

# Disclosing Disability in Employment



Guidelines for **people with disabilities**  
and their advocates



Victorian Equal Opportunity  
& Human Rights Commission



**Victorian Equal Opportunity  
& Human Rights Commission**

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Disclaimer: This information is intended as a guide only. It is not a substitute for legal advice.

Your Privacy: The VEOHRC complies with Victorian privacy laws and the confidentiality provisions of the Equal Opportunity Act 1995. Our privacy policy is available online at [www.humanrightscommission.vic.gov.au/privacy](http://www.humanrightscommission.vic.gov.au/privacy) or by contacting the Commission.

Authorised by the Victorian Equal Opportunity & Human Rights Commission.

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# INTRODUCTION

**Everyone has a right to work. Having a job is not only valuable for its income, but is fundamental to a person's dignity and wellbeing. It is crucial in creating a self identity, increasing confidence, improving skills, building social relationships and developing networks.**

Access to employment is a right protected under Victorian and Federal equal opportunity laws. Under these laws, a person with a disability who meets the genuine requirements of a job has the same right to be appointed as anyone else. Employers have an obligation to understand their responsibilities under Victoria's *Equal Opportunity Act 1995* and the Federal *Disability Discrimination Act 1992*.

Regardless of the legal protections, disclosing a disability can be a difficult issue for people with disabilities. Many job seekers and employees do not disclose their disability to recruiters and employers because they fear discrimination or exclusion from consideration for jobs.

Disclosing a disability is a personal decision that is bound by a unique set of circumstances – no two cases are the same. There are many questions to consider, including:

- **Why should I disclose my disability?**
- **How do I disclose my disability?**
- **Do I have to disclose my disability during job interviews?**
- **What if I get the job without disclosing my disability but my condition changes over time?**
- **What does the law say about disclosure?**

The Victorian Equal Opportunity & Human Rights Commission has published these guidelines to inform people with disabilities and their advocates about disclosure.

These guidelines are designed to help people with disabilities decide if they want or need to disclose a disability to current or potential employers, and if so, when and how to do it. They will also provide people with disabilities information on their rights and obligations regarding disclosure at all stages of employment.

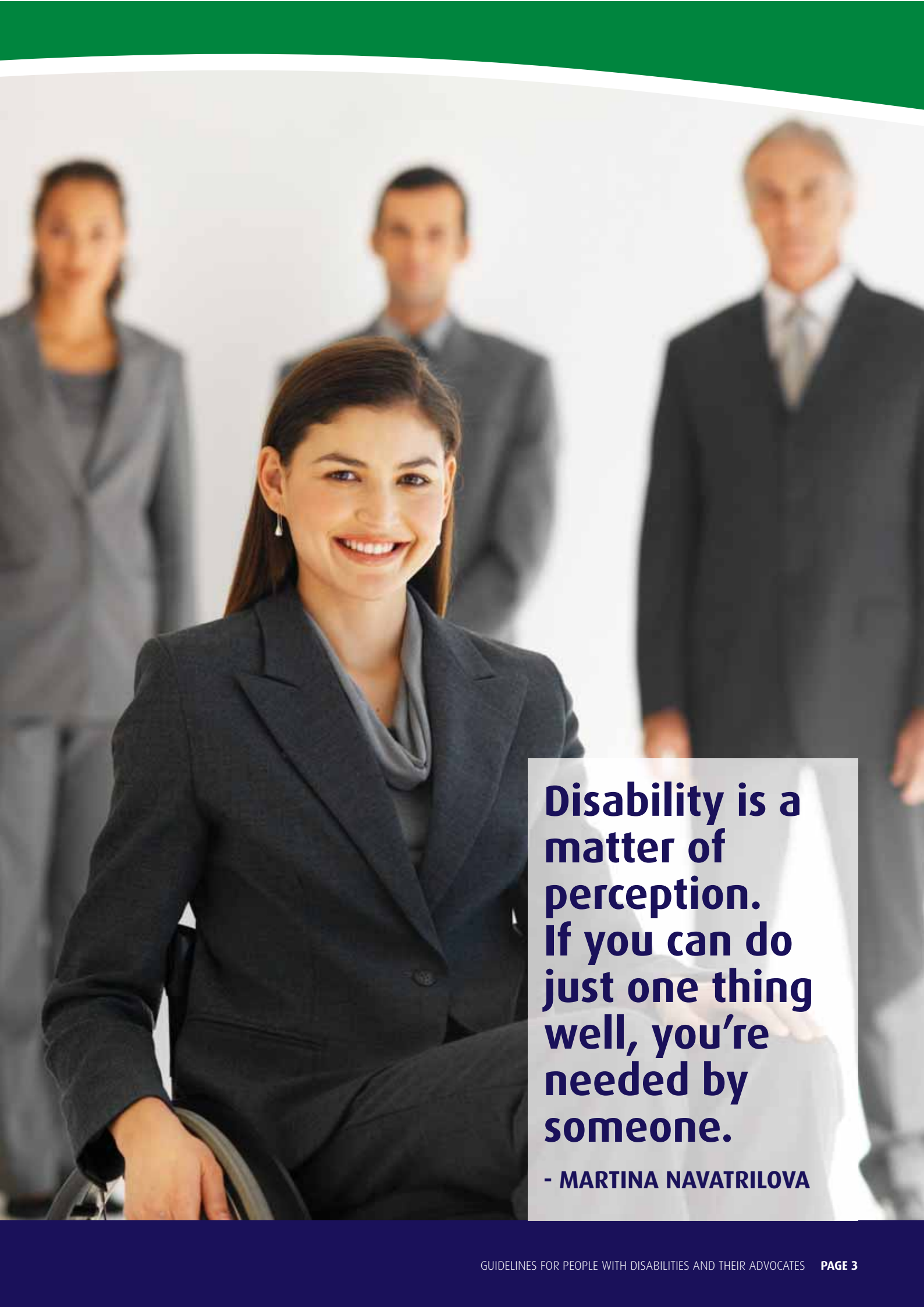
Advocates for people with disabilities can use these guidelines to help them support their clients in achieving positive outcomes.

