

Emergencies (ACTESA Volunteer Code Conduct and Ethics) Commissioner's Guidelines 2023

Notifiable instrument NI2023–196

made under the

Emergencies Act 2004, s 11 (Commissioner may make guidelines)

1 Name of instrument

This instrument is the *Emergencies (ACTESA Volunteer Code Conduct and Ethics) Commissioner's Guidelines 2023*.

2 Commencement

This instrument commences on the day after its notification.

3 Commissioner's Guidelines

After consulting with the Chief Officer (Fire and Rescue), the Chief Officer (ACT Rural Fire Service) and the Chief Officer (ACT State Emergency Services) I make the guidelines entitled "ACTESA Volunteer Code of Conduct and Ethics" at Schedule 1.

4 Revocation

I revoke NI2011-323 *Emergencies (Appointment and Probation Arrangements for Volunteers) Commissioner's Guidelines 2011* and NI2011-324 *Emergencies (Suspension and Disciplinary Arrangements for Volunteers) Commissioner's Guidelines 2011*.

Georgeina Whelan AM, CSC and Bar
ACT Emergency Services Commissioner
11 April 2023

Schedule 1

ACT Emergency Services Agency

COMMISSIONER'S GUIDELINES

for

Volunteer Code of Conduct and Ethics

2023

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1. PURPOSE

1.1 These Commissioner's Guidelines –Volunteer Code of Conduct and Ethics (the Volunteer Code) are made in accordance with the *Emergencies Act 2004 (the Act)* to articulate the authority of the ACT Emergency Services Agency (ACT ESA) Commissioner, ACT ESA Chief Officers and any ACT public sector employee who is authorised, under a delegation of power, to act in relation to volunteer conduct in the interests of the ESA and its respective services.

1.2 The Volunteer Code provides directions for:

- becoming a volunteer member of the ACT ESA
- the standards of conduct required of volunteers
- the management of complaints and allegations of inappropriate behaviour
- the management of misconduct investigations and subsequent disciplinary actions applicable to volunteer members of the ESA
- the framework of procedural fairness for volunteer members raising allegations and conduct issues, and for the respondents to such issues.

2. APPLICATION

2.1 The Volunteer Code applies to all volunteer members of the:

- ACT ESA Mapping and Planning Support (MAPS)
- ACT Community Fire Unit (CFU), ACT Fire & Rescue
- ACT Fire & Rescue Historical Society
- ACT Rural Fire Service (ACTRFS)
- ACT State Emergency Service (ACTSES).

2.2 The Volunteer Code also applies to any other person appointed as an emergency services support volunteer under section 59CA of the Act (Appointment of emergency services support volunteers).

2.3 The Volunteer Code does not apply to a casual volunteer as defined in section 59D of the Act.

3. AUTHORITY

3.1 The Commissioner's Guidelines are issued under section 11 (4) (d) of the Act, which states:

11 Commissioner may make guidelines

(4) *The commissioner's guidelines may make provision in relation to—*

(d) *anything else in relation to the strategic organisation and operation of each of the emergency services that the commissioner considers appropriate.*

Examples

- 4 *guidelines for ending appointments of volunteer members (including application of the rules of natural justice)*

Sections 59B, 59C and 59CA of the Act provide the legislative framework for appointing and ending the appointment of volunteers as follows:

59B Appointment of volunteer members

- (1) *The chief officer of a service may appoint a person as a volunteer member of the service.*
- (2) *The chief officer may end the appointment at any time in accordance with the commissioner's guidelines for the service.*

59C Volunteer appointments in accordance with guidelines

- (1) *The appointment of a person as a volunteer member of a service must be in accordance with the commissioner's guidelines for the service.*
- (2) *Without limiting subsection (1), the appointment of a volunteer may be made to—*
 - (a) *an operational unit in the service; and*
 - (b) *a rank in the service.*
- (3) *In this section:*
operational unit *includes a brigade.*

