

Greater Dandenong Policy

Workplace Adjustment Guidelines

File Number:		Directorate:	Corporate
Authority:	CEO	Responsible Officer:	OD Consultant
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1. Purpose

Why is this policy needed?	The City of Greater Dandenong recognises the diversity of its workforce and is committed to ensuring that all employees are able to effectively and efficiently use their skills and experience to contribute to the organisation's performance, production and service delivery. This includes the opportunity to participate, without discrimination in work-related activities conducted within a work context.
What will the policy do?	The objective of this policy is to establish defined processes, which will facilitate an inclusive and non-discriminatory work environment. These processes will also establish effective mechanisms for responding to the individual adjustment needs of existing and potential employees. The result is a diverse workforce culture that values rather than merely tolerates differences. Diversity is about attracting and retaining a talented workforce that reflects the customers and community we serve. The City of Greater Dandenong endeavours to establish and maintain an effective system to promote an inclusive workplace and encourage workplace adjustments. This system is intended to encompass recruitment practices, workplace adjustments and disability confidence training for Council employees.
Who has responsibility for upholding these <u>principles</u> ?	The Council Executive team, Chief Executive Officer (CEO), Directors, Department Managers, Coordinators, Team Leaders and Supervisors, the Organisational Development team as well as staff recruiting for positions.

2. Scope

Who does it apply to and what is covered?	This policy applies to all employees of the City of Greater Dandenong. Where possible, the City of Greater Dandenong will undertake to identify and resolve potential barriers to the recruitment and employment of people with disability within the Council. The Council will also review the possible effects of policies on candidates or employees with disability, before deciding on, or implementing these actions.
Who is required to approve workplace adjustments?	All workplace adjustments must be approved by the relevant Director prior to any action being undertaken. Department Managers must approve recommendations for workplace adjustment proposals prior to presentation to Directors.

3. Definitions

Disability	The Disability Discrimination Act 1992 (Cth) definition of a disability includes any physical, sensory, neurological, intellectual, mental illness, learning disability, physical disfigurement and immunological (the presence in the body of disease-causing organisms (e.g. HIV virus, arthritis) and total or partial loss of part of the body or a bodily function. Disability also includes a temporary or permanent illness and any injury. It also includes a temporary, permanent, current, past or future disability, as well as imputed disability.
Disability discrimination	<u>Direct</u>: A person treats, or proposes to treat, a person with a disability unfavourably because of their disability. This includes a failure to make reasonable adjustments. <u>Indirect</u>: A person imposes or proposes to impose a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with disability and that is not reasonable. Indirect discrimination includes where a person with disability could comply with the requirement, condition or practice with reasonable adjustments, but these are not made.
Employee	This includes, but is not limited to, employees in, and candidates for, full-time, part-time, casual, short-term contract and permanent positions.
Workplace adjustment	A workplace adjustment, also called a reasonable adjustment, is whatever is considered necessary and achievable to enable an employee to perform the inherent requirements of the job, performing their role productively and safely. Workplace adjustments may not require any expenditure; they can be a change to a work process, practice, procedure or the work environment.

4. References

Victorian Legislation, Principles and other reference sources (as amended or replaced from time to time)	• <i>Equal Opportunity Act 2010</i> • <i>Health Records Act 2001</i> • <i>Occupational Health and Safety Act 2004</i> • <i>Privacy and Data Protection Act 2014</i> • <i>VicRoad Parking Permits</i> www.vicroads.vic.gov.au
Commonwealth Legislation, schemes and guidelines (as amended or replaced from time to time)	• <i>Australian Human Rights Commission Act 1986</i> • <i>Disability Discrimination Act 1992</i> • <i>Fair Work Act 2009</i>

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5. Council Policy

Corporate Activities

What will Council do as an organisation?

The Council will endeavour to provide, in a timely and effective way and as far as is reasonably practicable, adjustments specific to an individual's needs. Requests for individual workplace adjustments will be addressed, as far as is practicable, in a timely, confidential and sensitive manner.