These guidelines were developed as part of the Victorian Equal Opportunity & Human Rights Commission's commitment to help people with a disability find meaningful employment so they may realise their potential.

These guidelines were funded by the Victorian Government's Department for Victorian Communities – *Social Policy Action Plan: A Fairer Victoria*.

# CONTENTS

SECTION	TITLE	PAGE No.
1.	<b>IT'S MORE COMMON THAN YOU THINK</b>	5
2.	<b>THE BIG PICTURE</b>	5
3.	<b>WHAT THE LAW SAYS</b>	6
	What is discrimination and when is it against the law?	6
	Victoria's Equal Opportunity Act	6
	The Federal Disability Discrimination Act	6
	What does disability or impairment mean under the law?	7
	Are all employees protected by discrimination law?	7
	What are reasonable adjustments?	7
	Who is liable when discrimination occurs?	8
	Are there exceptions to the law?	8
	What if I'm injured on the job?	8
	What about privacy?	9
	How can the Victorian Equal Opportunity & Human Rights Commission help?	9
4.	<b>YOUR QUESTIONS ANSWERED</b>	10
	What is disclosure?	10
	I am applying for a job. Should I disclose my disability?	10
	I have a job. Do I have to tell my boss about my disability?	11
	How do I disclose my disability?	12
	Who should I tell?	12
	What if my disability deteriorates after I get the job?	12
	Do I have to disclose my disability in work medical tests?	13
	What about psychological testing?	13
	What can happen if I don't disclose a pre-existing injury or disease?	13
	My boss has criticised my work and given me the sack. What are my rights?	15
5.	<b>RESOURCES AND CONTACT DETAILS</b>	16



**Disability is a matter of perception. If you can do just one thing well, you're needed by someone.**

**- MARTINA NAVATRILOVA**

**Every right  
implies a  
responsibility;  
Every  
opportunity,  
an obligation,  
every  
possession,  
a duty.**

**- JOHN D ROCKEFELLER**





## SECTION 1. IT'S MORE COMMON THAN YOU THINK



Many men, women and children in all sections of our community live with disabilities. In fact, one in five Australians has a disability <sup>[1]</sup>. That's 3.96 million people. They are bosses and workers, business owners and customers, teachers and students, Indigenous and non-Indigenous people.

People with disabilities are only different because they may need adjustments or adaptations to overcome the effects of their disability.

