

Workplace Adjustments Policy

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1 Purpose

The NSW Crime Commission (the Commission) is committed to creating an inclusive workplace where people feel they belong, fostering a positive culture and enhancing productivity. Inclusion enables genuine participation and contribution, regardless of seen or unseen individual differences.

The purpose of this policy is to establish a consistent and effective system that encourages workplace adjustments and enables an individual's full participation in the workplace. While the policy may, at the Commission's sole discretion, be used to cater to all employees requiring workplace adjustments, including carers, this policy has a particular focus on people with a disability.

The policy outlines individual responsibilities and procedures for how workplace adjustments may be requested and implemented. The policy complements any existing workplace adjustment or future passport or processes within agencies. Workplace adjustments may be discussed and requested at any time during a recruitment process and during employment.

The Disability Discrimination Act 1992 (Cth) (DDA) and the Anti-Discrimination Act 1977 (NSW) (ADA) apply to the provision of workplace adjustments by NSW Government employers. Employers are required to make reasonable workplace adjustments unless it causes the agency unjustifiable hardship to do so, or where, even after the workplace adjustments have been made, the employee would still be unable to carry out the inherent requirements of the employment.

2 Scope/Application

This policy and procedures is binding to all Commission officers including a person engaged by the Commission as a consultant, contractor or a police officer under the *Crime Commission Act 2012*.

3 Definitions

TERM	DEFINITION
DISABILITY	Both temporary and long-term physical, mental health, intellectual, neurological or sensory differences which, in interaction with various attitudinal and environmental barriers, may hinder full and effective participation in society on an equal basis with others. Note: The term "disability" has a specific meaning when used in the <i>DDA</i> (section 4) and the <i>ADA</i> (sections 4 and 49A). The definitions in each Act are slightly different.
EMPLOYEE	An employee who performs work or services for the Commission under an employment contract/agreement.
INHERENT REQUIREMENTS	A genuine, essential and intrinsic part of a job that is necessary for the position to be performed safely, effectively, and to the required standard.
UNJUSTIFIABLE HARDSHIP	Circumstances where making a workplace adjustment for an employee with disability would impose major difficulties or

unreasonable costs on the employer. Determining unjustifiable hardship involves assessing all relevant factors, including:

- the benefit or detriment to all parties involved (employee, employer, community),
- the nature and impact of the disability,
- the employer's financial situation and the cost of the adjustment,
- availability of financial or other assistance,
- and any other relevant circumstances.

Note: The employer bears the burden of proving that an adjustment would cause unjustifiable hardship under the DDA.

WORKPLACE

Any location where work is performed. This includes physical offices, remote work settings (such as working from home), outdoor sites, vehicles, and any place an employee attends for work-related purposes, including social events. Where multiple organisational units share a workplace, relevant managers or directors are jointly responsible for implementing adjustments in consultation with the employee.

WORKPLACE ADJUSTMENTS

Any change or modification to a work process, environment, or practice that enables a person with disability to:

- perform their job effectively,
- work safely and productively,
- be included in the workplace,
- and meet the inherent requirements of their role.

Adjustments may include changes to recruitment methods, equipment, work arrangements, or workplace design, and should be responsive to the evolving needs of individuals.

For the purposes of this policy, the term 'reasonable adjustment' is used interchangeably with 'workplace adjustment' and aligns with the legal terminology in the DDA.

Note: Employers are required to provide reasonable adjustments unless doing so would impose unjustifiable hardship.

4 Roles and Responsibilities

ROLE	RESPONSIBILITIES
SENIOR EXECUTIVES	<ul style="list-style-type: none"> Promote and support the use of workplace adjustments across the Commission. Encourage Managers to discuss workplace adjustments with staff. Ensure legislative requirements are met. Support capability uplift for managers and agency wide technology solutions. Advocate for accessibility to Commission resources. Promote and complete <u>Disability Awareness Training</u>.
MANAGERS	<ul style="list-style-type: none"> Ensure workplace adjustments are available to staff who require it. Consult the People & Culture Manager regarding workplace adjustments. Initiate regular discussions with all staff about their needs. Not require an employee to disclose any information that is not necessary to implement a workplace adjustment. Seek to increase understanding of a variety of available workplace adjustments to assist in identifying the most suitable adjustment Understand legislative and confidentiality requirements. Take all actions, including decisions on adjustment requests, promptly and maintain regular communication with the employee throughout the process. Conduct yearly workplace adjustment check ins Educate staff regarding workplace adjustments requirements, processes and policies. Discuss this policy or related procedures to staff who are returning to work. Escalate matters to the People & Culture Manager if adjustments are unreasonable or will cause an unjustifiable hardship. Advise employees of review processes to disputes about adjustment requests. Role model inclusive behaviour across the Commission

