

Roles, Rights and Responsibilities

# Disclosure of a Mental Illness in the Workplace

A Guide for Employers



**SoFA.**  
Social Firms Australia Ltd

Roles, Rights and Responsibilities:  
Disclosure of Mental Illness  
in the Workplace.  
A Guide for Employers

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# 1 Introduction

Many people with a mental illness are productive members of the workforce. Often they have disclosed their condition and are being supported by their employer in their role. However the fear of discrimination and stigma may prevent others from feeling able to discuss their illness frankly.

Employers have an important role in supporting their employees with mental illness but may be unsure of their roles, rights and responsibilities. This booklet is designed to assist employers to understand these roles and effectively manage the disclosure of mental illness during employment.

If an employee or job-applicant raises the issue of mental illness with their employer, it may be with the support of an employment support service. These services can play an important role in helping employee and employer negotiate positive outcomes for all involved. They are a resource employers can call upon if, and when, the need arises.

Employment support services and other resources are listed at the end of the booklet, as well as details of financial and other assistance. Throughout the booklet the term mental illness is used. However, all forms of psychological disorders, mental illness and psychiatric disability are covered. A glossary of these words and other common terms related to mental illness is provided on the last pages. (see **Resources** on page 15).

## 2 Mental illness in the workplace

According to the Australian Bureau of Statistics National Survey of Mental Health and Wellbeing: Summary of Results 2007, one in five Australians will experience a mental illness each year. It is therefore inevitable that most workplaces employ, or will have employed a person with a mental illness. Mental illness includes a wide spectrum of conditions and behaviours that may cause a person distress and negatively impact on aspects of their life.

These might include:

- Significant changes in mood, or behaviour
- Changes in ordinary processes like sleeping and eating
- Reduced self-esteem and confidence
- Lack of motivation or appearing disinterested in normal activities
- Reduced memory, poor concentration or attention
- Withdrawing from social contact, or finding social contact difficult
- Neglecting personal care
- Inappropriate behaviour, including appearing to lack normal inhibitions
- Increased use of alcohol or other substances

The most common forms of mental illness are anxiety and depression. Less common are illnesses like schizophrenia and bipolar affective disorder, which affect a person's capacity to perceive what is real. These disorders affect people to varying degrees and can often be managed with effective treatment.

Unemployment has been shown to exacerbate and prolong mental illness. Equally, employment can be a powerful tool in helping people manage and recover from it.

Managing mental health in the workplace can be simple to achieve, need not be detrimental to productivity, enhances diversity, and can result in significant cost savings to the business. In *2010 Workers with Mental Illness: a Practical Guide for Managers*, the Australian Human Rights Commission identifies such benefits as:

- reducing costs associated with worker absence from work and high worker turnover
- achieving greater staff loyalty and a higher return on training investment
- minimising stress levels and improving morale
- avoiding litigation and fines for breaches of health and safety laws
- avoiding the time and cost involved in discrimination claims
- avoiding industrial disputes

## 3 Disclosure of a Mental Illness

There is no legal obligation for a job-applicant to disclose a mental illness unless it is likely to put their safety, or that of their colleagues or workplace at risk. It is also illegal to treat an applicant unfairly as a consequence of having made such a disclosure.

Deciding whether or not to disclose the existence of a mental illness to a current or potential employer is very difficult. Most people with mental illness want to work, and recognise that it would be better to be frank with an employer about their health, yet they fear that by disclosing, they will be refused employment or dismissed. Despite this, some people do choose to disclose, and it is important that employers know how to respond in an appropriate and lawful manner.

The central question that employers need to consider is whether the candidate is the right person for the job. In the case of a job-applicant, that means assessing whether the applicant is qualified and capable to carry out the inherent requirements of the role. In the case of an existing employee, where the assessment as to qualification should already have been made, the issue is more to do with fitness to work, and whether their mental health impacts on their performance and ability to work safely. (see **Inherent requirements** on Page 10)

If the factors that might prevent a job-applicant from doing the job are unrelated to skill, such as workplace conditions, methods or procedures, an employer is legally obliged to consider introducing adjustments to the workplace – in effect, creating a level playing field for all qualified candidates. (see **Workplace adjustments** on page 11)

Some job-applicants/employees may choose to disclose during the recruitment period, while others prefer to discuss the issue after they have begun work and become settled into their new job. In some cases, a person might only disclose a mental illness when a problem arises in the workplace. This guide will look at a variety of scenarios in which a job-applicant or employee may choose to disclose, and how an employer should respond to ensure they are treated fairly and lawfully.

