

<b>Title:</b>	<b>4.41 Reasonable Adjustments for People with Disability</b>
<b>Previous No:</b>	
<b>File No:</b>	
<b>Statutory Environment:</b>	
<b>Minute No:</b>	<b>8.1.4 032017.OM</b>
<b>Last Updated:</b>	<b>March 2017</b>
<b>Review Date:</b>	<b>September 2019</b>

## **Objective**

The objectives of this policy and procedure are to:

- (a) Ensure that the Shire of Goomalling is inclusive of people with disability in its employment practises;
- (b) Enable appropriately skilled people with disabilities to perform the inherent requirements of their positions;
- (c) Provide an opportunity for employees who acquire a temporary or permanent disability to continue their employment at the Shire, where possible;
- (d) Create an inclusive environment that ensures that equal employment opportunities are available to all staff, including those with a disability;
- (e) Provide staff who have a disability with the opportunity to participate in a safe, equitable, discrimination and harassment free working environment;
- (f) Actively facilitate the employment of people with a disability in all suitable areas of employment;
- (g) Ensure that people with a disability are treated equitably during all stages of employment, including recruitment, selection, promotion, training, and termination;
- (h) Ensure that the needs of people with a disability, such as effective interaction, management and supervision, are recognised in the performance management process;
- (i) Understand that some people with a disability may choose not to involve their supports in their employment matters;
- (j) Ensure that people with a disability have the means to contribute to and participate in the work environment; and
- (k) Make reasonable adjustments to the work area to accommodate staff with a disability.

## **Policy**

- (1) The Shire is committed to ensuring an accessible and inclusive work environment to enable people with disability to participate fully in all aspects of

employment in keeping with the requirements of the *Disability Discrimination Act* (1992).

- (2) The Shire seeks to apply the principle of reasonable adjustment to remove barriers to participation in work by people with disability. Reasonable adjustments will be made to enable appropriately skilled people with disabilities to perform the inherent requirements of their positions.
- (3) This policy applies to, but is not limited to, the following areas:
  - (a) Recruitment, selection, and appointment;
  - (b) Induction and orientation;
  - (c) Participation in projects and committees;
  - (d) Training and career development;
  - (e) Performance management;
  - (f) Opportunities to enjoy all Shire supported social or recreational activities;
  - (g) Promotion, transfer, or any other employment benefit.
- (4) The rights of people with disability are safeguarded by the Disability Discrimination Act (1992) by which the Shire must abide.
- (5) While this policy provides overall guidance on handling staff with disability, more detailed information is incorporated throughout the policies and procedures of the Shire.
- (6) People with disability are obliged to abide by all other policies of the Shire including those relating to bullying and harassment, staff conduct and discrimination. Where exceptions or other considerations apply, detailed information is incorporated throughout other policies and procedures of the Shire.
- (7) This policy also applies to those involved in the recruitment and management of staff.

## **Procedure**

### ***Definitions***

Additional Needs – supports and services a person with disability may require in order to perform their duties. This may include, but is not limited to, assistive technology, an advocate, Disability Employment Service (DES) and physical modifications to the workplace.

Advocate – in the disability context, an advocate is an individual or agency who speaks on behalf of or provides moral support for the person with a disability. A friend or family member can also serve as an advocate.

Disability - this policy adopts the broad definition of disability used in the Disability Discrimination Act (1992), which, in the context of employment, can be summed up as a condition either caused by accident, trauma, injury genetics or disease that may

restrict a person's mental, sensory or mobility functions to undertake or perform a job in the same way as a person who does not have disability. This includes physical, sensory, intellectual, mental health, neurological and learning disabilities, as well as physical disfigurement and serious illnesses. Disability may be temporary or permanent, total or partial, lifelong or acquired.

Disclosure - refers to a personal decision to tell a person or institution about one's disability. There is no legal obligation for a job applicant or employee to disclose their disability, unless it is likely to affect their performance to meet the inherent requirements of the job (including ensuring the safety of themselves and others).

Discrimination - the Disability Discrimination Act (1992) identifies two types of discrimination in relation to people with disability. Direct Discrimination is when someone with disability receives less favourable treatment than a person without disability in the same circumstances. Indirect Discrimination is when a policy, practice or requirement is applied equally but has a discriminatory effect on people with disability.