EMPLOYEES

- Advise managers if there is a requirement for workplace adjustment.
- Discuss changes to adjustments with a manager/s if they come about.
- Participate with manager to assist the implementation a work adjustment.

5 Implementing Workplace Adjustments

5.1 Asking Employees About Workplace Adjustments

The Commission has an obligation to implement all reasonable workplace adjustments to aid their staff to ensure that they are performing to the best of their ability.

To successfully implement workplace adjustments:

- Managers should ask all employees if they need workplace adjustments - during recruitment, onboarding, regular check-ins, or following any injury or illness - regardless of whether a disability or health condition has been disclosed.
 - Employees are not required to share personal health or disability information unless it is necessary to assess their ability to perform their role safely or to determine appropriate adjustments.
 - Any information requested must be relevant, not excessive, and must respect the employee's privacy.
 - If further advice is needed, managers should consult People & Culture for assistance and may meet with the employee to clarify needs and gather additional information.
 - Personal or health information must remain confidential unless the employee consents to sharing, or disclosure is legally authorised.
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5.2 Arranging Workplace Adjustments

5.2.1 Workplace Adjustment Requests

When a workplace adjustment is requested, the manager and the requesting employee are to discuss the nature of the adjustment. The manager is also able to contact People & Culture during this process to seek advice. All information provided during this process must be dealt with confidentially.

Staff can request an adjustment any time during their employment at the Commission and are able to request an adjustment to someone other than their line manager (i.e., a Senior Executive, or the People & Culture team).

If staff are required to change their work hours or locations, the Commission will consult its flexible working policies, where appropriate, or consult the People & Culture team.

If an adjustment includes flexible working, it should still be managed as per the requirements of this policy.

5.2.2 Personal Emergency Evacuation Plan (PEEP)

Managers are required to ask all employees whether they need a PEEP. The manager will then submit any required documentation to the People & Culture team for action and filing.

5.2.3 JobAccess Assessment

JobAccess is a Commonwealth initiative that provides free support and information to employers, employees with disability, and service providers. Through the Employment Assistance Fund, JobAccess offers free workplace assessments conducted by qualified professionals. These assessments identify barriers in the workplace and recommend appropriate adjustments. The assessor prepares a report and discusses recommendations with both the manager and the employee.

Staff are encouraged to contact People & Culture for further information regarding JobAccess.

5.3 Funding

Workplace adjustments can range from no-cost changes, such as flexible work hours or rest breaks, to higher-cost modifications like specialised equipment and funded through existing budgets where available.

Additional support may be accessed through the JobAccess Employment Assistance Fund (EAF), a reimbursement scheme that helps cover the cost of eligible adjustments. JobAccess also offers free Workplace Modification Assessments to identify suitable adjustments, which are available to new and existing employees when their role, disability, or available modifications change.

5.3.1 Timeframe and Review Process

All workplace adjustments are to be provided within a reasonable timeframe.

The manager will keep the employee seeking adjustment up to date on the progress of their request.

Once workplace adjustments are in place, managers should regularly check in with employees to ensure the adjustments continue to meet their needs. Adjustments should be reviewed at least annually, or sooner if circumstances change - such as a shift in duties, location, health, or the nature of the issue. If needed, adjustments should be updated to ensure ongoing support.

Employees are encouraged to raise any concerns about their adjustments with their manager. If the manager is unavailable or it's not appropriate to speak with them, the employee can escalate the matter to another manager.

5.4 Declining a Workplace Adjustment Request

If it is considered that making a workplace adjustment would impose unjustifiable hardship on the Commission, or a person cannot carry out the inherent requirements of a role, even with appropriate services and facilities provided, the matter will be escalated to People and Culture for assessment.