### 3.1.1 What is required by the role?

When assessing the candidate's job application, the employer is legally required to focus solely on their skill and experience. The law states that employers must give job-applicants with a mental illness the same opportunity to undertake a job as anyone else. If the introduction of adjustments is sufficient to overcome any obstacles the applicant might face, then the job-applicant must be treated as suitably qualified.

### 3.1.2 Disclosure during recruitment

Disclosure of mental illness during the recruitment stage provides a good opportunity to discuss existing or potential issues that may affect the applicant's ability to perform the



inherent requirements, including safety, of the role and to identify any strategies that may be implemented through training or workplace adjustments. It is important for employers to document these conversations for future reference.

### 3.1.3 Preparation

Employers might wish to consider the following approach:

- 1 Provide an applicant with a clear position description, identifying the aspects of the role that are considered essential. (Note: health and safety requirements are considered essential, or 'inherent requirements'.)
- 2 Give the applicant time to familiarise themselves with this position description and, if necessary, discuss it with their support services and/or medical practitioner.
- 3 Ask the applicant if they feel they have the skills, experience and/or capacity to meet all requirements of the position or if there are aspects of the job they will require assistance with.
- 4 Discuss what adjustments, if any, are required. If necessary, seek external assistance. (see Resources on page 15)
- 5 Consider whether adjustments are reasonable. (see **Unjustifiable hardships** on page 12. Note: financial assistance may be available from the Government)
- 6 If workplace adjustments are required and can reasonably be provided, the job applicant should be considered against other applicants on an equal basis.
- 7 If the job applicant cannot meet the inherent requirements of the role, or their needs cannot reasonably be accommodated, an employer can lawfully refuse to employ the job-applicant without acting in a discriminatory manner.

## 3.2 Disclosure during employment

Some employees choose to disclose once they have commenced a job, after they have demonstrated their capabilities and gained a sufficient level of trust with their employer. Others may find that they need to disclose because of a change in circumstances - such as an office move, or changes to general working conditions affecting their ability to work comfortably.

It is important for an employer to appreciate the courage it takes to make such a disclosure and to recognise it as an indication of the employee's commitment to the job. It is also important to be conscious of the sensitivities of the situation. The employee, in disclosing, is divulging highly personal information. Unless otherwise indicated by the employee, or otherwise required by law, that information must be treated with absolute confidentiality. (see **Confidentiality and privacy** on page 9)

If a disclosure is made because an employee is experiencing health related difficulties, the chances are they are looking for support to continue working productively by adjusting the way they work.

Both as a business strategy and a legal obligation, the employer needs to carefully consider what type of workplace adjustments, if implemented, would best enable the employee to continue working productively. In many cases, the factors in favour of accommodating the employee will far outweigh those against. Dedication, experience, familiarity with the workplace and working relationships are all assets to the business. The cost of recruiting and loss of investment in training and administration, are also factors to be taken into account.

There are a range of government support programs an employer can approach for more advice and information. If an employee's position is at risk, the employer may wish to access the 'Jobs in Jeopardy' program. (see **Resources** on page 15)

## 3.3 Disclosure due to ill health

If an employee experiences even one of the symptoms of mental illness, their health, happiness and work are likely to suffer. Although some people are able to manage these symptoms without it impacting on their job, others may choose this time to disclose their mental illness to an employer.

Depending on the severity of the illness, the adjustments needed to help them cope may be as simple as a change of routine, some flexibility in working hours, or a request to take paid or unpaid sick leave.

It is important to remember that under the *Fair Work Act*, employees' jobs may be protected in the event of illness, including mental illness, necessitating up to three months time off, or multiple absences of up to 12 weeks in total during a year. (see **Resources** on page 15 for sources of detailed advice)

Although an employer is not legally required to pay sick leave in excess of their statutory or contractual obligations, they can help their employees manage ill health by providing adjustments aimed at accommodating periods of illness for both parties, such as:

- providing above award sick leave provisions, including unpaid leave options
- providing sick/personal leave payments at half pay for extended periods
- providing work from home, reduced hours or casual work
- supporting employees to establish income protection schemes

If an employee needs to take leave due to mental illness it is critically important that a return to work plan is developed.

## 3.4 Disclosure due to performance management

Managing the problematic performance of an employee is difficult at the best of times. Doing so when the employee makes a disclosure of mental illness is even more so. Equally, it is very difficult for an employee who feels they should disclose their mental illness to explain their poor performance.

