



Striving for an inclusive labour market in Ireland

Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

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Positive actions and reasonable accommodation to facilitate hiring and employment of persons with disabilities involving employers and employer initiatives

Jenny Dagg

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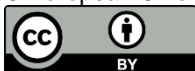
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1 Executive summary

1.1 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

The Employment Equality Acts 1998-2015 ban discrimination on the ground of disability in employment, including training and recruitment, and require employers to take appropriate measures to accommodate the needs of current and prospective employees with disabilities. The state operates a Reasonable Accommodation Fund for private employers that consists of a wage subsidy scheme, a workplace/equipment adaptation fund, an employee retention grant scheme and a disability awareness support scheme. Part 5 of the Disability Act 2005 maintains a 3 % quota of employment of persons with disabilities and has been complied with since its inception. The National Disability Authority suggests that significant work remains to increase this quota to 6 % by 2024, as per the Comprehensive Employment Strategy 2015-2024.

The National Disability Authority funded OECD research¹ in Ireland, published in 2021, with regard to employer engagement and system-wide changes to support people with disabilities into employment. It noted how 'Ireland has an underdeveloped employer engagement structure with respect to information and support for the employment of persons with disabilities'.² In this vein, the OECD made a number of recommendations of steps that could be taken to improve getting persons with disabilities into sustainable employment.³

A review in 2019 of the obstacles and opportunities to reasonable accommodation in the workplace in Ireland provides a good practice guide for employers, covering topics ranging from generating disability awareness within the workplace to creating policies and procedures to address inclusive recruitment, including reasonable accommodation requests.⁴

1.2 Support and partnerships available to employers to assist them in making reasonable accommodations

The primary financial service provided by the state for private employers is the Reasonable Accommodation Fund,⁵ which supports, among other measures, a workplace/equipment adaptation grant. The Public Appointment Service (PAS) has launched its first Equality Disability and Inclusion Strategy⁶ with the aim of building inclusive workspaces through the recruitment market and the Irish public sector. PAS

¹ See: <https://www.nda.ie/publications/employment/employment-publications/disability-work-and-inclusion-in-ireland-engaging-and-supporting-employers.html>.

² See: https://www.nda.ie/publications/employment/employment-publications/executive-summary_disability-work-and-inclusion-in-ireland_oecd-sept21.pdf, p. 2.

³ See: https://www.nda.ie/publications/employment/employment-publications/executive-summary_disability-work-and-inclusion-in-ireland_oecd-sept21.pdf, pp. 3-4.

⁴ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>.

⁵ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>.

⁶ See: <https://publicjobs.ie/documents/PASEDIStrategyDocument.pdf>.

has implemented recent recommendations for staff in regard to reasonable accommodation for candidates, and the Equality Monitoring Data project is developing a data-driven evidence base, along with an Assessment Services review to examine the assessment element of recruitment processes, with a focus on the experiences⁷ of candidates with disabilities and the way in which reasonable accommodations have been included or addressed in the recruitment and appointment process.

The OECD report reiterates recommendations made in the Pathways to Work report,⁸ which highlights the need to make mainstream services from the Public Employment Service accessible for persons with disabilities and to coordinate and streamline effective support 'including by earmarking resources and caseworkers to non-unemployment benefit recipients to ensure consistent outreach and guidance, and targeted profiling and registration of persons with disabilities in the Irish Live Register.'⁹ The engagement between case officer, the person with a disability and the delivery of employment services can establish support for reasonable accommodation from the outset.

1.3 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities

1. The Employers for Change information service is a web-based service funded by the Department of Children, Equality, Disability, Integration and Youth that offers advice and support to employers regarding reasonable accommodation. It forms part of the Open Doors Initiative, which seeks to provide pathways to work for marginalised groups in Ireland. The service has commenced collaborative work to develop a gold standard toolkit on inclusive recruitment practices for people with disabilities and other marginalised groups.
2. The Irish Human Rights and Equality website hosts information for employers on disability and reasonable accommodation as well as providing a downloadable resource pack¹⁰ for employers; however, this resource pack requires updating to reflect current workplace patterns and environments.
3. The review of the obstacles and opportunities to reasonable accommodation¹¹ provides good practice advice and support for employers in regard to reasonable accommodation. However, this information is hosted within a report and would need to be adapted to reach a wider audience.

⁷ See: <https://nda.ie/publications/employment/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>, pp. 29-30.

⁸ See: <https://www.gov.ie/en/publication/1feaf-pathways-to-work-2021/>.

⁹ See: <https://nda.ie/publications/employment/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>, p. 25.

¹⁰ See: <https://www.ihrec.ie/documents/disability-resource-pack/>.

¹¹ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>.

