

Working Together: Employing People with Multiple Sclerosis



AUSTRALIA

Seeking the Cure. Providing the Care.

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Disclaimer

MS Australia aims to be an accurate source of information about multiple sclerosis.

The information presented is based on published experience and expert opinion.

For specific information on medical or legal advice, please consult your doctor, lawyer or union representative.

People with MS are valuable employees

People diagnosed with multiple sclerosis (MS) are often highly motivated and very committed to the success of your business. As an employer you might have concerns about employing a person with MS. This booklet aims to answer some of your queries and encourage successful management of a person with MS in your workplace.

MS in the workplace

Some employers have concerns about employing a person with MS, often because of misconceptions about how a person may be affected by this medical condition.

MS is an individual disease and does not automatically lead to severe disability. The majority of people with MS are able to continue working long after diagnosis.

Most people with MS are diagnosed in the prime of their working lives, when they have valuable experience and expertise to contribute to the workplace. For this reason alone, for you as an employer, it may be very worthwhile to look carefully at how MS really affects an individual's ability to work, and how that person could be retained in your workplace.

If you would like specialist advice and support, the MS Society can work with you with the aim of enabling a person with MS to continue making a successful contribution to your business.

For a person with MS, continuing to work generally brings very significant benefits. If you can retain an employee with MS, you will be helping that person as well as, potentially, the productivity of your business.

In addition, the law prohibits employers discriminating against employees and other workers with a disability. The legal definition of 'disability' includes MS. This means that employers generally cannot treat workers with MS less favourably than workers without that disability, or impose working conditions that unreasonably disadvantage workers with MS.

What is MS and how does it affect a person's ability to do their job?

Multiple sclerosis is one of the most common neurological disorders to affect young people. It is a medical condition of the central nervous system and, as any part of the system can be affected, it can result in widely differing symptoms. These might range from problems with vision or sensation, to mobility or co-ordination. Fatigue is common and symptoms can be made worse by heat or overactivity. Some people have a mild form of MS and never experience any symptoms that interfere with their work. Others experience symptoms that might require some workplace adaptations. MS is not infectious or contagious.

Most people with MS who are employed are highly motivated to prove their value as employees. They put extra effort into their work and do their utmost to manage their MS carefully in order to work as well as possible.

Misconceptions about MS on the part of both employers and colleagues can create unnecessary problems and obstacles. People with MS may experience discrimination or a lack of support at work, which leads them to cease working earlier than they had intended.

What are the benefits for an employer supporting people with MS?

As you know, if you have an experienced, well-trained member of staff, it makes sense to maximise the return on your investment in that person rather than lose his or her skills prematurely.

Moreover, demonstrating a responsible, sensitive and productive approach to the person with MS and people with other medical conditions in the workplace, can help to create and maintain a positive image of your organisation in the eyes of both employees and your clients or customers.

What can you do?

We are asking you as an employer to look at how your organisation can better enable a person with MS to retain his or her job for as long as possible. The aim is to meet your business goals and requirements while also accommodating the needs of a person with MS. Precisely what this involves and how you might proceed will depend on the particular circumstances of your organisation and those of the employee.

By working with the MS Society you can capitalise on our expertise and support, with the

aim of achieving the best possible result for your organisation and your employees.

Practical steps you can take include:

- First, you should ask your employee or job applicant if he or she is willing to talk about his or her MS. The person will probably have a good understanding of any issues that may need to be addressed or be willing to seek support.
- Discuss whether fellow employees should be informed about MS and, if so, how this should be done. Be aware that disclosure of a person's diagnosis of MS is a complex and difficult area and involves legal issues, including issues about privacy.
- Encourage other employees who are aware of the situation to adopt an understanding, supportive attitude by providing them with information about MS. The MS Society can assist you with this.
- Consider what barriers or potential barriers currently stand in your employee's way and how these might be overcome. Solutions might be very simple – such as improving accessibility by installing handrails, moving an individual's desk to a more accessible place or providing specialised furniture. In some cases, government funding may be available to assist with this.
- Take advantage of new technology, tools and equipment to capitalise on the skills and talents of the person with MS. Support from the MS Society or local government services could assist in identifying any equipment and funding required to keep a person safely and productively employed.
- Consider alternative and more flexible ways of working where possible, such as job-share, flexitime and working from home.
- If necessary, consider finding an alternative position within the organisation for the employee with MS and/or offer retraining.
- Review your policies and procedures to ensure they comply with current laws such as anti-discrimination legislation.

How can the MS Society help you?