59CA Appointment of emergency services support volunteers

- (1) *The commissioner may appoint a person as a volunteer (an **emergency services support volunteer**)—*
 - (a) *to assist the commissioner to perform the commissioner's functions under this Act; or*
 - (b) *to assist an emergency service to perform the functions given to the service under this Act.*
- (2) *However, the commissioner may not appoint a person under subsection (1) if it would be more appropriate for the chief officer of the service to appoint the person as a volunteer member of the service.*
- (3) *The appointment of a person to assist an emergency service must be in accordance with the commissioner's guidelines for the service.*

Chief Officers have the power to determine service specific policies and procedures to guide volunteers.

38 Standards and protocols for the services

- (1) *The chief officer of an emergency service may, in writing, determine standards and protocols about anything relating to the operation of the service that is not inconsistent with the commissioner's guidelines.*

4. ACT ESA VOLUNTEER MEMBERSHIP

- 4.1 The ACT ESA has the objective of protecting life property and the environment in the ACT. The ESA achieves this using appropriately skilled and trained career and volunteer members of the:
- ESA Mapping and Planning Support (MAPS)
 - ACT Community Fire Unit (CFU), ACT Fire & Rescue
 - ACT Fire & Rescue Historical Society
 - ACT Rural Fire Service (ACTRFS)
 - ACT State Emergency Service (ACTSES)
- collectively known as the 'ESA Volunteer Services'.
- 4.2 ACT ESA Volunteer Services have service specific eligibility requirements for volunteer membership that must be satisfied by applicants before volunteer membership with an ACT ESA Volunteer Service is approved.
- 4.3 An individual may seek to join the ACT ESA as a volunteer by making an application to the relevant ACT ESA Volunteer Service in accordance with that Service's process.
- 4.4 An individual may be a volunteer of more than one ACT ESA Volunteer Service.
- 4.5 On acceptance of ACT ESA volunteer membership, all volunteers will be required to acknowledge their agreement to the requirements of this *ACT ESA Commissioner's Guidelines – Volunteer Code of Conduct and Ethics*.

5. ACT ESA VOLUNTEER CONDUCT PRINCIPLES

- 5.1 The ACT ESA Values and Signature Behaviours of Respect, Integrity, Collaboration and Innovation, underpin the conduct and behaviour of volunteers.
- 5.2 All ACT ESA volunteers will maintain the highest standards of behaviour in the performance of their volunteer role and responsibilities by:
- 5.2.1 Acting in accordance with the ACT ESA Values and Signature Behaviours and ACT ESA Volunteer Service policies and procedures, together with relevant Territory and Commonwealth laws.
 - 5.2.2 Acting and communicating honestly, respectfully, responsibly, and with integrity.
 - 5.2.3 Treating others with fairness, equity, dignity, and respect.
 - 5.2.4 Performing their role to the best of their ability in a safe, efficient, and competent manner.
 - 5.2.5 Ensuring adherence to safety procedures, including obligations regarding the health, safety and welfare of self and others, in line with legislative obligations and commensurate with individual training levels.
 - 5.2.6 Protecting and maintaining the confidentiality and privacy of personal records, and not misusing or disclosing information obtained during volunteer activities.

- 5.2.7 Disclosing any actual or perceived conflict of interest, including details of any material personal interest, gifts, and/or benefits gained through volunteering service with the ACT ESA.
- 5.2.8 Ensuring ACT Government facilities, vehicles, and equipment are maintained and used for their intended purpose in an efficient, economical, and responsible manner.
- 5.2.9 Refraining from comment that could be perceived as the official comment of or on behalf of ACT ESA, including for the purposes of social media.
- 5.2.10 At all times modelling the values and upholding the integrity of the ACT ESA and the respective volunteer service, and the good reputation of ACT ESA volunteers.