During assessment, the following will be considered:

- Consider all possible adjustments and how they might be made,
- Discuss the issues directly with the employee or groups involved, and
- Consult relevant sources of advice such as the People & Culture Manager and the Office of the Commissioner.

During the consideration period, the Commission can consult external sources where applicable, see Appendix 1.

5.4.1 Unjustifiable Hardship Exception

Under DDA and the ADA, employers are legally required to make reasonable adjustments for employees with disability, unless doing so would impose unjustifiable hardship.

Unjustifiable hardship is assessed on a case-by-case basis and considers:

- The benefits and detriments to all parties involved,
- The nature and impact of the disability,
- The employer's financial circumstances and the cost of the adjustment, and
- The availability of financial or other assistance.

The Commission must prove that an adjustment would cause unjustifiable hardship. This involves balancing the needs of the employee with the practical and financial impact on the organisation.

Examples of adjustments that may be considered unreasonable due to unjustifiable hardship include:

- Assigning a permanent support person to perform all duties alongside an employee,
- Requiring all communication and meetings to be provided in writing with 24 hours' notice and a support person present.

Examples of reasonable adjustments that do not impose unjustifiable hardship include:

- Modifying a workstation to allow an employee to sit while serving customers,
- Providing assistance with tasks such as lifting a wheelchair.

This section of the policy is a guide only.

Determining what does or does not constitute unjustifiable hardship depends on individual circumstances. Where there is concern that a request for an adjustment may constitute unjustifiable hardship then the Commission will seek advice from an appropriate internal advisor such as the Senior Lawyer, Office of the Commissioner.

You can find out more about unjustifiable hardship in the [Australian Human Rights Commission's online guide](#).

5.4.2 Inherent Requirements of the Role and Other Exceptions

In some cases, a person with disability may be unable to perform the inherent requirements of a role, even with reasonable adjustments. Under the DDA and the ADA, it is not unlawful to refuse employment or make other decisions based on disability if the person cannot meet the essential requirements of the role, despite adjustments.

Employers are responsible for identifying the inherent requirements of each role. These should be clearly outlined in job advertisements, position descriptions, and employment contracts. Inherent requirements may include essential tasks, required skills, and the context in which the work is performed.

When assessing whether a person can meet these requirements, employers must consider:

- The person's relevant training, qualifications, and experience,
- Their performance (if already employed), and
- Any other reasonable factors.

Before making a decision, employers must consult with the employee or candidate and explore possible adjustments. If the person still cannot perform the role's inherent requirements, the employer may lawfully decline the request.

Additional exceptions under the law include situations where the disability involves an infectious disease and discrimination is necessary to protect public health, or where compliance with other laws or court orders requires it.

5.5 Confidentiality

To action workplace adjustments, employees may be required to provide personal health information. The nature of that information will depend on the circumstances and should focus on the inherent requirements of the role and the employee's ability.

If information is required, the Commission will notify the employee as to:

- Why information about their personal health is being collected
- How and where the information will be used and stored
- Who has access to this information
- How the information can be amended and updated
- Who the information will be disclosed to
- How long it will be stored for
- How it will be destroyed.

All involved parties should ensure they treat information about disability or health conditions confidential.

The Commission is responsible for ensuring all records in relation to a workplace adjustment are secured against loss, unauthorised access, modification or misuse and are otherwise held and dealt with in accordance with applicable legislative requirements under the Privacy and Personal Information Protection Act 1998 (NSW) and the Health Records and Information Privacy Act 2002 (NSW).

6 Escalation Pathway

6.1 Greivance Process

The Commission will manage grievances in line with the Work-Related Greivance Handling Policy and the corresponding procedure.

A list of advice and support services can be found at Appendix 1.