The MS Society is a resource for both employers and employees and understands the issues involved in employing a person with MS. The MS Society is able to give you information and specific advice to help you to develop strategies to maintain your employee with MS in the workplace and support your efforts to assist them to perform at their peak level.

The MS Society can link you to health professionals such as occupational therapists, physiotherapists, nurses, community support workers, rehabilitation counsellors, neuropsychologists and clinical psychologists to assist in assessing your employee's employment needs within your business.

These specialists can provide:

- Information, assessment and specialist advice to manage symptoms of MS.
- Help develop practical strategies to maintain employment such as education on fatigue or heat management, professional advice on modification of job or workstation, and the use of adaptive aids and technology.
- Education for your employees about multiple sclerosis and its impact on a person.
- Assistance to access local health professionals and rehabilitation service providers.

What other assistance is available to help implement adaptations to the workplace?

In some States, the MS Society is funded to provide employment support such as Multiple Solutions Employment Specialists (SA), whilst others can refer a person with MS on to a specialist rehabilitation service such as CRS Australia. These services can offer professional advice and information about occupational health and safety, financial assistance for retraining or adaptive equipment, employer incentive schemes, recommendations for modifications to a workstation, car and/or job. Other services can include:

- Providing assessments of a person's vocational goal and identifying the specific barriers to employment or maintaining employment.
- Developing a personalised rehabilitation program to overcome these barriers.
- Providing specialised job matching and placement.

- Providing personal career counselling.
- Consultancy services for employers.

For further advice, please contact the MS Information Line in your State.



A personal story of successful employer/employee relations

Jacquie is employed by an organisation that assists people in gaining employment, education and training. She has been employed with the organisation for a total of 6^{1/2} years. Her position requires her to work with a client base of approximately 130 job seekers on a one-to-one basis through a State funded program.

“I was diagnosed with MS in September 2002 after experiencing symptoms of numbness, tremor, fatigue and some related depression. Whilst I was going through the diagnosis phase, I kept my employer and work colleagues informed. Without their support, then and now, I would not have been able to maintain my job.

“Sometimes when I have been fatigued, I have been encouraged by my employer to take some of my entitled leave and return on reduced hours until I felt that I could return to normal duties. This was never questioned.

“I have never doubted the security of my position. I feel that I have skills that are valued and that I demonstrated a strong work ethic both before and since my diagnosis. In return the manager, my work colleagues and the Board of Management have been prepared to work in partnership with me. The support in my workplace has enabled me to remain productive as we work through the uncertainty of MS together.”

A story of effective collaboration between employer, employee and the MS Society

James 45, is a tradesman who has worked successfully with his employer, with the assistance of the MS Society, to continue in his employment. James was recently diagnosed with primary progressive MS and in addition to dealing with the emotional impact of his diagnosis, he had some concerns about his ability to continue working. James was experiencing some loss of sensation in his legs, fatigue and balance difficulties. James also noticed some mild changes to his thinking such as forgetting things and taking longer than usual to respond and solve complex problems that were previously effortless. James contacted the MS Society for advice.

A health professional on the MS information line was able to assess and discuss James's needs and develop a plan that would assist him to link into the relevant programs within the MS Society. The following interventions were provided:

- The physiotherapist investigated ways of improving James's mobility and prescribed an exercise program that would increase his strength, fitness and stamina for work.*
- The occupational therapist explored strategies for managing his fatigue, such as energy management and consulted with his employer about job modifications, including changing his hours of work and duties.*
- The neuropsychologist assessed James's memory and thinking skills objectively, to provide him and his employer with a better understanding of the areas that were causing him difficulty and what strategies could compensate for some of them.*
- The outreach worker discussed James's practical and emotional support needs, which included exploring his financial security in the long term and his future work plans. The latter involved educating and advocating with the employer about his job options.*

Following the assessments and recommendations made by the MS Society staff, James was able to continue working safely for many more years than he had expected. He was able to alter his work routine and his work hours with the support of his employer, in order to compensate for his difficulties.

What is the legal situation?

It is good business practice to treat people with MS equitably and accommodate their needs as far as reasonably possible – and as a result, to be able to maximise the contribution they make to the workplace.

Quite apart from the business imperative, the law imposes a number of relevant obligations on employers to protect the rights and well-being of their employees.

Discrimination: Federal and State laws (eg the *Disability Discrimination Act 1992* (Cth)) make it unlawful to discriminate against an employee (or other worker) on the basis of ‘disability’. MS is a ‘disability’ for the purposes of the law.