Generally, when an employer notices a drop in the performance of an employee, they will instigate a performance management process. There are many reasons why an employee's performance might not be up to standard, and it's important to be mindful of the possibility that the cause might be related to health. Equally it would be incorrect to assume that all performance issues arise from the mental illness. It is therefore important to approach the performance management process with sensitivity.

If an employee advises their employer that their performance is being compromised by ill health, then steps can be made to implement adjustments and concessions to accommodate the employee's needs.

If the employee doesn't disclose any health concerns, the employer, nonetheless, still has an obligation under the *Occupational Health and Safety Act* to ensure their employee's health doesn't place themselves or other employees at risk. Depending on the nature of the illness, it may be necessary for the employee to undertake a medical assessment to assess their fitness prior to any work plan or adjustments being put in place. (see **Disclosure through medical assessment** on page 6)

The Fair Work Ombudsman has a selection of best practice guides, including the management of underperformance that will be of value to employers. These can be found at:  
<http://www.fairwork.gov.au/resources/best-practice-guides/pages/managing-underperformance.aspx>

If it has been established that an employee's health is not impacting on their ability to perform the role, then standard performance management practices can be put in place.

## 4 Involuntary disclosure

The unauthorised disclosure of an employee's illness by another person in the workplace raises serious issues regarding privacy and confidentiality in the workplace.

### 4.1 Disclosure by colleague

An employee may accidentally disclose their mental illness directly to fellow workers through general chat, or a 'friend of a friend' may disclose the employee's illness in a social environment. If an employer learns of an employee's mental illness through gossip or rumour, they must take measures to silence the rumours, and take action to protect against any resulting discrimination.

### 4.2 Disclosure by an employer

A common issue that arises is the question of what an employer can tell other people in the workplace where adjustments have been made to accommodate an employee. The simple answer is that co-workers are not entitled to be told anything. In practice, however, it is difficult not to incite employee discontent if one employee is perceived to be treated differently to the others.

As a rule, all arrangements between individual employees and the company are confidential. Reminding other employees of that fact, and making it a practice to apply that rule across the board, is a good policy. In addition, by marking an organisation out as a flexible workplace that respects the privacy of all employees, staff should learn to accept such arrangements.

In order to ensure that an employee's personal information is managed appropriately, employers should consider adopting the following policies:

- Only collect information that is necessary. Inform the employee that it is being collected and where it will be stored.
- Do not disclose information to anybody unless their participation or co-operation is essential to implementing the adjustments necessary to enable the employee to carry out all the inherent requirements of their job or the disclosure is required by law.
- Advise the employee, as soon as it becomes apparent, that disclosure to other people is necessary.
- If necessary, seek the assistance of an external advisor.

### 4.3 Disclosure through medical assessment

Some workplaces routinely require medical assessments of their employees, and there are also circumstances under which an employer recognises the need for a medical assessment during the course of employment. It is important therefore, for an employer to understand their rights and obligations when faced with a work-related medical assessment that discloses a disability or illness.

#### 4.3.1 Pre-employment medical assessment

An employer is entitled to request an employee-specific pre-employment medical assessment for the purposes of investigating reasonable adjustments for an applicant with a mental illness. The medical examination must relate directly to the inherent requirements of the job. However, an employer is not allowed to request a medical assessment if their intention is to discriminate against the person because they have a disability.

General pre-employment medical assessments for the workforce are permitted by the *Occupational Health and Safety Act 1999 (OHS Act)*, but employers must ensure that all applicants for a position are required to undergo the same assessment to demonstrate there is no discrimination. The assessment must be conducted by a medical practitioner who understands the genuine job requirements, and is experienced in conducting pre-employment medical tests.

During a medical assessment any questions asked, or tests conducted, must be directly related to the inherent requirements of the job, and must be answered truthfully by the jobseeker. Failure to answer lawful questions truthfully may be grounds for dismissal for breach of the employment contract.

An employer should also inform the applicant of the extent of information he or she will receive from the medical assessor. The medical assessor should only tell the employer what the employee can do and what supports they will need. Information about the condition, treatment and impairments should not be shared.

#### 4.3.2 Medical Assessment during employment

An employer has a duty of care to protect the health and safety of all employees in the workplace. Where there is reason to believe that an employee has a medical or disability issue that may place them or others at risk, they have both the duty and the right to investigate.