6. RESOLVING CONFLICT AND DISPUTES

- 6.1 The ACT ESA is committed to providing an environment that is respectful, fair and equitable, and where all volunteers are able to engage in their volunteer service without fear of discrimination and harassment.
- 6.2 It is recognised that issues may arise between volunteer members and/or volunteer members and paid employees that require resolution.
- 6.3 Where an issue arises a volunteer member or paid employee may raise the issue with the relevant ACT ESA Chief Officer or service nominee, or ACT ESA Commissioner or nominee, in accordance with the ACT ESA Volunteer Misconduct and Discipline Procedure.
- 6.4 All respondents to an issue involving a complaint or allegation will be provided with an opportunity to respond, in accordance with the principles of procedural fairness.

7. MISCONDUCT

- 7.1 Misconduct by an ACT ESA volunteer member may include but is not limited to any of the following where the:
 - 7.1.1 ACT ESA volunteer fails to meet the obligations set out in the Volunteer Code, including wilful or deliberate behaviour that is inconsistent with the Volunteer Code.
 - 7.1.2 ACT ESA volunteer engages in conduct that the ACT ESA Commissioner, relevant Chief Officer and/or relevant ESA Executive member is satisfied may bring or has brought the ACT ESA, the JACS Directorate and/or ACT Government into disrepute.
 - 7.1.3 ACT ESA volunteer is found guilty of, or is convicted of a criminal offence, or where a court finds that a volunteer has committed an offence, but a conviction is not recorded, considering the circumstances and seriousness of the offence, the duties of the volunteer and the interests of the ACT ESA, JACS Directorate and the ACT Government.
 - 7.1.4 ACT ESA volunteer fails to notify the Commissioner, Chief Officer or ACT ESA Executive member of criminal charges.

- 7.1.5 ACT ESA volunteer makes a vexatious or knowingly false allegation against another ESA employee and/or ESA volunteer.
- 7.1.6 complaints or allegations involving a vulnerable person [*Working with Vulnerable People (Background Checking) ACT 2011*].
- 7.1.7 complaints or allegations of child abuse or child-related misconduct [*ACT Reportable Conduct Scheme*].
- 7.1.8 actual threats made by a volunteer member to another individual.
- 7.1.9 theft or fraud or corrupt conduct including the misuse of Government resources, conflicts of interest, use of gifts and benefits.
- 7.1.10 assault against another person inclusive of domestic or sexual violence.
- 7.1.11 being intoxicated while performing any duty or while attending any ACT Government premises.
- 7.1.12 loss or revocation of required licences and/or registrations.

8. SERIOUS MISCONDUCT

- 8.1 Serious misconduct means conduct that is so serious that it may be inconsistent with the continuation of the volunteer's membership with the ACT ESA and may lead to termination of volunteer membership.

9. ALLEGATIONS AND COMPLAINTS

- 9.1 Allegations and/or complaints will be taken seriously and managed in accordance with the ACT ESA Volunteer Misconduct and Discipline Procedure.
- 9.2 ACT ESA will afford procedural fairness and natural justice for all parties to complaints and allegations consistent with the ACT ESA Misconduct and Discipline Procedure.

10. SUSPENSION OF VOLUNTEERS

- 10.1 A volunteer may be suspended from their respective volunteer service at the discretion of the ACT ESA Commissioner, relevant Chief Officer, and/or ACT ESA delegate in the interests of the ACT ESA, JACS Directorate, or ACT Government.
- 10.2 The ACT ESA Commissioner, relevant Chief Officer and/or ACT ESA delegate will determine the period of suspension based on the nature of the allegations, and determination of the requirement for investigation of the misconduct allegations.
- 10.3 The ACT ESA Commissioner, Chief Officer or ACT ESA delegate, will not propose suspension of a volunteer without informing them of the reasons for the proposed suspension.
- 10.4 An ACT ESA volunteer who is advised they will be suspended will be informed of the process for managing the allegations against them and provided with an opportunity to respond, in accordance with the principles of procedural fairness.
- 10.5 Where criminal charges are laid against an ACT ESA volunteer and the interests of the ACT ESA, JACS Directorate, or the ACT Government may be adversely affected, the ACT

ESA Commissioner, relevant Chief Officer or ESA delegate may suspend the volunteer pending the resolution of those charges.