Where possible, the City of Greater Dandenong will undertake to identify and resolve potential barriers to the recruitment and employment of people with disability within the Council. The Council will also review the possible effects of any corporate actions on candidates or employees with disability, before deciding on, or implementing these actions.

The City of Greater Dandenong recognises that some programs and activities may have consequences for employees and have the potential to create or maintain unintended discriminatory barriers. Through the relevant operational managers, Council will review the following items to, as far as is practicable, remove any discriminatory effect:

- Medical assessments used to determine the candidates ability to safely perform the essential requirements of the role and implement adjustments if required.
- All employment related policies including recruitment, selection, training, promotion, retention and flexible work arrangements;
- Purchase and management of information technology systems;
- Purchase and management of communication systems;
- Development and management of information services;
- Decisions relating to [organisation] owned property; premises and facilities;
- Purchase of internal fittings (chairs, desks, lights, carpets, etc.);
- Decisions relating to conferences, seminars, training and development opportunities.

Workplace Adjustments

What will Council do to make adjustments?

The Council will endeavor to provide, in a timely and effective way and as far as is reasonably practicable, adjustments specific to an individual's needs. Council recognises that the need for adjustments may arise during the selection process, at the commencement of employment or at any time during the employment cycle. Accordingly Workplace Adjustments are to be made as soon as practicable and will be monitored and reviewed to ensure ongoing effectiveness.

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What is unjustifiable hardship and how does it affect requests?

The City of Greater Dandenong will undertake to investigate all effective options to accommodate individuals' requests to make changes to workplace policies, rules, practices and operations. Council is obligated to provide adjustments to employees with disability unless such an adjustment would result in unjustifiable hardship to Council. Unjustifiable hardship will be determined by considering all relevant circumstances of each case using the '[Request for Workplace Adjustment](#)' (*hyperlink*) form (Appendix D). This form is also available on [Webstar](#).

Where a particular adjustment is requested and it has been found that it cannot be met without incurring unjustifiable hardship, every workplace effort will be made to provide alternative adjustments.

It is vital that all relevant information is provided by current or prospective employees to Council in order to understand their fitness to perform roles and identify appropriate adjustments to help them do that job (also see Fit for Work Policy). Adjustments must be reasonable and not impose 'unjustifiable hardship' on Council by being far too expensive, difficult, time consuming or cause some other hardship as a result of being implemented. It is also important to note that it is not against the law for Council to:

- a) refuse to employ a person with a disability; or
- b) terminate an employee's employment;

if, because of their disability, they cannot safely perform the inherent requirements of the job or even with reasonable adjustments, they cannot perform the inherent requirements of the job for the foreseeable future.

Responsibility

Who is responsible for managing and implementing this policy?

The Council Executive team, Chief Executive Officer (CEO), Directors, Department Managers, Coordinators, Team Leaders and Supervisors are responsible for advising employees and applicants about their right to workplace adjustments and assisting the employee or candidate (and their service representative if applicable) to identify the most suitable adjustments. All employees will have access to a copy of the guidelines. In addition, all candidates will be provided with information, in an appropriate format, about both these guidelines and related documents.

Overall responsibility for implementing this policy and procedure rests with Organisational Development. Department Managers Coordinators, Team Leaders and Supervisors and are responsible for following the procedure set out in this policy when an employee or candidate identifies the need for adjustment/s. See Appendices A, B and C.

Can staff contribute to removing barriers?

The City of Greater Dandenong recognises a shared responsibility with individual employees for ensuring that any necessary adjustments are identified. Accordingly all staff are encouraged to notify their manager of any barriers they believe prevent access or inclusion. Department or business unit managers are responsible for ensuring action is taken on such notifications.

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What are candidates / employees responsible for?

The employee / candidate is responsible for requesting adjustments including identifying, where possible, the types of adjustments they consider appropriate. The employee / candidate requesting an adjustment may be required to provide Council with any supporting documentation, such as, reports or medical information / assessments specifically relevant to the process of identifying accurate, appropriate and useful Workplace Adjustments. These documents will be kept confidential.

