

## Providing Reasonable Accommodation for Staff with Disabilities

### Definition

1. Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or unique burden..." (Convention of the Rights of the Disabled Person; Article 2.)
2. Reasonable accommodation is used to describe the creation of an environment that is intended to ensure equality of opportunity to meet the employee's needs in relation to a disability provided that does not unreasonably disrupt the employer's activities  
(Human Rights Commission NZ)

### Purposes of reasonable accommodation

Reasonable accommodation may be required to enable a person with a disability to:

- Have equal opportunity to be considered for selection, appointment, promotion, transfer, training or other employment opportunity
- Perform the requirements of the relevant job
- Enjoy equal terms and conditions of employment with other employees in comparable circumstances
- Participate in and benefit from work related facilities, programmes or benefits on equal terms with other employees.

The requirement to make a reasonable adjustment applies whether a person's disability was pre-existing or was caused at work and whether it is temporary or permanent.

### What types of accommodations may be required?

- Reasonable accommodation can entail modifications or adjustments which will, for example, allow a job applicant with a disability to participate more equally in a workplace. Accommodations may be:
  - **Structural**; such as ensuring access to a building or lowering the height of a work bench
  - **Organisational**; changes to job design, work schedules or other work practices, for example allocating some aspects of the job to another employee or swapping duties amongst staff
  - **Technological**; providing adaptive technology such as an accessible cell phone or screen reading software
  - **Procedural**; for example providing large print material or providing extra time to allow for sign language translations, for a pre-employment work test.
- There is no set list in the Human Rights Act (1993) of the types of adjustments required to remove discrimination against people with disability in employment. Each case needs to be considered in its own circumstances and on its own merits.
- Employers have a legal obligation under the Act to make reasonable adjustments; however there is considerable evidence that it is also good business practice. For example, providing flexible schedules, time off for medical appointments, or

alternative approaches in communication, feedback and/or supervision, are practices which attract and keep good staff in all organisations.

### **What is unreasonable disruption or unjustifiable hardship?**

The Act does not require changes that would unreasonably disrupt an employer's activities, cause major difficulties or unreasonable costs to a person or organisation.

Before claiming that adjustments are unreasonable, employers need to:

- Thoroughly and genuinely consider how an adjustment might be made
- Discuss this directly with the person involved
- Consult relevant disability sources and agencies first

Reasonable adjustments **need not** include:

- Changing the inherent requirements of the job
- Maintaining a job which would otherwise be altered or abolished
- Assigning performance of some inherent requirements to another employee
- Creation of a different job, or
- Promotion or transfer to a different job

### **Costs and Benefits of reasonable accommodations**

When weighing up the costs of the adjustments, employers are expected to take into account:

- The benefits of workplace diversity and implementation of equal employment opportunities
- Attraction of a wide range of quality applicants
- The value that the direct experience of having the disability brings to the position overall
- The ability of the organisation to effectively represent and be responsive to the client base that the organisation is serving
- Benefit of having the adjustment for the effective organisation of work in the workplace concerned
- Consideration of how provision of this accommodation may benefit other employees, customers or clients now or in the future. For example, providing ramps into the building assist the elderly, parents with prams and delivery people as well as people with mobility impairments; meetings which require each person to speak one at a time, rather than everyone speaking over each other, benefit not only hearing impaired staff but all staff.

An employer's defence in claiming unreasonable disruption will depend on the circumstances, taking into account factors such as:

- Where there is a risk of harm to health and safety of self or others.
- The activities of the organisation including any factors affecting the efficiency, productivity, success and, where relevant, competitiveness of the organisation
- Cost, in relation to the size of an employer's business, finances reasonably available at the time, amount of public funding provided to the organisation, effect on the financial viability of the organisation

- Any detriment of the adjustment for other employees, potential employees, customers or clients who would reasonably foreseeably be affected

## **Internal funding**

In most cases, support will be a matter of making alternative work arrangements that fit with the needs of the staff member and the needs of the University. Much of this support will not require financial resources.