In the first instance, it is allowable for an employer to speak directly to their employee, in confidence, and to ask specific questions regarding their capacity to meet the inherent requirements of the job or to work safely. The employee is obliged to answer those questions honestly, but is not required to specify the nature of their illness or the treatment they are receiving.

If an employer needs clarification of the impact an employee's health or disability might have on their capacity to work, they are entitled to direct the employee to attend a medical assessment. If required, it is appropriate for an employer to place the employee on paid leave whilst the assessment is conducted.

The employer's letter, referring the employee to a medical practitioner for assessment, should contain the following information:

- reason for referral
- employee's specific duties and responsibilities (inherent requirements)
- specific questions to which the employer requires an answer (i.e: is the employee able to undertake this task productively and safely, if not what support or adjustment does the employee require?)

The completed medical assessment will provide the basis for determining what type of workplace adjustments, if required, are necessary to overcome any difficulties the employee faces.

Advice on this matter can be sourced from the Victorian Equal Opportunity & Human Rights Commission on 1300 292 153.

# 5 The law

## 5.1 Discrimination

Discrimination occurs where a person is treated less favourably because of a personal characteristic, for example gender, ethnicity or disability. This includes mental illness and psychological disorders. If an employer, or their agent (including a recruitment agency), treats a person with mental illness less favourably than other employees/job-applicants during any part of the employment process, it may be considered discriminatory in the eyes of the law.

In addition, employers have a legal obligation to provide a workplace free from bullying, harassment or discrimination. That obligation isn't limited to acts engaged in or instigated by the employer, it also imposes a positive duty to respond promptly to protect against the actions of other employees and agents.

It is illegal for an employer to:

- refuse employment to someone with a mental illness if they are, in all other respects, suitable for a position
- provide less favourable conditions, or pay less, to an employee with a mental illness
- provide less opportunity for training or advancement to an employee with mental illness
- dismiss or discipline someone on the basis of their mental health alone

The Commonwealth and Victorian legislation covering discrimination are very similar in their treatment of the employment of people with mental illness. *The Equal Opportunity Act 1995 (Vic)* applies to all employers regardless of their size. It covers all employees, including casuals and those on contracts or probationary periods. It also applies to all stages of employment, including recruitment, access to entitlements and promotion, returning to work, dismissal and retrenchment.

### 5.1.1 Direct discrimination

Direct discrimination occurs when an employer treats an employee/jobseeker with a mental illness less favourably than other employees in a similar situation. Discrimination occurs when a person with a disability is treated in a way that is different from other staff and is disadvantageous to them.

**For example:** Matilda has bipolar affective disorder and has been hospitalised several times in the last two years. Her new employer knows this and offers her employment at a lower hourly rate than her co-workers because she is 'unreliable.'

### 5.1.2 Indirect discrimination:

Indirect discrimination occurs when an employer has a rule or procedure that is standard for all employees and makes no reasonable allowance for the particular needs of an employee with mental illness.

**For example:** Anton has social anxiety and finds ordering supplies by phone hard. He requests permission to order supplies by email but is told all orders must be made by phone because this is the standard procedure

### 5.1.3 Vicarious liability:

It is important that employers understand that they are also responsible for their employees' behaviour in the workplace. This means that if one employee harasses another in the workplace the employer can be held responsible for vicarious discrimination.

**For example:** Hung Le has a facial tick that can be quite severe at times. One of his co-workers clowns around a lot and one of his favourite 'jokes' is to mimic Hung Le. Nothing is done to stop this behaviour.

### 5.1.4 When is it not discrimination?

It is not considered discrimination for an employer to refuse to employ, or to terminate the employment of a person who is unable to meet the inherent requirements of the position, as long as this inability cannot be addressed through a reasonable adjustment by the employer. An employer can also refuse to employ, or terminate the employment of a person with a mental illness if there are health and safety concerns which can not be overcome through a reasonable adjustment.

## 5.2 Confidentiality and privacy

Confidentiality is extremely important to employees with a mental illness, as they are likely to be concerned about who within the workplace knows about their illness. This is a very reasonable fear given the level of stigma that exists about mental illness. During disclosure an employer may be told about a person's illness, what their diagnosis is, what symptoms they have, what kind of treatment they are receiving (and how this affects their presentation or behaviour), as well as details of their medical or support people.