Privacy and Confidentiality?

All documents relating to specific requests for adjustments will be kept confidential and will only be disclosed in accordance with the provisions of the Privacy and Data Protection Act 2014. Key employee's involved in the process, including the employee requesting a workplace adjustment, are responsible for maintaining the confidentiality and privacy requirements of this information in accordance with Council's Information Privacy and Health Records Policy. De-identified data on workplace adjustments and retention of employees will be recorded and reported on by Organisational Development in compliance with the Privacy & Personal Information Policy.

Will the Workplace Adjustment data be monitored and reported?

Organisational Development is responsible for maintaining de-identified data on implementation of the workplace adjustments. The number of adjustments made for recruited employees and data on the retention of these employees will be recorded for monitoring and reporting purposes. Data on the costs of adjustments should also be recorded but is an optional reporting category.

Procedures

How will the procedure be communicated?

All candidates should be asked whether adjustments are required at each stage throughout the selection process. Candidates should be reassured that this information is used for the provision of adjustments only, and will not have any adverse implications upon their application.

All candidates, whether or not they have shared their disability information to Council should be informed:

1. That a request for Workplace Adjustments can be made through their supervising manager and Organisational Development. The '[Request for Workplace Adjustment](#)' (*hyperlink*) form should be used;
2. Candidates should be informed that their information is confidential and requests for adjustments are forwarded on a 'need to know' basis to ensure that the required Workplace Adjustments or modifications can be made prior to commencement of their employment;
3. A copy of the '[Request for Workplace Adjustment](#)' (*hyperlink*) form will be kept on the employee's personnel file and counter-signed by the manager who has actioned the Workplace Adjustments.

A newly recruited employee will be asked whether they need Workplace Adjustments for the commencement of their role.

Similarly, existing employees should ask their supervising managers about the availability of Workplace Adjustments and complete a '[Request for Workplace Adjustment](#)' (*hyperlink*) form.

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What is the procedure to notify a request?

The correct form for a request for an adjustment is '[Request for Workplace Adjustment](#)' (*hyperlink*).

An employee can discuss the required adjustment(s) with Organisational Development prior to completing the form. If relevant within this initial discussion, the Organisational Development consultant will remind the employee of their responsibility to provide any supporting medical information to ensure appropriate adjustments are implemented.

What are the stages of approval?
([see process map](#))
(*hyperlink*)

1. The employee should first complete and forward the '[Request for Workplace Adjustment](#)' (*hyperlink*) form to their manager for initial discussion.
2. The manager is then responsible to work with the employee, any other relevant area of Council (e.g. IT) and/or external service providers to determine the practicality and potential of adjustments to be implemented.
3. The manager then forwards these options and all relevant information gathered during this process to the relevant Director. The request for the Workplace Adjustment is then considered by the Director in collaboration with employees' manager.
Requests for adjustments may not be approved if, for example, the cost of accommodating the employee's needs is considered to present an 'Unjustifiable Hardship' to the business.
Where concerns that requested adjustments cannot be accommodated, for reasons such as 'Unjustifiable Hardship' or operational reasons, the '[Request for Workplace Adjustment](#)' (*hyperlink*) form and all relevant documentation must be forwarded to Organisational Development.
4. The Director and manager will then engage with the Manager People & Procurement for confirmation that the required adjustments cannot be accommodated at this time.
5. Alternative adjustment options that can be implemented will be negotiated.

What funding is available to help?

Where the cost of workplace adjustment exceeds \$500, the employee's (supervising) manager can apply to JobAccess, a government body, for assistance / support (up to \$30,000) to make Workplace Adjustments. Although JobAccess do not fund all workplace adjustments it is recommended that enquiries are made to determine the assistance available on a case by case basis.

www.jobaccess.gov.au or telephone [1800 464 800](tel:1800464800).

Costs of Workplace Adjustments approved by the Director but not covered by JobAccess are borne by Council.

Will Workplace Adjustments be reviewed?

