Guidelines for participation with the Australian Civilian Corps
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Background

The Australian Civilian Corps (ACC) is a Commonwealth Government initiative managed by AusAID. It is a deployable civilian capability that provides rapid help to countries affected by natural disaster or conflict. AusAID maintains a register of civilian specialists experienced in disaster recovery, stabilisation and post-conflict recovery, who are able to be deployed quickly. ACC specialists work with and within the governments of countries affected by crisis to rebuild state functions, reinstate the rule of law and restore essential services.

There is extensive information about the ACC on the AusAID website at www.ausaid.gov.au.

The Australian Civilian Corps Act 2011 and associated Regulations provide the legislative framework for individuals to participate in the ACC. They are available online at the Commonwealth Government ComLaw website at www.comlaw.gov.au.

Using these guidelines

These guidelines provide an overview of the main things to consider if Western Australian state government employees\(^1\) wish to participate in the ACC. The guidelines are aimed at both employers and employees and will assist both parties to meet their various obligations.

However, the information in the guidelines is generic and needs to be considered in conjunction with employment and superannuation arrangements. The information is correct at the time of publication but is subject to change. It is essential that detailed advice is sought from the agency that has the relevant expertise. Contact details of these agencies are included in these guidelines. For general inquiries contact the Agency Support Division at the Public Sector Commission on (08) 6552 8600.

\(^1\) These guidelines are aimed at public sector employers and employees. However, the term ‘Western Australian state government employees’ encompasses a broader range of people that may be similarly affected by the ACC opportunity.
These guidelines should be read in conjunction with

- Public Sector Commissioner’s Circular 2012-03 Participation with the Australian Civilian Corps, see www.publicsector.wa.gov.au (refer to the Publications and resources pages)
- Department of Commerce Circular to Departments and Authorities No. 13 of 2012 - Australian Civilian Corps, see www.commerce.wa.gov.au (refer to Labour Relations, Public Sector, Resources pages).

**Employer obligations**

Employers should be familiar with the policy framework for these guidelines detailed in the Public Sector Commissioner’s Circular 2012-03. Participation with the Australian Civilian Corps. It is not necessary to take any other action unless an employee makes a request to participate in the ACC, in which case refer to these guidelines.

Employers are not obliged to approve a request from an employee to participate in the ACC.

It is expected that only a small number of Western Australian state government employees, perhaps up to twenty, are likely to participate in the ACC. Therefore, it is unlikely that employers will need to develop additional policies with regard to managing employee participation in the ACC.

In the event that an employee participates in the ACC, employers will need to ensure that the usual obligations set out in the Public Sector Management Act 1994 (PSM Act), State Records Act 2000 and similar statutory instruments relevant to the administration of the agency and management of employees are met.

**Issues to consider in joining and participating with the Australian Civilian Corps**

Participation in the ACC is likely to offer individuals with many new experiences and opportunities. However, employees should be aware that these new experiences may come with some degree of risk depending on a range of factors such as going to places where conflict has been, or perhaps still is, taking place.

Employees should ensure that they are fully informed about the issues by reading through these guidelines, contacting the relevant agencies and referring to the ACC section of the AusAID website at www.ausaid.gov.au/acc.

AusAID has eligibility requirements and assessment criteria, including medical suitability and security screening, that must be satisfied in order to participate in the ACC. These are detailed on the ACC website.

Participation in the ACC consists of three stages; registration, training and deployment. The flowchart diagrams at the end of the guidelines summarise the key steps for
employees and employers when employees are considering registering and being deployed as ACC employees.

Employees are fully responsible for making themselves aware of, and managing, matters regarding participation in the ACC including seeking independent advice on their entitlements in relation to superannuation, workers compensation and taxation. Apart from meeting statutory obligations, neither the employer nor any other state government entity is responsible for making any arrangements on behalf of employees.

Registration

An employee wishing to proceed with participation in the ACC should discuss it with the employer. The flowchart diagram ‘Considerations for joining the ACC’ shows the key steps to be followed.

There is no obligation on the employer to support an application by an employee to participate in the ACC. However, if support is given, an important step is for the employer to sign the ACC Agreement to Release form. The release form does not give rise to any legal obligation to release an employee when the employee is identified as suitable for ACC training or deployment, but it indicates the employer supports the employee’s intention to join the ACC register.

