

**NSW Independent
Casino Commission**

NSW Independent Casino Commission Workplace Adjustment Policy

July 2026

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1. Purpose

The NSW Independent Casino Commission (**NICC**) is committed to creating an inclusive workplace where people feel they belong, fostering a positive culture and enhancing productivity. Inclusion enables genuine participation and contribution, regardless of seen or unseen individual differences. The NICC is committed to contributing to an accessible and inclusive work environment that enables people with disability, illness or injury to participate fully in all aspects of employment.

The purpose of this Policy is to establish a consistent and effective system that encourages workplace adjustments and enables an individual's full participation in the workplace. While the Policy may, at the NICC's sole discretion, be used to cater to all employees and commissioners requiring workplace adjustments, including carers, this Policy has a particular focus on current and future employees and commissioners of the NICC with a disability.

The Policy outlines individual responsibilities and procedures for how workplace adjustments may be requested and implemented.

Workplace adjustments may be discussed and requested at any time during a recruitment process and during employment.

The *Disability Discrimination Act 1992* (Cth) (**DDA**) and the *Anti-Discrimination Act 1977* (NSW) (**ADA**) apply to the provision of workplace adjustments by NSW Government employers. Employers are required to make reasonable workplace adjustments unless it causes the government sector agency (**GSA**) unjustifiable hardship to do so, or where, even after the workplace adjustments have been made, the employee would still be unable to carry out the inherent requirements of the particular employment.

2. Scope

This Policy applies to all current and prospective employees and commissioners of the NICC.

Workplace adjustments may be required for a range of circumstances, including but not limited to:

- disability (temporary or permanent)
- injury, illness or health conditions
- caring or family responsibilities
- other personal circumstances that impact an individual's ability to participate fully in the workplace or recruitment processes.

All employees and prospective employees have the **right to request reasonable workplace adjustments** at any stage of employment or recruitment.

This Policy operates alongside other NICC policies. Where a workplace adjustment involves flexible working arrangements, the request will be managed under this Policy.

This Policy does not replace or override obligations under workers compensation or injury management legislation; however, the NICC will ensure that workplace adjustments are considered and, where appropriate, implemented alongside work-related injury or illness processes to support employee participation and recovery.

3. Definitions

3.1 Disability

- Disability includes both temporary and long-term physical, mental health, intellectual, neurological or sensory differences which, in interaction with various attitudinal and environmental barriers, may hinder full and effective participation in society on an equal basis with others.
Note: This definition aligns with the social model of disability where societal barriers are considered obstacles to a person's equal participation, not their impairment.
- The term “disability” has a specific meaning when used in the DDA (section 4) and the ADA (sections 4 and 49A). The definitions in each Act are slightly different, but they are both very broad and include disabilities and illnesses, and extend to past, present and potential future disabilities.

3.2 Employee

- A person employed in ongoing, term, temporary, casual or other employment, or on secondment, in a GSA. For the purposes of this Policy, the definition of employee includes commissioners of the NICC.
- Other employment may include, but is not limited to workers who are:
 - employment agency employees engaged to perform work for or provide services on behalf of the department, or
 - work experience students, and volunteers and consultants where their engagement requires adherence to the NICC's Code of Ethics and Conduct.

3.3 Government Sector Agency

- The same meaning as section 3 of the *Government Sector Employment Act 2013* (NSW) as amended from time to time.

3.4 Inherent requirements

- Characteristics, elements or requirements that are essential to the performance of the particular employment.
- Inherent requirements are determined by reference to the specific circumstances of a person's employment and role, including by reference to the terms of the employment contract and the nature of the work of the GSA.

3.5 People manager

- The person an employee directly reports to.

3.6 Prospective employee

- A person who has applied for a role as an employee of the NICC or Office of the NICC (ONICC) and has the potential to be employed by the NICC.
- For the purposes of this Policy, where an employee is referred to, it also includes prospective employees.

3.7 Unjustifiable hardship

- The law provides an exception to unlawful discrimination where the provision of services or facilities to enable an employee or potential employee with disability to do their job would cause the employer unjustifiable hardship.
- This involves considering all of the relevant circumstances of a particular case.
- At a minimum, determination of unjustifiable hardship requires consideration of the nature of the benefit and detriment to those concerned (such as the employee, the employer and the community), the effect of the employee's disability, the financial circumstances and the estimated amount of expenditure required to make the adjustment, whether any other financial or other assistance is available, and any other relevant circumstances.