Workplace Adjustments should be reviewed as soon as possible after the commencement in the role / implementation of the arrangements. For newly recruited employees, an initial meeting should occur within the first week, with subsequent review meetings as needed. For existing employees the review should commence as soon as it is practicable to assess the effectiveness of the implemented arrangements.

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During these meetings the supervising manager should discuss with the employee whether necessary improvements have been achieved following the implementation of the Workplace Adjustments. A brief summary of progress must be recorded on the '[Request for Workplace Adjustment](#)' (hyperlink) form, placed in the employee's personnel file and communicated to the Director and Organisational Development. Once satisfactory implementation of Workplace Adjustments has been achieved annual reviews will be undertaken as part of the PDP process.

What if the adjustment required relates to car parking?

Requests for Workplace Adjustments in relation to car parking arrangements should be made in writing to the relevant Department Manager. The request should outline:

- Why the adjustment in relation to car parking is required;
- Supporting documentation, including medical certificates / assessments (refer below for further information);
- Whether the adjustment is required on a permanent or temporary basis, including for a temporary period, the expected duration as can best be determined at that time. (This may be pre-determined by the conditions associated with a Disability Access Permit which may be provided by the applicant to support their request).

The Department Manager will then, in consultation with Organisational Development, assess Council's ability to grant the request giving consideration (but not limited) to:

- The Inherent Requirements of the role including any requirement to drive for work purposes and the frequency expected during the period specified;
- Any risk of aggravation of illness, injury or disability in relation to the requirement to drive a vehicle in order to undertake the Inherent Requirements of the role; and
- Supporting documentation (including medical certificates / assessments) provided to Council accompanying the request.

Approval of requests for Workplace Adjustments in relation to car parking will be confirmed by Organisational Development. An appropriate parking permit may be issued or the staff member provided with direction regarding alternative parking arrangements which meet the requirements of the request. Staff may be required to pay for Car Parking in accordance with applicable terms and conditions of Council operated facilities.

If an extension of time is required, the permit holder must provide a written submission to Organisational Development. That application should include appropriate supporting documentation and be submitted at least seven days before the expiry date of the existing permit. If a permit extension is not sought and the permit subsequently expires, the staff member will be required to undertake the approval process again should he/she require an extension of the adjusted parking arrangement.

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Supporting documentation

Council recognises that in many instances a person with a disability may have already obtained a Disability Access Permit (permanent or temporary) such as those issued by VicRoads or another State or Federal equivalent. Information regarding the criteria for a VicRoads Parking permit is available from the VicRoads website at www.vicroads.vic.gov.au

Can I appeal a decision?

Step 1 Raising a Grievance

- a) Where a job applicant raises a grievance, this should be referred to the relevant Manager or Director;
- b) Existing employees should refer any grievance to their immediate supervisor, except where the grievance relates to the supervisor.

Step 2 If a grievance is not resolved to the satisfaction of the employee or job applicant, or where a grievance relates to the employee's immediate supervisor, the employee shall raise the grievance with the responsible manager.

Step 3 If the grievance is still not resolved, an employees or job applicant and their support person, can raise the matter with the responsible Director.

Step 4 If unresolved:

- a) If the matter cannot be resolved between the parties through the internal grievance procedure the employee or job applicant can request a meeting with the CEO to discuss the matter.
- b) Where circumstances warrant it, the CEO and the Branch Secretary of the relevant union may discuss the grievance.
- c) Where the matter relates to failure to promote or select (internal applicants only):
 - o The employee may request a hearing by an Appeals Committee. The Appeals Committee will be made up of three delegates including a Management Representative, a Union Representative or Staff Representative chosen by the employee, and the CEO as the chairperson or where requested an external independent chairperson as agreed between the parties;
 - o All determinations of the committee must be in writing and will include reasons for the determination. Determinations will be binding on all parties and be made available within ten days of the committee's decision;
 - o Whilst the above procedures are being followed, Council will work with the employee to support them in the workplace.

