

# Workplace adjustments policy

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## PURPOSE

1. The purpose of this policy is to provide a directive to ACTPS directorates and agencies to ensure that employees of the ACTPS who have a disability are supported to work through the provision of workplace adjustments.
2. This policy demonstrates the ACT Government's ongoing commitment to equity, diversity and inclusion in its workforce and being representative of the community it serves.

## APPLICATION

3. This policy contains a set of whole-of-government instructions issued by the Head of Service under the *Public Sector Management Act 1994* which binds all employees and officers engaged under that Act.
4. This policy applies to people with disability (and includes their carers and assistance animals where relevant), and those supporting people with disability in the workplace, including managers and Human Resources staff.

## BACKGROUND

5. For the purpose of this policy, the definition of disability is as per the definition provided in the *Disability Discrimination Act 1992* (DDA). That is:

**disability**, in relation to a person, means:

- (a) total or partial loss of the person's bodily or mental functions; or
  - (b) total or partial loss of a part of the body; or
  - (c) the presence in the body of organisms causing disease or illness; or
  - (d) the presence in the body of organisms capable of causing disease or illness; or
  - (e) the malfunction, malformation or disfigurement of a part of the person's body; or
  - (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
  - (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;
- and includes a disability that:
- (h) presently exists; or
  - (i) previously existed but no longer exists; or
  - (j) may exist in the future (including because of a genetic predisposition to that disability); or
  - (k) is imputed to a person.

To avoid doubt, a **disability** that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

6. The rights of people with disability are well established Internationally through the United Nations Convention on the Rights of Persons with Disabilities<sup>1</sup>, to which Australia is a signatory, and through federal and state/territory legislation in Australia (see relevant Legislative References below).
7. With ongoing advances in technology and associated ability to work remotely; the recognition of the importance of 'work-life balance' and improved employee engagement; as well as the impact of the COVID health pandemic, there has been a considerable shift for all employees to more alternative ways of working, such as increased use of flexible working arrangements and hybrid working. It is important to recognise the specific rights and needs of people with disability in the workplace, as well as to consider how these rights and needs best integrate into a broader approach to flexible work practices.
8. The DDA includes provisions which make it unlawful for a person to be discriminated against in employment because of their disability. In supporting this the DDA establishes a requirement that employers make adjustments which enable people with disability to engage in employment; so long as making those adjustments does not impose an unjustifiable hardship.
9. In determining whether an adjustment would impose an 'unjustifiable hardship' the DDA states that all relevant circumstances of the particular case must be taken into account, including:
  - (a) the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned;
  - (b) the effect of the disability of any person concerned;
  - (c) the financial circumstances, and the estimated amount of expenditure required to be made;
  - (d) the availability of financial and other assistance to [the employer].
10. The ACTPS recognises the importance of the voice of people with disability and, in particular, the need for its workplaces to actively engage with employees with disability when considering any potential barriers to their employment.
11. The ACTPS recognises the need for employment and engagement approaches which ensure a strong value proposition for all current and potential future employees throughout their employment in the Service. This involves removing barriers for people with disability to be employed, and to continue in their employment, such that people with disability actively seek out employment with the ACTPS as an employer of choice.
12. In 2022, the ACTPS introduced 'disability leave' into its core Enterprise Agreement, recognising some of the logistical impact of living with disability while maintaining employment. The relevant clauses provide for an employee with disability to have 5 days/shifts of leave per year for attending appointments or activities associated with their disability.
13. The ACTPS has a range of policies in place to support the work participation of all staff and this policy is intended to be consistent with, and to work effectively alongside, those other policies,

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<sup>1</sup> <https://humanrights.gov.au/our-work/disability-rights/united-nations-convention-rights-persons-disabilities-uncrpd> (accessed 11/1/2023)

in particular the *Flexible Working Arrangements Policy - Facilitating Flexible Working Arrangements* and the *Recruitment Policy and Guidelines*.