Inherent Requirements are the essential activities and tasks that must be carried out in order to get a job done. Inherent requirements relate to results, or what must be accomplished, rather than means, or how it is accomplished.

Merit Principle means the selection and advancement of employees according to their relative abilities, knowledge, and skills under fair and open competition.

Reasonable Adjustment refers to the administrative, environmental, or procedural alterations required to enable a person with disability to work effectively and enjoy equal opportunity with others. By law, employers are required to provide reasonable adjustments whenever it is necessary, reasonable, and possible to do so (i.e., when a reasonable adjustment does not constitute an unjustifiable hardship for the employer). Reasonable adjustments may include:

- (a) Provision of appropriate equipment or assistance to ensure there is no barrier in the selection process;
- (b) Job redesign;
- (c) Training or retraining;
- (d) Providing essential information in suitable formats;
- (e) Modifications to equipment or the supply of specialised equipment, furniture or work related aids;
- (f) Flexible work arrangements; or
- (g) Alterations to premises or work areas.

Unjustifiable Hardship - employers are obligated to provide reasonable adjustments unless such an adjustment would result in unjustifiable hardship to the employer. It is difficult to define unjustifiable hardship because each circumstance and organisation is unique and is determined on a case-by-case basis. However, unjustifiable hardship is generally determined by considering:

- (a) The cost of the adjustment required in light of the organisation's financial situation; and

- (b) The extent to which the adjustment will result in substantial benefits or detriments to other employees, including those who do not have disability.

Reasonable - is defined by whether or not the adjustment would create "unjustifiable hardship" to the whole organisation; it is never defined by a particular manager's opinion of what is reasonable.

### ***Communicating the Availability of Reasonable Adjustments***

The Shire shall notify applicants or employees that it abides by a Reasonable Adjustment Policy. Suggestions how this can be done include:

- (a) Including in position Advertisements / applications and interview correspondence a paragraph that reads:

*"It is the policy of the Shire of Goomalling to provide reasonable adjustments for qualified persons with disabilities who are employees or applicants for employment."*

- (b) Provide contact details of a Shire staff member for people with disability who may require assistance or adjustments to fully participate in the application/interview process; and
- (c) Where interviews are scheduled by telephone, all applicants must be informed about the availability of reasonable adjustments in the interview process. The scheduler should ask: *Do you require any special arrangements to enable you to equitably participate in the interview?*

### ***Request***

- (1) Applicants will make requests for adjustments to the contact person for the advertised position. If, upon being approached by an applicant, the contact person can easily and informally meet the request to the satisfaction of both parties, he/she will do so and the procedure will end. If not, the contact person will endeavour to assist the applicant to meet the request or obtain information for further deliberation.
- (2) Employees will make requests for reasonable adjustments to their manager directly. If a manager thinks a reasonable adjustment might be appropriate for an employee under his/her supervision, she/he will either approach the employee to discuss the matter (if comfortable doing so) or confer with the CEO. If the CEO is supervising the employee with disability, he/she may confer with the counsellors with the knowledge and consent of the person in question.
- (3) Requests for reasonable adjustments can be made verbally or in writing. Those requests that are not able to be fulfilled informally or easily - due to cost, time etc. - must be submitted to the manager or supervisor in writing. The applicant

or employee will be informed of the process of and timeframe for processing their request.

- (4) The Shire will open a confidential workplace adjustment file to record the request and any information collected throughout the process of addressing it. The workplace adjustment file will be kept separate from the employee's personal records and will only be accessible to the applicant or employee and the parties involved in the adjustment process.