Step 5 If a grievance is related to matters dealt with in the Enterprise Agreement remains unresolved after exhausting the mechanisms of the Staff Grievance Resolution Policy the matter will be dealt with in accordance with the Dispute Settling Procedure of the EBA. This step excludes any matter covered by Step 4 c)

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Enquiries / Resources

A key point of enquiry for Workplace Assessments and Adjustments is the JobAccess website, available at www.jobaccess.gov.au.

Please contact Organisational Development on 8571-5136 for further information.

6. Related Documents

Related Council documents (as varied from time to time)

- Appropriate Workplace Behaviours Policy
- Diversity, Access and Equity Policy
- Disability Action Plan (Edition 4)
- Fit for Work Policy
- Flexible Work Options Policy
- Greater Dandenong City Council Enterprise Agreement
- Privacy & Personal Information Policy
- Occupational Health and Safety Policy
- Recruitment Policy
- Request for Workplace Adjustments Form (*hyperlink*) (Appendix D)
- VicRoad Parking Permits www.vicroads.vic.gov.au
- Webstar - *Telephone Interpreter Service*
- Workplace Adjustment Process Map (*hyperlink*) (Appendix Band C)
- Workplace Complaints Resolution Policy & Procedure

Appendix A – Managers Guide

What are some examples of Workplace Adjustments?

Workplace Adjustments can be many and varied in their nature (e.g. administrative, environmental, or procedural) in order to enable persons with disabilities to adequately perform the Inherent Requirements of their job safely.

Workplace Adjustments managers may need to implement can include one or more of the following types of adjustment:

- adjustments to workplace or work related premises, equipment or facilities, including provision of additional or specialised equipment or facilities;
- adjustments to work related communications or information provision, including the form or format in which information is available (e.g. easy-read dot point policy and procedure summaries);
- adjustments to work methods (e.g. voice to text software for employees unable to use a keyboard);
- adjustments to work arrangements, in relation to hours of work and use of leave entitlements (e.g. adjustments to work arrangements to accommodate an employee who needs breaks because of pain or fatigue issues);
- adjustments to methods used for testing, assessment or selection;
- access to travel, training, transfer, acting, trial or higher duties positions, traineeships, or other forms of opportunity to demonstrate or develop capacity in a position;
- provision of interpreters, readers, attendants or other work related assistance;
- permitting or facilitating a person to use equipment or assistance provided by the person with a disability or by another person or organisation;
- providing training to coworkers or supervisors; or
- other work-related adjustments.

How are Workplace Adjustments determined?

It is important for managers to consult with the person regarding their needs and the type of Workplace Adjustments that are required and not to think that you know the adjustments required based on your own observations or assumptions. Below are some questions you may consider asking:

- Do you have any questions for me about your work area, the building or equipment supplied by Council for this role?;
- Would you like to see the office / worksite so you can get an appreciation of that particular work area?;
- Are there any adjustments or equipment that you would like us to consider that would support you in this role?;
- Council works with consulting Ergonomists and Occupational Therapists who conduct workplace assessments. Do you feel this may be of assistance? [*follow this up with the OD/OHS team for more information*].

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How do I approach Recruitment?

Recruitment, Selection and Appointment

Advertisements should direct applicants to approach the contact officer on job advertisements with requests for adjustments that enable them to attend interviews / visit the workplace.

Application, interview and assessment due dates and timeframes may be extended to accommodate delays due to the processing and implementation of adjustment requests.

When **shortlisting**, the panel chair should contact the applicant to determine if they require any support or have any special requirements for the interview, and discuss this in advance of setting the interview date / location.

Further, ensure that:

- the interview venue is accessible and appropriate, having given consideration to any requests;
- identified support or special needs are accommodated where appropriate;
- interview questions are focused on the inherent requirements of the role;
- interview questions are not discriminatory, however, questions may be asked that are reasonably intended to identify any alterations or adjustments that the person may require; and
- all communication is directly to the applicant – not their support person or interpreter;

It is necessary to adapt the chosen selection tools for applicants with disabilities if a particular tool does not enable an applicant to demonstrate their skills, knowledge and abilities as effectively as applicants without that disability.

