

Reasonable Adjustment

Human Resources Policy

Effective Date: July 2008

TABLE OF CONTENTS

1	PURPOSE.....	2
2	APPLICATION.....	2
3	GUIDELINES.....	2
4	DELEGATION	2
5	REFERENCES.....	2
6	SUPERSEDES.....	2
7	POLICY	2
	7.1 Reasonable Adjustment.....	2
	7.2 Identifying the Need for Reasonable Adjustment	2
	7.3 Reasonable Adjustment Assessment	3
	7.4 Implementing Reasonable Adjustment	3
	7.5 Relationship to Workplace Health and Safety Legislation	3
	7.6 Cost of Reasonable Adjustment	3
	7.7 Confidentiality.....	3
	7.8 Grievance and Dispute Resolution	4
8	APPLYING THE POLICY	4
	8.1 Examples of Reasonable Adjustment	4
	8.2 Reasonable Adjustment Assessment	4
9	DEFINITIONS.....	5
10	HISTORY	6

1 PURPOSE

To support people with an existing “disability” or “impairment” and/or those people participating in a return to work program by applying ‘reasonable adjustment’ within Queensland Health.

2 APPLICATION

This policy applies to all Queensland Health employees.

3 GUIDELINES

Guidelines may be developed to facilitate implementation of this policy. The guidelines must be consistent with this policy.

4 DELEGATION

The “delegate” is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

5 REFERENCES

- *Anti-Discrimination Act 1991*
- *Public Service Act 2008*
- *Workplace Health and Safety Act 1995*
- *Workers’ Compensation and Rehabilitation Act 2003*
- Equal Employment Opportunity policy
- Anti-Discrimination HR policy
- Queensland Health Equity and Diversity Strategic Plan
- Queensland Health Equal Employment Opportunity Operational Plan
- District Health Equal Employment Opportunity Operational Plan

6 SUPERSEDES

- IRM 3.15-4 Reasonable Adjustment

7 POLICY

7.1 Reasonable Adjustment

Reasonable Adjustment means that the employer should, where it is necessary and reasonable to do so, make modifications and adjustments to the workplace to meet the individual needs of people with “disabilities” or “impairment”. The terms “*disability*” and “*impairment*” are defined in Section 9, *Definitions*.

7.2 Identifying the Need for Reasonable Adjustment

Managers are responsible for ensuring that work environments do not unreasonably prevent employment for people with disabilities.

The identification of the need for reasonable adjustment may occur as part of the recruitment process or during the course of employment if a disability becomes severe enough to warrant reasonable adjustment solutions.

Managers will ensure that reasonable adjustment solutions are fair and equitable to all employees.

7.3 Reasonable Adjustment Assessment

Upon identification of the need for reasonable adjustment, the Manager should organise an assessment of the physical and organisational barriers that would unreasonably prevent that person's employment, limit their performance or inhibit their advancement. The assessment will determine the needs of the person and offer possible solutions for reasonable adjustment.

The Line Manager will only undertake the process of reasonable adjustment with the consent of, and in consultation with, the person with the disability.

7.4 Implementing Reasonable Adjustment

Queensland Health Managers are required to make appropriate and reasonable changes to organisational practices, workplace behaviours, access, job design, workplace design and/or provision of equipment to facilitate the employment of an individual, unless this imposes unjustifiable hardship. Failure to provide reasonable adjustment may constitute unlawful discrimination.

7.5 Relationship to Workplace Health and Safety Legislation

Queensland Health has an obligation under Workplace Health and Safety Act 1995 to provide a healthy and safe work environment. This includes preventing the recurrence, aggravation, acceleration, exacerbation or deterioration of any existing injury in a person arising out of their work. Reasonable adjustment solutions should be considered as part of Queensland Health's obligation to provide a safe workplace for people with disabilities.

The *Workplace Health and Safety Act 1995*, requires that trained Workplace Health and Safety Officers (WHSOs) and elected Workplace Health and Safety Representatives (WHSRs) may be informed and consulted on workplace changes including issues of reasonable adjustment.

7.6 Cost of Reasonable Adjustment

District Health Services and relevant Corporate Office Branches are responsible for financial costs of the implementation of reasonable adjustment solutions.

7.7 Confidentiality

Managers and employees must respect that a person with a disability has a right to confidentiality and privacy.