4. The Citizens Information web service provides information for employers regarding good practice in relation to reasonable accommodation as well as highlighting further information resources.¹²
5. AHEAD, which is an independent non-profit organisation working to create inclusive environments in education and employment for persons with disabilities, provides information for employers on reasonable accommodation, including examples.¹³
6. Employerdisabilityinfo.ie is a web service that aims to empower employers to make their workplace more inclusive and accessible.

Research to date on the implementation of reasonable accommodations by employers has indicated a lack of knowledge by employers of their obligations and of substantial measures that can be taken to support employees with disabilities.¹⁴ However, significant efforts are visible, such as the Employers for Change information service along with increased disability awareness training for case officers within Intreo (the Public Employment Service), which could have an impact on the employment prospects for persons with disabilities in the near future.

1.4 Recommendations

Recruitment and Hiring

It is recommended that the Equality, Diversity and Inclusion policy introduced into the Public Appointments Service be monitored and staff training updated accordingly.

Private employers are to be encouraged to produce written commitments and action plans, and to develop strategies and procedures that model inclusive recruitment policies including procedures for responding to requests for reasonable accommodation.¹⁵ This can be supported by the Disability Awareness Support Scheme and the Employers for Change information service.

Initial employment

Where a disability has been disclosed by a new or existing employee, employers should discuss accommodation needs with that employee for the purposes of ensuring that the workplace is safe and accessible and that any supports which may be required are already in place. Employers could invite the new recruit to familiarise themselves with the new workspace prior to commencement and identify any changes they may require. Induction processes must be accessible, and all employees should be made aware of the supports that are available to them, e.g. wellbeing programmes or a disability liaison officer, as well as the availability of reasonable accommodations.

¹² See: https://www.citizensinformation.ie/en/employment/employment_and_disability/working_with_a_disability.html.

¹³ See: <https://www.ahead.ie/employer-accommodations>.

¹⁴ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>.

¹⁵ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>, pp. 98-112.

Employers should provide publicly accessible information on procedures for dealing with requests for reasonable accommodations.

Continued communication with employee

Employers should continue to openly communicate ways in which they support reasonable accommodations within work patterns and work environments. Employers should provide ongoing disability awareness training within the workplace, particularly for managers and staff, to help promote good communication and challenge any preconceived ideas or stereotypes to foster a good working environment for all employees. Employers should be flexible and open-minded in dealing with and considering requests for reasonable accommodations, and they should be considerate in offering such options should an employee's work performance or attendance change.

Promotion and Career Development

Employers should ensure that reasonable accommodations are provided in any continued professional development training or training opportunity that is offered, and in opportunities for promotion. This includes ensuring that training venues and training materials are accessible. Competitions for promotion within the workplace should openly declare that reasonable accommodations will be provided.

Retention

If an employee with a disability has been prolonged absent from work, regular contact should be maintained with them, including on any vacancies that may become available. An employer should consult with them about the potential need for workplace accommodations before they return, and these should be in place before they return. Employers should hold a return-to-work meeting with the returning employee, providing an opportunity for the employee to address any concerns they may have.

2 Support and incentives directed at employers to promote the employment of persons with disabilities, including guides on good practice, websites and advice services

2.1 Employment quotas

The Employment Equality Acts 1998-2015¹⁶ ban discrimination on the ground of disability in employment, including training and recruitment, and require employers to take appropriate measures to accommodate the needs of current and prospective employees with disabilities. The Disability Act 2005¹⁷ places an obligation on public bodies to consider and respond to the needs of people with disabilities. Under the act, 3 % of jobs in public services bodies (local authorities, civil service, the Health Service Executive and so on) are reserved for people with disabilities. It is pledged to increase this quota in phases from 3 % to 6 % by 2024. Quotas are utilised within the public sector only, and therefore no fee nor levy is applied.

The definition of 'disability' is established within the Disability Act 2005. This is understood as 'a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment'.¹⁸

The Equality Acts (the Employment Equality Acts and the Equal Status Act) use a wider definition:

'Disability means:

- (a) The total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body;
- (b) The presence in the body of organisms causing, or likely to cause, chronic disease or illness;
- (c) The malfunction, malformation or disfigurement of a part of a person's body;
- (d) The condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or
- (e) A condition, disease or illness which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour.¹⁹

The four main types of public bodies – commercial bodies, Government departments, local government bodies and public bodies staffed by civil servants – are all mandated to adhere to the minimum target of 3 % employment of people with disabilities. Overall, the public sector exceeded the minimum target of 3 %. In 2020, 182 (84.7 %) public bodies achieved or exceeded the minimum 3 % target, compared to 186 (86.1 %) bodies in 2019. In 2020, 33 (15.3 %) public bodies did not reach the minimum 3 % target compared to 30 (13.9 %) public bodies in 2019.²⁰ In 2020, the number of

¹⁶ See: <https://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/print>.