3.8 Workplace adjustments

- Changes, modifications, or alterations to a work process, procedure, or environment to enable a person to:
 - perform the work they are employed to do
 - work productively
 - work in a safe environment
 - be included in the workplace
 - increase their engagement and motivation to improve performance, and ultimately meet the inherent requirements of their role.

- Adjustments can include changes to recruiting methods, equipment, work practices and environment, and may change as people's needs change.
- The term 'reasonable adjustments' is synonymous with 'workplace adjustments' for the purposes of this Policy.
- This Policy uses the term 'reasonable adjustments' as this is the legal term used in the DDA with respect to adjustments for people with disability. This phrasing may suggest that people with disability are requesting something unreasonable when they are seeking adjustments to do their job to the best of their ability. However, that is not the intention of the Policy. Under the DDA, employers are required to make reasonable adjustments for employees with a disability, unless it would cause the employer unjustifiable hardship.
- An employer may also have obligations to make workplace adjustments under the ADA.

3.9 Workplace

- A place where work is carried out for a GSA and includes any place where an employee goes, or is likely to be, while at work, or working remotely (including working from home), or while at a work-related social event. Where workplaces cover employees from more than one organisational unit, the relevant managers/directors are jointly responsible for implementing adjustments (in consultation with the employee). Workplaces may include buildings, outdoor locations and/or vehicles.

4. Legislation

Under DDA and the ADA it is unlawful to discriminate against a person on the ground of disability. NSW Government Sector employers are required to comply with both Acts.

Under the DDA, a person discriminates against a person on the ground of a disability by not making or proposing not to make reasonable adjustments for the person, where the failure to make reasonable adjustments has the effect that the person is, because of the disability, treated less favourably than a person without the disability in circumstances that are not materially different.

Under both the DDA and ADA, it is unlawful for an employer to discriminate against an employee with disability in the terms and conditions of their employment or by subjecting them to any other detriment. Failure to provide workplace adjustments may constitute discrimination against the employee on the ground of disability in employment.

Both the DDA and ADA provide an exception if providing a workplace adjustment or providing services and facilities will place an unjustifiable hardship on the employer. All the circumstances

are relevant when determining whether making an adjustment would impose an unjustifiable hardship on the employer.

Both the DDA and ADA also provide an exception if the person with a disability would be unable to carry out the inherent requirements of the particular work, even if the employer made reasonable adjustments for the person.

Under the DDA and ADA it is unlawful to discriminate against a person who has a relative or an associate with disability. “Associate” under the DDA includes a spouse, another person living with the employee on a genuine domestic basis, a relative, a carer, or a person in a business, sporting or recreational relationship. “Associate” under the ADA means any person with whom the person associates, whether socially or in business or commerce, or otherwise, or any person who is wholly or mainly dependent on, or a member of the household of, the person.

Under the DDA and ADA it is unlawful to discriminate against a person on the basis of their responsibilities as a carer. The protection for carers under the ADA will not apply to everyone that has carer responsibilities for a person with a disability. A carer must be a person, who provides care for or support to their child, a child or adult for whom they are a guardian, authorised carer or an immediate family member.

Under the *Sex Discrimination Act 1984* (Cth) it is unlawful to discriminate against a person by treating them less favourably by reason of their family responsibilities. Family responsibilities include responsibilities to care or support a dependent child or immediate family member (spouse, adult child, parent, grandparent, grandchild or sibling).

Under the *Work Health and Safety Act 2011* (NSW) (**WHS Act**), organisations must ensure, so far as is reasonably practicable, the health and safety of workers and that the health and safety of others is not put at risk. This includes managing risks and potential risks to the health, safety and wellbeing of all employees. Officers, workers and other persons also have obligations under the WHS Act.

The WHS Act does not override or replace a GSA’s responsibilities under anti-discrimination legislation. Workplaces need to be able to manage both legal responsibilities so that workers can participate fully in the workplace without creating an unacceptable risk to their health and safety or the health and safety of other people in the workplace.

All information relating to specific requests for workplace adjustments must be kept confidential and be dealt with and disclosed only in accordance with the provisions of the *Privacy and Personal Information Protection Act 1998* (NSW) (**PIIP Act**) and the *Health Records and Information Privacy Act 2002* (NSW) (**HRIP Act**), as applicable.