Often the terms 'privacy' and 'confidentiality' are used interchangeably, but it is important to remember they are not identical concepts. Privacy laws, comprising the *Privacy Act 1988 (Cth)* and the *Health Records Act 2001 (Vic)*, regulate the handling of personal information (including health information) through enforceable privacy principles. The legal duty of confidentiality obliges employers to protect their employees against the inappropriate disclosure of personal and health information.

In simple terms, the *Privacy Act* requires that employers should:

- only collect information that is necessary and relevant to their role
- inform the employee that their information is being collected and what it will be used for
- tell them who will have access to their information, how it will be stored and when it will be destroyed

### 5.2.1 Breaching Confidentiality

An employer is only able to breach a jobseeker/employee's confidentiality if they have legitimate reason to believe that there is **serious and imminent threat** to the health, safety or property of any other persons in the workplace or the generally public, or if it is required by law. A breach of confidentiality should only occur when there are no other options available, and will only arise in rare situations.

Some employers may believe that if an employee has disclosed that they have a mental illness, they are comfortable for this information to be shared with others. This is not the case. An employer's duty is to ensure the privacy of its employees is not lessened by the employee's disclosure.

Employers can only share the information received during disclosure in a lawful manner. Information lawfully obtained is, however, obtained on behalf of the organisation, and may be communicated to representatives of the organisation as long as they have a legitimate reason to know. For instance, sharing concise and necessary information with a supervisor or Human Resources manager is considered lawful.

It is important that employers ensure their senior managers or supervisors are aware that privacy laws apply to them also.



## 6 The right person for the job

As discussed previously, in order to benefit from laws designed to assist people with a mental illness or disability to participate in the workplace, the first question to be asked is whether they are capable of doing the required work.

The laws regarding flexibility in the workplace operate in relation to non-essential aspects of a role. If the only barriers to getting the job done are non-essential, an employer is required to do whatever is reasonably possible to adjust the role to overcome those barriers.

### 6.1 Inherent requirements

It is important for employers to understand the term inherent requirement as it is critical to determine whether a job-applicant can meet the performance and safety requirements of the position, or whether they will need some form of workplace adjustment.

Although the *Disability Discrimination Act 1992 (Cth)* does not define the term ‘inherent requirement,’ the Human Rights and Equal Opportunity Commission defines it as:

- the ability to perform the tasks or functions which are a necessary part of the job
- productivity and quality requirements
- the ability to work effectively in the team
- the ability to work safely
- the circumstances in which a job is to be performed - ‘inherent requirements’ in one set of circumstances may not apply in another, even if the duties are very similar

When determining what the inherent requirements of a position are, it is necessary to focus on what needs to be done (the results that need to be achieved), rather than the methods of achieving the results.

Where a task contained in the duty statement is rarely required or could easily be removed, it is not considered an inherent requirement.

Paul is required to take minutes of the staff meeting but he finds this very stressful. He prefers to record the meeting and transcribe the minutes at a later time. Taking minutes at the meeting is not an inherent requirement.

A customer or colleague’s preferences are not an inherent requirement

A customer in a hotel requesting a different cleaner because they don’t like their room being cleaned by someone with a disability is not an inherent requirement.

A critical element of a job that is rarely performed can still be an inherent requirement

Anastasia works as a park ranger, and in the event of flooding she is required to assist the emergency authorities. Although there has not been a flood in the 10 years she has been in the position, this remains an inherent requirement.

Health and safety requirements may also be considered inherent requirements

Felix is a qualified carpenter and is taking medication that makes him drowsy. Even though he has the skills necessary to make furniture, the job he has applied for requires him to operate a band-saw most of the day. Operating electrical equipment safely is an inherent requirement.

### 6.2 Workplace adjustments

A workplace adjustment is a change made to enable people with mental illness or disability to participate in the workforce without compromising the health and safety of the employee, or the productivity of the employer organisation.

Workplace adjustments, variously known as reasonable adjustments, workplace accommodation and workplace modifications, modify processes and procedures rather than results. The business outcome should remain the same, but the way it is achieved may be different to the established routine.

