



# REASONABLE ADJUSTMENT GUIDELINES FOR MANAGERS OF STAFF AND POTENTIAL STAFF WITH DISABILITIES

<b>Policy Hierarchy link</b>	Equity and Diversity Policy Statement		
<b>Responsible Officer</b>	Executive Director, University Services		
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	A new <a href="#">Workplace Adjustments Procedure for Staff with Disability</a> has replaced these Guidelines.		
<b>File Number</b>	2010/04728		
<b>Associated Documents</b>	<ul style="list-style-type: none"> <li>Equity and Diversity Policy</li> <li>Guidelines on Travel Assistance for Conferences or Special Studies Program (SSP) for Academic Staff Members with Disabilities</li> </ul>		
<b>Version</b>	<b>Authorised by</b>	<b>Approval Date</b>	<b>Retirement Date</b>
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*These guidelines are subject to future decisions in the relevant tribunals.*

## 1. Introduction and Scope

A person with a disability has a right to the same employment opportunities as a person without a disability. The Disability Discrimination Act 1992 (DDA) makes it unlawful for an employer to discriminate against someone on the grounds of disability. The following guidelines are designed to assist managers (including supervisors) with their legal and organisational responsibilities for providing workplaces which allow employees with disabilities to contribute as full members of their work teams and to enjoy the same employment rights as other staff.

## 2. Definitions

### 2.1 What is a disability?

Disability is defined very broadly as any physical, sensory, neurological, intellectual, psychiatric or learning disability, and includes physical disfigurement, the presence in the body of disease-causing organisms (for example the HIV virus) and total or partial loss of part of the body or a bodily function. It also includes a temporary, permanent, current, past or future disability. In some circumstances it may include a chronic illness or medical condition.

## **2.2 What is a reasonable adjustment?**

The University is obliged to make a reasonable adjustment to accommodate the needs of a person with a disability. A reasonable adjustment means changing some feature of the work situation so that people with disabilities can do their work more effectively. A request for an adjustment would be considered reasonable unless it caused an unjustifiable hardship for the University (refer to section 6).

For example, the term adjustment could mean adjusting access to buildings and rooms, modifying equipment, re-designing jobs or work areas and implementing more flexible work practices. It also includes making funds available for staff members with disabilities when they are travelling at the direction of UNSW in order to cover any additional travel costs incurred because of their disabilities (See also Guidelines on Travel Assistance for Conferences or Special Studies Program for Academic Staff Members with Disabilities.)

The principle of reasonable adjustment affects decisions in all areas of employment. It encourages more flexible and creative ways of working and may assist in improving conditions for everyone, for example, by improving access to buildings and rooms.

## **3. Who qualifies for a reasonable adjustment?**

Both prospective and current staff with disabilities in all forms of employment (full-time and part-time; continuing, contract, sessional or other temporary status, and casual).

## **4. What does a Manager do when reasonable adjustment is required?**

Contact Human Resources who will arrange as a high priority for the Risk Management Unit or the Manager, Workplace Diversity to assess the degree and costs of the adjustment required.

Each type of adjustment is considered on its own merits and is related to the specific disability and to the essential requirements of the position. The adjustment will be assessed on site in the workplace and will involve consultation with the prospective or current employee as one of the main sources of information on the adjustment needed.

A final decision on whether an adjustment is reasonable will be made by the Director, Human Resources, for adjustments costing up to \$20,000, and by the Executive Director, University Services for adjustments costing in excess of \$20,000.

## **5. Who will pay if there is a cost involved?**

In line with UNSW's devolved responsibility for management of staff, financial resources and risk, an individual claim for reasonable adjustment will be met by a budget unit on the following basis:

- an individual claim of up to \$500 will be fully funded by the budget unit;
- where the claim exceeds \$500 the budget unit will meet the first \$500 plus half the costs for the next \$5,000, that is, a budget unit will only have to pay a maximum of \$3,000;
- the remainder of the cost will be provided by central UNSW funds.

