

# Guidelines for Identified Aboriginal Positions



## 1. Purpose

Under the University of Tasmania's Equal Employment Opportunity Policy Statement, Aboriginal and Torres Strait Island people are designated as an Equal Employment Opportunity target group for whom the establishment of appropriate programs to overcome disadvantage in employment is appropriate.

These guidelines relate specifically to positions identified for Aboriginal or Torres Strait Islander employment. These guidelines also relate to programs, scholarships, prizes, awards and reserved places in courses for identified Aboriginal or Torres Strait Islander students or applicants. For the remainder of this document, all references to Aboriginals should be taken to include Torres Strait Islanders.

These guidelines have been developed to provide consistency across the University in the verification of a person's identification as an Aboriginal, if required. The guidelines are consistent with the Commonwealth's *Aboriginal and Torres Strait Islander Commission Act 1989*, the *Tasmanian Aboriginal Lands Act 1995* and the application of the term 'Aboriginal person'. They also incorporate the decisions and criteria identified by the Federal Court of Australia in the case *Gibbs v Capewell and Others*.

## 2. What are Identified Aboriginal positions?

Identified positions have an essential requirement of Aboriginality and their identification is subject to approval by the Director of Human Resources, as well as the relevant Dean or Head of Division. In short, a position will only be designated as an Identified Aboriginal position if a non-Aboriginal would be unable to fulfill the inherent requirements of the job as reflected in the primary tasks section of the position description, or to enable social justice and equity objectives to be accommodated within a work area's [or Faculty/Division's] staffing profile.

Only Aboriginal people may apply for positions designated as Identified positions.

## 3. Definition of Aboriginality

The evidence of eligibility is based on the three tiered criteria for Aboriginality used by Commonwealth and State Government Agencies and as defined by Federal Court decisions.

The definition of Aboriginality as defined by Federal Court decisions requires that an Aboriginal or Torres Strait Islander person:

- (i) is of Australian Aboriginal or Torres Strait Islander descent; and
- (ii) identifies as an Australian Aboriginal or Torres Strait Islander; and

(iii) is accepted as such by the community in which he or she lives or has lived.

#### **4. Method of Establishing a Claim of Aboriginality**

On receipt of applications for appointment, the Manager, Employment Services, will seek verification of Aboriginality. The Manager, Employment Services, if not already notified of verification from the Tasmanian Office of Aboriginal Affairs, will request the applicant to provide evidence of their eligibility. Applicants requested to provide such information will be issued with a full copy of the *Guidelines for Identified Aboriginal Positions* and will be given no less than three weeks to provide the information to the Tasmanian Office of Aboriginal Affairs. Notice will also be given that if the applicant does not make contact with the Tasmanian Office of Aboriginal Affairs during the given timeframe, it will be understood that they no longer seek appointment to the Identified Aboriginal position. The University relies on the Tasmanian Office of Aboriginal Affairs for advice regarding claims of Aboriginality.

#### **5. Evidence of Aboriginality**

##### **5.1 Aboriginal Ancestry**

A person must be able to provide authentic documentary evidence that shows a direct line of ancestry linked back through an identifiable family name to traditional Aboriginal society.

This will usually be in the form of a verifiable family tree, or archival or historical documentation which links a person to a traditional family or person.

Photographic evidence or family folklore alone will not normally be sufficient to prove Aboriginal ancestry.

Where a person is claiming their Aboriginal ancestry from outside Tasmania, proof of descent must be available from the other area of Australia concerned.

##### **5.2 Communal Recognition**

Normally, in addition to showing Aboriginal ancestry, a person must be able to demonstrate communal recognition or acceptance by members of the broader local Aboriginal community.

This means that a person must be known by other Aboriginal people in the local community and show a link to Aboriginal ancestry through either their own or their family's acknowledgement of their Aboriginal ancestry and their involvement with that local community.

The 'local community' in this context can be taken as a geographic area in which there are family groups and extended family groups who have associated with

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each other and recognised each other's Aboriginality. In some situations the 'local community' may have statewide coverage.

In practical terms a person will generally be required to:

- obtain three signatures from recognised and accepted members of the broader Aboriginal community or families who live in the applicant's local community. The signatories must not, however, be from the immediate family group of the applicant.
- demonstrate that these three community members acknowledge the applicant or the applicant's family identification as Aboriginal within that community.

It would not usually be sufficient for confirmation of communal recognition to come from an Aboriginal organisation alone, without separate support from local families and community members. However, evidence of communal recognition may be considered from one or more Aboriginal organisations alone, if the basis of the evidence can be properly demonstrated.

## 6. Rulings on Aboriginality

Following the process outlined in Section 4 of these guidelines, the Manager, Employment Services, will advise the Employee Relations Adviser, Human Resources, or other nominee of the selection panel of the University's:

- acceptance of the person's candidature on the grounds that evidence has been provided to establish eligibility for Identified Aboriginal employment;
- or
- rejection of the person's candidature on the grounds that evidence has not been provided to establish eligibility for Identified Aboriginal employment.

The Manager, Employment Services, will inform the applicant directly of the determination being made and the reasons therefor.

### 6 For further information, please contact:

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