5. Workplace adjustments

5.1 What is a workplace adjustment?

Workplace adjustment is the modification or alteration of the work environment, work process, practice or management to eliminate barriers to work.

Effective workplace adjustments are an important enabler for people, particularly those with disability, as they support people to:

- perform at their best
- work productively
- work in a safe environment
- be included
- increase their engagement and motivation to improve performance.

Adjustments can range from changes to equipment, work practices and environment, and may change over time as people's needs change. Adjustments can also be informed by specialist workplace assessments.

Workplaces need to consider all options for adjustment for staff to perform their role. There are many reasons why someone may require an adjustment and there may be wide variations on how work is impacted.

Most adjustments are simple to arrange and involve little cost. What's most important is for people to have what they need and be able to perform their role and participate in the workplace on an equal basis with others.

5.2 Potential workplace adjustments

Potential workplace adjustments may include, but are not limited to:

5.2.1 Workplace practice

- Flexible working arrangements e.g. flexible start and finish times, working from home, working part-time, working in different locations. Refer to the NICC) Flexible Working Policy for more information.
- Changing how information is communicated in the workplace, including:
 - accessible meetings (transcripts, captioning, accessible rooms) and providing Auslan interpretation, Easy Read documents or emailing or using MS Teams rather than phone calls, or vice versa, or

- structured communication -clearly defining communication expectations and using written communication methods (e.g., email, messaging apps) for instructions and task assignments.
- Providing a support worker or Auslan-English interpreter or captioning service.
- Ensuring workplace documents and web content are accessible for the particular disability if this is not already the case.
- Providing information in requested formats or providing additional time for an employee to process information or at preferred times.
- Modifying the job requirements e.g., co-workers exchanging tasks, adjusting a non-essential job task by customising a role to fit the employee's skills and support needs while still meeting the needs of employer.
- Adapting performance and development programs to meet individual needs.

5.2.2 Workplace environment

- Occupational therapist assessment, ergonomic desk and chair assessment.
- Braille signage in communal work locations e.g., meeting rooms, photocopier area, kitchen.
- Providing a workspace with adjustable lighting, noise-cancelling headphones, or a quiet area to accommodate sensory sensitivities.
- Permanent and portable hearing loops.
- An accessible parking space close to the work location for an employee who uses a wheelchair, has mobility issues or chronic pain.
- Adaptive switches that enable people to use technology.
- Modifications to an inaccessible building to enable access to the building or bathroom facilities.

5.2.3 Assistive technology

- Screen readers and screen enlargement applications.
- Voice recognition and transcription programs.
- Automated closed captioning.
- Keyboard and mouse alternatives and adaptations and assistive listening devices.

5.2.4 Recruitment practices

- Discussing the individual's specific needs directly (if appropriate).
- Providing a different way to assess the required capabilities to perform the role e.g., a scenario-based written assessment instead of a psychometric assessment.
- Adapting the assessment format, such as allowing the candidate to respond to interview questions in writing.

- Providing the interview questions to candidates in advance and/or providing more time for assessment tasks.
- Supporting candidates to use their own laptop or assistive technology.
- Checking the interview, time, assessments and room meets individual needs e.g., good lighting, reduced noise, or interview seating arrangements.
- Providing options for an Auslan-English interpreter and/or their preferred sound amplification devices such as hearing loops.

6. Roles and responsibilities

The NICC is committed to taking a proactive and person-centred approach to workplace adjustments. Although a workplace adjustment is a key mechanism for fostering an inclusive and accessible workplace, it must also be supported by a culture that encourages inclusivity and where workplace adjustments are everyone's responsibility.

It is expected that leaders at all levels within the NICC will uphold this Policy in full and proactively encourage others to do so too.

6.1 Chief Commissioner and Director ONICC

The Chief Commissioner and Director ONICC are responsible for promoting and supporting the use of workplace adjustments, ensuring a consistent application of this Policy across NICC and throughout the employee lifecycle.

The Chief Commissioner and Director ONICC are accountable for building a safe environment in which people feel they can share the barriers they are experiencing, adjustments required to support them in their role and feel a sense of belonging. They can do this by:

- encouraging managers to discuss workplace adjustments with their employees on a regular basis
- ensuring legislative requirements and responsibilities are met
- supporting capability uplift for managers and agency wide technology solutions
- advocating for accessibility to be built into all work practices and environment, including the procurement of goods and services
- completing and promoting [disability awareness training](#).