Reasonable adjustments are interpreted by the Victorian Equal Opportunity & Human Rights Commission as ‘...changes that allow people with disabilities to work safely and fairly.’ These obligations apply to the recruitment process, the terms and conditions of employment, promotion and other work opportunities, and termination. Some examples include:

- flexibility of hours worked  
Vien has depression and his medication makes him drowsy in the mornings, his employer allocates him only afternoon and evening shifts to ensure he is able to perform satisfactorily.
- changes to management approach  
Amile has bi-polar disorder and suffers from highly elevated moods where her thoughts can become very fast and confused. Her employer makes sure she writes down all of her work tasks and provides additional supervision.
- additional on-the-job support  
Cheryl suffers from anxiety, which can affect her thinking particularly if she has deadlines. Her employer appoints a workplace buddy to spend 10 minutes each morning talking through her workload with her to help her prioritise tasks.
- adjustment of the way tasks are done  
Kelso has Post Traumatic Stress Disorder, which causes him to find large crowds frightening. His boss understands this and does not send him to trade shows but lets him do his networking online and over the phone.
- environmental changes  
Karlie has Schizophrenia and hears voices. She is permitted to listening to an MP3 player as it helps her ignore the voices and get on with work.

When working with an employee to develop strategies for adjustments it is important to determine which aspects of the job the employee believes they would have difficulties with. Subject to the consent of the employee, enlisting the help of an employment support worker or medical practitioner might be useful. Alternately JobAccess can be contacted to undertake a full assessment and develop suitable workplace adjustments.

JobAccess, an initiative of the Federal Government, also provides a Workplace Modification Tool, a searchable database of products and solutions that can remove barriers in the workplace for people with a disability. Through its Employment Assistance Fund, financial assistance to employers and people with a disability is also available for work-related adjustments, training and services.

It is important to take the opportunity to make the assessment as broad as possible, in order to take into account any unforeseen challenges that might arise in the future. Even if sufficient adjustments have been agreed upon to the satisfaction of all parties, it may be worth planning for future adjustments that may be required, and how the need might be identified should it arise.

More information on workplace modifications, adjustments and supports can be provided by JobAccess Advisers on 1800 464 800, or online at:  
[http://jobaccess.gov.au/Workplace\\_modifications/Free\\_workplace\\_assessment\\_and\\_modifications/Pages/home.aspx](http://jobaccess.gov.au/Workplace_modifications/Free_workplace_assessment_and_modifications/Pages/home.aspx)

6.3 Unjustifiable hardships

The requirement for employers to make adjustments to the workplace is measured against reasonableness. If the implementation of an adjustment would result in unjustifiable hardship to the company, the employer is not obliged to implement it. Relevant factors might include:

- practicality
- complexity
- degree of disruption to the business or other people
- cost

The assessment as to whether any of these factors will be considered unreasonable will vary according to the circumstances, with the size and nature of the business also being taken into account. In any event, however, the *Disability Discrimination Act* places the onus on the employer to establish that the adjustment is unreasonable.

As mentioned previously the Workplace Modification Tool, on the JobAccess website, recommends a range of achievable solutions designed to remove barriers in the workplace for people with a disability.

6.4 What can an employer ask at the interview?

At times it is necessary to ask job-applicants and employees about their mental illness, however, it must be for a legitimate purpose. Employers can ask a job-applicant questions about their disability when this knowledge is necessary to:

- find out if the job-applicant can perform the inherent (or essential) requirements of the job
- find out what reasonable adjustments may be needed
- determine other rights and entitlements when disability is relevant, such as sick leave.

Employers must ensure they do not ask unnecessary questions that may discourage a job-applicant from applying for a job. It is important to avoid asking broad questions that may not relate to the inherent requirements of the job. Medical questions can only be asked if the requirements of the particular job (such as a specific safety issue) make this necessary.

The following questions are listed to provide examples of what an employer may ask a job-applicant or employee after disclosure about their mental illness in the workplace:

- Are you able to safely perform all of the inherent requirements of the position?
- Will you need any changes or adjustments in the workplace to be able to perform your job?
- Do you take any medication that might affect your ability to do the job, like making you drowsy or sick?

Glossary

Employers have told us that they are worried that they don't have the 'right' language to speak about mental illness and are concerned that they will be considered politically incorrect. Because it is important to get the language of mental health right, this fact sheet will familiarise you with some commonly used terms.