If an employee is seconded to another agency and wishes to participate in the ACC additional complexities arise and the employee must ensure that both the home and temporary employers are informed, kept up to date with changing arrangements and provide relevant approvals.

A person does not become a Commonwealth Government employee simply by virtue of being on the ACC register. Similarly, a Western Australian state government employee does not become a Commonwealth Government employee unless and until the employee is engaged by AusAID for ACC training or an actual ACC deployment.

Training

AusAID provides information on training on their website under Joining the Australian Civilian Corps at http://www.ausaid.gov.au/acc/pages/join.aspx. The foundation training program is a prerequisite before individuals are accepted on the ACC register and is offered a number of times throughout the year. The employee and employer will need to consider the most appropriate training dates that best suit both parties and the appropriate leave arrangements should be made.

The state government employer is not responsible for training costs, including travel to attend training. The costs for foundation training, including travel, are met by AusAID.

The flowchart diagram ‘Application accepted by AusAID’, at the end of the guidelines, outlines the key steps for employers and employees in relation to ACC training.
Notification period prior to deployment

Once an employee has attended the compulsory ACC foundation training and is accepted onto the ACC register, the employee is eligible to nominate for deployments when they arise, but this does not guarantee a deployment will occur. AusAID remains responsible for deployment decisions based on the particular skills required in each deployment situation.

The employer’s approval is required for each individual deployment and, even though an employee is on the ACC register and has attended training, the employer’s approval may not be automatically given for a deployment.

ACC deployments are primarily in response to crisis situations, so a short notice period is to be expected. As a result, employers need to have a succession contingency plan ready to implement. AusAID understands that short periods of notice may cause concern to employers and commits to providing as much notice as possible prior to deployment.

Employers and employees may wish to agree ahead of time on a minimum period of notice for deployment within which operational requirements can be managed. The AusAID Agreement to Release form states that the employee may be required to be released for deployment within 28 days of a decision to deploy by the Commonwealth Government.

Managing employees’ existing employment arrangements

Both employers and employees must be clear of the impact of an ACC deployment on the employee’s existing position within the agency, taking into consideration that most ACC deployments would be for a period of three to twelve months, and may in some cases be for a longer period. Refer to the Department of Commerce Circular to Departments and Authorities No. 13 of 2012 - Australian Civilian Corps which includes information on leave without pay and effect on employee entitlements.

It is to be expected that some of the potential candidates for participation in the ACC would be experienced senior people. If an employee is employed under a fixed term contract, such as a member of the Senior Executive Service, the employee must consider the impact of leave without pay on current employment arrangements, including if an existing fixed term contract is scheduled to end while on deployment.
Employers should also consider employment conditions such as the employee’s participation in the Government Vehicle Scheme and whether the vehicle should be returned to the agency for use by other staff.

Employers are advised to plan for possible early return from, or extension to, deployment by building in flexibility for acting or backfill arrangements and ensuring that staff impacted are well aware of the possibility of early termination or extension of their own contract.

**Contract of employment arrangements with AusAID**

There is no formal memorandum of understanding or other agreement between the Western Australian Government and AusAID covering participation in the ACC. The employee’s contract with AusAID will be the primary agreement governing employment arrangements while on deployment with the ACC.

Training and deployment will take place under a contract of employment between the employee and AusAID. The employee will be engaged as a Commonwealth Government employee, with terms and conditions that may vary according to the particular deployment.

Employment as a Commonwealth Government employee will also be subject to any applicable Commonwealth legislation and any national employment standard.

**Risks and liabilities—duty of care**

ACC personnel are usually deployed in high risk, unstable areas across the globe and as such the associated risks are potentially high. Deployments involve working in physically and mentally challenging environments and effective management of welfare and security is a Commonwealth Government priority. The Commonwealth Government has a duty of care in relation to an employee’s deployment to the ACC.

**Workplace safety, injury and compensation**

Employees engaged by AusAID for ACC purposes will have entitlements and protections under workplace safety and compensation laws applicable to Commonwealth employees, including but not limited to the Safety, Rehabilitation and Compensation Act 1988 and the Work Health and Safety Act 2011. AusAID is responsible for case management in the event of injury in the course of any ACC engagement. Contact AusAID for more information.

