [paragraph 17](#) have been considered by the staff member. A delegate should only approve such leave after sighting written advice from the community organisation that the staff member has approached it to perform volunteering work ([paragraph 19](#)).
21. Delegates should be particularly mindful of conflict of interest situations when considering leave applications. Delegates should:
  - ensure that the volunteer recognises that activities such as seeking funding sources, preparation of grant applications and advocacy (particularly government lobbying) need to be undertaken with care, and preferably should not be done at all if the organisation is applying for funding from Government; and
  - be aware that even where the volunteer is not involved directly with a funding program, he/she may find themselves in a conflicting situation if they currently participate in coordinated cross-agency or intra-departmental meetings or work.
22. Volunteers could have a real conflict of interest if they seek to volunteer to serve as an office holder with an organisation that has been funded by a program developed, approved or managed by the area or another area of the department that the volunteer works closely with.

23. If a Delegate is uncertain about the possibility of a real or perceived conflict of interest, the delegate should discuss the circumstances with the volunteer's manager.

### **Workers' compensation**

24. Any workers' compensation claim made against the ACT Government as a result of undertaking community volunteering work will be assessed in the particular circumstances of each claim.

25. There is a risk that Comcare may not provide workers compensation cover to ACT public service employees who choose to undertake community volunteering work. Comcare has advised that workers compensation cover is not provided where "the activity remains truly voluntary and any employer encouragement is not of such a degree that it brings the activity within the course of the employment."

### **Public liability and personal accident insurance**

26. It is the volunteer's responsibility to ensure that the community organisation has adequate public liability and personal accident insurance. Adequate public liability insurance covers the volunteer against injury to another person and adequate personal accident insurance covers the volunteer against injury to themselves.

### **Further Information**

27. HR areas that require further information regarding the granting of leave to staff who apply to do volunteering work can contact:

- Senior Policy Officer on (02) 6205 0307.

28. Employees requiring further information are advised to contact their HR area for advice.