6.2 People managers

People managers are responsible for ensuring that workplace adjustments are in place, where required, to support employees to perform their duties.

People managers must:

- initiate regular discussions with all staff about their needs and what adjustments they may require in performing their role
- not require an employee to disclose any information that is not necessary to implement a workplace adjustment, (noting evidence may be required from JobAccess when requesting Employment Assistance Fund (EAF) funding – see section 7.5 of this Policy)
- seek to increase their understanding of a variety of available workplace adjustments to assist in identifying the most suitable adjustments
- understand their legislative and confidentiality requirements, including:
 - that failure to provide a workplace adjustment could amount to disability discrimination
 - their responsibility to manage the risks and potential risks to the health, safety and wellbeing of all employees under the WHS Act
 - the requirements of the PPIP Act and HRIP Act
- ensure all action, including a decision on a request for adjustments, is taken promptly and communicate regularly with the employee throughout the process
- proactively monitor and implement a yearly workplace adjustments check-in, or more often if required
- support the workplace adjustments process by educating teams on this Policy, as well as lifting capability and understanding of disability and how to create an inclusive workplace
- ensure this Policy and any related procedures are discussed as part of the return-to-work discussion when a staff member is returning after an illness or injury
- if they believe the adjustment is not reasonable or will cause an unjustifiable hardship, escalate the matter to the Chief Commissioner who will be responsible for reviewing and making the final decision.
- advise employees of the available review process if there is any dispute about the adjustment or the request
- role model inclusive behaviour across the team.

6.3 Employees

Employees and commissioners should talk to their people manager or the Chief Commissioner about their needs and what adjustments they may require in performing the requirements of their role and to work safely. An employee or commissioner may ask for workplace adjustments at any stage of the recruitment processes or at any time during their employment.

Employees and commissioners should actively participate and cooperate with their people manager or Chief Commissioner to assist in the implementation of any workplace adjustments. An employee or commissioner has no obligation to share information about their disability unless

it is necessary for determining whether an employee would be able to perform the inherent requirements of their role and work safely, or to determine and/or implement an adjustment for the employee. Any information requested from an employee or commissioner for this purpose must be relevant, not excessive and should not unreasonably intrude into the personal affairs of the employee.

Employees and commissioners are responsible for discussing any changes they may need to their workplace adjustments with their people manager or the Chief Commissioner.

All employees and commissioners should be aware that adjustments are available to ensure all staff have an equal opportunity to perform and progress in their role. Equity in employment is a right, not privilege or favour.

7. Implementing workplace adjustments

7.1 Initiating a workplace adjustment

A workplace adjustment can be initiated by either:

- a candidate requesting an adjustment during the recruitment process
- an employee informing their manager about the requirement for a reasonable adjustment
- a manager identifying a potential need for an adjustment and discussing the situation with the employee to establish if a need exists.

Employees and commissioners can request an adjustment at any stage of their employment. Each individual is an expert in their own disability and experience and is often best placed to explain what adjustments they need. Requests can be made to the employee's people manager, or to another people manager in their reporting line.

In identifying the need for a proposed adjustment, an employee is required to provide information on the challenges or barriers they experience which hinder their ability to perform their role, and the ways in which an adjustment will help to address these.

The specific information required will vary depending on individual circumstances.

In some cases, an employee may need to provide medical advice or other supporting document to inform the adjustment request process. This is only to be requested in limited circumstances if it is necessary to determine an employee's ability to perform the role safely and effectively, and any adjustment(s) that may be required.

Any information that is disclosed about an employee's disability or health information must be treated confidentially, unless the employee has consented to share this information.

Managers and employees can seek advice on information requirements from the Department of Creative Industries, Tourism, Hospitality & Sport (DCITHS) Safety and Wellbeing team (People and Capability), if needed.

7.2 Asking employees about workplace adjustments

People managers should regularly ask all employees if they require any workplace adjustments, regardless of whether they have shared a disability or health condition. People managers should ask this question during the recruitment and onboarding process and then as part of regular ongoing conversations or after any known injury or illness.

An employee or commissioner has no obligation to share information about their disability or health condition unless it is necessary to determine their ability to perform the inherent requirements of their role, including their ability to work safely, or to determine and/or implement adjustments. Any information requested from an employee or commissioner for this purpose must be relevant, not excessive and should not unreasonably intrude into the personal affairs of the employee.