The selection panel is collectively responsible for understanding the principles of employment equity, anti-discrimination, and the relevant legislative requirements. An applicant must not be excluded from consideration for appointment because they need Workplace Adjustments. However, the panel is not responsible for determining what, if any, adjustments are to be made.

Once the selection panel has recommended a preferred candidate, where that person has a disability and if Workplace Adjustments are necessary, the relevant Manager will forward the request for these to their Director. The Director will then engage with the Manager People & Procurement and consider the requested adjustments for that person in the workplace. This may involve seeking additional information, including about financial assistance available to Council.

Ultimately if the person would be unable to fulfil the inherent requirements of the job even if the adjustments are made, Council can make a decision not to employ the candidate.

Refer to Appendix B and C detailing the process and who to contact to work with the prospective or current employee.

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What's the difference?

[Inherent Requirements / genuine and reasonable requirements]

'Inherent Requirements' and 'genuine and reasonable requirements' are slightly different tests at law. For the purposes of these guidelines, they are referred to as 'Inherent Requirements', being the essential features of an employee's substantive position, or the position being applied for (and not some modified position, restricted duties or temporary alternative position which the employee may perform). These requirements are determined by all of the circumstances surrounding the person's employment and may include:

- the ability to meet the requirements of the person's contract of employment and any statutory functions;
- the ability to adequately perform the tasks, functions and responsibilities which are a necessary part of the position;
- the ability to adequately perform the organisational or operational requirements of the position, such as the ability to work effectively in a team; and
- the ability to work safely (in light of the person's individual characteristics rather than assumptions about their disability, and the likelihood of any risk eventuating).

How is 'Unjustifiable Hardship' determined?

'Unjustifiable Hardship' is determined by considering all relevant circumstances of each case including:

- the cost of the Workplace Adjustments required in light of Council's financial situation (including the availability of financial or other assistance to Council); and
- the degree to which the Workplace Adjustments will result in substantial benefits or detriments to other employees, including those who do not have disabilities.

These matters then need to be weighed against other factors such as:

- the benefit that the person with disability, and the workplace generally, would gain from the adjustment;

Council must consider and assess all factors to determine whether proposed Workplace Adjustments would result in unjustifiable hardship.

