Workplace Adjustment Policy

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1 Statement of commitment

The Department of Communities and Justice (DCJ) is committed to creating a workplace culture that values inclusion and diversity and actively encourages the employment of people with disability. By providing workplace adjustments we can ensure that employees with disability who require adjustments are able to work to their full potential and have improved access to opportunities for career development within DCJ.

2 Purpose of policy

The purpose of this policy and related procedures is to actively support employees with disability in requesting and obtaining workplace adjustments.

The process for responding to workplace adjustment requests is outlined for current employees, as well as people with disability applying for roles within DCJ.

3 Policy statement

DCJ is committed to promoting an inclusive workplace that fully supports workplace adjustments, and to ensuring that the design and implementation of human resources and workplace policies, rules, practices and operations do not create barriers or discrimination.

Workplace adjustments will be provided in a timely, effective and sensitive way to meet the specific adjustment needs of employees with disability. The only exceptions to this will be in circumstances of unjustifiable hardship, as defined under the *Disability Discrimination Act 1992 (DDA*), but, in the context of our organisation's commitment, such cases will be limited and will always be discussed with our employees, and other options explored.

All managers must be aware of their roles and responsibilities under this policy and related procedures and ensure that requests for workplace adjustments are addressed in a timely and sensitive manner.

4 Definitions

Term	Definition
Disability	The *Disability Discrimination Act 1992* (DDA) s 4(1) defines disability as any impairment, abnormality, or loss of function of any part of the body or mind. It includes physical, sensory, intellectual and psychiatric disabilities, as well as serious illnesses. The definition also covers conditions that exist now, have existed in the past but no longer exists, may exist in the future, or which the person is assumed to have. The United Nations Convention protects all persons with disabilities, who are defined in Article 1 as including "…those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."
Inherent requirements	Essential requirements for the performance of the role that cannot be altered through role redesign. In the view of the Australian Human Rights Commission, "inherent requirements" of a role must be determined according to the circumstances of each role and may include: • the ability to perform the tasks or functions which are a necessary part of the role • productivity and quality requirements • the ability to work effectively in the team or other type of work organisation concerned • the ability to work safely.
Workplace	Any place at which an employee or workplace participant works or otherwise attends.
Workplace adjustment	An adjustment means an adjustment to the role or work environment that is necessary and achievable to support an employee to perform the inherent requirements of their role effectively. Workplace adjustments may include, but are not limited to, physical work environment modifications, alternative communication methods, specialised training, flexible work arrangements, role modifications and provision of equipment.
Unjustifiable hardship	Unjustifiable hardship focusses on whether the adjustment will adversely affect the department or other people involved so much that it would be unfair to carry it out. It is determined under the DDA by considering the following: • Nature of the benefit or detriment likely to accrue to, or to be suffered by any person concerned (including the person requesting the adjustment and all other people in the workplace), • The effect of the disability on any person concerned,

Term	Definition
	• Cost of the adjustment required in light of the organisation's financial situation, and • Availability of financial and other assistance to the employer claiming unjustifiable hardship. See Section 5.4.2 for further information about unjustifiable hardship.

5 Scope and application

This policy applies to all employees of DCJ. This includes ongoing, temporary and casual employees as well as people with disability applying for roles in DCJ.

DCJ will identify and address barriers to the recruitment and employment of people with disability within the department. This includes disabilities that affect physical and/or mental health. We will also review the possible effects of any organisational actions on candidates or employees with disability, before deciding on, or implementing these actions. Organisational actions may include, but are not limited to, the procurement of assets and/or Information Technology (IT) equipment and applications, mental health first aid training, internal and external DCJ communication pieces, recruitment practices, flexible work arrangements, leadership actions, organisation and role design, and training and development programs.

We will review policies and procedures to identify and remove discriminatory elements. This may involve permanent or ongoing changes to facilities, practices, policies and procedures.

We will provide adjustments, as far as is reasonably practicable, to meet an individual's needs, in a timely and effective way.

This may include, but is not limited to:

- Workplace Access - changes to work area design and means of access to the workplace and all facilities, modifications to technology and equipment including accessibility features enabled on technology and equipment
- Recruitment and Selection - changes to the processes and procedures used for assessment, selection, career development and promotional opportunities
- Work Processes - modifications to specific role requirements, restructuring or amendment of duties, flexible work practices (e.g. part-time work, staggered hours, flexible working hours and leave options)
- Services and Equipment - provision of specific services, facilities, aids or equipment and accessibility tools including, but not limited to, the provision of Auslan interpreters, equipment, or assistance with particular aspects of a job, and
- Role Change - a change of role or role redesign, where possible, to a suitable role at the same level (where available), where the employee has the relevant capabilities and meets the inherent requirements to undertake the role.

This policy applies throughout the recruitment and selection process, at the commencement of employment or at any time after employment has commenced.