An employer sets the tone for how things are done and how things are talked about in the workplace. By establishing acceptable ways to discuss and refer to mental illness, employers can combat stigma and discrimination in the workplace.

behaviours	Observable actions of a person. Employers are always on safer ground when they describe observable behaviour rather than seek to define symptoms.
diagnosis	A term to describe an illness, as assessed by a general practitioner, clinical psychologist or psychiatrist. Not everyone has a diagnosed mental illness, but they may have mental health issues or an undiagnosed illness.
discrimination	Unfair, or inferior, treatment or regard based on prejudice towards an individual or group of people. Discrimination is often systemic, and embedded in social attitudes and institutions.
mental health issue or problem	Mental health problems interfere with a person's cognitive, emotional and/or social abilities but to a lesser extent than the impact of a mental illness. They are more common than mental illness and include mental ill-health temporarily experienced as a reaction to life stressors. The distinction between mental health problems and mental illness is not well defined and is made on the basis of severity and duration of symptoms.
mental illness	Mental illness is a diagnosable disorder that significantly interferes with an individual's cognitive, emotional and or social abilities.
psychiatric illness/disability	Refers to the more serious and debilitating psychotic illnesses, like schizophrenia, which affect a smaller group of people.
recovery	The process of living a fulfilling life as part of the broad community, while living with a diagnosis of mental illness. Recovery, in the context of mental illness, is a process, not an end-result.
relapse	A deterioration of mental health after a period of wellness. This may be triggered by personal circumstances, stress or medication changes. It is characterised by an increase in symptoms and disruption to normal functioning.
stigma	A commonly held belief that a group of people that share a particular attribute (like mental illness) should be excluded or treated less favourably than most people. Stigma toward people with mental illness is often caused by a misplaced belief that such people are dangerous.
symptoms	Most mental illnesses have a recognisable pattern of symptoms but each person is unique and may therefore experience different symptoms.



Words used to describe symptoms of mental illness that may impact on work:

elevated mood	Appearing happier or more excited than would normally be expected.
flattened emotion	Showing very little, or no, emotional response to events around them.
blurred lines of reality	Bizarre or odd thinking or behaviour.
impaired cognition	Experiencing issues related to thinking, memory and information processing.

Words used to describe a person being at risk of self-harm

There may be some occasions when an employer has concern about the mental state of their employee, and that they may be at risk of harming themselves or others. Some words that are used to describe this situation are:

suicidal thoughts	A preoccupation or preparation for death
self harm	Behaviour that causes deliberate self injury (eg cutting oneself)
high risk behaviour	Behaviour which places the person at high risk of harm occurring

Training to provide initial response to a mental health problem or response to a crisis situation can be obtained by undertaking a mental health first aid course.

Mental Health First Aid is the help provided to a person developing a mental health problem or in a mental health crisis. The first aid is given until appropriate professional treatment is received or until the crisis resolves. Contact: <http://www.mhfa.com.au>

For urgent information on suicidal behaviour in the workplace, call Lifeline on 13 11 14

8 Resources

JobAccess

JobAccess is an information and advice service funded by the Australian Government. It offers help and workplace solutions for people with disability and their employers. Phone: 1800 464 800 <http://jobaccess.gov.au/Home/Home.aspx>

Employment Assistance Fund

The Employment Assistance Fund helps people with disability and their employers by providing financial assistance for work-related equipment, modifications and services. The Fund provides assistance, which improves access to employment, work productivity and independence of people with disability. Phone: 1800 464 800 [http://jobaccess.gov.au/Services/A-Z\\_list/Pages/EmploymentAssistanceFund.aspx](http://jobaccess.gov.au/Services/A-Z_list/Pages/EmploymentAssistanceFund.aspx)

Workplace Adjustment Toolbox

The online Workplace Adjustment Tool can be used to source practical ideas and solutions for workplace modifications and adjustments to assist people with disability to overcome barriers within the workplace. <http://jobaccess.gov.au/Advice/Search/SoarSearch.aspx>

Supported Wage System and wage subsidies

The Supported Wage System is a process that allows employers to pay less than the award wage by matching a person's productivity with a fair wage. Eligible people with disability can choose to access a reliable productivity-based wage assessment to determine fair pay for fair work. The Supported Wage System pays for independent assessors to conduct these wage assessments. This means that, as an employer, there is no cost to them. They may also be eligible to receive a one-off payment to help offset the cost of employing a new worker with disability. Phone: 1800 065 123 [http://jobaccess.gov.au/Employers/Financial\\_help\\_and\\_wages/Help\\_with\\_wages/Supported\\_Wage\\_System/Pages/home.aspx](http://jobaccess.gov.au/Employers/Financial_help_and_wages/Help_with_wages/Supported_Wage_System/Pages/home.aspx)