There are significant differences between the Western Australian and Commonwealth Government compensation arrangements. Advice on the specifics is to be obtained from AusAID. Employees need to consider the potential disadvantages in relation to step down provisions which may exist within the Commonwealth Government workers’ compensation scheme. These provisions result in compensation payments being reduced once benefits have been paid for a prescribed number of weeks.
In the event that an employee returns to the state government employer while undergoing rehabilitation from an injury, that employer will have a coordination role and may need to work with RiskCover and AusAID to manage the employee’s ongoing rehabilitation. Employers should be aware that an injury sustained during participation in the ACC may impact on the employee’s ability to carry out their original or ongoing role. In addition, coordination of ongoing injury management and rehabilitation may be complicated by the involvement of both the Western Australian and Commonwealth Governments. The issues that may arise are beyond the scope of this document and further information must be obtained from RiskCover.

The employee must seek details of compensation arrangements from AusAID, including the implications of injury sustained when participating in the ACC. This may also include consideration of conditions such as post-traumatic stress disorder.

For AusAID contact (02) 6178 4000.

For information on Western Australian Injury management and Workers’ Compensation arrangements contact RiskCover on (08) 9264 3333.

**Extension of contract**

AusAID may offer an employee an extension to their contract. If the employee wishes to accept the extended contract, the employee must seek the approval of the state government employer and request for additional leave without pay to cover the period of the contract extension. Employers and employees must be aware that the employer is not obliged to approve additional leave without pay.

It is important that there is a clear understanding between the employer and employee as to the length of time that leave without pay will be granted for service with the ACC, as termination of an employee’s leave without pay does not terminate employment arrangements as an ACC employee.

**Early termination of contract**

Under the ACC Act, AusAID has the power to terminate the employee’s contract with AusAID. This may occur, among other reasons, due to the early finish of a deployment. AusAID gives an undertaking to negotiate a smooth return to the original workplace and employers and employees should be aware that this will involve negotiation between AusAID, the employer and employee. The details of how this can be achieved may vary for each individual case.

AusAID has given an undertaking to initiate discussion around the early termination or extension of contracts in sufficient time to allow any issues to be resolved. It is the employee’s responsibility to check with AusAID on the status of their contract throughout their deployment.
Substandard performance

The ACC Act provides powers for the Director General of AusAID to deal with disciplinary, substandard performance, suspension and termination issues. Decisions made and actions taken under the ACC Act in relation to these matters may not affect employment with the Western Australian public sector. AusAID may, but is not under any obligation to, inform the state government employer about substandard performance or misconduct of an employee. Employees will be asked to give consent to this information being shared at the time of joining the ACC register.
Superannuation will be affected by participation with the ACC, but the impact is likely to be different for each employee and must be managed accordingly.

Superannuation contributions made by AusAID

AusAID cannot directly contribute superannuation payments to Western Australian superannuation schemes such as those available through the Government Employees Superannuation Board (GESB); schemes such as West State Super, GESB Super or Gold State Super. The default superannuation fund for ACC employees is the Public Sector Superannuation Accumulation Plan (PSSAP). Further details about the PSSAP can be found at the ComLaw website.

Alternatively, ACC employees can choose to have their superannuation contributions made to some private superannuation funds. The employee should contact AusAID for further information.

Western Australian state government employees continuing to have their employer contributions paid to GESB should seek further advice from GESB in regards to how participating in the ACC initiative may affect their benefits.

Effect of leave without pay on state superannuation entitlement

The effect will depend on:

- the duration of the leave taken by the employee
- whether the unpaid leave is classified as ‘recognised unpaid leave’ or ‘unrecognised unpaid leave’
- which superannuation scheme the employee is a member of.

The difference between these two types of leave and the impact it has on the employee’s superannuation entitlement is explained on the following pages.
Types of unpaid leave for superannuation purposes

Recognised Unpaid Leave is:

- when a member is on parental leave
- when a member is on sick leave
- any period of unpaid leave where normal employee entitlements, such as annual leave, sick leave or long service leave continue to accrue
- any other period of unpaid leave that an employer formally agrees to be treated as Recognised Unpaid Leave for superannuation purposes. If leave is approved under these circumstances, the employer must notify GESB in writing.

