



Community use of school facilities

Instructions and templates

South Australia 2014



**Government
of South Australia**

Department for Education
and Child Development

Instructions and Templates

Instructions for use of departmental (including educational and children's development) School* facilities for other than departmental purposes, including:

- » For private purposes by teachers
- » For working bees
- » By community organisations
- » Joint use of facilities on School grounds
- » By political groups
- » For polling places

Templates for

- » Indemnity form
- » User Agreement form

Checklists for

- » Schools hiring out facilities
- » Community groups hiring facilities

Note: These Instructions and Templates do not apply to any education/early childhood facility on any site that is the subject of a joint use tenancy arrangement or any site that is the subject of a public/private partnership.

*For the purposes of these Instructions "School" means a Department of Education and Child Development (DECD) School established under the *Education Act 1972* (SA) for the purpose of providing courses of instruction in preschool, special school, primary or secondary education.

Use of School facilities for private purposes by teachers

For the purposes of furthering their skills in the specific areas in which they may be required to teach, teachers may from time to time apply for approval to use School facilities in their own time for personal work. Such use is permitted if the following conditions are met:

- » an Indemnity Form is completed by the teacher concerned and given to the principal/director
- » the principal/director agrees to the use of the School facilities.

Safety

When considering applications to use School facilities and/or plant and equipment, for the purposes outlined on this page, site managers are required to assess the risks before approving the application. The consultation process should include the staff member who is responsible for the oversight of the facility, plant and equipment and/or the health and safety representative.

A risk assessment should identify:

- » the hazards associated with the particular activity and the plant/equipment and the controls necessary to minimise or eliminate the risks associated with those hazards
- » the skill level of the teacher who has applied to the principal/director in relation to use of the facility or plant and equipment
- » the level of supervision required
- » the functionality of the emergency contact system.

General

- » All materials used for personal work, other than by persons attending further education or similar classes, are to be purchased privately.
- » School facilities may be used for commercial purposes subject to prior approval from the Minister.
- » After-hours use of facilities should not conflict with normal cleaning arrangements. Cleanliness of the work area or the facilities used rests with the user.
- » Before vacating facilities used outside normal hours of instruction, the user(s) is/are responsible for switching off power and lights and securing the facilities unless alternative arrangements have been made with the cleaners or the caretaker.

Use of School facilities for working bees

From time to time the use of site equipment may be required for the construction or provision of improvements to School facilities by working bees or other means.

Site managers must ensure a risk assessment of the total project, including an assessment of the plant and equipment to be used is conducted before the working bee is held.

If the risk assessment reveals a risk that is considered significant and that cannot be safely managed, the activity or activities should not take place.

A risk assessment of the plant and equipment should consider, but is not limited to, such things as the status of the plant/equipment (e.g. electrically tested, properly maintained), skill level and competency of the likely operators, the level of supervision required and the accessibility of clear safe operating instructions (if applicable).

An Agreement Form is NOT required for working bees.

Use of School facilities by community organisations

Legislative power

Principals/directors may grant the use of School facilities to School bodies. Principals/directors may also, after consultation with and the agreement of the site governing body, grant the use of School facilities to organisations not connected with the School under such conditions as the Minister may determine.

By arrangement with the principal/director, School bodies may use School facilities for meetings, social occasions and School fundraising activities. 'School bodies' is not defined in law, but it is generally accepted to mean staff and student groups, the site governing body, council sub-committees and committees affiliated to councils. Parent bodies such as the welfare club or parent associations constitute an affiliated committee.

Organisations that receive approval to use School facilities acquire no more than a contractual right to use the facilities. They do not have any estate or interest in the property, as may be the case with a lessee.

