

DCIF Project – Accommodation Tool 3: Navigating Disclosure Situations

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Tags

Who is this for?

High priority:

- Direct managers
- Corporate cross-departmental managers

Practical information:

- HR Professionals

What guidance does it provide?

- Understanding that accommodation is as much about organizational culture and trust as it is about the policies that are created and the legal rules that are in place
- How to have meaningful dialogue about accommodation with your employees and to work together respectfully towards accommodation solutions

Take home points

- A person with a disability has the choice about whether they tell you about their disability
- Create a workplace culture where **disclosure** is embraced by asking all workers whether their needs are being accommodated and facilitating discussions about supports available in the workplace with all staff
- As a manager, you are obligated in certain circumstances to initiate action to determine if an accommodation is needed, even if the employee has not asked for it. You are encouraged to consult with your organization's human resources/labour relations functional specialists for guidance.

Navigating Disclosure¹

Disclosure occurs when a person makes their disability known. Once the employer is aware of a worker's disability, they can ensure that the required supports and accommodations are available and comply with their legal responsibilities, including the **duty to accommodate**. However, the same supports and accommodations can be provided even without the employee disclosing.

Consider this role-play example on navigating **disclosure** by the Job Accommodation Network (JAN):²

<https://www.youtube.com/watch?v=e3doS4yz6Bg3>

As you can see in the video, workers are sometimes hesitant to disclose a disability and request an accommodation because they may not understand their rights in the workplace. Here are some of the tips that JAN recommends in this scenario:⁴

Follow up with a worker who mentions a medical condition during a performance discussion, even if they were initially hesitant to provide information

- ✓ Involve the appropriate individual or department, such as human resources, in the accommodation process
- ✓ Educate the worker about their right to workplace accommodations, and privacy and confidentiality
- ✓ Inform the worker if medical information is needed and why

A **disability confident** approach to navigating **disclosure** includes:⁴

- Being clear and transparent regarding the skills and qualifications needed, as well as the **bona fide requirements** for a job, as early as possible during recruitment
- Offering the opportunity for a candidate to disclose at multiple touch points during the recruitment process (e.g., when applying, when being screened, during the interview, at the time of offer, etc.)
- Understanding that a **person with a disability has the choice** about whether they tell you about their disability
- Creating a workplace culture where **disclosure** welcomed and embraced
- Asking all workers about whether their needs are being met, and engaging in discussion about the various supports available to all staff
- Developing and following procedures for when someone discloses a disability, including what will happen with the information, how it will be used, and who will have access
- Focusing on the abilities of the person and what might be impacted because of a disability
- Adopting a **de-medicalized** approach to conversations about **disclosure** **(for more information about this approach, please see [Accommodations Tool 6 - Developing Your Approaches to Workplace Accommodations](#))**
- Keeping in mind that the person with a disability may feel worried or anxious about disclosing (e.g., they may not be sure about how to approach **disclosure** and may be concerned about negative consequences, stigma, loss of legal protection)
- Recognizing that workers do not need to disclose their disability in order to receive an accommodation (If more context is needed to determine the best accommodation, simply ask for more information from the worker in a private, confidential, and respectful manner)

“Some myths persist because employers simply do not realize how many of their high-performing employees live with disabilities. 59% of Canadian employees live with a chronic health condition,

many of whom may benefit from accommodations, but not all of whom choose to disclose their condition to their employers.” – The Sanofi Canada Healthcare Survey, 2016⁵

For in-depth information about how to foster a workplace culture that supports an employee’s personal choice about disclosure, please visit [Culture Tool 7 - Embedding Accessibility Into Workplace Culture](#)⁶

Intersectionality Vignette

Kaia Malik, Customer Service Representative

My name is Kaia and I work as a customer service representative and administrator in the Financial Sector in Canada. I was hired during the pandemic and was able to work from home and successfully complete all my tasks. In the past I have requested further discussions about implementing an hybrid model.

