# Workplace Adjustments Policy

**Department:** People and Workplace Services

**Responsible Officer:** Associate Director, Advisory and Operations

**Accountable Director:** Director, People and Workplace Services

**Effective date:** 5 September 2023

**Date of next review:** Annually

**Version:** 1.0

## Purpose and scope

This policy demonstrates Victoria Legal Aid’s (VLA) commitment to creating a safe and inclusive workplace for all employees and candidates. VLA will meet this commitment by creating a framework for supporting workplace adjustments. The framework supports people with disability to equitably participate to their full potential in providing legal aid services to the Victorian community.

This policy covers anyone who applies for a job, is offered a job or is an employee at VLA. This policy covers workplace participants such as students, volunteers and lived experience consultants.

This policy covers all workplaces and work environments where VLA undertakes its operations or delivers its services.

This policy is to be read in conjunction with the [Workplace Adjustments Procedure and Guidance Note](https://viclegalaid.sharepoint.com/sites/intranet/policiesandprocedures/employment/health-safety-and-wellbeing/Pages/workplace-adjustments-policy.aspx).

VLA is committed to providing adjustments specific to an individual’s needs in a timely and effective way.

VLA recognises that the need for adjustments may arise:

* during the selection process
* at the start of employment
* after employment has started.

Adjustment may look different at different points in time.

VLA is committed to ensuring all our premises, technology and systems are inclusive. We will design our workplaces and the way we work with inclusion as our guiding principle.

## Definitions

| Definition | Meaning |
| --- | --- |
| Workplace adjustment | A change to a work process, practice, procedure or environment that enables a person with disability to perform the essential requirements of their role. Adjustments may include changes made to workplace access, hiring practices, work procedures, the provision of specialist equipment/services/aids and facilities and a change to the position or tasks of a role. |
| Inherent requirements/genuine and reasonable requirements of employment/essential requirements of the role | The *Disability Discrimination Act 1992* (Cth) and the *Fair Work Act 2009* (Cth) refer to inherent requirements of the position or job.  Inherent requirements are specific tasks or skills that are essential to the role. To determine inherent requirements, ask whether the position would be the same if the requirement were removed.  The *Equal Opportunity Act* *2010* (Vic) refers to the genuine and reasonable requirements of employment. They have been described as ‘wider than the inherent or essential requirements of employment’ (*Davies v State of Victoria (Victoria Police)* [2000] VCAT 819).  VLA determines the inherent requirements of the position and the genuine and reasonable requirements of employment by referencing a person’s:   * position description * contract * VLA and Me * the broader organisational functions and context.   [Essential requirements are about achieving results rather than how the results are achieved](https://www.legalaid.vic.gov.au/disability-discrimination-and-employment). For example, an ‘essential’ part of a person working on reception may be to be able to communicate by telephone. However, it is not necessary for them to hold the telephone in their hand.  For the purposes of this policy, inherent requirements/genuine and reasonable requirements of employment/essential requirements of the role will be referred to as ‘essential requirements of the role’ throughout this policy and supporting documents. |
| Disability | At VLA when we use the term ‘disability’, we intend it to have a broad and inclusive meaning encompassing all forms of sensory, physical, cognitive, neurological, developmental and psychosocial disabilities (including mental health issues).  VLA defines disability with reference to the social model of disability. That is, disability is caused by the way society is organised and not by an individual’s impairment or difference. These differences may be physical, mental, intellectual or sensory, they are diverse and may change over time. [These differences in interaction with various barriers may hinder a person’s full and effective participation in society on an equal basis with others](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities). |
| Health information | Health information is any [personal information](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.oaic.gov.au%2F_old%2Fprivacy%2Fyour-privacy-rights%2Fyour-personal-information%2Fwhat-is-personal-information&data=05%7C01%7Ckristina.lanza%40vla.vic.gov.au%7C641394547a4d4cbb02f908dbada8922d%7Cf6bec780cd1349ce84c75d7d94821879%7C1%7C0%7C638294711733789888%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=Oz%2FbJMRInUbvmKVAT50w%2Fcj8%2BG8BtkaWjkollkXQJc4%3D&reserved=0) about your health or disability. It includes information or opinion about your illness, injury or disability.  Some examples of health information include:   * notes of your symptoms or diagnosis * information about a health service you’ve had or will receive * specialist reports and test results * prescriptions and other pharmaceutical purchases * dental records * your genetic information * your wishes about future health services * your wishes about potential organ donation * appointment and billing details * any other [personal information](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.oaic.gov.au%2F_old%2Fprivacy%2Fyour-privacy-rights%2Fyour-personal-information%2Fwhat-is-personal-information&data=05%7C01%7Ckristina.lanza%40vla.vic.gov.au%7C641394547a4d4cbb02f908dbada8922d%7Cf6bec780cd1349ce84c75d7d94821879%7C1%7C0%7C638294711733789888%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=Oz%2FbJMRInUbvmKVAT50w%2Fcj8%2BG8BtkaWjkollkXQJc4%3D&reserved=0) about you when a [health service provider](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.oaic.gov.au%2F_old%2Fprivacy%2Fhealth-information%2Fwhat-is-a-health-service-provider&data=05%7C01%7Ckristina.lanza%40vla.vic.gov.au%7C641394547a4d4cbb02f908dbada8922d%7Cf6bec780cd1349ce84c75d7d94821879%7C1%7C0%7C638294711733789888%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=TLvDvVlz68U48Ohh2272DwdCBOj%2B0D9tNHH8mSmc6FU%3D&reserved=0) collects it. |