If further advice is needed to assist in determining whether a request for adjustments can be accommodated, the manager should seek support from the Director ONICC or Chief Commissioner. This may require meeting with the employee directly to clarify specific needs and seek any additional information. The people manager must maintain confidentiality if personal or health information has been shared unless the employee has provided consent to this information being shared or authorised by law.

7.3 Determining workplace adjustments

When a workplace adjustment is requested, the people manager and employee / commissioner should discuss the nature of adjustments required and should work collaboratively to develop an agreed adjustment plan. In doing so, it is important to consider all available options that might allow the employee to meet the inherent requirements of their role and participate in the workplace on an equal basis with others. The people manager can contact the DCITHS Safety and Wellbeing team (People and Capability) for advice or to arrange a specialist workplace assessment (where required), while ensuring the confidentiality of personal information, health information and any other sensitive information is maintained.

Where a workplace adjustment is requested due to disability, it must be provided unless it would cause the department unjustifiable hardship.

Where different ways of working are required, such as changing work hours or locations, ideally these should be organised in line with existing flexible working policies, where appropriate, or in

consultation with the Director ONICC and Chief Commissioner. If an adjustment includes flexible working, it should still be managed as per the requirements set out in this Policy.

If an adjustment cannot be agreed upon between the employee and their manager due to complexity or insufficient funding, the people manager should seek assistance from the DCITHS Safety and Wellbeing team (People and Capability).

Once a workplace adjustment request is determined, the people manager will provide details of the agreed adjustment plan in writing to the employee. Should an adjustment plan be unable to be agreed on, the people manager will provide written reasons to the employee.

7.4 Specialist workplace assessments

In some cases, requests for workplace adjustment may require the referral to a specialist service providers available to assist employees and managers in selecting appropriate adjustments.

Assessments are completed by qualified professionals who assess the workplace for any barriers that may exist for the employee. The assessor then prepares an assessment report and speaks to the manager and employee about any recommended adjustments.

The DCITHS Safety and Wellbeing team (People and Capability) can assist employees and managers in determining if a specialist workplace assessment is required, and engaging a specialist service provider, where needed.

7.5 Personal emergency evacuation plans

People managers must ask the employee whether they need a Personal Emergency Evacuation Plan (PEEP) and submit any required documentation so a PEEP can be tailored to the employee's specific needs and location.

7.6 JobAccess assessment

JobAccess is a Commonwealth initiative to provide support and information for people with disability, employers and service providers. A free assessment with JobAccess is available to assist with selecting appropriate adjustments. Assessments are done by qualified professionals who will assess the workplace for any barriers that may exist for the employee. The assessor then prepares an assessment report and speaks to the manager and employee about any recommended adjustments. Managers and employees can consult the NICC Health and Safety Representative Officer for further guidance.

7.7 Funding

Workplace adjustments range from no cost, like varied work schedules or frequent rest breaks, through to adjustments that have substantial costs, like specialised equipment.

Workplace adjustments may be funded through existing operational budgets.

Additional funding support may be available through the [JobAccess Employment Assistance Fund \(EAF\)](#). This is a reimbursement scheme that supports the implementation of a range of adjustments subject to the EAF's eligibility criteria. JobAccess provides a free Workplace Modification Assessment to assess what adjustments are needed for employees with disability to do their job. It is also available to existing employees if their duties or role have changed, their disability has changed, or a new modification becomes available that would better meet their needs. There is no restriction on the types of adjustments that can be approved under the Fund, as long as the person meets the EAF eligibility criteria.

7.8 Timeframe and review process

Any agreed workplace adjustments are to be implemented by the NICC within a reasonable timeframe agreed between the employee seeking adjustments and the Director ONICC and Chief Commissioner. People managers must keep the employee seeking the adjustments up to date on progress.

The NICC will maintain records of all decisions and relevant material provided as part of the workplace assessment, including specialist workplace assessments and material provided by the employee. As outlined in section 4 (above) and section 7.10 (below), all information relating to specific requests for workplace adjustments must be kept confidential and be dealt with and disclosed only in accordance with the provisions of the PIPP Act and HRIP Act.

Once fully implemented, managers should regularly check-in with employees to ensure any adjustments are continuing to meet their needs. The workplace adjustments should be reviewed at least yearly (or more often if required) and when circumstances change such as a change in the nature of the issue or a change in work duties/location/health. Action can then be taken to alter the workplace adjustments if necessary to ensure the employee's needs continue to be optimally met.

