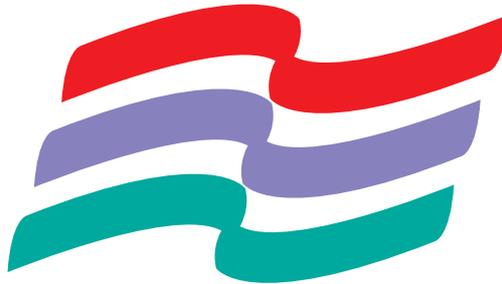


Disability Action Plan

1997-2000

A Better Service for All



**Commonwealth
Disability Strategy**



Produced by the Corporate Directions Branch of the Australian Taxation Office.

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ISBN

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Commissioner's foreword

The ATO Disability Action Plan provides us with a framework for improving our services to our clients with disabilities, as well as to support the equitable participation of our staff with disabilities in the workplace.

The Plan contains best practice guidelines for planning better services, achieving better communication practices and ensuring better access for clients. These guidelines should be considered in conjunction with the service standards outlined in our Taxpayer's Charter and Child Support Clients Charter.

While the major focus of the Plan is on our clients, we must not neglect the issues facing our staff with disabilities. There are still opportunities to make progress in the areas of accommodation, access and employment practices.

National Program Managers are accountable for ensuring that our business and service lines identify the needs of clients and staff with disabilities and for implementing appropriate strategies for addressing these needs.

Managers and staff at all levels have the responsibility to contribute as individuals and/or as teams.

I fully endorse the ATO Disability Action Plan as our organisation's framework to enhance our understanding of and better address the issues facing our clients and staff with disabilities.

I will be personally monitoring our progress.

Michael Carmody

Commissioner of Taxation and Child Support Registrar

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ATO Disability Action Plan

What is a disability action plan?

Under the 1994 Commonwealth Disability Strategy, all Commonwealth agencies are expected to develop a Disability Action Plan under the *Disability Discrimination Act* and to present this plan to the Human Rights and Equal Opportunity Commission.

A Disability Action Plan identifies potential or existing discriminatory practices in an organisation and enables organisations to set a reasonable schedule and take positive, systematic steps for removing barriers to access for people with disabilities.

A Disability Action Plan is **not** an Equal Employment Opportunity Program.

The Disability Action Plan is significantly different from an EEO program because it covers the provision of services to people with disabilities as well as having a role in improving equal employment opportunity for people with disabilities. The ATO will continue to have Equal Employment Opportunity policies and programs that focus on staff with disabilities.

Why do we need an action plan?

If a complaint is lodged against an organisation under the *Disability Discrimination Act*, the Disability Discrimination Commissioner will take into account our Disability Action Plan. A Disability Action Plan outlines the ATO's intentions to take reasonable steps to address discrimination. Without a Disability Action Plan, we may be required to comply with a determination under the *Disability Discrimination Act* which might involve substantial changes at a pace which is less affordable and manageable.

Our aim

We aim to use our Disability Action Plan as a framework for developing and implementing appropriate strategies for improving access by people with disabilities to our services and facilities.

Our Disability Action Plan is also intended to complement the service standards in our Taxpayers' Charter and Child Support Clients charter, thus providing our staff with a better understanding of how we can best understand and meet the needs of our clients with disabilities.

National Program Managers of our business and service lines are responsible and accountable for ensuring that appropriate strategies are implemented so that we effectively implement this plan, and meet our legal obligations under the *Disability Discrimination Act*.

Our focus

Our Disability Action Plan contains a range of best practice guidelines for business and service lines to immediately consider in the context of their core business activities.

Guidelines focus on the following areas:

- 1. Planning Better Services**
- 2. Better Access**
- 3. Better Communication Practices**
- 4. Better Employment Practices**

Monitoring our progress

Our Commissioners will be regularly reviewing the progress of our business and service lines, and ensuring that the National Program Managers of the lines are meeting their responsibilities and accountabilities.

