

Reasonable workplace adjustment

Context

Victoria Police is committed to employment practices and standards that are fair, equitable and inclusive.

Victoria Police is committed to improve its capacity to employ, develop and retain people with disabilities. Reasonable workplace adjustments will depend on individual circumstances and specific requirements.

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Definitions

Reasonable workplace adjustment describes any change that is made so that a person with disability can have equality of access, employment and advancement opportunities. It is a term that is often used in employment. Other terms commonly used include:

Access: Refers to the ease with which people are able to use services and/or resources. This includes access to buildings, car park spaces, facilities, resources, services and programs, equipment, signs, information, training programs, etc.

Disability: Includes physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder full and effective participation on an equal basis with others.

Functional capacity evaluation: Assess whether the person is able to perform the inherent requirements of the job based on their level of function. The Victoria Police Medical Advisory Unit may conduct this evaluation in conjunction with specialist units as part of their medical assessment process (e.g. whether the person can put on and take off the equipment belt in an alternate manner).

Inherent requirements: Functions that are a necessary part of the job.

Unjustifiable hardship: A term used in the *Disability Discrimination Act 1992* which describes how to determine whether an adjustment is reasonable.

Scope and application

This policy applies to all Victoria Police employees requiring reasonable workplace adjustments.

- This includes all graduates, work experience students and trainees who acquire disability while already employed, or if their current disability requires reasonable adjustments that are not already in place for both temporary and ongoing impairment.
- This policy also applies to prospective employees with disability applying for all positions with Victoria Police who may require reasonable adjustments.

Policy

The development of a reasonable workplace adjustment policy ensures that all prospective applicants and current employees have reasonable opportunities to achieve their potential and are not treated disadvantageously as a result of disability. The policy also fulfils requirements of the *Victoria Police Accessibility Action Plan 2014-2017* and Victorian legislation.

The requirement for reasonable workplace adjustments may be provided for people with disabilities:

- That occur at any age or stage in life or employment;
- present at birth, or acquired;
- that are temporary or in an ongoing capacity;
- that may or may not be visible.

Reasonable workplace adjustments will take into account all relevant circumstances and balance the benefits, the cost, and the effects on an individual, a workplace and Victoria Police as a whole.

Under the *Disability Discrimination Act 1992*, an adjustment is considered reasonable unless it causes 'unjustifiable hardship' to the employer or organisation. Unjustifiable hardship could be in the form of financial cost, an amendment to the physical building that is not possible due to council or other restrictions, or an adjustment that would disadvantage other employees.

The *Disability Discrimination Act 1992* stipulates that it is lawful for an employer to discriminate against a person on the ground of the person's disability if the person is unable to carry out the 'inherent requirements' of the position or would, in order to do so, require services or facilities that would impose an 'unjustifiable hardship' on the employer.

For further information on how to apply reasonable adjustments in the workplace see the Guidelines.

Responsibilities and procedures

1. General

A request for workplace adjustment must be considered in accordance with the following legislation and agreements.

1.1 *Victorian Public Service Enterprise Agreement 2016*

Part 1 Clause 7 addresses anti-discrimination and the importance of respecting and valuing the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of physical or mental disability.

Clause 47.8 outlines where reasonable adjustments may be used to facilitate return to work.

1.2 *Equal Opportunity Act 2010*

Section 20 requires that employers make reasonable adjustments for persons offered employment or an employee with disability. The employer must make reasonable adjustments unless the person or employee could not or cannot adequately perform the genuine and reasonable requirements of the employment even after the adjustments are made.

The *Equal Opportunity Act 2010* includes limited exceptions where discrimination is not considered unlawful. Refer to the Policy section which discusses reasonable workplace adjustment considerations related to this legislation.

1.3 *Disability Discrimination Act 1992*

The *Disability Discrimination Act 1992* states that organisations have an explicit duty to make reasonable adjustments. The act now expressly provides that the failure to make 'reasonable adjustments' may constitute either direct or indirect discrimination.

1.4 *Convention on the Rights of Persons with Disabilities*

Article 27 stipulates that employers must ensure that 'reasonable accommodation' is provided to persons with disabilities in the workplace.

1.5 *Fair Work Act 2009*

Division 5 Section 351 addresses discrimination and provides that an employer must not take adverse action against a person who is an employee, or prospective employee, because of the person's physical or mental disability.

2. Current employees

If an employee requires an adjustment, they should discuss this with their manager and/or make a written request and describe:

- the adjustments they propose;
- the reasoning, ideally with medical certification, detailing the circumstances and any recommendation.

Design of a reasonable adjustment should be made in collaboration with managers and supervisors and may include participation in the medical review process.