Employees should raise any concerns with their people manager in the first instance. If they are unavailable or where it is inappropriate to do so, they can discuss with Director ONICC or Chief Commissioner.

7.9 Declining a workplace adjustments request

If it is considered that:

- a) making a workplace adjustment would impose an unjustifiable hardship on the NICC, or
- b) a person cannot carry out the inherent requirements of the role, even with services and facilities, like workplace adjustments, provided to them,

the matter should be escalated to the Director ONICC or Chief Commissioner, who will be responsible for further assessing the request and deciding whether to accommodate or decline the request.

When deciding, the Director ONICC and/or Chief Commissioner will:

- thoroughly consider all possible adjustments and how they might be made
- discuss the issues directly with the employee or groups involved
- consult relevant sources of advice such as internal HR/health and safety teams, NICC Legal, and external sources where applicable.

7.10 Unjustifiable hardship exception

Under the DDA, employers are required to make reasonable adjustments for employees with disabilities, unless it would impose unjustifiable hardship on the employer. Similar requirements apply under the ADA.

In determining what constitutes unjustifiable hardship on the employer, all relevant circumstances of the particular case must be considered. This includes, but may not be limited to:

- the nature of the benefit or detriment likely to accrue to, or be suffered by, any person concerned
- the effect of the disability of any person concerned
- the financial circumstances, and estimated amount of expenditure required to be made by the employer
- the availability of financial and other assistance to the employer.

Determining whether there will be an unjustifiable hardship requires a balancing of potentially conflicting interests. When claiming unjustifiable hardship, the burden of proving something would impose an unjustifiable hardship lies on the employer.

Examples of adjustments that have been found not to be reasonable because they would impose an unjustifiable hardship on the employer are:

- providing a ‘buddy’ for an employee working in patient care in a hospital, who would attend to all duties alongside the employee on an ongoing basis, on the basis that it is unreasonable to expect an employer to effectively employ two individuals to complete the work of one individual, both financially and practically
- a request that all work directions be in writing and the employee be given 24 hours’ notice in writing for any meetings, which would also be attended by a support person. On the basis that an adjustment of this nature would be unworkable in practice, as the

employee's managers would not be permitted to discuss any matter with the employee without 24 hours' notice and arrangements for a support person.

Examples of adjustments that would not impose an unjustifiable hardship that have been identified in the case law are:

- modifications to an employee's workstation enabling them to sit at a stool while serving customers, notwithstanding an employer's policy to not provide chairs/stools
- assistance with heavy lifting, such as lifting a wheelchair.

7.11 Inherent requirements of the role and other exceptions

There may be some situations that arise for some people with some disabilities where they are unable to carry out a role due to the inherent requirements of that particular role.

Under the DDA, in limited employment related circumstances, it may not be unlawful to discriminate against another person on the grounds of that person's disability if, because of the disability, they would be unable to carry out the inherent requirements of the particular work even if reasonable workplace adjustments were made. Similar provisions exist in the ADA.

The inherent requirements of the work will vary depending on what the role is. It is the employer's responsibility to determine the inherent requirements of the role. The employer should ensure that job advertisements, role descriptions and employment contracts clearly set out the tasks and/or services the employee will perform, the necessary skills and capabilities to do so and the circumstances in which the employment will be carried out. This should be done both during the hiring process or when they are introduced as part of a role re-design.

The following factors are to be taken into account in determining whether a person would be able to carry out the inherent requirements of the particular work:

- the person's past training, qualifications and experience relevant to the particular work
- the person's performance in working for the employer (if they already work for the employer)
- any other relevant factors that are reasonable to be taken into account.

If a person with disability cannot perform the inherent requirements of a role because of the disability, the employer must consider how the employee could be provided with workplace adjustments to help them perform the role. The employer should consult with the prospective or existing employee about how the inherent requirements of a role can be performed.

There are other exceptions to the disability discrimination provisions, including that it is not unlawful to discriminate if the disability of the person concerned is an infectious disease and the

discrimination is reasonably necessary to protect public health, and where discrimination is necessary to comply with other laws or court orders.

7.12 Confidentiality

In order to make workplace adjustments, some personal health information may need to be shared. The nature of that information will depend on the circumstances, and the focus should be on the inherent requirements of the role and the employee's ability, offering workplace adjustments when needed.