## PRINCIPLES

14. The ACT Government will lead by example as an inclusive employer, recognise the strengths of people with disability and maximise their access to employment; work participation; work satisfaction; and career progression. People with disability will have equal opportunity for selection, appointment, promotion, training and transfer.
15. Design of systems, facilities and programs will provide dignified access for all employees to their work and place/s of work.
16. Recruitment decisions are made on basis of the merit and employing the candidate who has the capability to fulfil the inherent requirements and is the 'best fit' for the role.
17. All ACTPS employees will demonstrate understanding and awareness of disability and the impact that attitudes of others and inherent stigma can have on the lives of people with disability. Employees that have responsibility for the management of other staff will have confidence in managing employees who have a disability.
18. Employees with disability will have available to them the tools they need to communicate their work needs with their workplace supervisor, and to do so in a safe, efficient and consistent way.
19. The ACT Government recognises that the needs of an employee with disability, as well as their work, change over time and systems will be in place to ensure people with disability have the support they need when commencing, continuing, and progressing their employment in the ACTPS.
20. The ongoing commitment to an agile workforce in the ACTPS will include people with disability and, as such, people with disability will not face unnecessary barriers when moving within the Service.
21. Consistent with the ACTPS focus for healthy and safe workplaces for all, the ACT Government will ensure that any specific work health and safety needs of employees with disability are effectively managed.

## RESPONSIBILITIES

The following responsibilities apply for this policy.

### **A. DIRECTORS-GENERAL, DEPUTY DIRECTORS-GENERAL OR EQUIVALENTS AND AGENCY HEADS**

- Ensure sufficient financial resources are available to:
  - enable the implementation of reasonable workplace adjustments across their organisation; and
  - support a smooth transfer process for employees with disability who obtain employment elsewhere in the ACTPS.
- Visibly support and promote the recruitment and retention of people with disability and ensure that any employment policies developed for application

across their directorate/agency do not introduce additional barriers for people with disability.

- Ensure that leaders and managers within the workplace are adequately trained such that they are disability confident and able to contribute to breaking down the stigma experienced by people with disability and encourage a sense of belonging.
- Ensure their directorate/agency has robust work health and safety measures in place that promote health and protect people with disability from harm.

## **B. EXECUTIVE AND MANAGERS**

- When undertaking recruitment activities, ensure that:
  - the advertising is accessible for people with disability
  - applicants have been offered the opportunity to request any adjustments as part of the recruitment process; and
  - requests for adjustments have been considered and, where such adjustments would not pose an unjustifiable hardship, have been provided.
- Ensure that all staff have access to disability awareness training tailored to the needs of the workplace.
- Undertake recommended training to build management disability confidence.
- Foster a culture of inclusivity and belonging.
- Actively consult with employees with disability to identify barriers within the workplace and identify and implement suitable workplace adjustments.

## **C. EMPLOYEES**

- Participate in disability awareness training in accordance with their directorate program
- Employees with disability will communicate with their manager to:
  - discuss any actual, or potential barriers to their ongoing work and employment
  - actively engage in identifying and implementing suitable workplace adjustments; and
  - engage in regular reviews of their work needs.

## **LEGISLATIVE REFERENCES**

This policy is to be delivered in accordance with:

*Disability Discrimination Act 1992 (Cwlth)*

*Work Health and Safety Act 2011 (ACT)*

*Discrimination Act 1991 (ACT)*

*Public Sector Management Act 1994 (ACT)*

## **REVIEW**

This policy will be reviewed after three (3) years unless earlier review is required.

## **APPROVAL AUTHORITY**

This policy is approved by Head of Service

DATE.

Issue Date:

Review Date:

Dr Damian West  
Deputy Director General  
Workforce Capability and Governance Division  
Chief Minister Treasury and Economic development Division  
*on behalf of*  
Kathy Leigh  
Head of Service

Month 2023