## Objectives

This key objective of this policy is to build a positive, safe and inclusive workplace for people with disabilities. The objectives of this policy are:

* to establish defined processes, which will support an inclusive and enabling work environment and;
* to support our value of inclusion and our commitment to a diverse workforce and a culture that respects and values difference.

## Statement of the policy

VLA is committed to building a disability-positive, safe and inclusive workplace culture. We acknowledge, respect and value the diverse experience of staff with disability. We will prioritise people’s lived experience of disability to:

* enable our staff to reach their potential
* effectively and efficiently use their skills, knowledge, and experience to contribute to VLA’s service delivery and performance.

Everyone at VLA has a responsibility to ensure that the environments, activities and programs in our workplace are created accessibly and inclusively.

This policy and the Workplace Adjustments Procedure and Guidance Note support staff and managers to ensure a seamless workplace adjustment experience. This includes developing flexible work practices and barrier-free initiatives in recruitment, selection, training, promotion and retention.

### Principles

The following principles will guide workplace adjustments considerations:

1. A person’s disability, and their experience of disability, is unique. The person who best understands the nature of an individual’s disability and their requirements, is the individual themselves. VLA will work with the individual to:

* understand their needs
* put in place adjustments that will remove barriers, enabling them to perform the essential requirements of their role.

1. VLA understands that the nature of disability is diverse and can change over time. It may be permanent or temporary. It may have existed prior to working at VLA, or may have been acquired during their employment. VLA will ask about adjustment and accessibility requirements during all stages of the employment lifecycle, including:

* during recruitment,
* onboarding
* as part of supervision and development discussions, such as regular catch ups or VLA and Me discussions.

1. VLA has a duty to create a safe and inclusive workplace. VLA will take a proactive approach to designing our workplaces, ensuring our systems, and the way we work as well as our technology are accessible and inclusive for staff with disability.
2. VLA will make workplace adjustments for people protected under the [*Disability Discrimination Act 1992*](https://www.legislation.gov.au/Series/C2004A04426)(Cth) and the [*Equal Opportunity Act 2010*](https://www.legislation.vic.gov.au/in-force/acts/equal-opportunity-act-2010/030)(Vic). The [*Fair Work Act 2009*](https://www.legislation.gov.au/Details/C2023C00072)(Cth)also provides the right for individuals to request a change in working arrangements if they have disability (*Fair Work Act 2009* (Cth), s. 65(1)-(1A), (2).).Requests for individual workplace adjustments will be supported, as far as is reasonable. All requests will be treated in a confidential, and sensitive manner. [Adjustments will onlybe considered unreasonable](https://www.jobaccess.gov.au/employers/guidelines-reasonable-adjustments) if they would [have a significant adverse impact on](https://humanrights.gov.au/quick-guide/12105) client service delivery or cause unjustifiable hardship such as severe financial hardship, technical limitations or heritage considerations. Requests for adjustments will be considered and responded to within 21 days. VLA will advise in writing within this time if the request is unable to be accommodated.
3. VLA may request information about an employee’s disability, injury or illness. Information requested will specifically relate to an individual’s ability to perform the essential requirements of the role. VLA will only seek further medical information to ensure that:

* VLA has the relevant information to support the workplace adjustment
* the employee’s health and safety is prioritised.

If requesting medical information, VLA will:

* 1. tell the employee why the information is being requested.
  2. advise of any consequences if the information is not provided. For example, the risk of missing out on workers' compensation if injured on the job.
  3. allow the employee access to information about them held by VLA.
  4. inform the employee of who will know about this information and how to contact them.
  5. tell the employee how their medical information will be managed and protected

VLA acknowledges that employees are not required to disclose their personal medical information.

1. VLA will continue to provide disability inclusion training for all staff to support this policy.

### Confidentiality

VLA is committed to protecting personal information, including information about disability. All parties supporting the staff member are bound by the [VPS Code of Conduct](https://vpsc.vic.gov.au/wp-content/uploads/2015/03/VPSC_Code_VPSE_WEB.pdf) and are required to maintain appropriate confidentiality. This includes obtaining consent before sharing identified personal information with third parties.