7.8 Grievance and Dispute Resolution

If an employee feels that their requirements have not been met through the implementation of reasonable adjustment solutions, they are entitled to lodge a grievance in relation to a decision or action where informal agreement cannot be reached between the parties. Refer to the Grievance policy.

It should be noted that employer claims of unjustifiable hardship may be challenged in the Anti-Discrimination Commission. If the Commission believes reasonable adjustment solutions were warranted and overturns an employer's claim of unjustifiable hardship, they may impose a variety of remedies including reinstatement where applicable, or monetary compensation for the complainant.

Vicarious Liability applies to reasonable adjustment principles. Should an employer's workers or agents contravene the *Anti-Discrimination Act – 1991* and/or other applicable legislation, both the employer and its workers or agents may be jointly and severally liable for the contravention.

8 APPLYING THE POLICY

8.1 Examples of Reasonable Adjustment

Examples of Reasonable adjustment in respective circumstances may include:

- *Recruitment and Selection (of potential and existing employees)*: Providing assistance to facilitate the interviewing process, eg wheelchair access, sign language interpreter.
- *Training and Career Advancement*: Providing training information in alternative formats, and making adjustments to allow opportunities to act in other positions.
- *Workplace Design*: Providing access to the workplace, and the provision of specialist equipment where required and reasonable to do so, to allow the person to undertake the duties of the position, eg larger screens/font for visual impairment.
- *Temporary Disability*: Providing a return to work or workplace rehabilitation program eg provision of equipment for the elevation of injured ankle. Refer to the Occupational Health and Workplace Safety Standards, Directives and Guidelines.
- *Deployment/Redeployment*: Relocating an employee from one work environment to another.

Each situation that may require reasonable adjustment should be assessed on a case by case basis. Staff should be allocated duties which is commensurate with their classification and capabilities.

8.2 Reasonable Adjustment Assessment

Managers can arrange for an appropriately skilled person such as an occupational therapist, physiotherapist, rehabilitation consultant or other qualified health professional to undertake a reasonable adjustment assessment. The manager should consult with the Workplace Health and Safety Unit before arranging for the reasonable adjustment assessment.

9 DEFINITIONS

<p>Disability/impairment</p>	<p>“Disability”, which may also be referred to as “impairment” means:</p> <ul style="list-style-type: none"> • The total or partial loss of the person’s bodily functions, including the loss of a part of a person’s body; or • The malfunction, malformation or disfigurement of a part of a person’s body; or • A condition or malfunction that results in the person learning more slowly than a person without the condition or malfunction; or • A condition, illness or disease that impairs a person’s thought processes, perception of reality, emotions or judgement or results in disturbed behaviour; or • Reliance on a guide dog, wheelchair or other remedial device. <p>Note: The above definition is drawn from the <i>Anti-Discrimination Act 1991 (Qld)</i> meaning of “impairment”. The meaning of “impairment” in that Act is similar, although not identical, to the meaning “disability” in the <i>Disability Discrimination Act 1992 (Commonwealth)</i>.</p>
<p>Reasonable Adjustment</p>	<p>“Reasonable Adjustment” means that the employer should, where it is necessary and reasonable to do so, make modifications and adjustments to the workplace to meet the individual needs of people with disabilities.</p>
<p>Unjustifiable Hardship</p>	<p>The <i>Anti-Discrimination Act 1991</i> indicates that the issue of whether the supply of special services or facilities would impose “unjustifiable hardship” on an employer depends on all the relevant circumstances of the case, including:</p> <ul style="list-style-type: none"> • The nature of the special services or facilities. • The cost of supplying the special services or facilities and the number of people who would benefit or be disadvantaged. • The financial circumstances of the employer. • The disruption that supplying the special services or facilities might cause. • The nature of any benefit or detriment to all people concerned. <p>The Human Rights and Equal Opportunity Commission states that they consider “reasonable adjustment” is not required if the action involves:</p> <ul style="list-style-type: none"> • Changing the inherent requirements of a job or maintaining a job that would otherwise be altered or abolished.

	<ul style="list-style-type: none">• Assigning the performance of some inherent requirements to another employee or creating a different job.• Promotion or transfer to a different job.
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10 HISTORY

July 2008	Amended to reflect <i>Public Service Act 2008</i> .
April 2008	Developed as a result of the HR Policy Consolidation Project.