## SECTION 2. THE BIG PICTURE

People with disabilities experience lower levels of employment than the general population <sup>[2]</sup>. In 2003, Australia had lower employment rates for people with disabilities than nearly two thirds of countries in the Organisation for Economic Cooperation and Development (OECD) <sup>[3]</sup>.

In 2003, the unemployment rate for working-age people with disabilities was 8.6% compared with 5.0% for people without disabilities.<sup>[4]</sup> As a group, people with disabilities are disproportionately affected by unemployment yet at 16.6% they represent a significant proportion of Australian's working age population <sup>[5]</sup>.

People with disabilities who were employed are more likely to work in a part-time job (37%) than those without a disability (29%) <sup>[6]</sup>. However employers who hire people with a disability generally find that these workers are extremely loyal, have better than average productivity and above average attendance records <sup>[6]</sup>.



### NOTES

- [1] Australian Bureau of Statistics, Disability, Ageing and Carers: Summary of Findings, 2003.
- [2] [4] Australian Bureau of Statistics, Disability, Ageing and Carers: Summary of Findings, 2003.
- [3] OECD, Employment Outlook: Towards more and better jobs, 2003.
- [5] Human Rights Equal Opportunity Commission, National Enquiry into Employment and Disability, 2006
- [6] Disability WORKS Australia, [www.dwa.org.au](http://www.dwa.org.au), 2007

## SECTION 3. WHAT THE LAW SAYS

### What is discrimination and when is it against the law?

Discrimination is treating someone less favourably because of a personal characteristic.

Under the *Equal Opportunity Act 1995* (Vic) and the *Disability Discrimination Act 1992* (Cwlth), it is against the law to discriminate against someone because they have an impairment or disability.

These laws apply to public behaviour, not private conduct. The public areas where equal opportunity laws apply are employment, accommodation, clubs, education, sport, goods and services and local government.

Discrimination may occur when employers refuse to offer a job, dismiss an employee or refuse to offer promotions or training.

Assumed disability or impairment is also covered under the law. This is when a person wrongly assumes somebody has a disability or impairment – such as the assumption that someone who speaks slowly has an intellectual disability.

#### Discrimination may be direct or indirect.

**Direct** discrimination occurs when someone is treated less favourably because of a personal characteristic that is protected (there are 17 personal characteristics protected under Victorian law, including impairment or disability).

**Indirect** discrimination can happen when a policy or rule that treats everyone in the same way has an unfair effect on a particular group of people.



### Victoria's Equal Opportunity Act

The *Equal Opportunity Act 1995* (Vic) requires employers to look beyond stereotypes or assumptions about people and treat them on merit.

Each step of the recruitment process should be non-discriminatory, including the position description, job advertisement, application forms, interview questions, medical examinations, assessment tasks and other personality and aptitude tests, reference checks and the final decision, along with actual employment.

It is also against the law to:

- ask someone for information that could be used in a discriminatory way
- victimise a person because he or she has made a complaint or allegations of unlawful discrimination
- ask, encourage or help another person to discriminate against a person.

For more information on Victoria's Equal Opportunity Act, go to [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

### The Federal Disability Discrimination Act

The *Disability Discrimination Act 1992* (Cwlth) is a Federal law that provides protection for everyone in Australia against discrimination based on disability.

Disability discrimination happens when people with a disability are treated less favourably than people without a disability. The Act makes it against the law to discriminate against someone who has a disability, in the public areas of life.

Harassment because of disability, such as insults or humiliating jokes, is against the law in employment, education and in the provision of goods, services and facilities.

However, there are some circumstances in which it is not against the law for a person to discriminate against a person with a disability. To learn more about these exemptions and the Disability Discrimination Act, visit [www.humanrights.gov.au](http://www.humanrights.gov.au) and look for the section on 'Disability Rights'.

[Source: Disability Discrimination Act Information sheet from [www.humanrights.gov.au](http://www.humanrights.gov.au)]



## What does disability or impairment mean under the law?

Disabilities can be temporary or permanent. Under the *Equal Opportunity Act* they are defined as:

- Total or partial loss of a bodily function or part of the body
- The presence in the body of organisms that may cause disease, such as HIV or Hepatitis C
- Malfunction, malformation or disfigurement of a part of the body
- A mental or psychological disease or disorder, or other conditions that may result in a person learning more slowly
- Past disability or impairment which may include childhood illnesses, having had a broken leg, or a period of psychiatric illness.