If information is required, the NICC will notify the employee as to:

- why information about their personal health is being collected
- how the information will be used and stored
- where the information will be stored
- who has access to this information
- how the information can be amended and updated
- who the information will be disclosed to
- how long it will be stored for
- how it will be destroyed.

An employee has no legal obligation to disclose disability or health condition, or to share personal medication unless it is necessary to determine their ability to perform the inherent requirements of their role, including their ability to work safely.

If an employee provides personal health information to the NICC, all responsible parties should ensure they treat information about the disability or health condition of an individual confidentially.

NICC is responsible for ensuring all records in relation to workplace adjustments are secured against loss, unauthorised access, modification or misuse and are otherwise held and dealt with in accordance with applicable legislative requirements under the PPIP Act and HRIP Act.

8. Escalation pathway

8.1 Informal resolution

The NICC will endeavour to avoid disputes by making early and regular contact with employees to provide information, updates and an opportunity for questions to be answered.

Employees are encouraged to raise any issues at an early stage with their manager or Director ONICC so that efforts can be made to resolve any grievance or dispute through open communication and negotiation.

If the employee or commissioner is unsatisfied with the workplace adjustments process or decision, they should try to resolve the issue internally first. If the matter is not resolved other options may include:

- escalating the matter to the Chief Commissioner, or
- lodging a formal complaint in accordance with the steps outlined in the NICC Complaints Management Policy.

Any resolution process should be accessible for the employee.

8.2 Formal investigation

Employees and Commissioners can also report or make a complaint to an authority or regulator, such as Anti-Discrimination NSW or the Australian Human Rights Commission.

9. Monitoring and evaluation

The NICC is committed to effective monitoring, evaluation and organisational learning processes that will foster an inclusive work environment. This includes:

- quarterly confidential wellbeing surveys
- periodic review of this Policy
- regular consultation with employees and commissioners at NICC meetings, to share knowledge and understand issues from an employee perspective
- actively promoting an inclusive workplace that encourages workplace adjustments.

10. Moving to another role, department or agency

When a workplace adjustment is provided for an employee, and that employee moves to another role within the NICC, or another NSW government sector Department or agency (temporarily or permanently):

- if the employee consents to the adjustment being shared with the new manager/agency, the workplace adjustment/passport details for the employee will be provided to the new manager/agency for review
- the new manager/agency may need to review the current workplace adjustment to ensure it meets the needs of the employee and the requirements of the new role
- transfer of adjustments should be considered on a case-by-case basis. Where reasonable and practical, the existing adjustment will transfer with the employee
- if the new role is substantially different, the adjustment may need to be reviewed to ensure it meets the employee's needs and inherent requirements of the new role and does not cause an unjustifiable hardship

- any existing, ongoing, or new funding requirements will (if applicable) transfer to the new employing agency
- if the employee is unsatisfied with the workplace adjustment process or decision, they should refer to the relevant escalation process of the new agency/role
- if the adjustment relates to equipment that has been provided through the EAF, ownership of the asset must be confirmed in writing as part of the EAF approval. This will determine who is responsible for maintenance or repairs and what will happen to the equipment if the person with disability changes jobs. In most cases, any modification or equipment that is portable should move with the employee where practicable.

11. Avenues for advice and support

11.1 Employee assistance program

Employees and commissioners have access to an Employee Assistance Program (**EAP**), which is a short-term, confidential, counselling service designed to offer a problem-solving, solution-oriented approach to support employees with personal or work-related issues.

The EAP is staffed by independent qualified practitioners. The EAP will provide adjustments such as interpreters or captioning if required.

All employees (and their immediate family) have access to the EAP, which provides for a limited number of counselling sessions at no cost to the employee and can be provided over the phone or face-to-face.

An EAP provides all employees and their families with free, confidential counselling service available via phone, video call, in person or live chat to help manage life's challenges.

Our EAP provider **Converge International** has specialised counsellors available to help employees, commissioners and their families gain insights to support strategies that drive positive changes in behaviour and lifestyle. They can help to adapt to change and provide coping strategies when dealing with difficult situations.

For IMMEDIATE SUPPORT 24/7 phone 1300 687 327 (within Australia) or +613 8620 5300 (International).