11. FINDINGS OF MISCONDUCT – IMPOSITION OF PENALTIES

- 11.1 Where allegations of misconduct are upheld on conclusion of an investigation and in accordance with the ACT ESA Volunteer Misconduct and Discipline Procedure, a volunteer may have a penalty imposed on their membership status.
- 11.2 The penalties applicable to findings of misconduct include:
- 11.2.1 a written admonishment
 - 11.2.2 demotion
 - 11.2.3 transfer to another Unit/Brigade
 - 11.2.4 suspension for a defined period of time
 - 11.2.5 disqualification from leadership positions
 - 11.2.6 termination of volunteer status
 - 11.2.7 another condition imposed on the membership status appropriate to the circumstances.
- 11.3 The ACT ESA Commissioner will nominate an ESA Executive as the responsible officer for coordinating investigations, findings of misconduct, and proposing penalties to the ACT ESA Commissioner, relevant Chief Officer, or ESA Executive of the volunteer service.
- 11.4 Where there is a determination of misconduct the ACT ESA Commissioner, the relevant Chief Officer or ESA Executive of the volunteer service, may propose a penalty to be imposed on the volunteer member. The volunteer member will be offered the opportunity to respond prior to a final determination regarding the penalty.
- 11.5 Where a volunteer is a member of more than one Service, an ESA Chief Officer or ESA Executive may recommend that the penalty imposed be applied to all ESA memberships for that volunteer.

12. SUSPENSION AND PENALTIES FOR ESA EMPLOYEE WITH VOLUNTEER MEMBERSHIP STATUS

- 12.1 Where an allegation of misconduct relates to the conduct of an ESA member's volunteer activities, the investigation and any sanction will be in accordance with these Commissioner's Guidelines.
- 12.2 Where the conduct impacts the volunteer member's ability to undertake their paid employment within the ACT Public Sector or is determined to be inconsistent with the obligations of an ACT Public Sector employee, the appropriate processes of the ACTPS employment framework may be applied.

13. REPORTING TO OTHER PARTIES

- 13.1 Matters raised through or investigated under these Guidelines will be reported as appropriate. This may include allegations:
- 13.1.1 of a criminal nature
 - 13.1.2 that may affect Working with Vulnerable People registrations or other registrations
 - 13.1.3 that may constitute Reportable Conduct.

14. APPEALS

- 14.1 A volunteer has the right to appeal against a finding of misconduct, including any decision to take disciplinary action or to apply a penalty, in accordance with these guidelines and the ACT ESA Volunteer Misconduct and Discipline Procedure.
- 14.2 The volunteer member may appeal a finding of misconduct and penalty by writing to the Emergency Services Commissioner.
- 14.3 Applications for appeal must be made to the ACT ESA Commissioner in writing, within 14 days of the finding being communicated to the volunteer member or representative and must clearly outline the reasons for appeal.
- 14.4 Where the original determination was a decision of the ACT ESA Commissioner, the appeal will be referred to an ACT Public Sector executive member external to the ACT ESA for review.
- 14.5 The decision of any appeal is not subject to review.

15. LEAVING THE ESA

- 15.1 A volunteer's membership with the ACT ESA may cease by:
- 15.1.1 notice of resignation submitted in accordance with the relevant Service's policy, or in the absence of any relevant policy, to the Chief Officer or Executive member
 - 15.1.2 inactivity as outlined in Service requirements
 - 15.1.3 termination as a result of misconduct.
- 15.2 On cessation of an individual's volunteer status all equipment provided during their ESA membership must be returned to their place of volunteering or, by prior agreement, to ESA Headquarters. This includes all uniforms, identification card, keys and equipment.