### ***Assessing and Reaching a Decision***

- (1) In consultation with the applicant or the employee and his/her advocate (if any) the Shire will evaluate the request and determine what, if any, adjustment is appropriate.
- (2) For a job applicant, the Shire is responsible for:
  - (a) Determining the recruitment-relevant limitation(s) created by the applicant's disability (Depending on their disability and the nature of the adjustment requested, the applicant may be required to provide documentary evidence about their disability and the functional limitations it involves. This evidence may be obtained from a medical practitioner, psychologist or other relevant professional);
  - (b) Identifying possible adjustments and assessing the effectiveness of each one in enabling the applicant to equitably participate in the recruitment process (e.g., an interview or assessment test);
  - (c) Recommending the adjustment(s) that is most appropriate for both the applicant and the Shire. Though the applicant's preference will be considered, the Shire is free to choose among equally effective options; and
  - (d) Considering whether the recommended adjustment constitutes an unjustifiable hardship for the Shire; and
  - (e) On the basis of the above, the Shire shall make a decision as to whether or not it will supply the recommended adjustment.
- (3) If the request is not approved, the Shire will inform the applicant of the decision and the reason for denial of the requested adjustment within 10 business days of the request (Note: If the request is denied on the basis that it constitutes an unjustifiable hardship for the Shire, the Shire will seek a review of the decision from a designated authority before notifying the applicant.
- (4) For a current employee (or an applicant who has received a job offer), the relevant steps taken by the Shire will be:
  - (a) Establishing whether the employee has disability. Here the employee may be required to provide documentary evidence about their disability and the

- functional limitations it involves. This evidence may be obtained from a medical practitioner, psychologist or other relevant professional.
- (b) Accessing information about the inherent requirements of the particular job involved.
  - (c) Determining any job-relevant limitation(s) created by the employee's disability. Identifying possible adjustments and assessing the effectiveness of each one in enabling the employee to perform the inherent requirements of the job.
  - (d) Recommending the adjustment that is most appropriate for both the employee and the Shire. Though the employee's preference will be considered, the Shire is free to choose among equally effective options.
  - (e) Considering whether the recommended adjustment constitutes an unjustifiable hardship for the Shire; and
  - (f) On the basis of the above, making a decision as to whether the Shire will supply the recommended adjustment.

If the request is not approved, the Shire will inform the employee of the decision and the reason for denial of the requested adjustment within ten (10) business days of the request (Note: If the request is denied on the basis that it constitutes an unjustifiable hardship for the Shire, the Shire will seek a review of the decision from a designated authority before notifying the employee.)

### **Consultation with Experts**

Where further evaluation is required to reach an informed decision about the adjustment request of an applicant or employee, the Shire will obtain additional information from, and/or liaise with, the following (as appropriate, and with the consent of the applicant or employee):

- (a) The employee's supervisor;
- (b) A Designated Health and Safety Representative;
- (c) A medical practitioner;
- (d) An occupational therapist or other allied health provider;
- (e) Disability service provider; and
- (f) IT Specialists.

### **Implementing Adjustments**

- (1) Within 10 business days of an applicant or employee's submission of a request for a reasonable adjustment, the Shire will either grant or deny the request in writing. Where an adjustment will be provided, the Shire will arrange the provision or implementation of the adjustment.
- (2) Once a decision to implement a reasonable adjustment for an employee has been made, the Shire will discuss the implementation of the adjustment with the employee and the employee's manager before arranging for implementation of the adjustment.

- (3) Where the provision or implementation of a reasonable adjustment will take longer than 10 business days, the steps taken to order, secure or carry out the adjustment will be documented and discussed with the applicant or employee.
- (4) Where further supporting documentation is sought from the applicant or employee, the grant or denial of a request for reasonable adjustment will be rendered within 10 business days from the receipt of the appropriate documentation.
- (5) Application, interview and assessment due dates and timeframes will be extended to accommodate for delays due to the processing and implementation of requests for reasonable adjustments.
- (6) Where the adjustment involves rehabilitation due to an extended absence from work, the Shire, in conjunction with the manager, will design an appropriate return to work plan, which will be administered under normal case management guidelines.
- (7) Where alterations are required to buildings or facilities, the Shire will negotiate with relevant personnel to carry out the alterations. A record of alterations or plans in progress should be forwarded to the Shire to be held in the Workplace Adjustment File.

### ***Monitoring Adjustments***

- (1) The Shire will check with the employee and manager/supervisor to assess the appropriateness and effectiveness of the implemented adjustment approximately four weeks from the date the adjustment process was concluded.
- (2) The results of this action should be documented in the workplace adjustment file.
- (3) If no further follow-up or monitoring is required, the workplace adjustment file will be closed. Otherwise the situation will be monitored according to an appropriate schedule. The Shire has responsibility for evaluating, monitoring and reporting on the reasonable adjustment process.