For example, an employee shares their information with their direct manager. If that manager would like to seek advice from People and Workplace Services, they must seek consent from the employee first.

VLA is required to handle personal information in accordance with the privacy principles contained in the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001 (Vic).*

## Roles and responsibilities

Accessibility and inclusion is everyone’s responsibility. All staff are encouraged to address any barriers they recognise that may prevent access or inclusion. VLA recognises a shared responsibility with individual employees for ensuring that any necessary adjustment is identified, and alternatives suggested.

### Managers are responsible for:

* promoting VLA’s value of inclusion.
* proactively supporting a safe and inclusive workplace.
* reducing barriers that a person with disability may experience.
* advising employees and applicants about their right to workplace adjustments as well as to confidentiality.
* assisting the employee or candidate (and their support person or representative if applicable) to identify the most suitable adjustments.
* following the Workplace Adjustments Procedure when an employee or candidate identifies the need for adjustments.
* working with People and Workplace Services to support the needs of the employee or candidate. This may include applying for funding, where possible, to support the cost of workplace adjustments.
* Approving requests that require limited funding or have minimal impact on the built environment (the office).
* maintain the confidentiality and privacy of personal information of employees in accordance with applicable legislation and VLA policy.
* participating in regular Disability, Inclusion and Safety training.

### Employees and candidates are responsible for:

* promoting VLA’s value of inclusion.
* proactively supporting a safe and inclusive workplace.
* participating in regular Disability, Inclusion and Safety training.
* working with their manager to identify whether an adjustment is required to support them to perform the role and fully participate in employment. This may include:
* identifying, where possible, the types of adjustments they consider appropriate
* working with People and Workplace Services and their manager to identify external organisations that may assist VLA to identify appropriate adjustments. For example, Job Access or Vision Australia
* applying for funding (where available).
* providing information to support their adjustment request. This may include medical information.

Medical information may be needed to:

* support changes to the workplace or equipment that might be needed to help the employee do the job
* make sure that the employee is not disadvantaged.

Information may be required:

* related to a Return to Work or Worker’s Compensation process
* VLA needs additional information to ensure the adjustments will enable the employee to undertake the essential requirements of the role safely. Managers are to work with the PAWS business partner to determine if additional information is required.

### People and Workplace Services is responsible for:

* providing support, advice and guidance to managers, staff and candidates requesting a workplace adjustment.
* providing a centralised budget (and seeking additional funding support if needed), to facilitate workplace adjustments.
* Considering adjustment requests that will have a significant impact on resources, built environment and technology. These requests will be approved by the Director, People and Workplace Services.
* maintaining a centralised register of non-identified information regarding the adjustment implemented, cost and other relevant details.
* consulting regularly with members of the Disability Employee Network (DEN) to support the implementation of the Workplace Adjustments Policy and supporting documents. PAWS will meet with the DEN on a quarterly basis to monitor staff experience and identify any opportunities for further improvement.
* developing, reviewing and delivering training to managers. Training will develop disability confidence and helping managers understand their positive obligations for providing workplace adjustments for staff with disability.
* supporting the secure and confidential management of medical information through appropriate systems and processes
* reviewing the workplace adjustments policy and supporting documents on an annual basis, in consultation with the DEN and other key stakeholders.
* ensuring that all employees have proactive access to a copy of the policy and supporting documents. This includes ensuring that all candidates will be provided with the information in an appropriate format.
* ensuring that an up to date copy of the policy and procedure is available on the VLA intranet and website.

## Approval

This policy was approved by an Accountable Director on 5 September 2023.

## Related documents

* *Disability Discrimination Act 1992 (Commonwealth)*
* *Fair Work Act 2009 (Commonwealth)*
* *Equal Opportunity Act 2010 (Vic)*
* *Occupational Health and Safety Act 2004 (Victoria)*
* *Charter of Human Rights and Responsibilities Act 2006 (Victoria)*
* *Privacy Act 1988 (Commonwealth)*
* *Privacy and Data Protection Act 2014* (Vic)
* *Health Records Act 2001 (Vic)*
* [Getting to work: ⁠Victorian public sector disability employment action plan 2018 – 2025 - VPSC](https://vpsc.vic.gov.au/workforce-programs/disability-employment/public-sector-action-plan/)
* Workplace Adjustments Procedure and Guidance Note
* Workplace Adjustments Application Form
* Workplace Adjustments Passport

## Keywords

Disability – Workplace Adjustment – Reasonable Adjustment – Essential requirements – Discrimination – Flexibility – Accessibility

## Version control

| Version number | Details | Author | Date |
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| 1.0 | Policy created | Associate Director, People and Workplace | 5 September 2023 |
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