## Are all employees protected by discrimination law?

The *Equal Opportunity Act* covers all employees, whether they are full-time, part-time, casual, temporary, probationary, including contractors and those working on commission or those applying for a job. Some aspects of the law also apply to volunteers and volunteer organisations.

The law applies to all stages of employment, including recruitment, access to entitlements and promotion, returning to work, dismissal and retrenchment.

Under the law, employment is defined as:

- Employment under a contract of service, whether or not under an Australian Workplace Agreement, certified agreement, employment agreement or award within the meaning of the Federal *Workplace Relations Act* 1996
- Employment under the *Public Administration Act* 2004
- Engagement under a contract for service
- Work that is remunerated wholly or partly on commission.

Victorian employees are also protected from disability discrimination under the Federal *Disability Discrimination Act*.

When both Commonwealth and State laws apply, people can choose under which laws they wish to lodge a complaint. For more information visit [www.humanrights.gov.au](http://www.humanrights.gov.au) and look in the section on 'Complaints Information'.

## REASONABLE ADJUSTMENTS

Reasonable adjustments are changes that allow people with disabilities to work safely and fairly. Many employees with disabilities need no adjustments in the workplace. Some may only need minor changes at minimal costs. Others may need special equipment or some structural change to work buildings.

Examples of reasonable adjustments may include:

- telephone typewriter (TTY) phone access for employees with hearing or speech impairments
- flexibility in weekly hours to allow an employee to attend regular medical appointments
- screen reading software for employees with vision impairments
- more regular breaks for people with chronic pain or fatigue
- desks with adjustable heights for people using wheelchairs.

Employers are obliged to make reasonable adjustments unless they would result in "unjustifiable hardship" (i.e. financial costs and/or detriment to other staff or clients) to their business and the effective organisation of work.

For more detailed information on "unjustifiable hardship" visit [www.humanrights.gov.au](http://www.humanrights.gov.au) and look for the DDA Q&A section under 'Disability Rights'

You can also visit the JobAccess website at [www.jobaccess.gov.au](http://www.jobaccess.gov.au) and look for the 'Reasonable Adjustment' page in the 'Employers' section.

If your employer says that money is a problem, there is a Federal Government fund called the Workplace Modifications Scheme which helps cover the cost of accommodating workers with disabilities. Employers can apply for funding support for special equipment or adjustments. For more information, call JobAccess advisers on 1800 464 800.

## SECTION 3. WHAT THE LAW SAYS



### CASE STUDY

Bridget is deaf and communicates in Auslan and in writing. She commenced work for an insurance company and she was not provided with an Auslan interpreter when she attended long meetings. As a result she received an unfavourable performance appraisal and suffered stress and anxiety. Following conciliation at the VEOHRC, Bridget's employer agreed to provide Auslan interpreters when required and to review Bridget's performance appraisal.

### Who is liable when discrimination occurs?

Employers are liable for the behaviour of their staff, so if a staff member discriminates, a complaint can be made against that staff member, along with management and owners of that organisation. This is called vicarious liability.

Employers can also be held liable for the discriminatory selection processes of their agents, such as recruitment firms and consultants.

Employers may reduce their liability if they can prove that they took reasonable precautions to prevent the discrimination.

It is not enough for employers to have good written policies on equal opportunity. They must be communicated to and understood by all employees, including those responsible for hiring staff, such as external recruitment firms.

### Are there exceptions to the law?

In limited situations, an employer can discriminate against a worker because of a genuine and reasonable job requirement.

Exceptions to discrimination law are allowed when:

- the employer employs no more than the equivalent of five full-time staff (other than relatives). This exception only applies to recruitment
- employers must protect the health, safety and property of any person, including the general public and the person discriminated against
- the person with the disability would not be able to perform the genuine and reasonable requirements of employment, even after special services or facilities have been provided
- the discrimination is authorised by an order from a court or tribunal, or by a provision of an Act of Parliament or regulations made under an Act.

