



Factsheet

V1.0 – February 2024

Volunteers will not ordinarily be public officers, however there are some circumstances where they might be.

Volunteering with State and Local Government authorities

Public authorities work with thousands of volunteers who deliver important and varied services to the South Australian community.

Volunteers will not ordinarily be public officers, however there are some circumstances where they might be.

When is a volunteer a public officer?

A Volunteer will be a public officer under the *Independent Commission Against Corruption Act 2012* if their volunteering role fits any of the categories of public officer listed in schedule 1 of the Act.

Schedule 1 contains three categories of public officers which may be relevant to those volunteering for government and local government authorities:

- A person who is a **member of a governing body of a statutory authority** or an employee of a statutory authority.
- A person to whom **a function or power of a public authority or a public officer is delegated in accordance with an Act.**
- A person who is, in accordance with an Act, **assisting a public officer in the enforcement of the Act.**

The question of whether a volunteer is a 'public officer' will depend on the volunteer's role and actions, and the legislation relevant to the agency where the individual is volunteering.

Volunteers unsure of whether they might be a public officer for the purposes of the ICAC Act should seek legal advice.

Volunteers who are public officers

It is important to understand when a volunteer is a public officer because public officers have obligations to report corruption in public administration to the Office for Public Integrity and may themselves be reported and investigated.

Corruption in public administration is defined in section 5 of the ICAC Act. It involves certain criminal offences including:

- Bribery or corruption of public officers
- Threats or reprisals against public officers
- Abuse of public office
- Offences relating to appointment to public office

Public officers are also encouraged to report suspected misconduct¹ and maladministration² to the [Ombudsman SA](#).

Volunteers who are not public officers

A volunteer who is not a public officer will still have an obligation to act in accordance with law and the terms outlined in any volunteer arrangement into which they may have entered.

A volunteer who is not a public officer should still report any conduct they suspect to be corruption even though there is no obligation to do so.

While the ICAC Act does not ordinarily apply to individuals who are not public officers, it will apply to individuals who have aided or abetted the commission of a corruption offence or conspired to effect the commission of an offence.³

Actions to prevent or minimise corrupt or improper conduct by volunteers

General obligations

Notwithstanding the significant contribution volunteers make to the South Australian community, public authorities should apply measures to ensure their agencies are protected against corrupt and improper behaviors by volunteers.

This should occur irrespective of whether a volunteer is a public officer under the ICAC Act.

Public authorities who engage volunteers should have a policy describing how volunteers are engaged and supported. This should be regularly reviewed.⁴ Records of volunteers should be accurate and up to date⁵ and include alerts for the expiration of relevant screening.

Volunteers should be inducted and provided training relevant to their role, including training about the [Code of Ethics for the South Australian Public Sector](#),⁶ the Expected Behaviors, Responsibilities and Rights of South Australian Public Sector Volunteers,⁷ and any relevant agency specific legislation, code or policy. This is particularly so for volunteers performing a statutory function or who are a member of a governing body of a statutory authority.

Volunteers should be recognised, supported and appropriately supervised. A contact person should be available to receive any issues raised by the volunteer.⁸

1 Misconduct involves an intentional and serious contravention of a code of conduct by a public officer, while acting in their capacity as a public officer. See the *Ombudsman Act 1972 (SA)* s 4(1).

2 Maladministration involves the mismanagement of public money, resources or functions and is often the result of poor governance or negligence. See the *Ombudsman Act 1972 (SA)* s 4(2).

3 *Independent Commission Against Corruption Act 2012 (SA)* s 5.

4 Guideline of the Commissioner for Public Sector Employment, *Volunteers (July 2022)* p 6.

5 Guideline of the Commissioner for Public Sector Employment, *Volunteers (July 2022)* p 8.

6 The Code of Ethics for the South Australian Public Sector does not apply to volunteers. However, volunteers are expected to act in a manner consistent with this Code.

7 Guideline of the Commissioner for Public Sector Employment, *Volunteers (July 2022)* pp 9 and 16.

8 Guideline of the Commissioner for Public Sector Employment, *Volunteers (July 2022)* p 8.

Before a volunteer is engaged

Public authorities should consider the potential liability and risk exposure to the agency when using volunteers.⁹ Volunteers should not be used to perform functions that should be performed by employees.¹⁰

A range of screening and selection processes should be used to identify and engage prospective volunteers. Volunteers with greater risks attached to their roles will inevitably require more robust screening practices. Volunteers working with children, people with disability or the elderly are required to undergo specific assessments in line with relevant legislation.¹¹

Volunteer agreement

Volunteers should be made aware of their rights and obligations appropriate to the activity being conducted.

In some cases, particularly when the volunteering activity is once off and low risk, it may only be necessary to record those in attendance and provide the volunteers with a verbal briefing.

However, in many instances, a prospective volunteer should understand and sign an agreement outlining both the volunteer and the agency's obligations.

The conditions attached to the agreement should include a requirement for the individual to:

- act in a manner consistent with the [Code of Ethics for the South Australian Public Sector, the Expected Behavior, Responsibilities and Rights of South Australian Public Sector Volunteers](#),¹² and any relevant agency specific standards and policies. A copy or link to these documents should be provided to the volunteer
- treat agency, personal and confidential information in accordance with relevant privacy instructions¹³
- disclose to their contact person any conflicts of interest or gifts or benefits offered to them in their role as a volunteer
- take part in an induction, orientation and other training activities¹⁴
- provide accurate and honest information to public sector employees and officers of the Crown, other volunteers, customers and members of the public¹⁵
- use government resources efficiently and only for appropriate purposes as authorised
- report to their nominated contact person at their earliest opportunity any changes to their criminal history
- report to the Office for Public Integrity any matter they reasonably suspect of involving corruption in public administration.¹⁶

The agreement should include the name of a contact person to whom queries or complaints can be made¹⁷ and should be revocable if the volunteer breaches the conditions of the agreement.

9 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 8.

10 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 8.

11 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 9.

12 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 9.

13 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 7.

14 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 7.

15 Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 7.




16 Unless the volunteer is a public officer under schedule 1 of the ICAC they do not have legal obligations to report corruption in public administration. That is not to say it should not be included as a condition to volunteering. Volunteers should also be encouraged to report to the Ombudsman matters they suspect to involve misconduct or maladministration.

17 Subject to procedural fairness. Guideline of the Commissioner for Public Sector Employment, *Volunteers* (July 2022) p 6.

Resources

- [Guideline of the Commissioner for Public Sector Employment, including Attachment B: Expected behaviors, responsibilities and rights of South Australian public sector volunteers \(July 2022\)](#)
- Office of the Commissioner for Public Sector Employment, Volunteers online learning module (currently under review)
- [Volunteering Strategy for South Australia 2021-2027](#)
- Public Sector Volunteer Policy Network, established by the Commissioner for Public Sector employment. It is a resource for volunteer policy makers and managers of volunteer programs within public sector agencies. The secretariat can be contacted at ofv@sa.gov.au
- [South Australia State Disability Inclusion Plan](#)

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