I felt like I was okay to ask for help. When I’ve asked for accommodations in the past, I felt like I was asking for something I shouldn’t be asking for – almost as if it were over ask. This time, because it was already being done and everyone was working from home, I didn’t feel like it was an over ask. It was still very nerve wracking, my anxiety was not great, and my mental health was not great. It was one of the first times that I was advocating for myself and making sure my needs were in place. I felt like it was okay to ask. This is the second time I have a lost a role due to accommodation request not being met – requests I would disclose in the interview process.

The whole process of asking for accommodations is emotional laboring, especially living with an invisible disability. It takes space, capacity, and it really is a personal choice. It is dependent on how much vulnerability you have the space for.

It has taken me approximately 10 years to speak openly about my disability. Even though my employer was not able to offer me the flexibility I needed to be my best self in the workplace, I encourage others to become comfortable with their vulnerabilities. Know that you have rights, and what you are asking for isn’t over asking. It is perfectly okay. A disability doesn’t mean you don’t have the ability to work, it just means that you need some extra resources or tools. We all have times when we need support, because life goes up and down.

Supporting Conversations When Workers Do Not Disclose Their Disability

Disclosure is a personal decision and there are many reasons for why a person with a disability may choose not to tell you about their disability. Sometimes, a worker may benefit from an accommodation even if they do not ask for one. In certain circumstances, managers are required to investigate and determine whether an accommodation is needed. Here are some examples of what you can look out for:⁸

- Feedback from colleagues that indicate the employee is behaving unpredictably
- An abrupt change in attendance and increased usage of sick leave
- Patterns of lateness at work
- Rapid changes in behaviour
- Poor work performance

The Government of Canada’s “**Duty to Accommodate: A General Process for Managers**”⁷ instructs employers to take the steps to create a workplace culture that is supportive of **disclosure**. Engage in

open dialogue with your employees and offer accommodations and workplace supports. Should your employees indicate that they do not wish to engage in the accommodation process, be sure to document your efforts and show that you fulfilled your **duty to inquire** and **duty to accommodate**.

Case Study 1: When You Suspect an Employee Requires an Accommodation⁷

Scenario: When you hired one of your workers, they were a standout candidate and worked hard for the first year. Lately, you have observed that they are missing deadlines and have been less engaged at work. You start to see some signs that point to stress or burnout. After a few weeks have passed, the worker informs you that their mental health is impacting their work.

A Disability Confident Approach: Reach out to the worker and set up a meeting to discuss what you have observed:

- During your conversation, reiterate the supports that are available in the workplace
- Be sure to check what workplace accommodations may be offered before your conversation, so you are prepared and accurate with your statements
- For instance, you could mention that the organization's **employee assistance program** is available to everyone, and through that benefit, professional help is also available
- If the worker expresses interest in seeking treatment, be flexible and assure them that you can adjust their schedule to accommodate appointments
- If the worker seeks professional help, accept the recommendations that the health care professional may offer about changes in the workplace to support them
- Always ensure you have the worker's consent before communicating with the health care professional who is treating them
- Make workplace accommodations in collaboration with the worker and any other experts, and meet routinely to follow up and ensure that the changes are working

Note: There may be instances where the worker is not able to access healthcare services immediately, or in the foreseeable future. In addition, workers with mental health concerns may have difficulties with memory and multi-step instructions to provide the adequate paperwork.

This is an opportunity for employers to go above and beyond – to sit down with their employees to ensure a plan is created that works best for both parties.

Why this works:

The use of **EAPs** are great short-term resources to get the ball rolling. Given the short-term services, collaboration initiated by the employer is key. It is important that the direct manager is not over-promising or making assumptions on what the worker can commit to.

Remember that this process is more common than it is uncommon. You may feel awkward approaching your worker, or fear there is grounds of possible discrimination if you directly ask your employee. However, if you suspect there is more that you can do to help, chances are that the employee will benefit. Approach the conversation with an open mind and positive attitude – a solution-focused approach can put unnecessary pressure without knowing the full picture. Follow your accommodation policies, and remember the key is to have open dialogue.

Case Study 2: When an Applicant Does Not Disclose a Disability⁸

Scenario: When interviewing applicants for a new receptionist position, you notice one applicant is using a wheelchair. The applicant did not disclose their disability when scheduling the interview.

