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Reasonable adjustments (Disability Discrimination Act) policy and procedures

Introduction

Reasonable adjustment is implicit in the requirement to avoid indirect discrimination under section 6 of the [Disability Discrimination Act \(1992\)](#) (the DDA).

If a person with disability needs some form of workplace adjustment to be able to work, or to be able to participate equally in some aspect of working life, and that adjustment could reasonably have been provided but was not, then a finding of indirect discrimination could follow.

The AIHW's Reasonable adjustment policy and procedures aims to help us meet our obligations to persons with a disability under the DDA.

This policy and procedure is separate from our duty of care provisions under the [Work Health and Safety Act 2011](#).

Having in place a clear policy statement on reasonable adjustments under the DDA can also help build employees' confidence to voluntarily disclose and discuss disability issues rather than holding back information because of fears of discrimination.

Policy

The AIHW is committed to providing an inclusive and accessible workplace to enable people with a disability to participate fully in all aspects of employment.

Legislative Context

A requirement of the DDA is to ensure that workplace barriers are removed so that skilled people with disabilities are able to perform the inherent requirements of their positions. To facilitate this, employers are required to provide reasonable adjustments within the workplace whenever it is necessary, reasonable, and possible to do so.

The DDA identifies two types of discrimination in relation to people with disability.

- direct discrimination is when someone with disability receives less favourable treatment than a person without disability in the same circumstances
- indirect discrimination is when a policy, practice or requirement is applied equally but has a discriminatory effect on people with disability.

Definitions

Disability

This policy adopts the broad definition of disability used in the DDA which, in the context of employment, can be summed up as a condition caused by accident, trauma, injury, genetics or



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disease that may restrict a person's mental, sensory or mobility functions to undertake or perform a job in the same way as a person who does not have disability. This includes physical, sensory, intellectual, mental health, neurological and learning disabilities, as well as physical disfigurement and serious illnesses. Disability may be temporary or permanent, total or partial, lifelong or acquired.

Please refer to the [Disability Discrimination Act 1992](#) for a complete definition of disability.

Inherent Requirements are the essential activities and tasks that must be carried out in order to get a job done. Inherent requirements relate to results (*what* must be accomplished) rather than means (*how* it is accomplished).

Reasonable Adjustments refer to workplace adjustments required to enable a person with disability to work effectively and enjoy equal opportunity with others. Reasonable adjustments may include:

- provision of appropriate equipment or assistance to ensure there is no barrier in the recruitment and selection process
- provision of flexible work arrangements and job redesign (while still maintaining the inherent requirements of the job)
- training or retraining
- providing essential information in accessible formats
- modifications to equipment or the supply of specialised equipment, furniture or work related aids
- alterations to premises or work areas.
- Reasonable adjustment required by the DDA need not include:
 - changing the inherent requirements of the job concerned
 - maintaining a job which would otherwise be altered or abolished
 - assigning performance of some inherent requirements to another employee
 - creation of a different job
 - promotion or transfer to a different job

except as part of a program of training or rehabilitation reasonably likely to enable the person to perform the requirements of the job concerned within a reasonable period.

Refer to [Appendix A](#) for more examples of workplace, workstation and job modifications, and [Appendix B](#) for more examples of modifications in recruitment and selection processes.

Roles and responsibilities

Employees with a disability are expected to:

- understand the inherent requirements of the job
- provide documentary evidence of their disability and work related limitations when requested
- work with their manager/s, Human Resources (HR) and other person/s (e.g. a rehabilitation provider) to determine solutions and the reasonable adjustments put in place.



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Managers* are expected to:

- clarify the inherent requirements of the job
- request documentary evidence from the employee when required
- work with the employee, HR and other person/s (if relevant) to determine solutions
- recommend/decide on an appropriate solution
- monitor the reasonable adjustments put in place.

** Managers may vary depending on the circumstance, and may be an employee's manager, a chairperson of a selection panel, the People and Facilities Unit Head or HR Manager.*

HR will:

- provide employees and managers with information, advice and guidance
- ensure consistency in application of decisions, through its advisory and reporting functions
- act as decision maker
- coordinate workstation assessments
- acquire the recommended equipment
- follow-up with managers and employees regarding the solutions put in place.

AIHW SES Disability Champion will:

- champion equal access and inclusion for people with disability in the AIHW
- provide leadership to drive disability-related employment initiatives and organisational change to create a workplace at the AIHW that values and supports people with disability
- commit to understanding the barriers and representing the rights of employees with disability across the AIHW.

Funding for reasonable adjustments

Costs associated with reasonable adjustments are managed within People and Facilities Unit, except where a reasonable adjustment is made for approved Home Based Work, or telework arrangement (an employee's business unit is accountable for any costs associated with these arrangements).

Government assistance (JobAccess)

The Australian Government's [Employment Assistance Fund](#) aims to make accommodating employees with disability in the workplace easier, and provides financial assistance to help meet the cost of modifications an employee with disability may require to do their job.

An employee or the Institute may seek to apply for funding to help meet the cost of modifications, in accordance with the Employment Assistance Fund provisions.

Who can request reasonable adjustments?

A *potential* employee with disability, i.e. someone with disability applying for an advertised position at the AIHW, may request reasonable adjustment to the recruitment and selection process



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(interview and/or other assessment activities) in order to compete fairly (on merit) with other candidates for the role.