All periods of Recognised Unpaid Leave are considered ‘good service’ for superannuation purposes. During ‘good service’ Gold State Super benefits will continue to accrue as normal.

Unrecognised Unpaid Leave is any period of unpaid leave that does not qualify as recognised unpaid leave, and will impact on a member’s superannuation entitlements. An example of Unrecognised Unpaid Leave is unpaid leave that is taken for personal reasons, such as an extended overseas vacation.

Effects of Unpaid Leave on Gold State Super

Any period of Recognised Unpaid Leave which is less than three months in length does not affect Gold State Super (GSS) membership and the employer is not required to inform GESB. An employee is required to make contributions for periods of leave less than three months. The following Table 1 provides further information.
Table 1. Types of leave and superannuation implications

<table>
<thead>
<tr>
<th>Type of unpaid leave</th>
<th>Membership and employer notification</th>
<th>Contributions</th>
<th>Insurance Cover²</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Period of leave less than three months</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognised Unpaid Leave and Unrecognised Unpaid Leave.</td>
<td>GSS membership is not affected. Employer is not required to inform GESB.</td>
<td>Member is still required to make member contributions to their GSS account.</td>
<td>Insurance cover is not affected.</td>
</tr>
<tr>
<td><strong>Period of leave of three months or more</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recognised Unpaid Leave.</td>
<td>GSS membership entitlement will be affected. Employer must notify GESB in writing.</td>
<td>Members have three options available regarding contributions while on this type of leave. Contact GESB’s Member Services to discuss.</td>
<td>The insurance cover a member receives will depend on the contribution option they choose. Contact GESB’s Member Services to discuss.</td>
</tr>
<tr>
<td>Unrecognised Unpaid Leave.</td>
<td>GSS membership entitlement will be affected.</td>
<td>Members are not able to contribute during this type of leave. The period will not be counted as service in the calculation of the member’s final benefit.</td>
<td>Insurance cover will automatically lapse but can be maintained if the member elects to pay an insurance premium for the time on unpaid leave.</td>
</tr>
</tbody>
</table>

² Insurance cover is only available to members under 60 years of age.
Unpaid leave in West State Super and GESB Super

Members of West State Super or GESB Super are not directly affected by any period of leave without pay as contributions to these schemes are based on the cash salary paid to members. As the employee is not physically working for the state government employer during this period of leave, no salary is paid to the employee and therefore no superannuation contributions are payable to the employee’s account in WSS or GESB Super.

Members of these schemes should contact GESB’s Member Services Centre to discuss how taking unpaid leave may affect their insurance cover. GESB’s Member Services can be contacted on 13 43 72.
Considerations for joining the ACC

- Read the ACC website
- Check to ensure you are likely to meet the criteria
- Seek advice on superannuation, taxation, employment contracts and conditions
- Consult with family and friends

Applying

Employee

Seek in-principle support from agency for:
- Application / Participation
- Leave without pay

Ensure ‘Agreement to Release’ is completed and signed by agency

Complete application and submit to AusAID

Agency

Provide in-principle support (If not supported, process stops)

Sign ‘Agreement to Release’ (If not signed, process stops)

AusAID

Application is accepted by AusAID (if not accepted, employee should follow up with AusAID)

Training
Application accepted by AusAID

Training

**Employee**
- Negotiate training date with agency
- Apply for leave without pay for training
- Sign employment contract with AusAID
- Attend training

**Agency**
- Approve training date (If not approved, renegotiate date)
- Approve leave without pay (If not approved, renegotiate date or process stops)
- Manage staff absence

**AusAID**
- Provide training

Deployment
Deployment

**Employee**

- Await deployment opportunity
- Deployment offer acceptable (If not, await next deployment opportunity)
- Seek approval for deployment release and complete leave without pay application
- Sign employment contract with AusAID. Ensure all arrangements are in place for superannuation, compensation etc. (If contract not agreed, await next deployment opportunity or process stops)
- Undertake deployment

**Agency**

- Approve release and leave without pay (If not approved, employee awaits next deployment opportunity)
- Manage staff absence
- Manage deployment
- Manage return to work

**AusAID**

- Manage deployment
- Complete deployment, return to work