

The facts:

Who is a disability worker?

The Disability Worker Regulation Scheme was established by the *Disability Service Safeguards Act 2018* and involves the regulation of registered and unregistered disability workers in Victoria.

The Scheme applies to all disability workers in Victoria and is administered by two independent, statutory bodies; the Disability Worker Registration Board of Victoria and the Victorian Disability Worker Commissioner. Both are supported by the Victorian Disability Worker Commission.

The Scheme includes:

- A Code of Conduct that disability workers must comply with, regardless of how they are funded
- An independent complaints service, with power to investigate the conduct of disability workers
- Voluntary registration, which involves the Board setting registration standards for registered Victorian disability workers and registering Victorian disability workers

Definition of disability worker

The *Disability Service Safeguards Act 2018 (the Act)* sets out the powers and functions of the Victorian Disability Worker Commissioner and the Commission to regulate Victorian unregistered disability workers. The Disability Worker Registration Board of Victoria regulates registered disability workers.

A disability worker is defined by the Act as a person who provides a disability service to a person with disability.

Disability support staff including those who work in settings such as supported residential accommodation (also known as group homes) and day services for people with disability are disability workers.

Supervisors and managers of a person or people who provide a disability service are also disability workers. Volunteers are not considered to be disability workers for the purposes of the Act, unless they are providing services on behalf of an organisation or agency.

Family members of a person with disability are not considered to be disability workers for the purposes of the Act unless they are paid for the services they provide.

Are you a disability worker?

Various occupations and roles can be a disability worker under the Act. It doesn't matter who funds a disability worker, whether they are an employee, contractor or self-employed.

You are a disability worker when you do all of the following:

- a. provide a service to a person with disability
- b. deliver the service yourself, or you supervise or manage another person to do so
- c. provide a service which involves more than incidental contact with a person with disability
- d. the main purpose of the service is to care for, treat or support a person with disability to manage their limitations to undertake certain activities.

To determine whether you are a disability worker, consider:

1. Do you provide a service to a person with disability?
2. Do you provide the service, supervise or manage someone who does?
3. Is the service a disability service?

Do you provide a service to a person with disability?

If the person has an impairment that is likely to be permanent, require lifelong support and result in substantially reduced functional capacity to undertake one or more of the activities listed below, they are a person with disability under the Act. The key activities are communication, social or economic participation, social interaction, learning, mobility, self-care or self-management.

A person's impairment may be physical, psychological or cognitive, or be neurological or sensory.

Do you, or someone you supervise or manage, provide a disability service?

You are a disability worker if:

- you directly provide a service to a person with disability or
- you supervise or manage another person who does so.

Managers and supervisors are considered disability workers if they manage or supervise a person providing a disability service directly to a person with a disability.

Manager and supervisor mean that the person oversees, directs, governs or is responsible for the work of another person.

When is a service a disability service?

A service is a disability service when it:

- a. involves more than incidental contact with a person with disability *and*
- b. is specifically provided to that person for the principal purpose of caring for, treating, or supporting them to manage their limitations in undertaking a, or more than one, specified activity.

The specified activities are:

- **communication**, for example speech therapy
- **social or economic participation**, for example assistance with shopping or budgeting
- **social interaction**, for example participating in structured social skills groups or activities
- **learning**, for example tutoring and training
- **mobility**, for example training and instructions about how to use mobility equipment
- **self-care**, for example personal hygiene
- **self-management**, for example cooking and cleaning.

Does the service involve more than incidental contact with a person with disability?

Contact can be physical, verbal or written. If you, or a person you supervise or manage, have contact with a person or people with disability when providing a service, consider whether that contact is part of the normal duties of the role,

- more than minimal and
- affects the outcome of the service.

Contact is likely to be more than incidental when it is all of these.

An example of *more than incidental contact*:

An occupational therapist who, as a normal part of their role, treats people with disability at their office and goes into homes to work with people with disability to help manage their limitations in undertaking one or more specified activities.

Only incidental contact:

A receptionist who works in the office of an occupational therapist to schedule appointments for people with disability. On occasion, the receptionist greets people with disability at the office, but their role has limited contact or involvement with a person or people with disability.

Is the principal purpose of the service to care for, treat or support a person with disability to manage their limitations?

A disability service must be both:

- specifically provided to a person with disability *and*
- the principal or main reason for the service is so that the person with disability can undertake a specified activity.

To determine the principal purpose, ask what is the main reason for the service?

If the main reason for the service is to treat, care for or support a person to manage their limitations to undertake one or more of the specified activities either at home or in the community, it is a disability service. For example, assisting a person to care for themselves or manage their life by making decisions and completing daily tasks.