An employer must not:

- Treat a person with MS less favourably than a person without the disability.
- Impose an unreasonable requirement on that person with which he or she cannot comply because of MS. This applies whether in the job selection process, in setting the terms of employment, during employment (for example in decisions made about training and promotion) or when deciding to terminate

employment. An employer may also have obligations in relation to superannuation, to ensure that the employee is not disadvantaged in terms of access to superannuation-related benefits.

It is not unlawful to discriminate against a person with MS, for example by refusing to employ the person, if the symptoms of MS make it impossible for the person to perform the inherent requirements of the particular job.

It is also not unlawful to refuse to employ a person who could only perform the inherent requirements of the job if the employer provides special services or facilities and providing those services or facilities would impose an unjustifiable hardship on the employer. In effect, if there is no ‘unjustifiable hardship’, this often means that the employer is required to provide special services or facilities.

An employee who has been unlawfully discriminated against can complain to the Human Rights and Equal Opportunity Commission or to a State body (such as the New South Wales Anti-Discrimination Board).

Occupational health and safety: under the law, employers are required to:

- Protect the health, safety and welfare of employees at work.
- Protect members of the public from risks to their health or safety arising from the employer's conduct.
- Identify any hazards in the workplace that may be a risk to health and safety and eliminate or control those hazards.
- Consult with employees about health and safety issues in the workplace.

Employees also have responsibility under occupational health and safety law to take care of their own health and safety at work, and to ensure that their activities do not endanger the health and safety of colleagues, customers, suppliers or others with whom they may come into contact at work.

In some circumstances, the symptoms experienced by a person with MS may create safety risks at work, either for that person or for others with whom they come into contact at work. The MS Society and other disability employment services can help you to analyse and address any concerns about health or safety.

Breach of occupational health and safety legislation is a criminal offence and both individuals and corporations can be charged.

Privacy: depending on the circumstances, you may have obligations to treat information you have about a person with MS in accordance with the National Privacy Principles or not to seek information about a person with MS. This is a complex area and you may need to seek advice about it from a lawyer or from your employer association.

As a general rule, an employer must not reveal that an employee has MS to any other person without the employee's consent. There are exceptions to this rule – for example, information may need to be revealed to address safety concerns.

Employment laws: it is generally unlawful to terminate an employee's employment for reasons including disability or a temporary absence from work due to illness or injury. Even when it is lawful to dismiss someone because he or she cannot perform the inherent requirements of the particular job, the employer is often still required to treat the employee fairly in the process of terminating the employment.

An employee who is dissatisfied may be able to make a claim for unfair dismissal or unlawful termination. If the claim is successful, the employee may be reinstated, or may be awarded compensation of up to six months remuneration.



An example of a person with MS successfully continuing in employment

People with MS are employed by organisations such as the Roads and Traffic Authority, Motorola and the New South Wales Government and continue to make a valuable contribution in the workplace with the help and support of their employers.

Graeme has been working for the Roads and Traffic Authority of NSW (RTA) for many years. When he was diagnosed with MS he was employed in a job which required him to stand for long periods of time. As Graeme found it harder to meet those demands, the RTA made some modifications to his work situation and he was able to continue in full time employment.

“I used to have to stand all day. Then, I was transferred to another position in the city where I was able to sit at a desk. It made all the difference. The RTA provided me with a parking space and if I have to go to a meeting in another part of the city, instead of having to walk, I get a cab voucher or one of the drivers will give me a lift. They are fairly small things, but they make all the difference in the world to me,” says Graeme.

The RTA employs a number of people with MS in New South Wales. When one employee was transferred to a suburban branch there was concern among fellow employees that they might also “catch” MS.

“All it took was a single visit by someone from the MS Society who explained to our staff that MS is not contagious and the problem was immediately solved,” says the RTA’s General Manager for Human Resources, Fran McPherson.

Useful Resources & Links

General Information about MS

Please contact your local MS Society to discuss your specific information needs on

1800 287 367

Up-to-date information & resources about multiple sclerosis are available from the State MS Societies for anyone with a question about MS and the many related issues.

Resources are provided in a number of formats and may include the loan of a book, up-to-date published articles, in-house handouts, a video or a link to online information. The resources can be collected in person, sent in the post or emailed as suitable.

Booklets

MS The Mystery Disease

Australia. MS Australia.

Revised 7th edition January 2005.

What Everyone Should Know About MS

Australia. MS Australia.

Revised 4th edition June 2005.