3. Managers and supervisors

3.1 *Responsibility*

Managers and supervisors are responsible for ensuring that the workplace provides every opportunity for employees with disability to participate fully within the workforce. Where a workplace adjustment is required, the manager should provide the adjustment within a reasonable time frame.

3.2 *Initial considerations*

The following items should be considered when a request for an adjustment is received:

- notification to the appropriate Injury Management Consultant (IMC);
- police member referrals to Mobility and Deployment, Medical Advisory Unit;
- VPS employee referrals to Employee Relations;

- the proposed adjustment and alternatives;
- the cost of proposed adjustments;
- evaluation of any detriment to other employees or operational matters;
- commencement of planning associated with the implementation of adjustments and review.

3.3 *Existing adjustments*

Periodic assessment of existing adjustments should be undertaken with the employee to ensure continued success and effectiveness. The impact of disability may fluctuate and managers should address this appropriately.

3.4 *Learning and development*

Suitable modifications to training programs and online learning may be required to ensure accessibility for all employees. Adjustments may also be required where an employee with disability relocates from their usual workplace to another workplace on secondment.

4. Recruitment

4.1 *Overview*

The principles of equal opportunity must be followed throughout the recruitment process and ensure that all prospective employees are treated fairly and reasonably with consideration to equal employment opportunity.

The recruitment process should be free from barriers which prevent equal opportunity for prospective employees to demonstrate that they are the best person for the job.

4.2 *Considerations*

When a vacancy arises, before advertising, managers should review the existing position description and consult with Classifications and Review before advertisement. Managers may consider whether full-time work is an inherent requirement of the role or whether work-share, part-time work or other similar adjustments may be considered.

It is not unlawful for an employer to deny employment to a person where they cannot meet the inherent requirements of the job.

4.3 *Assessment of applications and interview process*

- Ideally, panel members are informed by the candidate prior to interview of any adjustments that may be required, however there is no obligation on the candidate to disclose their disability prior to interview.
- During the shortlisting process, if the panel considers that the candidate with disability meets the inherent requirements of the position, they should be offered an interview.
- At interview, if a disability is disclosed, panel members should ask whether there are any reasonable adjustments that the organisation might arrange to assist the potential employee do their job.
- Assessment of applicants must be based on the ability to perform the inherent requirements of the position.

- If the candidate with disability does not meet the inherent requirements of the position, then a clear explanation of this should be outlined in the selection report.

4.4 *Selected candidate requiring reasonable workplace adjustment*

If the successful candidate has a disability, commence consideration of and planning for reasonable workplace adjustment and where possible, implement changes prior to commencement.

- Managers can refer to the publication *“Manager’s Guide – Disability in the workforce”*.

5. Police recruitment

5.1 *Overview*

The *Equal Opportunity Act 2010* allows exemption on the grounds of ‘protection of health, safety and property’ where discrimination is reasonably necessary to protect the health or safety of any person or of the public. This may be relevant for Recruit, PSO or PCO recruitment.

The Victoria Police Recruitment website provides prospective employees with information of the entry requirements, including fitness and medical conditions. A self-assessment kit is featured and can be used to assess whether a potential candidate meets the inherent requirements of the role.

These conditions also apply to current members that choose to apply for advertised positions. If a police member, PSO or PCO has some doubt of whether they can perform the inherent duties of the advertised position they can contact the Medical Advisory Unit for advice.

5.2 *Medical Advisory Unit*

The Medical Advisory Unit assists with screening for prospective employees, specialist positions and members of specialised units, such as Police Air Wing, Search and Rescue and Special Operations Group.

Medical assessment by the Medical Advisory Unit may be conducted on a case by case basis and can explore whether there are alternative ways of performing key tasks by conducting functional capacity evaluation. The workplace may arrange an assessment where the candidate can demonstrate an ability to meet the inherent requirements of the role.

6. Information handling

Managers, together with those key employees involved in the process of applying for reasonable workplace adjustment are responsible for information handling, use and disclosure requirements of information in accordance with the Victoria Police Manual, such as **VPMP Appropriate use of information** and **VPMP Information privacy**.

Related documents

- Victoria Police Equal Opportunity Policy Statement
- Victoria Police Accessibility Action Plan 2014-2017
- VPM 301–2 Police Recruiting

- VPM 306–10 Transfer and Promotion (VPS)
- VPM Workplace Flexibility
- Victoria Police Mobility and Redeployment (sworn employees)
- Victoria Police Referral to the Police Medical Officer (PMO)
- Victoria Police Reasonable Workplace Adjustment Practice Guide

Further advice and information

For further advice and assistance regarding these Policy Rules, contact Workforce Diversity and Inclusion, Human Resource Department.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
03/07/17	Initial draft transposition into current VPM template and removal of content better aligned to presentation in a Practitioner Guide and Resource.	FF – 107982