If equipment is required to enable an employee to do their job effectively, each request will be assessed on a case-by-case basis. As a guide, employees are responsible for funding personal items that they would use both inside and outside the work place, such as a walking stick. The school or department is responsible for providing basic equipment and training provision, such as suitable work space, desk, chair and computer programmes. Where appropriate, external funding available for specialist equipment, workplace modifications and support will also be explored.

If the costs cannot be covered by the school or department and external sources of funding are not secured, application may be made to the dean for faculty funding. If this is not available, the dean can apply through the Director, Human Resources to the Vice-Chancellor seeking funding approval. Such proposals may include funding for specific equipment, salary assistance, training or services required by the staff member in order to carry out their work effectively. This funding is limited and each case will be assessed individually.

## **External funding sources**

Three training and employment support funds are available for people with disabilities in New Zealand. They are:

- Training Support
- Job Support
- Self Start

Each fund is available only upon application and is aimed at covering the additional cost of disability in employment or training. More information about these funds is available from either [Workbridge Support Funds](#). Seek advice early in the recruitment process.

## **Reasonable adjustments during the selection process**

- Consider adjustments which may be needed in the interview itself such as, extended time for interview, information available in appropriate formats, etc
- Consider adaptation of any pre-employment tasks when they are being planned, designed and carried out. For example;
  - allowing sufficient time to complete tasks
  - ensuring appropriate formats and technology are available
  - providing suitable locations or support for applicants to demonstrate how job functions can be accomplished using adaptive methods
  - ensuring tests administered by recruitment agencies are accessible

## **Process for considering reasonable adjustments in the recruitment and selection process:**

- Selection criteria should be clear and inherent to the job and only these selected against
- Selection criteria should specify which tasks are essential to the job and which are non-essential or desirable
- People with a disability themselves are often the major source of information on reasonable adjustment. For example, when the inherent requirements of a job are discussed at a job interview, most applicants with a disability can identify simple adjustments or accommodations to enable them to perform these requirements.
- If it appears an applicant's disability may inhibit their performance of a job, it is appropriate to ask:
  - How would you perform the job?
  - What sort of things might you require to enable you to do the job?
  - How might you feel most comfortable when doing the job?
  - Are you aware of any adjustments that might need to be made in the new job or workplace, for example any equipment that may need to be provided?
- If the best applicant for a job is a person who has a disability and some workplace adjustments may be required, discuss the issue of reasonable adjustments and the benefits of diversity within the selection panel
- Determine all the workplace accommodations that may be required to do the job effectively; eg, accessible mobile phone, driver/taxis, screen reader, magnifier, adaptive software, reallocation of tasks, standing desk, office modifications, joy stick instead of a mouse, etc.
- Discuss whether the applicant will be bringing any of their own adaptive technology or equipment
- Discuss with the new employee exactly what sort of adjustments may be required to assist them to perform the job effectively. While their preferred form of adjustment should be seriously considered, that particular form does not need to be provided if another adjustment would be similarly effective
- Seek advice and information from the relevant disability service or organisation
- Seek advice from the Equity Office
- Explore where, how and when the accommodations can be delivered
- Determine costs and whether they can be met internally or if external funding should be sought.
- Detail in the selection panel's report any adjustments to the job that were discussed with the recommended applicant
- Plan ahead as time may be needed to source equipment or expertise
- Check with the new employee as to what they would like other staff to know about their disability
- If accommodations will result in changes to an existing staff member's work ensure appropriate consultations take place
- Ensure non-hostile environments, for example discussion with staff prior to commencement, regarding any changes in how the new employee's job may be done.
- Consider a pre-start visit to give the person a chance to familiarise themselves with the accommodations.

- A staff member's disability may change over time. Encourage an open and honest working relationship so that changes and accommodations can be planned for.

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For further information contact the Equity Office – Te Ara Tautika, East Wing Clock Tower.

Prue Toft, Director Staff Equity, ext 88316. Email [p.toft@auckland.ac.nz](mailto:p.toft@auckland.ac.nz)

Cathie Walsh, Staff Equity Manager, ext 87844. Email [cathie.walsh@auckland.ac.nz](mailto:cathie.walsh@auckland.ac.nz)