It should be noted that these exceptions should not be seen as 'loopholes' or an excuse to discriminate. In the event of a complaint of discrimination, an employer may argue that an exception applies. However, in practice exceptions rarely apply. The VEOHRC encourages employers to follow best practice at all times to prevent discrimination occurring in the first place.

### What if I'm injured on the job?

Discrimination against an injured worker is against the law, regardless of whether the injury was sustained at work or outside the workplace.

Employers have responsibilities under the *Accident Compensation Act* if an employee is injured at work. These include holding the injured person's position open for 12 months and helping the worker return to employment.

But under the *Occupational Health and Safety Act*, employers can refuse to employ or re-employ an injured worker in order to protect the health and safety or property of any person, including the job applicant.

Before taking this action, employers must make sure all alternatives for the employee have been investigated.

## What about privacy?

Employers are required by State and Federal laws to respect the privacy of job applicants and employees.

Failure to protect confidential personal information about a person's disability may leave an employer open to discrimination and/or privacy complaints.

If your employer asks for personal information, they must do so in a way that is fair and not intrusive. They must also:

- tell you why they are asking for it
- advise you of any consequences if you don't provide the information (for example, you might risk missing out on workers' compensation if you're injured on the job)
- allow you access to your information
- tell you who will receive copies of your information
- notify you of their contact details.

Employers must assure workers and job applicants that any information they provide will be treated appropriately.

## How can the Victorian Equal Opportunity & Human Rights Commission (VEOHRC) help?

We help resolve complaints of discrimination by offering a confidential, free and impartial resolution service with the aim of achieving a mutual agreement.

Services offered by the Commission include:

- a free telephone Advice Line
- information about discrimination and equal opportunity laws
- regular workshops covering many aspects of equal opportunity rights and responsibilities
- a consultancy service and education tailored to the needs of specific workplaces
- assistance in writing complaints.

Victoria's equal opportunity laws were amended on October 11 2006 making it possible for a person or representative body to lodge a complaint with the Commission on behalf of a named person or people who believe they have been discriminated against or subjected to sexual harassment. A representative must be either a person with the same complaint or an organisation with sufficient interest in the complaint.

### For more information contact the VEOHRC

Level 3, 380 Lonsdale Street Melbourne Victoria 3000

Telephone: **(03) 92817111**  
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Email: [information@veohrc.vic.gov.au](mailto:information@veohrc.vic.gov.au)  
[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

## SECTION 4: YOUR QUESTIONS ANSWERED

### What is disclosure?

Disclosure is a personal decision to reveal a disability to a prospective or current employer. There is no legal obligation to disclose a disability unless it is likely to affect your job performance or ability to work safely.

Many people with disabilities fear disclosure will lead to discrimination, such as being denied jobs, promotions or entitlements. Others stay silent because they do not want to be the focus of attention or unnecessary concern from employers or colleagues.

When selecting staff, employers are obliged to consider only a person's skills and experiences and to assess their relevance to the requirements of the job.

For people with an obvious disability, the decision is not whether to disclose but when to do it. But there are many people whose disabilities are not visible, as in the case of someone with a mental illness or epilepsy.

Other job applicants or employees may decide against disclosure because their disabilities do not affect their work. They may have vision or hearing impairments, epilepsy, arthritis or diabetes which does not impact on their ability to perform the functions of their job. Depending on the particular activity and/or industry, some disabilities would need to be disclosed.

If you are taking medication, you are only obliged to tell your employer if there is a likelihood that side effects will impinge on work performance. If you are unsure of what to do, discuss this with your doctor and other allied experts.



### CASE STUDY

Jonathan submitted his resume to an recruitment agency to be considered for a job as an engineer. The recruitment agency required him to complete a proforma which included questions relating to his medical history. Jonathan would not complete the proforma because he believed disclosing his disability would lead to discrimination. The recruitment agency refused to help him find a job. The VEOHRC arranged a conciliation meeting between Jonathan and the agency which agreed to remove questions that may be considered requests for discriminatory information.

### I am applying for a job. Should I disclose my disability?

Like any other job applicant, you should focus on the skills and experiences which are relevant to the job on offer. Your disability should not be the focus in applying for a job.

Employers may ask you to fill in an application form. If questions about disability or illness are asked, you have no legal obligation to disclose and can write "not applicable" for any disability that will not impact on your work performance.