The ATO Commissioner's Annual Report will feature information about our progress.

We are required to report bi-annually to the Office of Disability on our progress in implementing our Disability Action Plan. In conjunction with this reporting we will conduct bi-annual internal stocktakes to monitor our progress in identifying and addressing the needs of people with disabilities.

Findings from our initial stocktake and staff focus sessions are contained in Appendix 1 of this plan.

The ATO Disability Action Plan will be formally evaluated in 1999/2000.

Obtaining a copy of the plan

The ATO Disability Action Plan is available in print format, and on computer disk upon request.

You can order print and computer disk copies of the plan through your local ATO Branch Office, or by ringing 06 241 8943.

As with the complete range of our publications, we are endeavouring to make the plan available via our internet homepage (<http://www.ato.gov.au>).

1 Planning Better Services

Best practice guidelines

- 1.1 Include strategies in our business plans to ensure that the needs of people with disabilities are addressed.
- 1.2 Collect and use appropriate disability data as part of our corporate and business line client profiling.
- 1.3 Consult with and involve clients and staff with disabilities on program design, delivery and the effectiveness of equal opportunity and access measures.
- 1.4 Seek equitable participation of representatives of groups of people with disabilities in advisory boards and consultative committees which have external representation.

The national disability consumer organisations may be able to suggest suitable candidates for these positions.

2 Better Access

Best practice guidelines

2.1 Consult with and involve clients and staff with disabilities about improving physical accessibility:

- to existing business sites;
- when renovating or refurbishing existing business sites;
- when planning and developing new business sites.

Issues to consider include: lifts, signage, design of enquiries area, disabled toilets, parking, transport, fixtures and fittings.

2.2 Identify and implement modifications to improve physical access:

- to existing business sites;
- when renovating or refurbishing existing business sites;
- when planning and developing new business sites.

2.3 Implement the guidelines in the booklet *Best Practice Considerations when Organising Seminars, Conferences & Training for ATO Staff and External Audiences* as national policy across all Business and Service Lines. The procedures outlined in this booklet will be used as the minimum standard for planning and implementing all training sessions, seminars, conferences for ATO staff and clients.

3 Better Communication Practices

Best practice guidelines

3.1 When planning, implementing and evaluating programs and services, consult with the Office of Disability and disability consumer organisations and our staff with disabilities.

3.2 Make information available in alternative formats, giving consideration to:

- the most appropriate format as identified by the individual (formats may be computer disk, large print, audio, via Telephone Typewriters (TTYs), through Auslan and non-sign interpreters, as sub-titles on videos and via the internet)
- the information needs of people with disabilities
- the specific relevance of the information to people with disabilities
- whether other people will benefit from having the information available in alternative formats to print.

4 Better Employment Practices

Best practice guidelines

4.1 Managers can actively support people with disabilities by:

- providing a role model by demonstrating flexibility and tolerance;
- ensuring that all staff are fully aware of their legal obligations under the DDA and of the consequences and unacceptability of workplace harassment;
- supporting national and regional forums for people with disabilities (eg Deaf Tax Officer networks);
- providing sponsorship of local and national initiatives;
- providing access to mentors for staff with disabilities;
- applying reasonable adjustment principles to work and the work environment.

4.2 Conduct information sessions and incorporate relevant information in existing and new training and development programs to improve the knowledge and understanding of staff and managers of our legal obligations.

4.3 When developing, implementing and evaluating training and development courses, consult with staff and experts from community training organisations . This would address areas such as adjusting training and development programs and sessions, and assessment processes to meet the learning needs and styles of participants with disabilities.

This could be facilitated by involving people with disabilities in a pilot, ensuring that people with disabilities are provided with the opportunity to request specific equipment, services or materials when implementing a training program etc.

4.4 Implement initiatives so that staff involved in Work and Job Design, Workforce Planning, Change Management and Selections are aware of and comply with our legal obligations under the DDA, and apply the principles of 'inherent requirements' and 'reasonable adjustment' of jobs and careers.