Wage subsidies

Wage subsidies are payments made to employers to assist with covering the cost of paying wages in the first few months of employment of a person with disability. They aim to increase the competitiveness of workers with disability. [http://jobaccess.gov.au/Employers/Financial\\_help\\_and\\_wages/Help\\_with\\_wages/Wage\\_subsidies/Pages/home.aspx](http://jobaccess.gov.au/Employers/Financial_help_and_wages/Help_with_wages/Wage_subsidies/Pages/home.aspx)

Jobs in Jeopardy

Job in Jeopardy assistance (also known as ‘employment in jeopardy’) is immediate support to help employees who are likely to lose their job as a result of their disability, illness or injury. Employees and employers can both use this service that is available through the Disability Employment Services and Vocational Rehabilitation Services. By contacting Centrelink, they will refer you to the most appropriate service for Job in Jeopardy assistance. Phone: 13 27 17 [http://www.centrelink.gov.au/internet/internet.nsf/services/job\\_jeopardy.htm](http://www.centrelink.gov.au/internet/internet.nsf/services/job_jeopardy.htm)

2010 Workers with Mental Illness: a Practical Guide for Managers

Workers with Mental Illness: a Practical Guide for Managers is a publication of the Australian Human Rights Commission. It provides information on how to appropriately support workers with mental illness. It also provides information about how to develop and promote a safe and healthy work environment for all workers. [http://www.hreoc.gov.au/disability\\_rights/publications/workers\\_mental\\_illness\\_guide.html](http://www.hreoc.gov.au/disability_rights/publications/workers_mental_illness_guide.html)

Victorian Equal Opportunity & Human Rights Commission

Disclosing Disability in Employment – Guidelines for People with Disabilities and their Advocates. [http://www.humanrightscommission.vic.gov.au/index.php?option=com\\_k2&view=item&id=634:disclosing-a-disability-to-employers&Itemid=562](http://www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&id=634:disclosing-a-disability-to-employers&Itemid=562)

Fair Work Online

Comprehensive information and advice about Australia’s new national workplace relations system from the Fair Work Ombudsman. Phone: 13 13 94 <http://www.fairwork.gov.au>

Worksafe Victoria

Worksafe Victoria has an advisory service that can provide answers to questions including general occupational health and safety enquiries, advice to workers on their Worksafe rights, including health and safety and what to do if they are injured, and explanations on return to work and rehabilitation rights and obligations. Phone: 1800 136 089 (toll free) or (03) 9641 1444 <http://www.worksafe.vic.gov.au>

### Victorian Equal Opportunity & Human Rights Commission (VEOHRC)

The VEOHRC helps people resolve complaints of discrimination, sexual harassment and religious vilification by offering a confidential, free and impartial complaint resolution service with the aim of achieving a mutual agreement.

Phone: 1300 292 153 or (03) 9032 3583.  
[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)

### Social Firms Australia (SoFA)

Social Firms Australia (SoFA) is a not-for-profit organisation committed to creating accessible, durable employment for people with a mental illness, disability or other disadvantage. SoFA does this by supporting organisations to establish social firms and by providing assistance in the ongoing support required for employees with a mental illness.

Phone: (03) 9445 0373.  
[www.socialfirms.org.au](http://www.socialfirms.org.au)

### SANE Australia

SANE provides factsheets that are authoritative, up-to-date, and easy-to-read explanations of a range of mental health problems and related issues. Information and advice is also available by calling the SANE Helpline.

Phone: 1800 18 SANE (7263) 9-5 weekdays EST.  
[www.sane.org](http://www.sane.org)

### Other useful links:

#### Disability Discrimination Act

Disability Discrimination Act 1992 (Cwlth)  
[http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/dda\\_guide.htm](http://www.hreoc.gov.au/disability_rights/dda_guide/dda_guide.htm)

#### Privacy Act

Privacy Act 1988 (Cth)  
<http://www.privacy.gov.au/law/act>

#### Health Records Act

Health Records Act 2001 (Vic)  
<http://www.health.vic.gov.au/healthrecords/overview.htm>

#### Mental Health Act

Mental Health Act 1986 (Vic)  
<http://www.health.vic.gov.au/mentalhealth/mh-act/index.htm>

#### Equal Opportunity Act

Equal Opportunity Act 2010 (Vic)  
[http://www.humanrightscommission.vic.gov.au/index.php?option=com\\_k2&view=item&layout=item&id=1123&Itemid=569](http://www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&layout=item&id=1123&Itemid=569)



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[www.socialfirms.org.au](http://www.socialfirms.org.au)

**SoFA.**

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