11.2 Other services available

Service Provider	Contact Details
Anti-Discrimination NSW	https://antidiscrimination.nsw.gov.au/ Phone: (02) 9268 5544 Free call: 1800 670 812 Email: adbcontact@justice.nsw.gov.au
Australian Human Rights Commission	www.humanrights.gov.au Info Line: 1300 656 419 (local call) TTY: 1800 620 241 (toll free) Fax: (02) 9284 9611 Email: infoservice@humanrights.gov.au
Australian Disability Network	https://australiandisabilitynetwork.org.au/ Phone: (02) 8270 9200 Email: info@ausdn.org.au
Fair Work Commission	https://www.fwc.gov.au/ Phone: 1300 799 675 Email: sydney@fwc.gov.au
First Peoples Disability Network	https://fpdn.org.au/ Phone: (02) 8399 0882 Email: enquiries@fpdn.org.au
Include Ability	https://humanrights.gov.au/our-work/disability-rights/includeability-equality-work Phone: (02) 9284 9600 Email: includeability@humanrights.gov.au
Job Access	https://www.jobaccess.gov.au/

Phone: 1800 464 800

Email: jobaccess@genu.org.au

Mental Health NSW

<https://www.health.nsw.gov.au/mentalhealth/Pages/default.aspx>

Mental Health Line: 1800 011 511 (open 24/7)

People with Disability Australia

<https://pwd.org.au/>

Phone: 18000 422 015

Email: pwd@pwd.org.au

Office of the Public Service Commissioner

<https://www.psc.nsw.gov.au/culture-and-inclusion/disability-employment/support-for-employees-with-disability/requesting-workplace-adjustments-Information-on-asking-for-workplace-adjustments>

SafeWork NSW

<https://www.safework.nsw.gov.au/>

Phone: 13 10 50

NSW Industrial Relations Commission

<https://irc.nsw.gov.au/>

Phone: (02) 8688 3516

Email: irc.registry@courts.nsw.gov.au

Enable NSW

<https://www.enable.health.nsw.gov.au/>

Phone: 1800 ENABLE (1800 362 253)

Email: enable@health.nsw.gov.au

12. Accessibility and Publication

The NICC is committed to ensuring that this Policy and all associated workplace adjustment processes are accessible, inclusive, and easy to understand for all employees.

12.1 Accessibility of the Policy

This Policy will be:

- Written in clear and plain language to support understanding.

- Made available in accessible formats where required (for example, Easy Read, large print, or digital accessible formats).
- Provided in alternative formats or with support (such as interpreters or assistive technology) upon request.
- The NICC will ensure that employees can access information about workplace adjustments in a way that meets their individual needs, enabling them to understand their rights and how to request support.

12.2 Publication and Availability

This Policy will be:

- Easily accessible to all employees, including via the NICC Sharepoint and other appropriate internal platforms
- Available to prospective employees during recruitment processes
- Communicated as part of onboarding and induction
- The NICC will take reasonable steps to ensure that employees are aware of this Policy and how to access it.

12.3 Awareness and Capability

The NICC will promote awareness and understanding of workplace adjustments by:

- Providing training and guidance to managers and employees
- Regularly communicating information about workplace adjustments and this Policy
- Supporting managers to apply this Policy consistently and effectively

13. Related policies and legislation

13.1 Related policies

- Agency Disability Inclusion Action Plan
- Agency Diversity and Inclusion Strategy
- Workplace Injury Management Policy and Procedure
- Workplace Health and Safety Policy
- Workplace Health and Safety Risk Management Procedure
- Grievance Resolution Policy and Procedure
- Flexible Working Policy
- Privacy management plan
- NICC Ways of Working
- NICC PID Policy and Procedure

13.2 Related legislation

- *Anti-Discrimination Act 1977 (NSW)*
- *Disability Discrimination Act 1992 (Cth)*
- *Disability Inclusion Act 2014*
- *Government Sector Employment Act 2013*
- *Health Records and Information Privacy Act 2002*
- *Privacy and Personal Information Protection Act 1998*
- *Sex Discrimination Act 1984 (Cth)*
- *Work Health and Safety Act 2011*

14. Variation

This Policy was implemented from 8 July 2026 and remains in place until amended or revoked. The NICC may amend this policy from time to time as appropriate.

This Policy will be reviewed periodically as part of the NICC's policy review processes, or earlier if required by legislative or organisational changes.

14.1 Variation log

Version	Approval date	Changes	Next review date
1	January 2025	N/A	September 2025
2	October 2025	Updates to formatting. Insertion of variation log.	June 2026
3	July 2026	Review of policy and alignment with DCITHS Policy and PSC Model Policy	June 2028