



AUSTRALIAN ASSOCIATION OF CONSULTING ARCHAEOLOGISTS INC

AACAI Policy on Volunteers

Volunteering is a great way to get experience in the practical side of archaeology and see how archaeology is conducted in the public sphere. AACAI encourages its members to assist in the provision of training opportunities within appropriate legal and educational frameworks. Some university courses require a certain amount of practical experience as a requirement of their courses. However, there are some legal matters that you should consider before engaging volunteers.

Under the Commonwealth Fair Work Act 2009 some unpaid work arrangements are lawful and others are not. Depending on the nature of the arrangement, the person doing the work may be an employee and be entitled to be paid the legal minimum or award rate of pay for the type of work they're doing, along with other minimum employment entitlements. Whether an unpaid work arrangement is lawful under the Fair Work Act 2009 depends on whether an employment relationship exists, or whether the arrangement involves a vocational (student) placement. In some circumstances where the project is for public benefit a volunteer relationship may be acceptable.

AACAI members are generally working in the commercial sphere, and so volunteer positions are not appropriate unless this is related to a defined formal training arrangement in conjunction with an appropriate educational institution, except some instances where AACAI members are contributing to a public or not-for-profit archaeological project where commercial and competitive tendering is not involved.

Work Experience is a form of work placement confined to secondary school students as part of a formal arrangement with the school.

Given the requirements of various heritage regulations that people undertaking archaeological work are suitably qualified it is not appropriate for AACAI members to engage work experience students in commercial projects. Work experience arrangements may still be acceptable in circumstances limited to formal arrangements with a secondary school, but not where it replaces paid employment and participants are not undertaking tasks which require set levels of skills and qualifications.

An employment relationship exists if there is an employment contract, whether written or a purely verbal agreement. For an employment contract to exist it must be clear that:

- The parties intend to create a legally binding employment relationship
- Employees are obligated to attend the workplace and perform work for the benefit of the business or organisation
- Employees expect to be paid for work
- There is a formal work structure (e.g. expected to work according to a regular roster)
- The person must not be performing the work as part of a business of their own
- Employment is for a longer period (n.b. this might be just a few days or weeks)

For a vocational placement certain conditions need to be met:

- There must be a placement
- There must be no entitlement to pay for the work the student undertakes
- The placement must be done as a requirement of an education or training course
- The course must be one that is government approved

- The placement is for a fixed period of time

A volunteer arrangement can be lawful if it is a vocational placement (see section above) or if no employment relationship is found to exist. In particular:

- The person must not be doing 'productive work' (for example excavating, sieving, cleaning or cataloguing artefacts)
- Work is undertaken for selfless purposes or for furthering a particular belief in the not-for-profit sector
- Parties do not intend to create a legally binding employment relationship
- Volunteers are under no obligation to attend the workplace or perform work
- Volunteers do not expect to be paid for work

AACAI members should only engage volunteers within the legal requirements of the Fair Work Act. Use of volunteers on a commercial excavation is only acceptable as a way of providing training and instruction to archaeology students. A volunteer should not undertake tasks normally the responsibility of a qualified person. Tasks undertaken by volunteers must be superfluous to the project requirements. Regardless of the character of the work-supervisors are required to comply with all employment law, work health and safety regulations and discrimination requirements and ensure appropriate workcover insurance.

Members of ACCAI should also advise any prospective archaeological volunteers that the arrangement meets the requirements of the Fair Work Act. A discussion from the Fair Work Ombudsman is here:

<https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/unpaidwork/> unpaid-work