4.5 As a part of our Graduate Recruitment Program develop relevant promotional material and liaise with educational institutions to encourage suitably qualified people with disabilities to apply for Graduate Tax Officer positions.

4.6 Ensure that equipment provided for staff with disabilities remains with a person irrespective of changes in their line/location.

Appendix 1: Research Findings

Internal stocktake

A number of issues were raised in the internal stocktake, which have corporate significance:

We have

- a sound base in terms of buildings/accommodation
- a few good initiatives

BUT

- our initiatives/strategies are in response to complaints
- we have an ad hoc approach to disability issues
- we lack infrastructure for assessment and processes
- we need a clear, consistent definition of the types of disability

Stocktake, staff focus sessions and general comments

Accessibility

Lifts

- length of time for opening and closing of lift doors
- Braille indicators

Signage

- audible
- language
- clear and concise as well as standard practice

Warning devices

- dedicated fire wardens to assist people with disabilities
- flashing lights or acceptable alternatives such as vibrating pager
- procedures installed and monitored regularly with a fire/evacuation drill

Enquiries area

- seating to be at different heights, sturdy with arms to assist in standing
- waiting areas to allow space for a wheelchair or crutches/walking frames
- clear signage to indicate waiting process in several language formats

Counters

- space to access counters
- several different levels of access to counters
- alternatives to counters: i.e. offices to conduct business where a counter is inappropriate

Parking and transport

- obtain assistance from local councils for parking facilities outside buildings
- seek private parking spaces from building owners etc
- obtain assistance from local councils for 'kerb cut downs' to assist passengers
- obtain permission from local councils for 'setting down' passenger areas
- difficult to arrange transportation between branches

Disabled toilets

- usually either too much or not enough space
- often used as a storeroom or fire safety area if no staff with disabilities
- usually located in a busy corridor which cancels any privacy

Tea rooms

- counters always too high
- no room to safely make refreshments
- prevents staff with disabilities from being independent

Fixtures and fittings

- carpets often not suitable for wheelchair users or those with mobility restrictions
- waiting queue areas (with rope) are a hazard for people with disabilities

External access to buildings

- ramps need to be of 'reasonable' access
- as many level areas as possible
- doors often too heavy where automatic doors are not installed

Communication

- alternative language formats
- client forms in alternate formats
- service staff trained in disability and able to assist (this includes awareness of and ability to use TTY phones and skills in working with clients with disabilities)
- large print publications
- promotion and use of the National Relay Service

Selections

- better education for selection committees - reasonable adjustment is often not considered and inherent requirements not understood
- deaf staff feel they are shortlisted out because their written application is different we need to investigate alternative formats to written applications
- lack of feedback to staff with disabilities to assist them to improve, some unaware that you can request post interview counselling
- no encouragement or support to participate in selection processes
- people with disabilities often feel they are stereotyped because of their disability and this impacts on the selection process
- still problems with selection criteria - “oral communication” and “written communication” should be more broadly interpreted
- may be need for training in application writing techniques
- we should consider provision of Auslan and oral interpreters and notetaking services where needed

Training

- TOD tape packages do not meet the research needs of some people with disabilities
- some people with disabilities require one-on-one training
- accessibility of outside venues a problem
- provision of appropriate support services such as interpreters, technical equipment etc is still inconsistent
- lack of awareness of trainers regarding the training needs of people with disabilities
- important to have a co-ordinated approach to give people with disabilities access to all training and support mechanisms available to all other officers within the ATO

Equipment and services

- a large range of equipment and support services used within the office
- these are largely organised through the EEO or OH&S Advisor
- sometimes it takes a long time to obtain the appropriate equipment
- all equipment belongs to the ATO and therefore should move with the person
- timely and appropriate support needed
- consider on the job support programs provided by some organisations

