

# Workplace Adjustment Policy

## Policy Statement

Araluen recognises the diversity of our workforce and is committed to ensuring that all candidates and employees can effectively and efficiently use their skills and experience to contribute to the organisation's mission and vision. This includes the opportunity to participate, without discrimination, in both work-related and social activities conducted within a work context.

The purpose of this policy is to establish defined processes which will enable an inclusive and non-discriminatory work environment. These processes will establish effective mechanisms for responding to the individual adjustment needs of employees, contributing to a diverse workforce and a culture that values differences. Diversity is about attracting and retaining a talented workforce that reflects the customers and community we serve.

## Definitions

### **Workplace adjustment:**

A workplace adjustment, also called a reasonable adjustment, is a change to a work process, practice, procedure or environment that enables a candidate, employee or volunteer to perform the essential requirement of their role.

Workplace adjustments may include changes to selection procedures, job redesign (including offering flexible working arrangements), alternative methods of information provision, additional training, specialist assistance, and workplace modifications (including the purchase or modification of equipment).

### **Disability:**

The Disability Discrimination Act 1992 defines disability as:

- a total or partial loss of a person's body or their mental or bodily function

- the presence in the body of organisms causing or capable of causing illness or disease - the malfunction, malformation or disfigurement of a part of the body
- a disorder or malfunction that results in the person learning differently than others
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or adjustment, or results in disturbed behaviour.

This covers physical, sensory, intellectual, learning, neurological, immunological (disease causing organisms), physical disfigurement and psychiatric disability. Disability may be temporary or permanent, total or partial, lifelong or acquired.

As noted above, for the purposes of this policy, all employees with an impairment of any sort derived from disability, illness, injury or a medical condition for example, can seek a Workplace Adjustment to support their wellbeing in the workplace, regardless of whether they consider themselves as a Person with Disability or not.

### **Essential requirements:**

Essential requirements, otherwise known as inherent requirements, are the essential activities and tasks that must be carried out to get the job done. They relate to results or what must be accomplished, rather than the means or how it is accomplished. For example, a person may be required to respond to emails. However, the means by which they respond can vary (i.e. typing directly, using voice activated software or alternative means to reach the same end).

### **Legislation**

This policy is underpinned by the Disability Discrimination Act 1992 (Cth), the Fair Work Act 2009 (Cth), Privacy Act 1988 (Cth) and the related state and territory legislation.

### **Disability Discrimination Act 1992 (Cth) (DDA)**

The DDA makes it unlawful to discriminate against a person with disability in employment or service provision. The definition of disability under the DDA is covered in the Definitions section.

Under the DDA, employers have a positive obligation to make reasonable workplace adjustments to accommodate an individual's disability.

### **Fair Work Act 2009 (Cth)**

Under the Fair Work Act 2009, it is unlawful for an employer to take adverse action against a person who is an employee, former employee or prospective employee

because of, among other things, the person's disability. The definition of adverse action includes:

- terminating an employee
- injuring an employee in their employment
- altering the position of an employee to the employee's detriment
- discriminating between an employee and other employees
- refusing to employ a prospective employee
- discriminating against a prospective employee in the terms or conditions on which the employer offers to employ them.

The Fair Work Act 2009 (Cth) also legislates the National Employment Standards, which includes the right for people with disability to request [flexible working arrangements](#). The National Employment Standards outline an employer's responsibility to respond to requests in writing within 21 days.

### **Privacy Act 1988 (Cth)**

Employers are obligated to collect, record, share and monitor personal information in a manner which is compliant with the [Privacy Act 1988](#) (Cth) and [Australian Privacy Principles](#) (and/or related state and territory legislation).

### **Unjustifiable hardship:**

Araluen will make every reasonable effort to implement a workplace adjustment. The requirement for Araluen to make adjustments to the workplace is measured against unjustifiable hardship. The approval process will always go through a 2 or 3 stage approach, Line Manager > Senior Manager > General Manager / Chief Executive.

If the implementation of an adjustment would cause unjustifiable hardship to an organisation, Araluen is not obliged to implement it. Relevant factors might include practicality, complexity, the degree of disruption or benefit to the business or other people, and cost. However, any assessment as to whether any of these factors will be judged unreasonable will vary according to the size and nature of the business.

To check if a request would cause us unjustifiable hardship, we assess how reasonable a request is against factors like:

- how complex a request is
- if it's practical to implement the request
- how much disruption the request would cause

- the cost of the request
- the benefits the request would provide
- the organisation's size and the type of work it does.

The Disability Discrimination Act places the onus on Araluen to prove that the adjustment is unreasonable.

## Supporting documentation

At Araluen we understand that candidates or employees with a disability are the experts in their own lives and we will respect and have dignity that will guide any requests for supporting documentation. A candidate or employee may be required to provide reports or medical information specifically relevant to the process of identifying appropriate adjustments or confirming their requested adjustment. Medical information should be focused on the adjustment required to perform the essential requirements of the role and not about the disability.