5.1 Policy exclusions

The policy does not cover building or facility design, provision of dedicated parking spaces and general access issues. These requests may be made to the relevant asset management or facilities teams. Availability of parking, including dedicated spaces is very limited in most office buildings. The policy does not cover travel to and from work but covers travel whilst at work and visitors parking access requirements.

DCJ Accommodation and Design Standards incorporate Australian building and design standards and provide detailed specifications for workplace design. For any questions or issues relating to office moves or relocation requests please email Allocations-Infrastructure&Assets-CS@facs.nsw.gov.au

5.2 Career development

All DCJ divisions, branches and managers have a responsibility to promote and provide career development and training opportunities to employees with disabilities.

If an employee with disability notifies the manager, business unit or department that there are barriers to career development and training, workplace adjustments will be provided to remove these barriers, including disability awareness training. All employees, whether or not they have a disability, will:

- receive equitable consideration for above level assignments and other development opportunities, regardless of whether workplace adjustments are required
- have equitable access to learning and development opportunities
- be provided with any requested workplace adjustments required to access training. Where such adjustments are required, the employee, or their manager, will notify the course administrator of any workplace adjustments required
- have a current Performance Development Plan (PDP) in place which includes career development and learning goals.

5.3 Assessing workplace adjustments

When assessing a request for a workplace adjustment, factors to be considered include:

- the nature, severity and duration of the disability, medical condition, injury or illness
- the functional limitations placed on the employee by the disability

- whether the disability is likely to change over time (e.g. degenerative disability or fluctuating periods of wellness and regression)
- what specific adjustments, if any, have been suggested by the employee, and
- whether further specialist evaluation (i.e. assessment by an occupational therapist or other allied health provider) is required to identify and implement necessary reasonable adjustments (e.g. JobAccess). Confidentiality and sensitivity toward the employee is to be maintained at all times.

5.4 Exceptions

All managers are required to support applications for necessary workplace adjustments and not doing so may constitute disability discrimination. The *Anti-Discrimination Act 1977* makes it unlawful to discriminate against an employee on the grounds of disability. Requested workplace adjustments must be provided and will be declined only where:

- the inherent requirements of the role cannot be met even if the requested workplace adjustments are provided, or
- the provision of the adjustment presents an **unjustifiable hardship which will only apply in very limited circumstances.**

5.4.1 Inherent requirements

Section 21A in the DDA outlines numerous factors to consider when assessing if the inherent requirements of the role cannot be met. Some of these factors include but are not limited to:

- the past training, qualification and experience of the employee with disability relevant to the particular work
- the employee with disability's performance if the employee already reports to the manager.

If you are unsure if the inherent requirements of the role are being met, contact the relevant People Business Partner (People BP) for advice.

5.4.2 Unjustifiable hardship

The following items need to be considered when determining whether the provision of the adjustment would cause unjustifiable hardship to the employer:

- an assessment of the adjustments required by the person with the disability
- the benefits and disadvantages that may impact any person concerned (both the person with a disability as well as other employees in the workplace)
- the costs involved in making the adjustments
- an assessment of risks relating to security and safety in the workplace

- any alternative adjustments that may meet the need of the employee
- the availability of financial and other assistance to the employer claiming unjustifiable hardship, and
- responsibilities and requirements or commitments made under the department's Disability Inclusion Action Plan (DIAP).

Unjustifiable hardship only applies in rare circumstances and no single factor alone is likely to constitute unjustifiable hardship. As with other parts of the DDA, 'unjustifiable hardship' should focus on removing discrimination as far as possible.

The DDA places the onus on the person or business unit who is claiming unjustifiable hardship to prove that the workplace adjustment would result in unjustifiable hardship for the organisation.

Where a requested adjustment is not provided by reason of unjustifiable hardship, every effort must be made to provide alternative adjustments in the workplace.

- ❖ *Example 1: It may not be unlawful for the department to refuse undertaking significant structural changes or engaging in extensive building work if it is beyond the financial means of the department to do so.*
- ❖ *Example 2: Accessible parking spaces are limited in most DCJ office locations and it may not be possible to provide an allocated space as part of a workplace adjustment.*

6 Roles and responsibilities

DCJ recognises a shared responsibility with individual employees for ensuring that any necessary adjustment is identified and to ensure action is taken on notifications of barriers that prevent or reduce access or inclusion. DCJ has a shared responsibility with all employees to act effectively to remove barriers to access and inclusion.