To obtain these or any other information and resources about multiple sclerosis please contact your local MS Society on

1800 287 367

MS Websites

MS Australia & the National Resource Centre (MSARC)

Including links to local State Services & Programs.

www.msaustralia.org.au

WorkCover

WorkCover promotes workplace health and safety, and provides a workers compensation system for the employers and workers.

www.workcover.nsw.gov.au
www.workcover.vic.gov.au
www.workcover.qld.gov.au
www.workcover.com (SA)

www.workcover.act.gov.au
www.workcover.tas.gov.au
www.worksafe.nt.gov.au



Employment Websites

Human Rights & Equal Opportunity Commission

HREOC has responsibilities for inquiring into alleged infringements under current legislation.

www.hreoc.gov.au

Tel: 1300 369 711

TTY: 1800 620 241

CRS Australia

CRS Australia delivers vocational rehabilitation services to Australian citizens or residents who have an injury, disability or health condition.

www.crsrehab.gov.au

Tel: 1800 624 824

TTY: 02 9242 4872

Centrelink

Centrelink is a government agency delivering a range of Commonwealth services to the Australian community.

www.centrelink.gov.au

Tel: 13 1021

TTY: 13 3677

The Association of Competitive Employment

ACE is the peak body for Open Employment Services to people with disabilities across Australia.

www.acenational.org.au

Tel: 0425 725 137

Employers Making a Difference (EMAD)

The Australian Employers' Network on Disability

Employers Making a Difference is a not for profit organisation funded by its members to operate as a strategic business partner with companies, organisations and governments employing people with a disability.

www.emad.asn.au

Tel: 02 9261 3922

Job Able

Job Able aims to be a relevant, useful and informative guide for Job Network employment consultants working with job seekers with a disability, for job seekers with a disability and for employers or potential employers.

www.jobable.gov.au/employer.asp

Job Network

Job Network is a national network of private and community organisations dedicated to finding jobs for unemployed people, particularly the long term unemployed. Whether you are a job seeker or employer, this site provides information about how Job Network members can help you.

www.jobnetwork.gov.au

Tel: 13 17 15

Multiple Solutions Employment Specialists

MSES is committed to providing high quality employment services to people with neurological and physical disabilities.

www.msaustralia.org.au/ms_sa/multiplesolutions

Tel: 08 8360 0845

MS Australia

ABN 51 008 515 508
PO Box 210, Lidcombe
New South Wales 1825
www.msaustralia.org.au

Multiple Sclerosis NSW/VIC

ABN 66 004 942 287

Joseph Street, Lidcombe

New South Wales 2141

Tel: (02) 9646 0600

Fax: (02) 9643 1486

Email: msconnect@msnsw.org.au

MS Connect: 1800 042 138

The Nerve Centre

54 Railway Road, Blackburn

Victoria 3130

Tel: (03) 9845 2700

Fax: (03) 9845 2777

Email: infoline@mssociety.com.au

MS Information Line: 1800 287 367

Multiple Sclerosis Society of Tasmania

ABN 95 009 484 093

15 Princes Street, Sandy Bay

Tasmania 7005

Tel: (03) 6224 4111

Fax: (03) 6224 4222

Email: aboutus@mstas.org.au

MS Information Line: 1800 676 721

Multiple Sclerosis Society of Queensland

ABN 56 731 473 412

286 Gladstone Road, Dutton Park

Queensland 4102

Tel: (07) 3840 0888

Fax: (07) 3840 0813

Email: info@msqld.org.au

MS Information Line: 1800 177 591

Multiple Sclerosis Society of SA & NT

ABN 85 662 359 859

274 North East Road, Klemzig

South Australia 5087

Tel: (08) 8360 0800

Fax: (08) 8360 0899

Email: ms@ms.asn.au

Toll Free: 1800 812 311

Multiple Sclerosis Society of WA

ABN 75 638 080 972

29 Parkhill Way, Wilson

Western Australia 6107

Tel: (08) 9365 4888

Fax: (08) 9451 4453

Email: multiple@multiple-wa.asn.au

MS Information Line: 1800 287 367

Multiple Sclerosis Society of ACT

ABN 64 967 612 796

Gloria McKerrow House

117 Denison Street, Deakin

Australian Capital Territory 2600

Tel: (02) 6285 2999

Fax: (02) 6281 0817

Email: info@ms.org.au

MS Information Line: 1800 356 354

Multiple Sclerosis Research Australia (MSRA)

ABN 34 008 581 431

293 Mowbray Rd, Chatswood

New South Wales 2067

Tel: (02) 9411 4522

Fax: (02) 9411 7456

Email: info@msra.org.au

Web: www.msra.org.au



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