You may choose to disclose your disability at the job interview stage, or when employment has been offered, especially if you need work-related adjustments to perform the job effectively.

You may also have to disclose as soon as you are offered an interview to ensure workplace adjustments can be made in time for the job interview itself. Adjustments can range from

providing easy wheelchair access to arranging for a sign language interpreter. Adjustments can also be made to the time allowed for assessment, and group interviews can be modified to one-on-one interviews.

Applicants using speed-activated software such as a talking calculator may need to notify the recruiter so that the adjustment required does not impact on others.

You can choose to disclose your disability in order to find out about an organisation's willingness to embrace and support the principles of equal opportunity.

But a person's disability is often irrelevant to the key requirements of a job. In these situations, disclosure may not be necessary.

You may decide against disclosure if you are worried that the employer may focus on your disability rather than your abilities.

The decision whether to disclose can depend on a wide variety of personal factors and individual circumstances, along with the type and nature of the job.

Regardless of the decision, you should discuss and think through the disclosure issue before applying for work or attending an interview. Talking about disclosure with friends, family, a disability advocacy or support group, or the relevant trade union can help you gain clarity on your course of action.

Sometimes disclosure can work to your advantage. For example:

- A disability may be relevant to the position (such as a job helping others with that disability)
- Some organisations have strong equal opportunity policies and encourage applications from people with disabilities
- You can explain how disability has helped you develop strong skills in problem solving, negotiation and organisation.

## I have a job. Do I have to tell my boss about my disability?

No, you don't. Unless the disability directly affects your work or your ability to perform your job, you are under no legal obligation to disclose disability at your workplace.

All employees also have a right to privacy.

Many employees decide against disclosure when they first get a job. They may have feared discrimination at the time or felt they were able to do the job without extra support.

But circumstances can change over time. If workloads increase or disabilities deteriorate or relapse, work conditions may become difficult.

REASONS TO DISCLOSE	REASONS TO NOT DISCLOSE
Life skills gained through disability may be relevant to the job	Fear of discrimination or stigma
Employer has a strong equal opportunity ethos	Disability has no impact on work performance
Need to ask for workplace adjustments	No need for work-related adjustments
A precautionary measure in event the issue of disability arises on the job	Disability (e.g. illness) may be in remission
Promote the fact that disability does not hinder employment	May not consider your condition a disability
Aids or adjustment required during interview and/or assessment process	No aids or adjustment required for interview and/or assessment process



## SECTION 4: YOUR QUESTIONS ANSWERED



### CASE STUDY

Bruce is a transport driver and alleged his employer treated him less favourably because he has a stutter. He was assigned easier driving routes because his employer did not believe he could cope with the harder runs and had a learning disability or a mental illness. Following conciliation at the VEOHRC, his employer offered an apology and agreed to take up equal opportunity training.

For example, depression can be a debilitating illness, but with appropriate treatment it does not affect a person's ability to do their job. If the condition suddenly changes, it may become difficult to do the job without disclosing the disability.

In some cases employees may be forced into disclosure. For example if someone faces disciplinary action for poor work performance or unexplained sick leave by an employer who is unaware of their disability. In these cases, it is wise to seek external advice from a disability support group or trade union.

It is essential to discuss your disability with your employer if you decide to make a formal disability discrimination complaint.

But the decision to disclose can also be a positive one.

As you become more comfortable and secure in a job, you gain a greater understanding of work policies. This may result in feeling more confident talking to your boss about your disability.

### How do I disclose my disability?

If you decide to disclose your disability, it is always better to be clear and concise.

Try to stay positive, focusing on the expertise and experience you bring to the job, rather than dwelling on the disability.

In many progressive workplaces, the experience gained from living with a disability is valued.

In disclosing your disability, it is helpful to:

- explain why you decided to disclose
- clarify how the disability may impact on your capacity to work
- identify and explain the workplace adjustments required
- give examples of successful workplace adjustments with previous employers
- avoid getting bogged down in detailed medical information about the disability.

### Who should I tell?

In most situations, you should disclose your disability to your employer, supervisor or human resources manager.

In larger companies or government departments, there may be access to equal opportunity officers or other specialist staff with whom you can discuss your disability.