6.1 People Branch

- Implement and maintain this policy and the workplace adjustment procedures, including during times of organisational change.
- Advise employees and job candidates about their right to workplace adjustments and assisting the employee or candidate (and their service, DCJ Disability Employee Network (DEN) or union representative if applicable) to identify the most suitable adjustments.
- Review the effectiveness of this policy in consultation with key stakeholders, including the DCJ DEN.
- Ensure that the person or business unit responsible for developing any proposal which results in a corporate activity or a new corporate program, (e.g. career

development activities) is also responsible for undertaking that the program or activity does not result in any discriminatory action/s

- Ensure equal access and opportunity for career development and training to all DCJ employees. This means ensuring managers and course providers ensure workplace adjustments are provided where necessary to ensure equal access to career development and training activities
- Provide accessible and inclusive recruitment by clearly offering the option for adjustments on all job advertisements and providing adjustments in recruitment processes.
- Ensure all job advertisements provide an option for adjustments to be made and clearly outline the inherent requirements of a role.

6.2 Infrastructure and Assets

- Implement physical workplace adjustments related to DCJ assets and building facilities, following requests from Talent Acquisition during the recruitment process and Line Managers in the onboarding process.

❖ *Example: a physical workplace adjustment includes but is not limited to handrails, ramps, accessible doors.*

6.3 Managers

- Create positive and inclusive workplace and team environments that support employees with disabilities by:
  - advocating for the employment of people with disability
  - ensuring team activities such as meetings and communications are in an accessible format for all staff members
  - incorporating conversations around Workplace Adjustments into the induction process and ongoing formal and informal one-on-one meetings, such as Performance Development Plan (PDP) or career development conversations
  - actively engaging with workshops and other events run both internally and externally to enhance understanding and empathy of people with disability
  - understanding digital accessibility standards, as outlined in the Web Content Accessibility Guidelines (WCAG)
  - ensuring completion of mandatory Disability Confident Recruiter (DCR) e-learn training prior to participating in recruitment processes
  - engaging with the Disability Employee Network (DEN) as a member or ally, and encouraging staff members to do so
  - seeking feedback from staff with disability around areas for improvement within the team.

- Ensure that all employees are made aware of the availability of workplace adjustments and disability awareness training including Disability Confidence e-learns.
- Identify appropriate adjustments that may assist employees and discuss these with the employee (see Appendix A in Workplace Adjustment Procedure for examples of workplace adjustments).
- Contact JobAccess to seek funding for workplace adjustments in the first instance (see Section 7) or, where appropriate, use the Workplace Adjustment cost centre codes referred to in the Workplace Adjustment Procedure.
- Contact the department's Infrastructure and Assets Branch who will implement any necessary workplace modifications, where a physical modification of the employee's workplace is required by emailing Allocations-Infrastructure&Assets-CS@facs.nsw.gov.au.
- Approve and provide workplace adjustments in a timely manner.
- Ensure that the employee seeking the adjustment is constantly engaged and kept informed on progress at every stage of the process.
- Provide reasons to the employee seeking the adjustment when the adjustment is declined on the basis of unjustifiable hardship.
- Ensure appropriate action is taken when an employee notifies of any barrier to access or inclusion which impacts on their ability to perform their duties.
- Ensure that a Personal Emergency Evacuation Plan (PEEP) is developed for employees that require an adjusted evacuation plan, as outlined in the relevant emergency plan.
- Periodically review an employee's workplace adjustment requirements as outlined in the Workplace Adjustment Procedure.
- Actively encourage and enable employees with disabilities to participate in career development opportunities.
- Direct any queries to the respective People BP where further support and advice is needed.

6.4 Employees

- Request adjustments including identifying, where possible, the types of adjustments that would assist at any stage of the recruitment process or during employment.
- Notify their manager of any barriers relating to access or inclusion or their ability to perform their duties.
- May contact Job Access to seek assistance and information with regard to workplace adjustments.

Provide supporting medical information or documentation relevant to the provision of an appropriate adjustment if required.

Discuss career development or training opportunities with their manager.

7 Workplace adjustment costs and financial assistance

Funding for workplace adjustment costs should be sought externally through the JobAccess Employment Assistance Fund (EAF) before purchasing workplace adjustment equipment with internal funding. JobAccess EAF provides financial assistance and advice to employers of people with disabilities to purchase a range of work-related modifications and services. Assistance is available for existing and new employees with disabilities, as well as those who require assistance to find and prepare for work.

Where reimbursement through EAF is not approved, internal funding may be accessed through DCJ central cost centre.

Minor equipment (e.g. document holder, chair, etc.) will be funded internally by individual business units.

For more information, refer to the Workplace Adjustment Procedure.

8 Review process

If an employee requesting a workplace adjustment is dissatisfied with the responsiveness to, or the outcome of their workplace adjustment request, they have the right to request a review.

For further information about the workplace adjustment review process, refer to the Workplace Adjustment Procedure (Section 9).

9 Privacy and confidentiality

All documents relating to specific requests for workplace adjustments will be managed by the line manager securely and confidentially. This information will only be shared in accordance with the provisions of the Privacy Act 1988 (Commonwealth), the Privacy and Personal Information Protection Act 1998 (NSW) and the Government Information (Public Access) Act 2009.