A **Disability Confident** Approach: The fact that the applicant uses a wheelchair is irrelevant when determining whether the applicant is qualified for the receptionist position. In this case:

- Do not ask or inquire about their disability

In other instances, an applicant with a visible disability may not disclose their disability ahead of time and indicate that they can perform the job. However, a recruiter or a hiring manager may have concerns that the applicant's disability might impact job performance. In this situation a recruiter or hiring manager should:

- Ask a particular applicant or candidate to describe or demonstrate how they would perform a job if there were reasonable belief that the person will not be able to perform the job because of a known disability

Supporting Conversations When Workers Disclose Their Disability

The decision to disclose a disability can be daunting for an employee with a disability. **Disclosure** can happen at any time, and it might be unexpected or come up in a casual conversation. No matter the method, ask the employee what you can do to make them more comfortable.

- For instance, you could schedule a meeting to talk one-on-one, you could go to a quiet or private space to continue sharing, etc.

If an employee chooses to share their disability, there are important actions you can take create a safe and supportive space for **disclosure**.⁹



- **Show Interest:** Begin by thanking the worker for sharing with you. During the conversation, match their tone and body language, and offer affirmation either verbally or non-verbally to indicate you are listening to what they are saying. Ensure your focus stays on the worker.
- **Validate:** **Disclosure** is a highly personal decision that may have negative consequences for some workers – reinforce that the employee is valued within the company. Take some time to verbalize why it is important to you that they receive the accommodations they need to do their best work. Don't be afraid to refer to instances where their work was exceptional to illustrate the important role they play on the team.
- **Actively Listen:** Active listening can help someone feel more comfortable when they are discussing sensitive issues. You can echo sentiments or statements that the employee is sharing to show you are listening, and to prompt them to continue sharing. For example, "It sounds like you are having difficulties with how your workstation is being set up. It can be tough to work in a space that isn't optimal for you. How can we better support you?"
- **Pause:** As a leader, it is easy to jump into problem solving mode as soon as you hear about something you think you can help with. With **disclosure** conversations, it is important that you take the back seat and let the employee lead the conversation. Pauses in conversation are natural, and create space to be able to process thoughts, emotions, and feelings. They can help you ask more targeted questions, and help employees better understand what they want to articulate.

- **Clarify:** You should reach a certain point in the conversation where it seems like you have a good grasp on the employee's experiences. Ask for clarification of your understanding to confirm that you are on the same page as the employee. Continue the conversation further if the employee indicates this is not the case or that there is more, they would like to share.
- **Plan:** An employee may wish to come up with a plan to proceed, while other employees may not. This is your opportunity to respectfully collaborate with all employees to come up with strategies to ensure they feel supported at work. You may talk about your company's accommodation policies, HR practices following **disclosure**, what information should and be shared and kept private, how to reengage with co-workers after **disclosure**, etc.

Pop-Up: Take the time to schedule frequent check-ins and short/long-term follow ups with your workers to ensure that any new changes are effective. The conversation will remain continuous and can be begin and/or resume at different entry points. The goal for these conversations is to be collaborative and iterative.

For more information on creating a workplace culture that supports the choice for self-identification and accommodates employees, [please visit Culture Tool 7 - Embedding Accessibility Into Workplace Culture](#)

Case Study 3: When an Employee Discloses Disability to Obtain an Accommodation (not going right)⁸

Scenario: The following video from the Job Accommodation Network (JAN)² demonstrates what a worker with a disability might do when a direct supervisor reacts negatively to disclosure and a request for accommodation. In the first part of the video, the employee discloses that they have multiple sclerosis and are concerned about performing certain job tasks adequately. After a negative reaction from her supervisor, they contact an accommodation expert and decide to submit a written accommodation request, while copying human resources. Later in the video, the worker has a successful meeting with her supervisor and human resources.