If the main reason for the service is to support the person with matters that are unrelated to their

disability, that would not be a disability service, regardless of whether the person has disability. For example, providing general services that a person with disability accesses but which are not specific to treating, caring or supporting a person to manage their limitations, such as an exercise class.

Reasonable adjustments and disability services

- Reasonable adjustments are required to be made under equal opportunity laws so that people with disability can participate in or access work, education and services. Reasonable adjustments are changes to the work environment, school environment or the conditions of service that allow people with disability to participate safely and productively.

Making a reasonable adjustment does not necessarily mean that a disability service is being provided for the purposes of the Act. In most cases, only providing a reasonable adjustment is not providing a disability service. A reasonable adjustment will be a disability service where the adjustment meets the criteria under the Act:

- the reasonable adjustment involves one or more workers who deliver a disability service and
- these workers have more than incidental contact with a person with disability and
- the main purpose of the reasonable adjustment is to care for, treat or support a person with disability to manage their limitations to undertake certain activities.

Examples of disability workers

It is possible for a worker to be considered a disability worker when working in certain circumstances, while other workers with the same occupation or job title may not be. This is because whether a person is a disability worker depends on what the main reason or principal purpose of the service is. Some examples of this are set out below.

Service	Disability service	Not a disability service
<p>Learning and education</p> <p>Learning is a specified activity.</p>	<p>A teacher who provides one on one tutoring services to people with disability to provide them with learning activities provides a disability service.</p> <p>The tutoring is focussed on supporting the person with disability to manage their limitations in learning.</p>	<p>Teaching a classroom of students that includes a student who is a person with disability.</p> <p>Although learning is a specified activity, the service provided is teaching in a general setting and the main reason is to educate all students.</p>
<p>Self-management, self-care and social interaction services for specific groups in the community</p> <p>Self-care, self-management and social interaction are specified activities which may arise in different settings, for example aged care.</p>	<p>An aged care worker who cares for people with cognitive impairments, such as dementia or Alzheimer’s disease, who live independently or in a residential facility, are disability workers.</p> <p>The care and services are provided to support the person with disability to manage their limitations.</p>	<p>A worker who works with older people to maintain their accommodation in good repair, such as at a retirement village, and does not provide care or assistance to residents to manage their limitations to undertake specific activities.</p> <p>Although self-management is a specified activity, the service is focussed on maintenance of the person’s accommodation and not on supporting them to manage their limitations due to disability.</p>
<p>Self-care and mobility</p> <p>Self-care and mobility are specified activities.</p>	<p>An occupational therapist who works in specialist residential facilities (such as group homes and residential aged care facilities) to assess and treat people with disability. The main purpose of the service is supporting the person with disability to manage their limitations in mobility.</p> <p>A nurse who works in specialist residential facilities where the main purpose of the service provided is to support people with disability to manage their limitations.</p>	<p>A physiotherapist who provides assessment and care to hospital patients, which may involve treatment of a patient who is also a person with disability. Similarly, a nurse who provides treatment in a hospital or other health service available to the general public.</p> <p>Although self-care and mobility are specified activities the main purpose is to provide health care to hospital patients, the service is focussed on caring or treating patients generally.</p>
<p>Self-management such as cleaning and cooking</p> <p>Self-management is a specified activity.</p>	<p>A worker who provides cooking and cleaning services for a person with disability in their home to support a person with disability. The service is focussed on supporting the person with disability to manage their limitations.</p>	<p>A cleaner employed by a disability service provider to clean their administrative offices.</p> <p>Although self-management is a specified activity the service is general office cleaning and is not focussed on supporting a person with disability to manage their limitations.</p>

Help build a safer, stronger, disability sector



Other regulation that might apply to you

You might be subject to regulation by the Commission as well as one or more other entities when performing your role. This will depend on your profession, and whether there is another regulator or complaints body for your professional.

The Commission receives and shares information with co-regulators and other agencies to assist them to perform their role and work collaboratively. More information about who we work with can be found on the Other commissions and authorities page on our website <<https://www.vdwc.vic.gov.au/ndis-and-other-partners/other-commissions-and-authorities>>. Please see our Privacy policy for how we handle information: <<https://www.vdwc.vic.gov.au/privacy>>.

About the Victorian Disability Worker Commission

The Victorian Disability Worker Commission is an independent body established to better protect people with disability and build a stronger, safer disability sector. It is responsible for the Disability Service Safeguards Code of Conduct, establishing the minimum expectations for all workers in Victoria supporting people with disability, and the complaints service. It can accept complaints and notifications, with powers to investigate and ban workers who put people's safety at risk.

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