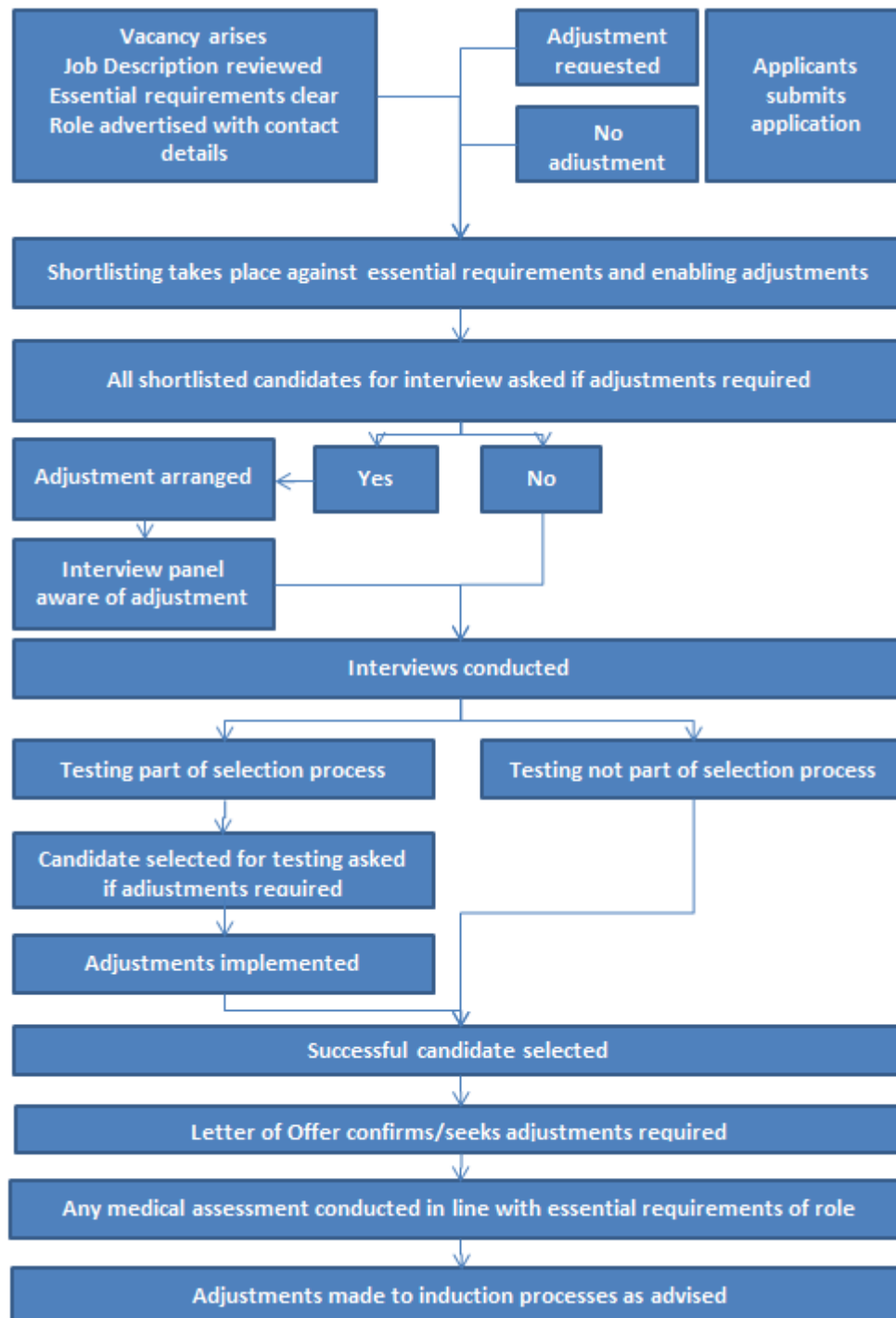
Workplace Adjustments must be reasonable

Workplace Adjustments need to be reasonable. This means that changes to features of the work situation must ensure that people with disabilities are able to meet the position requirements. It does not mean changing the Inherent Requirements of the position.

In some cases an employer can lawfully decide not to make requested adjustments, if:

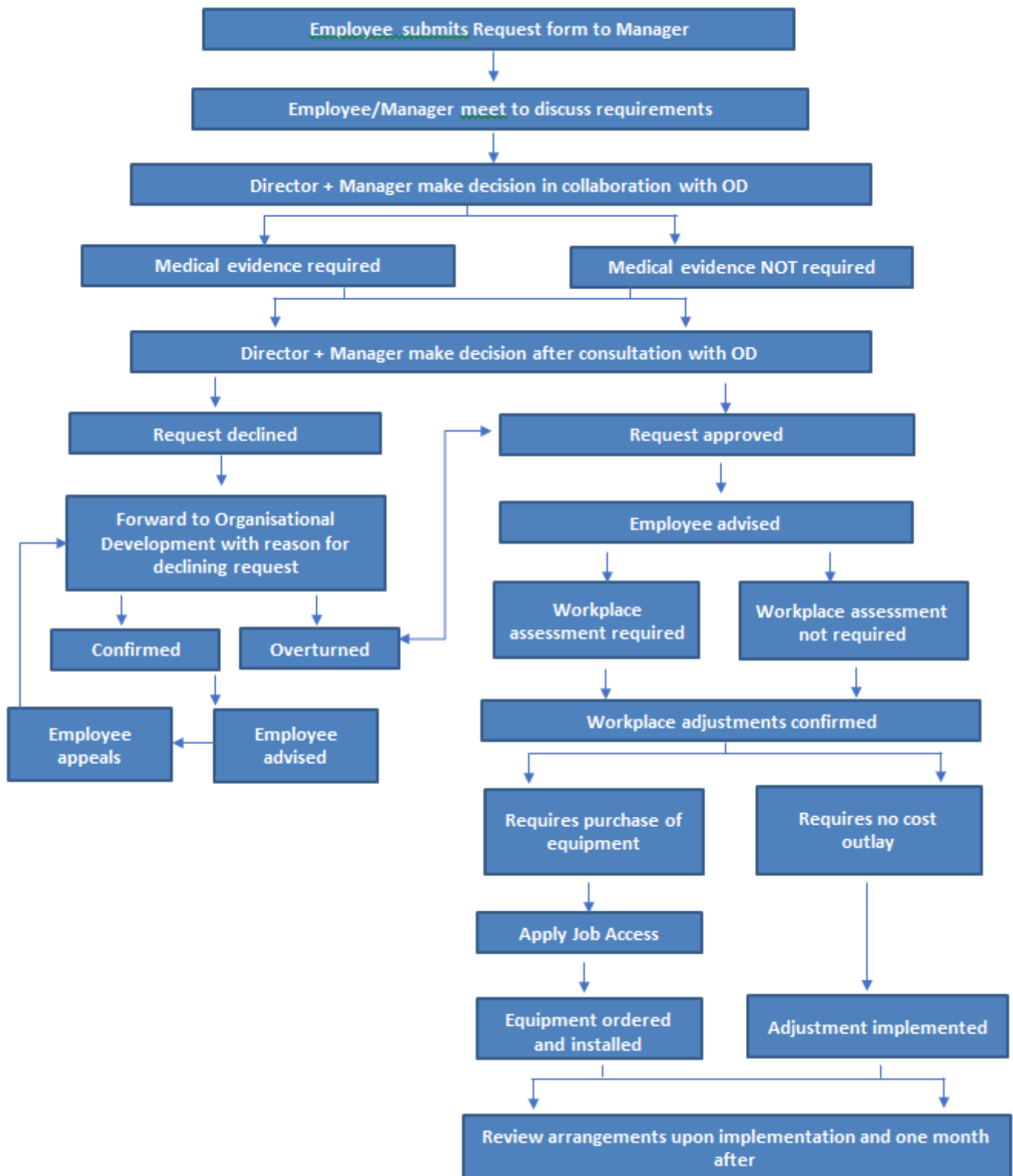
- the adjustments needed are not in fact reasonable (with reference to relevant circumstances); or
- the person with the disability could not adequately perform the 'Inherent Requirements' of the job even if the adjustments were made.

Appendix B – Applicant Process



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Appendix C – Employee Process



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Appendix D

Request for Workplace Adjustment Form

Employee Name: _____

Position Title: _____

Department: _____

Location: _____

Phone: _____ Email: _____

Direct Line Manager: _____

Please answer the following questions to assist us to understand the context of your request for Workplace adjustment/s

Please describe the inherent (essential) requirements of your role for which you require workplace adjustments _____

What specific adjustments are you seeking, if known? _____

Do you require a workplace assessment to assist you to determine the most appropriate adjustment/s? _____

Are there time sensitivities relating to the request? If so, please detail _____

Employee's signature _____ Date application submitted: _____

Please forward this form to your Manager with supporting documentation, if appropriate, to discuss your request.

Note: Information contained in this form will be kept confidential in accordance with Council's Privacy & Personal Information Policy.



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Manager

I have discussed the above adjustments with this employee **Yes / No** (circle one)

Please provide any additional comments or further actions required _____

Director & Manager - Approved / Declined (circle one)

If declined, reason (plus any alternative adjustment options that can be implemented): _____

Director's signature _____

Manager's signature _____

Date approved/declined:

Employee's signature _____ Date advised: _____

Agreed Implementation Action Plan: (all approved adjustments - original and/or alternatives)

Summarise *individual* action items, applicable timeline(s) and *initial* review date(s) _____

Manager's signature _____ Date plan agreed: _____

Employee's signature _____ Date plan agreed: _____

Please forward this form to Organisational Development once a decision to approve or decline has been made.

Organisational Development can assist when Workplace Adjustments are to be implemented.