## Privacy, Security and Confidentiality

Araluen respects the privacy of all individuals and adheres to a variety of acts and processes designed to protect people's rights. Araluen recognises that as an employer any breaches of prospective and current employees' confidentiality can only occur if there are legitimate reasons to believe that there is serious and imminent threat to the health, safety or property of any other persons in the workplace or the public generally.

Araluen is committing to the following, as guided by legislation:

- Take reasonable steps to ensure that information collected, stored, and disclosed is accurate, current, and complete.
- Take reasonable steps to ensure that people's personal information is protected from misuse, unauthorised access, loss, or disclosure
- Take reasonable steps when information is shared, to seek consent to communicate and share information to the line manager or others of the employee and reasonable workplace adjustments are to be implemented.

- Not disclose any information collected about employees to anyone outside of the organisation (unless required by law or in special circumstances, e.g., where there is evidence that a person's safety may be at risk).

## **Sharing disability related information**

Sharing disability related information refers to a personal decision to tell a person about one's disability, illness, injury or condition. In the instance that your disability, illness, injury or condition does not, or should not be expected to impact your ability to safely perform the essential requirements of the role, it becomes that individual's choice to share this information or not.

Araluen knows there is no legal obligation for a candidate or employee to share information about their disability, unless it is likely to affect your ability to perform the essential requirements of the role. For example, if you were unable to perform the essential requirements of the role, or if doing so would be considered unsafe. Araluen recognises your right not to share disability related information but encourages sharing so that Araluen can offer and implement workplace adjustments that enable you to perform the essential requirements of the role. Furthermore, Araluen commits to receiving such information in a positive and supportive manner and will always make every reasonable effort to accommodate adjustments into the workplace to ensure ongoing employment and safety.

## **Communication and Responsibilities**

Araluen will ensure all candidates, and employees are notified of the availability of workplace adjustments. This will be achieved by providing a link to this policy on our employment page, referring to it in our application process, and promoting it internally to all employees, and managers in particular.

The General Manager, People & Culture has overall responsibility of ensuring that this policy is implemented and regularly reviewed.

## **The People & Culture team will be responsible for:**

1. Ensuring that all application forms and job interview correspondence outline the existence of this Workplace Adjustment Policy and advise who to contact for further information or assistance
2. Educating hiring managers to notify all job applicants invited to interview of the workplace adjustment request process, so that they can participate in the interview process equitably
3. Publishing an overall statement on Workplace Adjustment on Araluen's website
4. Providing each employee with access to the policy and procedure via 'Araluen People'
5. Providing advice and interpretation in relation to the application of the policy

## **Line Managers will be responsible for:**

- Creating environments where employees feel safe to share their workplace adjustment
- Advising employees of the Workplace Adjustment Policy and procedure upon job commencement
- Ensuring that information about the Workplace Adjustment Policy is readily available
- Initially approving or rejecting requests for adjustments, which will flow to People & Culture to finally authorising (subject to financial delegation)
- Implementing and reviewing all adjustments in conjunction with People & Culture and direct line managers
- Assisting in the assessment and implementation of workplace adjustments
- In conjunction with People & Culture organising the financing of all workplace adjustments and related workplace assessments through internal budgets or through application to the Australian Government's Employment Assistance Fund via the JobAccess website [www.jobaccess.gov.au](http://www.jobaccess.gov.au) .
- If adjustments are to be paid for by JobAccess, their definitions of disability apply with reference to their [Job Access Guidelines](#)

Please note: it is important that People & Culture and managers understand that they can be held responsible under federal and state law for an act of disability discrimination by failing to make available a reasonable adjustment, and could be joined as co-

defendants in the event of a disability discrimination complaint with a consequent personal liability. It is important that all employees that manage or supervise others understand and acknowledge that they can be held individually responsible under the relevant law for any proven act of disability discrimination, including failing to make a reasonable adjustment.

**Employees will be responsible for:**

Initiating discussions with their line manager regarding sharing disability information.

Employees are also able to contact JobAccess directly to discuss or arrange any workplace adjustments.

## Related Documents

- NDS Zero Tolerance Framework
- Information and Privacy Act 2000
- Disability Act 2006
- Disability Discrimination Act 1992 (Cth) (DDA)
- Privacy Act 1988 (Cth)
- Fair Work Act 2009
- Equal Opportunity Act 2010 (Victoria)
- Araluen policies:
  - Recruitment and Selection Policy and Procedure
  - Diversity and Inclusion
  - Code of Conduct

## Policy Review and Authorisation

This policy should be reviewed every two years. The General Manager, People and Culture in collaboration with the Quality Team will be responsible for reviewing and where necessary updating this policy.