General suggestions

- we need to improve general awareness of staff about Disability Discrimination, in relation to both staff and clients
- we need to better profile our staff and clients with disabilities
- we should review policies with the *Disability Discrimination Act 1992* in mind
- recruitment of people with disabilities should be part of graduate recruitment
- ATO needs better signs in the foyer to promote appropriate services for people with disabilities that the ATO provides
- we need to take EEO and Access and Equity into account when formulating policies

Appendix 2: Key concepts

The Commonwealth Disability Strategy

The 1994 Commonwealth Disability Strategy is a ten year plan for Commonwealth organisations to change the way they operate so they do not discriminate against people with a disability. Obligations for Commonwealth organisations are legislated for in the *Disability Discrimination Act 1992* (DDA).

Disability Discrimination Act 1992

The DDA aims to remove barriers to the full participation of people with disabilities in many areas of community life.

The DDA makes discrimination on the grounds of disability unlawful in the areas of employment, education, access to premises, provision of goods, services and facilities, access to accommodation, land, clubs and incorporated associations, sports, administration of Commonwealth laws and programs and requests for information.

In every area of the administration of Commonwealth laws or programs it is against the law for a government body to treat a person less fairly than a person without a disability. This includes, access to places where Commonwealth programs are being run, access to Commonwealth benefits, equal access to Commonwealth law (eg: getting information on taxation law in Braille, audio tape, or through a telephone typewriter [TTY] information line), access to voting places, facilities and information and access to court buildings.

A person with a disability has a right to the same employment and training opportunities as a person without a disability. The DDA makes it against the law for an employer to discriminate against someone on the grounds of disability. However, the DDA does not require employers to hire a person for a job which he or she cannot do and the merit principle continues to apply.

The DDA makes two broad types of discrimination unlawful:

- **Direct discrimination** which occurs when an individual is treated less favourably because of their disability.
- **Indirect discrimination** is treatment which appears neutral on its face, but disadvantages a person with a disability and is not reasonable. This includes not recognising that changes or adjustments may have to be made for a person with a disability, or having conditions or requirements which disadvantage people with a disability.

The DDA comprehensively defines disability as:

- (a) “total or partial loss of the person’s bodily or mental functions; or
- (b) total or partial loss of a part of the body; or
- (c) the presence in the body of organisms causing disease or illness; or
- (d) the presence in the body of organisms capable of causing disease or illness; or
- (e) the malfunction, malformation or disfigurement of a part of the person’s body; or
- (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- (g) a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour;
- (h) presently exists; or
- (i) previously existed but no longer exists; or
- (j) may exist in the future; or
- (k) is imputed to a person.”

Parents, carers, friends, and co-workers are also protected under the DDA against discrimination because of a person’s disability. For example, it is unlawful for an employer to refuse to employ the parent of someone with a disability, because they believe the parent will need time off work to care for the person with a disability.

Terminology

When describing people with disabilities it is important that we focus on the person and not the disability. Therefore the term ‘people with disabilities’, and not ‘disabled people’, should always be used.

Also there are clear differences between the terms ‘impairment’, ‘disability’ and ‘handicap’.

‘Impairment’ is a functional or anatomical abnormality which may result in a disability. For example, the lack of function of the optic nerve of someone who is blind is an impairment.

‘disability’ is a loss or reduction of functional ability which results from an impairment. The loss of vision of someone who is blind is a disability.

‘Handicap’ should not be used to describe a person. Handicap is the disadvantage created by the physical or social barriers that people with disabilities often face. For example, an attitude that a person who is blind is incapable of working in a library presents a barrier or handicap to that person.

Reasonable adjustment

Reasonable adjustment is concerned with taking measures to accommodate the needs of a person with a disability in order to reduce the impact of their disability when they apply for positions and when they carry out their duties. Reasonable measures will vary according to the situation and may include modifications to interview and recruitment arrangements, access to buildings and work area, equipment, job design, training and attitudes.