<https://www.youtube.com/watch?v=E-AdnNcoU3k>¹⁰

"Across Canada, nearly 30% of persons with disabilities report having asked for workplace accommodations that was not made available" – Canadian Human Rights Commission¹¹

Case Study 4: When an Employee Has Mental Distress at Work

Scenario: Recently, one of your long-term employees was involved in a high-stress carjacking in the building parking lot. This has left the employee with increased anxiety about the dark and you suspect they are beginning to show symptoms of PTSD. Additionally, as wintertime is nearing and the days are shorter, the employee has disclosed that their anxiety is increased during commutes after dark. As such, this is causing difficulties in concentration and irritation at work.

A Disability Confident Approach: Creating a thriving, mentally healthy workplace requires a top-down and holistic approach centered on positive work and organizational design.

Employers can optimize the workplace environment by providing space and accommodations where the employee can focus, learn, socialize, and collaborate more:

- **Provide space to work:** Help employees find their work 'flow' by reviewing the functionality of the primary physical space they operate in, the feel of that space and effective noise management.

- Collaborate without forgoing focus: Provide alternative spaces to support collaboration in and out of the office.
- Drive innovation: A balanced workplace that offers employees a variety of settings empowers them to align tasks and spaces for optimal performance
- Engage: Speak with your employee to learn more about the best way you can support them. In this case, the employee has directly disclosed what is causing them increased mental distress. With further engagement, the employee is accommodated with the ability to have a support animal at work and a flexible schedule.

In other instances when a traumatic event takes place on business property, as an employer, you should:

- Provide awareness and utilization of support available
- Promote all benefits and resources from the Employee Assistance Program (EAP), counselling benefits, and other support services.
- Do not diagnose the employee with a disability or mental condition. Speak with your employee on what you are observing directly related to their performance. If they speak further regarding a condition, provide support and resources in the areas they deem as required.

Going above and beyond the workplace's physical environment or initiatives that support mental health, this concept captures the whole workplace environment. It is also essential to understand that positive organizational design is distinct from workplace culture because it involves integrating employees with core business tasks, systems, and structures to ensure the form of the organization matches its strategy.

References

- ¹Employers for Change (2020). Employer toolkit. *Employer Disability Information Service*. <https://www.employersforchange.ie/userfiles/files/EFCEmployervToolkitFinal.pdf>
- ²Job Accommodation Network. <https://askjan.org/>
- ³JANinformation (2022, Mar 3). *JAN Role-Play Training Series: Telework as an Accommodation*. YouTube. <https://www.youtube.com/watch?v=e3doS4yz6Bg>
- ⁴Job Accommodation Network (n.d.). Role Play Videos. <https://askjan.org/toolkit/RoleplayVideos.cfm>
- ⁵Sanofi-aventis Canada Inc. (2016). The Sanofi Canada Healthcare Survey. https://opto.ca/sites/default/files/resources/documents/sanofi_2016_healthcare_survey_june_2016.pdf
- ⁶DCIF (2022). Culture Tool 7 - Embedding Accessibility Into Workplace Culture. *Canadian Council for Rehabilitation and Work*.
- ⁷Government of Canada (2011). Duty to Accommodate: A general process for managers. <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/diversity-inclusion-public-service/working-government-canada-duty-accommodate-right-non-discrimination/duty-accommodate-general-process-managers.html#toc3-1>
- ⁸Job Accommodation Network (n.d.). The HAN workplace accommodation toolkit. <https://askjan.org/toolkit/index.cfm>
- ⁹Mental Health Works (2017). Mental health in the workplace. *Canadian Mental Health Association*. https://ontario.cmha.ca/wp-content/uploads/2018/10/CMHA_Mental-Health-Works-Guidebook-8.5-x11r.pdf
- ¹⁰JANinformation (2020, Dec 2). *JAN Role-Play Training Series: Disclosing a Disability to Obtain an Accommodation*. YouTube. <https://www.youtube.com/watch?v=E-AdnNcoU3k>
- ¹¹Canadian Human Rights Commission (2018). Roadblocks on the career path: Challenges faced by persons with disabilities in employment. https://www.chrc-ccdp.gc.ca/sites/default/files/publication-pdfs/ottawaiti7-2565385-v7-report_on_employment_and_persons_with_disabilitie_final-s.pdf