Conditions for Hire of School facilities by external organisations

The principal/director may, with the agreement of the site governing body, grant permission to external organisations ("Hirers") to use School facilities. The following conditions will apply to any such hire of School facilities:

- » The Hirer must apply in writing to the principal/director to use the facilities.
- » The Hirer must assess for itself whether a school facility is suitable and in good enough condition for their planned activity or purpose. The Department is only responsible to keep school facilities in a sufficiently good condition for the use of students, teachers, parents and visitors to the school in the normal operation of a school.
- » Formal user arrangements must be completed before the commencement date of the Hire period. Unless the circumstances fall within those described in Leases/Agreements on page 9 of these Instructions of Use, the Hirer will be required to execute the *Community Use of School Facilities: Agreement Form*
- » The Hire agreement should be produced on School letterhead.
- » Additional conditions may be inserted in either template agreement to reflect local School rules, eg. security measures, parking arrangements etc. Other clauses in the template form **must not be altered**, including without limitation the indemnity and release clause and the clauses relating to the Hirer's obligations in respect of "Unsuitable Persons".
- » For legal reasons, a copy of the executed agreement must be permanently retained at the site.
- » The term of the agreement for when the *Community Use of School Facilities: Agreement Form* is used must not exceed one year at any one time.
- » The *Community Use of School Facilities: Agreement Form* may require modification if the particular facility is subject to special legal requirements, eg. swimming pools. These obligations need to be carefully managed and this could involve the insertion of additional clauses to preserve the rights and obligations of the respective parties.
- » In the case of Hire agreements for the use of a swimming pool involving the Office for Recreation and Sport, the South Australian Amateur Swimming Association and the Royal Life Saving Society, the user and the School will need to include amendments in the template form agreements to take into account conditions negotiated directly with the Department. Details can be obtained by calling the Sport, Swimming and Aquatics Unit on (08) 8226 2403.
- » In the case of Out of School Hours Care (OSHC) services, all OSHC services must be established in accordance with the Department's *OSHC Policy and Guidelines for Provision of Out of School Hours Care* on DECD sites available on the DECD A-Z Policy Procedures and Guidelines web page at: www.decd.sa.gov.au/departments/policies/departmentsal-policies
- » Occasionally, a prospective hiring body may wish to secure hiring arrangements by means of its own licence/agreement. With the exception of those submitted by SA state government departments and instrumentalities, externally produced documents must not be executed without prior consultation with the department's Legal Services Unit.
- » The *Community Use of School Facilities: Agreement Form* provides for termination of the licence by mutual agreement, unilaterally by either party or upon the expiry of the term of one year.

Hire fees

(See *Recommended Hire Rates for Community Use of School Facilities*)

Unless the organisation is one of those listed below, hire fees may be charged by the School principal/director, with the agreement of the site governing body, provided that charges are varied or waived where the facilities are used for educational or public purposes. Guidelines to assist the principal/director and the site governing body to frame hiring rates are set out below. The recommended hire rates for community use of School facilities are set out in *Recommended Hire Rates for Community Use of School Facilities*.

It is suggested that when determining hiring fees, the principal/director and the site governing body adopt the following strategy:

- » Survey the local area and compare the School's facilities with comparable facilities in the community.
- » Obtain details of fees charged for comparable facilities by nearby Schools and community controlling bodies, e.g. YMCA, local council, etc.
- » Canvass demand for the particular facility within the community.
- » Take into account the proposed use, objectives of the organisation (whether not-for-profit or for-profit), effect on School program and particular benefits that may accrue to students attending the School.
- » Conduct a cost rating of the facility to be hired. Factors such as wear and tear on semi-expendable items such as tennis nets, gym mats and synthetic cricket pitches should be taken into account. Advice on the cost of operating standard facilities can be sought from DECD Property Services, Asset and Business Services.

If agreement cannot be reached between the principal/director (in consultation with the site governing body) and the organisation concerned in respect of hiring arrangements, including the charging or waiving of the hiring fee, the School may refer the matter to DECD Property Services, Asset and Business Services.

Hire fees must not be charged when rooms are used by:

- » religious organisations using the facility for religious purposes
- » federal, state and local government bodies for polling purposes
- » an ethnic School authority for the teaching of language and culture
- » where the service to parents and children is purely educational
- » where the user is a site governing body or community (not-for-profit) organisation providing Out of School Hours Care and vacation care programs.