## Recurrent Claims

For staff with a disability that require reasonable adjustments on a recurrent basis over a number of calendar years, a recurrent claim process may be approved. The Manager Workplace Diversity can provide advice on reasonable adjustments that qualify as a recurrent claim. A recurrent claim will be met by the budget unit on the following basis:

- an individual claim of up to \$500 will be fully funded by the budget unit;
- where the claim exceeds \$500, the budget unit will meet the first \$500 plus half the cost for the next \$1000, with a maximum of \$1000 being paid by the budget unit;
- the remainder of the cost will be provided by central UNSW funds.

The Risk Management Unit will order items such as equipment and furniture, and request a funds transfer from the budget unit for its portion of the cost. The costs of building modifications, such as ramps, will remain the budgetary responsibility of the Facilities Department within routine works and maintenance.

It is worth noting that UNSW experience shows that reasonable adjustment for people with disabilities is normally only a small cost. In terms of a budget unit, it is most likely to be equivalent to, or less than, purchasing new or upgraded equipment, such as furniture and computer equipment, for any new or existing employee.

Records of all costs for individual reasonable adjustments will be maintained centrally by the Risk Management Unit. The Director, Risk Management and the Director, Human Resources will regularly review the effectiveness of the scheme.

## **6. How does the University decide what is unjustifiable hardship?**

It is not unlawful to discriminate against a person with a disability if their employment requires adjustments that impose unjustifiable hardship on the University. However, UNSW must be able to prove that an adjustment would cause it unjustifiable hardship.

Factors which would need to be considered include whether the cost of the adjustment/s would be more than UNSW could afford, or whether the changes required would have a negative impact on other employees. These would need to be weighed against factors such as the benefit that the person with the disability, and the workplace generally, would gain from the service or facility that would be provided by the adjustment.

## **7. What should a Manager do when an Employee with a disability is not performing adequately?**

If an issue of an underlying disability emerges while an employee is being counselled for unsatisfactory performance and that disability contributed to the unsatisfactory performance, reasonable adjustment must be considered as a strategy. Human Resources, should be contacted immediately for an assessment of reasonable adjustment as described earlier.

## **8. What does reasonable adjustment mean in recruitment, selection and appointment?**

All facets of the application and interview process will need to accommodate applicants with disabilities, such as physical access, provision of an appropriate service or specialised equipment on request, unless this causes unjustifiable hardship for the University. Human Resources can assist in establishing the essential

requirements of a position, and provide advice to ensure non-discriminatory selection processes for applicants with disabilities.

An applicant cannot be excluded from consideration or appointment because they need reasonable adjustment at work. If necessary, adjustment requirements in the workplace will need to be worked out once the selection committee has recommended a preferred candidate and the process described earlier will be followed. If, after appropriate adjustment has been assessed, a preferred candidate with a disability is unable to fulfil the essential requirements of the job, a decision can be made not to employ the candidate. A decision not to employ may also be made if the adjustment is considered to impose unjustifiable hardship on the University.

## **9. What are the potential liabilities for a manager in not making reasonable adjustment?**

UNSW through its managers and staff can be held responsible under State and Federal legislation for an act of disability discrimination, including failure to make reasonable adjustment. Conciliating or defending a complaint taken to an outside body can be time consuming and costly in legal fees and compensation. A person aggrieved by an act of disability discrimination may make a complaint against the University and/or an individual employee under State or Federal legislation. Loss of reputation may result from a complaint being taken to an outside body.

## **10. How does an employee or potential employee contest an assessment of reasonable adjustment or unjustifiable hardship?**

If an employee or potential employee wishes to contest an assessment, this would take the form of a complaint of disability discrimination. This could be done under the University's Staff Complaint Procedure, or the complaint could be taken to either the Human Rights Commission or the Anti-Discrimination Board of NSW.

## **11. Further Information**

For further information on disability discrimination or reasonable adjustment, please contact the Manager, Workplace Diversity.

### **Appendix A: History**

<b>Version</b>	<b>Authorised by</b>	<b>Approval Date</b>	<b>Effective Date</b>	<b>Sections modified</b>
1.0	Executive Team	May 1998	May 1998	
2.0				Sections 2 4, 5, 8 9 and 10