Reasonable adjustment is applied to enable a person with a disability to:

- have equal opportunity to be considered for selection, appointment, promotion, transfer, training or other employment opportunity; or
- perform the duties and meet the inherent requirements of job
- perform any other job related requirements which apply in the circumstances concerned
- have equitable access to the terms and conditions of employment
- participate in and benefit from work related facilities, programs on equal terms with other employees.

Inherent requirements of the job

Making reasonable adjustments in the workplace requires a good understanding of the concept of the *inherent requirements of the job*.

Relevant factors in determining the inherent requirements of the job include:

- the work required in practice by the employer to be performed by employees in the position concerned and comparable positions; and
- evidence regarding any need for duties which are additional to those currently performed but which may require performance in an emergency or at periods of high work load; and
- the extent to which a particular requirement concerns a result to be achieved rather than a means for achieving a result; and
- the circumstances in which the work is performed or to be performed; and
- the terms of applicable awards or agreements including applicable competency standards, and
- the terms of any applicable duty statement; and
- any mandatory requirements which apply because of the provisions of another law, including in relation to health and safety; and
- any mandatory qualifications for the position which apply because of the provisions of another law.

From: Draft Disability Discrimination Act Disability Standards - Employment, 1996, Attorney General's Department and Human Rights Australia

Exemptions

There are a number of exemptions under the DDA. If the changes needed to accommodate a person with a disability would cause unjustifiable hardship to the organisation then that organisation is exempted from making those changes.

Under the DDA, the Commonwealth cannot claim unjustifiable hardship in relation to the provision of goods and services but may be able to in relation to employment, however given the discretion generally allowed within agency budgets it would be difficult for the Commonwealth to argue inability to cover costs as the cause of unjustifiable hardship.

Harassment

Harassment is recognised in the DDA as a specific form of unlawful discrimination. The common law has also developed in recent times to recognise that all employers owe a duty to their employees to provide a workplace free from harassment. This duty is an extension on the long acknowledged duty of all employers to take reasonable care of the health and safety of their employees.

Examples of unlawful discrimination and harassment in the workplace on the basis of disability include:

- insults or humiliating jokes (either verbal or published in workplace newsletters/magazines/infoboards)
- overbearing or abusive behaviour towards staff with a disability;
- disparaging remarks about malingering to staff who have made compensable claims;
- a parent is refused a job because the employer assumes he or she will need
- time off work to look after a child with a disability;
- a worker is harassed about working with a person with a disability;
- qualification standards or employment tests which effectively screen out or tend to screen out people with a disability if they do not relate to the essential functions of the job;
- omitting to provide oral or sign interpreters and other relevant support services at staff training and information sessions;
- the provision of information only in standard print.

Liability

Under the DDA, an employer may be liable for the discriminatory conduct of its employees. However, there is a general exception to this deemed liability if an employer can demonstrate that all reasonable precautions had been taken to avoid discrimination occurring.

It is possible for complaints of discrimination to be against both an employer and an individual employee. Both the liable employer and the individual employee can be ordered to pay separate damages amounts.

Appendix 3: Case Studies

Disability Discrimination

McNeill -v- Department of Social Security

(Human Rights and Equal Opportunity Commission 1995)

Brief Facts: Ms McNeill was employed in the Department of Social Security as a probationary officer for eleven months before being dismissed. She alleged that the Commonwealth failed to provide her with the agreed necessary work aids and facilities, imposed on her harsh, onerous and unfair monitoring procedures and had exposed her to an adverse work environment.

The Commonwealth argued that Ms McNeill was dismissed because of poor conduct and communication skills which were not related to the fact that her equipment was not fully available and functioning or to the close monitoring of her work performance.

Findings: The Human Rights and Equal Opportunity Commission (HREOC) found that the Commonwealth had directly discriminated on the grounds of disability and had treated Ms McNeill less favourably than it would have treated someone without her disability. The reasons for her dismissal were her inefficiency and frustration caused by her disability not being adequately accommodated and by her behaviour as a result of her disability. The Commission also stated that the reasonable adjustment principles which bind the Commonwealth as an employer had not been effectively implemented and was critical of the lack of proper equipment and staff awareness of the effect of the complainant's disabilities.