Users can be required to meet any out-of-pocket expenses attributable to its use. Out-of-pocket is defined as an additional, identifiable, direct outlay by the School, including the provision of materials, equipment and supplies attributable to the use of the School by the user group. It does not include normal expenditure incurred by the Department on behalf of the School, eg. utilities, cleaning, security. Principals/directors are requested to establish a simple record to justify charges made in the out-of-pocket category.

Charges can also be made for the reimbursement of the following costs, which are usually avoidable if the user group exercises proper management and control:

- » Making good any losses or damage, including equipment, books, materials, furniture, classrooms and facilities.
- » Additional cleaning costs as a result of the facilities not being left in a clean and tidy condition.
- » Additional security costs, such as a caretaker's over time/call-out allowance, as a result of the facilities not being left properly secured.

Suitability of activities

Careful consideration should be given to the suitability of a facility for the type of activity to be undertaken by the proposed user group. If doubt exists as to whether some aspect of the facility may create a risk of injury or damage to the property of any person, the principal/director must not hire the facility to the user group until satisfied that appropriate arrangements have been made to avoid any such risks.

Best scheduling practices

- » Schedule community activities *outside* the hours of the education program.
- » Schedule adult activities and children's activities on separate nights, or if not practicable, at separate times.
- » If activities are scheduled *during* the hours of the operation of the education program, use vacant buildings or spaces on the site, such as the OSHC facilities during School hours, to help establish a clear geographical separation for the activity.

Risk assessment by principal/preschool director

If activities are scheduled *during* the hours of the education program a risk assessment must be undertaken by the principal/director to determine whether adequate separation between the education and community programs is established. The risk assessment must include consideration of the following:

- » How do people access the activity? What route do they take entering and exiting the education grounds?
- » What toilets or change-rooms do they access and how are these quarantined for the community group's exclusive use?
- » How is incidental contact between adults and children enrolled at the education site monitored? For example, if the activity involves movement around the site during the education program, who supervises that movement?
- » If it is a shared service such as a library, how is same time access by children and community members managed? Are toilets quarantined? What supervision is provided?

For more information, see *Child Protection Requirements: Information Sheet for DECD Principal Directors and Community Groups*.

Public liability insurance

Subject to certain concessions extended to small user groups and 'one-off' users, which are explained below, hiring organisations must effect public liability insurance in accordance with the terms of clause 10 of the *Community Use of School Facilities: Agreement Form*.

The amount insured must not be less than \$10M for any one claim. The principal/director should ask to see a copy of the insurance policy and if, after perusal, doubt exists about whether it satisfies the terms and conditions of the user agreement, then advice should be sought from the Department's Legal Services Unit. This can be achieved simply and quickly by transmitting a copy of the insurance policy, together with an explanatory note, to the Legal Services Unit at DECD.legalrequests@sa.gov.au. All insurance arrangements must be in place before the agreement is executed.

Public liability insurance should be waived in cases where small, not-for-profit, locally organised clubs or groups with fewer than 50 members, are granted a licence to use School facilities. However, the exemption from clause 10 of the *Community Use of School Facilities: Agreement Form*, will not apply if, as a result of the user group's link with a parent body or affiliation with an association, the group can secure public liability insurance protection through the umbrella organisation's insurance scheme. For example, some ethnic Schools have fewer than 50 members, but the compulsory insurance requirement applies to them because The Ethnic Schools Association of South Australia Inc. operates an insurance scheme for member Schools.

Public liability insurance is not required in one-off type user situations even though the activity may involve more than 50 participants/members, eg. family wedding reception. However, the template agreement forms must still be completed.

School facilities must not be hired to an organisation that is exempted from the public liability insurance condition if the organisation intends to engage in an activity that is outside the limits allowed by the site governing body under the terms of their Crown indemnity. Excluded activities are listed in AIG S5.23 headed Public Liability.

While organisations exempted from the public liability insurance requirement may not perceive their activities as high-risk ventures, they should be encouraged to consider the legal and financial implications that could arise if they operate as either an unincorporated or uninsured body. This is especially important if their activities extend beyond the School grounds.