7 Moving to Another Role, Department or Agency

When a workplace adjustment is provided for an employee, and that employee moves to another role within their own agency or to another NSW government sector Department or agency (temporarily or permanently):

- If the employee consents to the adjustment being shared with the new manager/agency, the workplace adjustment/passport details for the employee will be provided to the new manager/agency for review
- The new manager/agency may need to review the current workplace adjustment to ensure it meets the needs of the employee and requirements of the new role
- Transfer of adjustments should be considered on a case-by-case basis. Where reasonable and practical, the existing adjustment will transfer with the employee

- If the new role is substantially different, the adjustment may need to be reviewed to ensure it meets the employee's needs and inherent requirements of the new role and does not cause an unjustifiable hardship
- Any existing, ongoing, or new funding requirements will (if applicable) transfer to the new employing agency
- If the employee is unsatisfied with the workplace adjustment process or decision, they should refer to the relevant escalation process of the new agency/role
- If the adjustment relates to equipment that has been provided through the Employee Assistance Fund, ownership of the asset must be confirmed in writing as part of the EAF approval. This will determine who is responsible for maintenance or repairs and what will happen to the equipment if the person with disability changes jobs. In most cases, any modification or equipment that is portable should move with the employee where practicable.

8 Monitoring and Evaluation

The Commission will monitor and evaluate the workplace adjustment landscape to foster an inclusive work environment. This'll include:

- Regular review of this policy and implementation of the workplace adjustment passport,
- Regular collecting and assessing de-identified reports and data to find trends, patterns and lessons to drive continuous improvement,
- Consult employees, employee networks and unions to share knowledge and understand issues from the employees' point of view,
- Promote an inclusive workplace that encourages workplace adjustments.

9 Related Legislation

- Anti-Discrimination Act 1977 (NSW)
- Disability Discrimination Act 1992 (Cth)
- Disability Inclusion Act 2014 (NSW)
- Government Sector Employment Act 2013 (NSW)
- Health Records and Information Privacy Act 2002 (NSW)
- Privacy and Personal Information Protection Act 1998 (NSW)
- Sex Discrimination Act 1984 (Cth)
- Work Health and Safety Act 2011 (NSW)

10 Feedback

For any feedback or questions relating to this policy, staff can contact People & Culture.

Appendix 1: Advice and Support

Employee Assistance Program

The Commission provides an Employee Assistance Program (EAP), which is a short-term, confidential, counselling service designed to offer a problem-solving, solution-oriented approach to support employees with personal or work-related issues.

The EAP is staffed by independent qualified practitioners. The EAP will provide adjustments such as interpreters or captioning if required.

All employees (and their immediate family) have access to the EAP, which provides for a limited number of counselling sessions at no cost to the employee and can be provided over the phone or face-to-face.

Managers and supervisors can access Manager Assist through the EAP, to help with workplace issues.

The Commission's EAP provider is Relationship-Talk. Cory Middleton can be contacted on cory@relationship-talk.com.au or 0409 905 152.

Relevant Union

The Commission's Union representative is Kim Villanti – kvillanti@psw.asn.au at the Public Service Association of NSW.

Support Services

Commission staff can contact the following support services to assist with any workplace adjustment requests or inquiries.

Organisation	Website/Resource	Phone	Email
<u>Anti Discrimination NSW</u>	<u>Workplace Adjustment Series</u>	(02) 9268 5544 / 1800 670 812	adbcontact@justice.nsw.gov.au
<u>Australian Human Rights Commission</u>	<u>Unjustifiable Hardship Online Guide</u>	1300 656 419 / 1800 620 241	complaintsinfo@humanrights.gov.au
<u>Australian Disability Network</u>		(02) 8270 9200	info@AusDN.org.au
<u>Fair Work Commission</u>		1300 799 675	sydney@fwc.gov.au
<u>First Peoples Disability Network</u>		(02) 8399 0882	enquiries@fpdn.org.au
<u>IncludeAbility</u>		(02) 9284 9600	includeability@humanrights.gov.au
<u>JobAccess</u>		1800 464 800	
<u>Mental Health NSW</u>	Mental Health Line (24/7)	1800 011 511	

<u>People with Disability Australia</u>		1800 422 015	pwd@pwd.org.au
Office of the Public Service Commissioner	<u>Disability Employment</u>		
<u>SafeWork NSW</u>		13 10 50	IRC.Registry@courts.nsw.gov.au
<u>NSW Industrial Relations Commission</u>		02 8688 3516	
<u>Enable NSW</u>		1800 ENABLE (1800 362 253)	enable@health.nsw.gov.au

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