Before making a formal approach to your employer, it is often helpful to ask for advice outside the workplace. Trade unions and disability advocates can provide useful information to people with disabilities. Friends, family and work colleagues can also be of great assistance and support.

### What if my disability deteriorates after I get the job?

Many people secure jobs and have successful careers without telling their employers about their disability.

But when a disability deteriorates, you may have no choice but to disclose. This can be a major concern, but you should remember that you are protected by equal opportunity laws.

It is against the law to discriminate against you because of your disability, even if the employer becomes aware of the disability after you were employed.

Employers are obliged to look for a more suitable position for you if your disability makes it difficult to do your current job. This can only happen if you are involved in the decision and the move is supported by appropriate advice from your medical doctor and allied experts.

However, there are some circumstances where an employer can dismiss you. For example, employers may lawfully dismiss or demote an employee if he or she gave deliberately false answers to interview questions or if work performance is an issue not related to the disability.

## Do I have to disclose my disability in work medical tests?

You can choose whether to disclose your disability during medical tests and health assessments.

But you cannot avoid standard organisational procedures as long as all job applicants and employees face the same assessment.

If there are questions that relate directly to the job, these must be answered truthfully. To not answer or to falsely answer questions about your health that are directly relevant to your ability to do the job could be considered a breach of the employment contract and be used to justify termination. However, employers may be breaking the law if they ask questions which do not directly relate to the requirements of the job.

Physical tests should relate strictly to your ability to carry out duties, such as lifting a certain weight or sitting for prolonged periods.

The tests must be given to all job applicants and employees, not just those perceived to have a disability or injury. And the results must be kept completely confidential.

The tests must also be conducted by a medical practitioner experienced in non-discriminatory pre-employment medical tests and who understands the job requirements. Your employer must inform the doctor of the type of work that you will be doing.

If you use equipment such as hearing aids or glasses, you should be allowed to use them during the test.

Your employer should advise you of the test outcome and ensure strict confidentiality.

## What about psychological testing?

Psychological or aptitude testing of job candidates or employees should never place a person at a disadvantage because of their disability.

These tests should be strictly related to the genuine and reasonable requirements of the job and not designed to assist or promote 'cultural fit' within a workplace. There should also be adjustments to the test to accommodate the needs of people with a disability.

It is important that the tests are developed, delivered and the results interpreted by someone with appropriate training, expertise and experience.

An employer can be legally liable for a discriminatory action of an external consultant conducting tests.

## What can happen if I don't disclose a pre-existing injury or disease?

Under the *Accident Compensation Act*, an employee who fails to disclose a pre-existing injury or illness that might be reasonably expected to affect their ability to perform the normal duties of a job, may miss out on compensation if the injury recurs or deteriorates as a result of their work. But this can only happen if the employer follows strict guidelines during the hiring process, with everything noted in writing.

### CASE STUDY

Brian had hurt his shoulder some years before he applied for a job with a production company. He did not list his shoulder injury because he thought he could perform the work of the position. Brian hurt his shoulder at work shortly after and was put on light duties. His employer said he was a burden to the company and that the medical condition was holding the company back. Although a settlement was reached at a VEOHRC conciliation session, Brian's services were terminated.

## SECTION 4: YOUR QUESTIONS ANSWERED

Your employer must provide you with a clear outline of the scope of the job before asking if you are aware of any pre-existing illness or injury that might affect your performance of tasks and duties. Your employer must also advise you, in writing, that failing to disclose such a condition will mean you will not be paid compensation for that condition.

This section of the Accident Compensation Act only deals with compensation. It does not mean that employers can sack workers or discriminate against them because of their injury or illness.

The law aims to help employers provide a safe workplace for you and your colleagues and prevent injuries from recurring. If an employer knows about a pre-existing injury or illness, they may be able to modify your role or provide equipment to help you work.

If you deliberately give false answers about an injury or illness during interviews or in forms, your employer may have the right to dismiss you.



### CASE STUDY

Christine had taken medication for anxiety for several years, but the drugs started causing drowsiness. She provided a medical certificate that specified that she could work but not drive. However, her employer would not let her work until she could drive. New medication allowed her to return to full duties but her employer insisted on an independent psychiatric assessment – a request Christine thought was unfair.