Accidents

The DECD [Injury Incident Reporting and Investigation Procedure \(staff login required\)](#) must be observed in all cases where a guest, member or employee of a Hirer or a person who is connected with the Hirer's activities suffers an injury while using school facilities. The Injury Report Form (ED155) must be completed for all injuries suffered by a person(s) that results in medical treatment. The agreement form provides for the Hirer to report all injury incidents to the Principal/Director

as soon as practicable.

Users' legal responsibilities

Clause 11 of the *Community Use of School Facilities: Agreement Form* binds users to comply with all laws applying to its activities and also to obtain all the necessary permissions, licences and such things required by the law that affect their activity.

It is proper, if a potential Hirer asks about the scope of clause 11 of the template agreements, to advise the Hirer that they are required to comply with any law relating to their activity with respect to the use of the facilities and are solely responsible in respect of that compliance. Hirers should be told to obtain their own advice about their responsibilities if they are in doubt.

Leases/more complex agreements

Generally, the *Community Use of School Facilities: Agreement Form* are not applicable to circumstances such as the following:

- » use of facilities that have particular legal, safety or industrial implications, e.g. technical studies workshops
- » exclusive use arrangements
- » more complex conditions relating to cost sharing or maintenance
- » organisations that contribute to capital improvements to School facilities
- » long-term use.

These circumstances may need a more complex agreement such as a lease, joint use agreement or tenancy agreement.

Where a lease, joint use agreement or tenancy agreement is required in respect of a site, the arrangement must be approved by the Minister and the Minister must legally be a formal party to the agreement (for example, the Minister will be the lessor in a lease document).

Principals/directors need to arrange such agreements in consultation with DECD Property Services, Asset and Business Services. Any queries on user arrangements involving any of the features identified above should be directed to DECD Property Services, Asset and Business Services.

Agreement for joint use of facilities on School grounds

Site governing body, established community organisations and government departments and instrumentalities (including local government authorities) can jointly contribute towards the construction of a new facility or for improvements and additions, of a capital nature, to an existing facility on School grounds, which is to be made available for their own use or for community use. In these instances, a formal legal agreement between the parties (including the Minister as owner) will be required.

DO NOT complete a *Community Use of School Facilities: Agreement Form* for these formal agreements between parties.

Before any firm commitment is entered into, the parties concerned should submit full details of the proposal to the Assistant Director, Asset Services at dec.d.asc@sa.gov.au.

The Assistant Director, Asset Services will arrange with the Legal Officer for the preparation of an agreement, appropriate to the circumstances, which will contain full details of the terms and conditions for the use of such facilities.

Use of facilities by political groups

School facilities may be hired out to political groups for meetings. However, the site governing body should not hire out facilities if it is reasonably anticipated that a disturbance could occur arising from, or in relation to, the meeting.

It is important when agreeing to hire out facilities for meetings that the principal/director and the site governing body ensure that the purpose is appropriate and that the site, DECD or the Minister cannot be seen by the community to be favouring a particular political party.

If there are any concerns about the suitability of a particular group, advice should be sought, in the first instance, from the Office for Education.

Posters, banners and other party political material must not be displayed on departmental buildings, fences or any part of a site, except on polling day if the site is being used as a polling place.

Use of facilities for polling purposes

The Australian Electoral Commission (AEC) and the Electoral Commission of South Australia (ECSA) may use departmental sites for polling places for the election. Departmental sites must be made available if required for use as polling places during elections.

Should a departmental site be required for this purpose, site leaders will be contacted directly to discuss the matter and make arrangements for access and delivery of materials.

Posters, banners and other party political material must not be displayed on departmental buildings, fences or any part of a site, except on polling day if the site is being used as a polling place.