9.1 Sharing disability information

An employee has no obligation to share information about their disability unless it is likely to affect their ability to perform the inherent requirements of their role and work safety. Addressing workplace adjustment does not require identification of the particular disability, only what services and or facilities might be required to enable the inherent requirements to be met. Employees with disability are encouraged to talk to their manager about the impact of their disability on performing the inherent

requirements of their role and appropriate workplace adjustments that will enable them to meet the requirements and work to their full potential.

Employees who request a workplace adjustment may be required to provide supporting medical information or documentation relevant to the adjustment or disability in some circumstances.

9.2 Confidentiality

At all times the manager and/or other staff responsible for administering and providing the workplace adjustment must ensure the privacy of the employee.

However, in certain circumstances there may be a need to convey information about the required adjustment to co-workers immediately affected, or where the employee has agreed that information regarding the disability or adjustment may be shared with other employees.

10 Procedures

This policy should be read in conjunction with the DCJ Workplace Adjustment Procedure available on the DCJ Intranet.

11 Communication of policy

A copy of the Workplace Adjustment Policy and Procedure will be available in accessible formats for staff on the DCJ Intranet site. In addition, all internal and external candidates will be provided with information, in an appropriate format, about this policy and related documents on role advertisements, through inductions, the Intranet and in staff communications regarding workplace adjustments.

12 Monitoring and reporting

Line managers will keep records of all requests for adjustments as detailed in the procedure document. This data may be shared with Workforce Strategy Inclusion and Systems (WSIS), People, to report on and monitor the effectiveness of the workplace adjustment process. These reports will be de-identified and do not contain any personal information.

The report will be reviewed by People Branch and senior management to monitor the effectiveness of the Workplace Adjustment Policy and Procedures and identify opportunities for improvement.

13 Review

People Branch will review this policy and related procedures every three years in consultation with key stakeholders, including the DCJ DEN. A minor review will be conducted annually.

People Branch will also review this policy when any significant new information, legislative or organisational change requires amendments to this document. If this occurs, People Branch will invite various stakeholders, including but not limited to the DCJ Disability Employee Network (DEN) to participate in the review process.

14 Legislation

This policy is underpinned by the *Disability Discrimination Act 1992 (Commonwealth).* Other relevant legislation includes:

- *Anti-Discrimination Act 1977 (NSW)*
- *Disability Discrimination Act 1992 (Commonwealth)*
- *Disability Inclusion Act 2014 (NSW)*
- *Government Sector Employment Act 2013 (NSW)*
- *Government Sector Employment Rules 2014*
- *Injury Management and Workers Compensation Act 1998 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Privacy Act 1988 (Commonwealth)*
- *Government Information (Public Access) Act 2009*
- *Work Health and Safety Act 2011 (NSW)*
- *Workers' Compensation Act 1987 (NSW)*

15 Support and advice

Please see the following for advice and support about workplace adjustments:

- If managers or employees need advice or ideas on how to make appropriate modifications and adjustments for an employee with disability, they can contact *JobAccess* via 1800 464 800. They can also search the *JobAccess Workplace Adjustment Employer Toolkit* which contains practical ideas and solutions for supporting people with disability. The tool also provides links to suppliers of products and solutions.
- Further advice relating to the implementation of the Workplace Adjustment Policy and Procedure can be obtained from the People BP Team. Matters that require further escalation can be directed to Inclusion & Diversity.
- The Disability and Carers Helpline of the Employee Assistance Program is available through the Intranet.
- The *Australian Human Rights Commission's 2010 Workers with Mental Illness: a Practical Guide for Managers* provides information on how to support workers

with mental illness and workplace adjustments that can be considered for workers with a mental illness.

- The DCJ Disability Employment Network (DEN) has developed a number of resources, including *People with Disability in the Workplace - A guide for managers and workers* which may be helpful. The Network can also be contacted for support and advice regarding disability in the workplace. Contact details of members are also available via the Intranet or send a request to DENInquiries@facs.nsw.gov.au

16 Further information

Managers are encouraged to seek specialist advice from JobAccess consultants or qualified occupational therapists, where necessary (see Section 14). Further advice and assistance may also be obtained from the HR BP Team.

17 Related resources

17.1 Internal documents available on the Intranet

- Accessible version of the Workplace Adjustment Policy
- DCJ Workplace Adjustment Procedure
- Accessible version of the Workplace Adjustment Procedure
- Personal Emergency Evacuation Plan Application Form

17.2 Online training materials

- PSC Training: Disability Awareness – All Employees
- PSC Training: Disability Awareness - Managers
- Disability Confident Recruiter e-learn suite

18 Document information

Document name	Workplace Adjustment Policy
Applies to	All of DCJ
Replaces	Department of Justice Reasonable Adjustment Guidelines
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