In considering whether Ms McNeill's dismissal was unlawful the Commission looked at the question of whether or not she was able to carry out the inherent requirements of the job and found that she did have the intellectual and technical ability to carry out the duties of an ASO 1. This had been evidenced in her satisfactory or better level of performance in the first two months of her employment when she had the use of properly functioning equipment. The reason for the adverse change in her work performance was found to be the intensity of the monitoring and supervision regime what had been imposed upon her.

The complainant was awarded \$50,900 for loss of earnings, loss of future earnings and injury to feelings. Failure to provide necessary services or equipment for a person with a disability is discrimination. In this 1995 case the Commonwealth's failure to provide the agreed necessary equipment for an employee with a severe sight impairment was found to be one of the factors contributing to Ms McNeill's less favourable treatment in employment.

(Source: Carmel Niland's address to ATO Chatswood managers, 30 November 1995)

Disability Discrimination
Melvin -v- Northside Community Service Incorp
(Human Rights and Equal Opportunity Commission, 19 July 1996)

Brief Facts: The employer accepted an optometrist's report that a child care worker's eyesight was not good enough to perform normal clerical work. The centre feared that the woman (a nurse) might endanger children by incorrectly reading medication directions. It dismissed her, though she'd worked at the centre for 10 years without complaint.

Findings: The Commission found that the complainant's eyesight had "not significantly changed" during her employment and there was no evidence that she was unable to perform the job's inherent requirements. The Commission also found that there was an industrial reason behind the dismissal. Two co-workers had complained that the nurse was excused from desk work - because of her embarrassment over her myopia - which they then had to do.

The complainant was awarded \$32,000 for past economic loss, \$12,000 for future capacity to earn, \$2692.80 for lost superannuation and \$10,000 general damages for the humiliation and embarrassment the dismissal caused her.

The record \$56,000 pay out has some important lessons for employers. They must ensure that medical practitioners engaged to assess an employee's capacity to perform a job have the right skills and expertise both in relation to the disability and the job performed. The employer must then apply the medical report to the job's specific requirements. Employers must next divorce questions about the capacity to perform a job from industrial/employee relations considerations.

Reprinted courtesy of *Discrimination Alert* Issue 20, 6 August 1996, published by Newsletter Information Services, phone 02 9977 7500

Disability Discrimination

Since July 1994, over forty “interim determinations” have been made by the Human Rights and Equal Opportunity Commission under the Disability Discrimination Act.

Examples include:

TransAdelaide Transport restrained from proceeding to call tenders for an inaccessible bus fleet, 13 September 1994 (settled October 1994)

A similar complaint by People With Disabilities (NSW) against the State Transit Authority of NSW, settled 14 July 1995. People in wheelchairs wouldn't be able to use planned new buses. State Transit Authority (NSW) agreed to make all its buses accessible to people with disabilities over the next 10 years. Estimated cost: in excess of \$20 million.

Mobility-impaired people unable to access a major Brisbane public building through the front door made a complaint under the Disability Discrimination Act. A “mainstream” principle was established for the first time. Estimated cost of appropriate lift \$298,000. Queensland Government ordered to pay all legal costs as well.

Reprinted courtesy of *Discrimination Alert* Issue 1, 17 October 1995, published by Newsletter Information Services, phone 02 9977 7500

Appendix 4 Assistance and Resources

ATO resources

EEO/HRM Advisors and OH&S Advisors are available in all regions to assist with advice, information and conduction research (eg: undertaking focus groups etc).

Networks of ATO staff who are deaf have been established in each region. Contact may be made through local EEO Advisors.

SDAN Unit in ATO Dandenong is developing a computer database for better client profiling. Criteria will include, among other things, disability.

Office of Disability

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