The matter went to conciliation at the VEOHRC, where the employer argued that the test was to make sure Christine was no risk to herself, clients or property. The employer agreed to pay Christine \$13,000 and provide a statement of service with no disparaging remarks.

## YOUR RIGHTS AND YOUR RESPONSIBILITIES...

I HAVE A RIGHT TO...	I AM OBLIGED TO...
Decide whether I should disclose my disability to an employer	Disclose my disability if it affects my job or has an impact on the health and safety of colleagues
Have my job application assessed in a fair and equitable way, with a focus on my abilities, not my disability	Disclose a disability if it affects my work performance
Have information about my disability treated confidentially and respectfully	Suggest strategies to enable me to work effectively
Appropriate and respectful questions about my disability	Negotiate workplace adjustments to enable me to do the job
Have information about my disability only be used in relation to work	Understand that it can be complex and time-consuming for employers to make work-related adjustments

### My boss has criticised my work and given me the sack. What are my rights?

All employees, including those with disabilities, must meet performance standards as part of their job. The same rules apply when the employee has a disability. If you repeatedly fail to meet these standards, you could face dismissal.

But before sacking a worker, employers must be able to produce strong evidence of poor performance such as personnel records detailing unexplained absences or records of repeated performance counselling. They must also make sure their decision to dismiss an employee has no direct or indirect link to the disability.

There are exceptions under the *Equal Opportunity Act*, which are outlined in more detail on page 8. For example, dismissal may be allowed if an employee with a disability cannot perform the genuine and reasonable requirements of a job, even with the help of special services and facilities.

However employers must meet many legal requirements that regulate dismissal of employees.

It is against the law to victimise a person because he or she has made a formal complaint or allegation of discrimination.

## SECTION 5. RESOURCES AND CONTACT DETAILS

### Victorian Equal Opportunity & Human Rights Commission

Level 3, 380 Lonsdale Street Melbourne Victoria 3000

Telephone: **(03) 92817111**  
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[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

### Recruitment Guidelines

See Victorian Equal Opportunity & Human Rights Commission's Best Practice Guidelines  
[www.humanrightscommission.vic.gov.au/bestpracticeguidelines](http://www.humanrightscommission.vic.gov.au/bestpracticeguidelines)

### Training

See Victorian Equal Opportunity & Human Rights Commission's Training Workshops Calendar  
[www.humanrightscommission.vic.gov.au/training](http://www.humanrightscommission.vic.gov.au/training)

### Victorian Resources

#### Victorian Privacy Commissioner

The key body in a system regulating the way Victorian government agencies and local councils collect and handle personal information. [www.privacy.vic.gov.au](http://www.privacy.vic.gov.au) or 1300 666 444

#### Worksafe

Victorian Workcover Authority. [www.workcover.vic.gov.au](http://www.workcover.vic.gov.au)

### National Resources

#### Human Rights & Equal Opportunity Commission

[www.hreoc.gov.au](http://www.hreoc.gov.au)

#### Federal Privacy Commissioner

This is an independent office which has responsibilities under the federal Privacy Act 1988 (Cwlth).  
[www.privacy.gov.au](http://www.privacy.gov.au)

#### Job Access

An information and advice service funded by the Federal Government, offering advice for people with disability and their employers. Call 1800 464 800 or go to [www.jobaccess.gov.au/JOAC/Employers](http://www.jobaccess.gov.au/JOAC/Employers).

#### Disability WORKS Australia

Contracted by the Commonwealth Government, Disability WORKS manages the National Disability Recruitment Coordinator (NDRC). Its role is to facilitate the provision of employment for people with a disability by providing employers with access to a single, free, effective contact point for recruiting people with disabilities. [www.dwa.org.au](http://www.dwa.org.au)







**Victorian Equal Opportunity  
& Human Rights Commission**

**3/380 Lonsdale Street Melbourne Victoria 3000**

Telephone: **(03) 92817111** • Advice Line: **(03) 92817100** • Facsimile: **(03) 92817171** • TTY: **(03) 92817110**  
Interpreters: **(03) 92801995** • Toll Free: **1800 134 142** (Country Callers) • Email: **[information@veohrc.vic.gov.au](mailto:information@veohrc.vic.gov.au)**  
**[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)**