Checklist for

SCHOOLS– hiring out facilities

Task	Completed
1. Has priority been given to a not-for-profit community group? If a not-for-profit organisation does not require the facility, you may consider for-profit and commercial organisations.	
2. Have you received a written application for use of School facilities from the proposed community group?	
3. Have you conducted a risk assessment? A risk assessment can ensure the community use is appropriate, the facilities are in good condition and the community group understands its obligation to immediately report to the principal/director of any concerns regarding inappropriate conduct towards children and young people by any individual including community group members or officials, participants, volunteers, parents, School staff members or young people themselves.	
4. For proposed use of your facility for 12 months or less, have you submitted the proposed use to the principal/director and the site governing body for approval?	
5. For proposed use of your facility for longer than 12 months, have you contacted DECD Asset and Business Services to assist with developing a formal agreement? (see page 9)	
6. Does the community group seeking to use your facilities require the construction of a new facility or does your existing facility require an upgrade? In these instances, a formal legal agreement between the parties (including the Minister as owner) will be required. Assistance with capital works should be referred to DECD Asset and Business Services.	
a. Where the community use requires some capital enhancement, which will be wholly or partially funded by the user, have you:	
i. advised the community group that the facilities will become the property of the School?	
ii. discussed the management structure and contributions?	
iii. determined who will be responsible for the construction process?	
iv. liaised with DECD Asset and Business Services regarding placement and design?	
v. received confirmation from DECD Asset and Business Services that the works have been approved by the Minister?	
vii. ensured that the Joint Use and Development Agreement has been signed and the community contribution received before calling tenders for the work?	
7. Have you determined your charges for hire? Remember to consider any capital injection and ongoing maintenance responsibilities of the School and community partner.	
8. Does the community group have the necessary public liability insurance? (see page 08)	
9. Has a formal user agreement been completed?	
10. Have you negotiated any extra terms not covered in the agreement?	
11. Have you given the community user a copy of the signed agreement?	
12. Do you have the community user's current contact details on record?	
13. Where a service is to be provided wholly or partly for children and young people, has the community user provided evidence to demonstrate its commitment to providing a child safe environment? (including conducting criminal history assessments where applicable)	

Checklist for

COMMUNITY GROUPS– hiring a School facility

Task	Completed
1. Have you submitted a written application for the use of a School's facility?	
2. Is your intended use consistent with the School's purpose and goals?	
3. Do you have the necessary liability insurance?	
4. Have you conducted a risk assessment of the facility?	
5. Do you intend to use the facility for a period exceeding 12 months? » If yes, you will need to develop a formal agreement in conjunction with DECD Asset and Business Services. » If no, you will need to complete the <i>Community Use of School Facilities: Agreement Form</i> .	
6. Is the venue suitable for your needs or do you require improvements/additions? If yes, how do you propose to fund these works? The Hirer must assess for itself whether a school facility is suitable and in good enough condition for their planned activity or purpose. The Department is only responsible to keep school facilities in a sufficiently good condition for the use of students, teachers, parents and visitors to the school in the normal operation of a school.	
7. Are you aware of the hire charges for the facility you require?	
8. Are you clear on what your responsibilities are in terms of cleaning, locking up, damages, accidents and immediately reporting to the principal/director any concerns regarding inappropriate conduct towards children and young people by any individual including community group members or officials, participants, volunteers, parents, School staff members or young people themselves?	
9. Are you aware of the grounds for termination of agreement?	
10. Have you negotiated any extra terms not covered in the agreement?	
11. Have you read through the following documents? » <i>Community Use of School Facilities: A Guideline for Schools and the Community</i> » <i>Child Protection Requirements: Information Sheet for DECD Principals, Directors and Community Groups</i> » <i>Community Use of School Facilities: Instructions and Template Agreements</i> » <i>Community Use of School Facilities: Agreement Form</i>	
12. Do you have a copy of the signed formal agreement?	
13. Do you have the necessary contact details for the School's principal/director, grounds-person or relevant point of contact?	
14. Does the School have current contact details for your organisation's management?	
15. If you are providing a service wholly or partly for children and young people, have you taken steps to establish and maintain a child safe environment? This should include developing a clear child safe policy, mandatory reporting procedures and conducting criminal history assessments for people working with or around children where applicable. A statement about your child safe policies and procedures should be lodged with the Department for Education and Child Development.	



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