A *new or existing* employee with disability, i.e. someone with disability who is about to commence with the AIHW, or who has already commenced, may request reasonable adjustment to the workplace and/or their workstation/ role, in order to access the workplace and to perform effectively in the role.

Are potential, new or existing employees with disability required to share their disability information with the AIHW?

There is no legal obligation for a job applicant or employee to share information on their disability, unless it is likely to affect their performance to meet the *inherent requirements* of the job or poses a safety risk to themselves and/or others. As part of all engagements at the Institute, new staff are required to complete a Health Declaration as part of their starting paperwork, indicating any health conditions that may affect their ability to perform the inherent requirements of the position offered.

Where a potential, new or existing employee has a disability that does *not* affect their performance to meet the inherent requirements of the job or pose a safety risk, the AIHW respects that such a person may not choose to share information on their disability with the AIHW. The AIHW also respects that this choice can be exercised at any time during their employment with the Institute. In view of this, the AIHW will regularly encourage people to share this information (along with other diversity information) in a spirit of inclusiveness and support. At the very least, new and existing employees will be requested to report that they have *chosen not to provide this information* on the AIHW's Employee and Manager Self Service system (EMSS). Employees should note that EMSS allows them to change what they share regarding their diversity information at any time.

Review of reasonable adjustments

The Institute's performance management framework is designed to provide employees and supervisors with an opportunity to discuss a range of workplace issues, including the inherent requirements of a position, the employee's capacity to undertake the duties of a position and measures needed to assist the employee to undertake their duties. The measures can include, but are not limited to, such things as training, job design and equipment.

Employees and supervisors are encouraged to use performance review discussions to identify, monitor and review individual needs to ensure that all employees have the capability and capacity to meet performance expectations and requirements. This includes discussing and addressing any need for the AIHW to make reasonable adjustments for the employee.

Procedure

Potential employees

A request for reasonable adjustments can be made verbally or in writing to HR or to the Chairperson of the Selection Panel at any time during the recruitment and selection process. The



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AIHW's [Personal Details Form](#) provides applicants with an ideal opportunity to provide their diversity information and/or their need for any special equipment or requirements in writing in relation to a recruitment/selection process.

If, upon being approached by a potential employee, the Chairperson can easily and informally meet the request to the satisfaction of both parties, he/she will do so and note the adjustment in the selection report.

If not, the Chairperson will either assist the applicant to contact HR or, with the applicant's permission, refer the request to HR on behalf of the applicant.

In consultation with the applicant, the Chairperson or HR will evaluate the request and determine what, if any, adjustment is appropriate by:

- determining the recruitment-relevant limitation(s) created by the applicant's disability. Depending on their disability and the nature of the adjustment requested, the applicant may be required to provide documentary evidence about their disability and the functional limitations it involves. This evidence may be obtained from a medical practitioner, psychologist or other relevant professional.
- identifying possible adjustments and assessing the effectiveness of each one in enabling the applicant to equitably participate in the recruitment process (e.g. an interview or assessment activity)
- recommending the adjustment(s) that is most appropriate for both the applicant and the AIHW.

On the basis of the above, the Chairperson will make a decision as to whether the AIHW will provide the recommended adjustment and communicate the decision to the applicant. If the request is not approved, the Chairperson will inform the applicant of the decision and the reason for refusing the requested adjustment at least 24 hours prior to the next stage of the recruitment and selection process.

This process will also apply to existing employees when participating in a recruitment/selection process.

New or existing employees

A request for reasonable adjustments can be made verbally or in writing (including email) to their manager or HR at any time during employment. Upon receiving a verbal or written adjustment request, the manager/HR will ensure the applicant or employee requesting the adjustment completes the Request for reasonable adjustment form. The manager/HR should assist the employee to complete this form when necessary.

- If a manager thinks a reasonable adjustment might be appropriate for an employee under his/her supervision, she/he will either approach the employee to discuss the matter (if comfortable doing so) or contact HR for advice.
- If, upon approaching or being approached by an employee to discuss a possible reasonable adjustment, a manager can easily and informally make the adjustment to the satisfaction of both parties, she/he will do so, without any further action required. If not, the manager will either assist the employee to contact HR or, with the employee's permission, refer the matter to HR on behalf of the employee.



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For a new or existing employee (or an applicant who has accepted a job offer), the relevant steps taken by the manager/HR will be:

- developing a better understanding of the employee's disability. The employee may be required to provide documentary evidence about their disability and the functional limitations it involves. This evidence may be obtained from a medical practitioner or other relevant professional. An employee will generally be responsible for any costs associated with providing this evidence.
- accessing information about the inherent requirements of the particular job involved
- determining any job-relevant limitation(s) created by the employee's disability
- identifying possible adjustments and assessing the effectiveness of each one in enabling the employee to perform the inherent requirements of the job
- seeking advice from others, where appropriate (e.g. a rehabilitation provider)
- consulting with the appropriate financial delegate/s responsible for funding identified solution/s
- recommending the adjustment that is most appropriate for both the employee and the AIHW. Though the employee's preference will be considered, the AIHW is free to choose among equally effective options.

On the basis of the above, the manager/HR makes a decision as to whether the AIHW will provide the recommended adjustment, and communicate the decision to the employee. If the request is not approved, the manager/HR will inform the employee of the decision and the reason for denial of the requested adjustment within ten (10) business days of the request.

Appeals

Employees dissatisfied with a decision or action taken in relation to a request for reasonable adjustment may seek a review of that employment decision or action under the [AIHW Enterprise Agreement](#).