¹⁷ See: <https://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/html>.

¹⁸ See: <https://nda.ie/Disability-overview/Definitions/>.

¹⁹ See: <https://nda.ie/Disability-overview/Definitions/>.

²⁰ See: <https://nda.ie/publications/employment/employment-of-people-with-disabilities-in-the-public-service/reports-on-compliance-with-public-sector-jobs-target/2020-report-on-compliance-with-part-5-of-the-disability-act-2005-.html>.

employees reporting a disability was 7 637 (3.1 %), an increase of 318 (4.4 %) from the 2019 figures.²¹

The National Disability Inclusion Strategy (2017-2022)²² adheres to the employment strategy laid out in the Comprehensive Employment Strategy (CES).²³ Under the CES, strategic goals and actions target promotion, retention and re-entry to the workforce as well as strategic goals and actions to engage employers. However, these are primarily targeted at the private sector and not the public sector quota scheme.

Public bodies are obliged under the Disability Act 2005 to take all reasonable measures to promote and support the employment of persons with disabilities. They are obliged to ensure that they comply with the prescribed targets and to submit an annual report on compliance to a departmental monitoring committee, which is then submitted to the National Disability Authority (NDA). Both the NDA and the Minister can request further information on compliance and, where non-compliance is successive over two years, the NDA can request 'specific measures' that the public body shall take to achieve compliance.

An annual report on the compliance of public bodies with Part 5 of the Disability Act 2005 is compiled each year by the NDA as the main source of evidence assessing compliance with the quota. The Health Service Executive (HSE) is the largest body in the public sector, and if it was excluded from the reporting in, for instance, 2020, the reported percentage of people with disabilities in the public sector would be 51.6 % higher than with the HSE data included. The NDA is currently working closely with a designated team in the HSE to focus on improving the public body's performance under Part 5. The annual report also highlights mitigating factors, such as declaring disability status, accurate data collection and changes to and within public bodies. Data is not disaggregated by disability, but categorised by public body.

2.2 Tax relief / reduced social security contributions / wage subsidies for employers employing persons with disabilities

There are a number of support schemes in the form of grants rather than tax relief for employers in the private sector if a member of staff acquires a disability, or if they hire a staff member with a disability. These employment supports are provided by the Department of Employment Affairs and Social Protection and, although there was a 63 % increase in Department of Employment Affairs and Social Protection expenditure on the Reasonable Accommodation Fund between 2015 and 2018, this fell to 35 % in 2019, with just 89 applications to the fund.²⁴

The Workplace/Equipment Adaptation Grant Scheme provides employers with a grant towards the cost of making changes to their premises or buying equipment, up to a

²¹ See: https://www.nda.ie/publications/employment/employment-of-people-with-disabilities-in-the-public-service/reports-on-compliance-with-public-sector-jobs-target/report-on-compliance-with-part-5-of-the-disability-act-2005-for-2020_.pdf.

²² See: <https://www.gov.ie/en/publication/8072c0-national-disability-inclusion-strategy-2017-2021/>.

²³ See: <https://www.gov.ie/en/publication/83c2a8-the-comprehensive-employment-strategy-for-people-with-disabilities/#>.

²⁴ See: <https://nda.ie/publications/employment/employment-publications/indicators-for-monitoring-progress-under-the-comprehensive-employment-strategy-for-persons-with-disabilities-2015-2024.html>, p. 48.

maximum of EUR 6 350. However, this is only available on a refund basis and is not necessarily viable for small to medium sized employers (SMEs).²⁵ In 2019, there were 37 applications to this fund, a decrease from 64 applications in 2015.²⁶

The Employee Retention Grant Scheme is part of the Department of Employment Affairs and Social Protection's Reasonable Accommodation Fund²⁷ and aims to assist employers to retain employees who acquire an illness, condition or impairment that affects their ability to carry out their job. Funding is available in two stages. Stage one enables employers to hire expert skills external to the company (up to a maximum amount of EUR 2 500 for each employee) and to develop a written retention strategy for any employee who acquires a disability. Stage two provides funding to the employer towards the implementation of the written retention strategy (up to a maximum of EUR 12 500). Data from between 2015 and 2019 indicates that only one application was made to this fund in 2018.²⁸

The final scheme, the Wage Subsidy Scheme, provides financial incentives to private employers to employ certain people with disabilities who work between 21 and 39 hours a week. It focuses on productivity compensation for new recruits who have a disability and are working full time. In 2019, the wage subsidy scheme supported 2 703 persons with disabilities in employment, up from 2 525 the year before, however those who were supported were not disaggregated by impairment type, ethnicity, age, gender etc. The NDA report on monitoring²⁹ indicated concerns that the threshold of working at least 21 hours per week is too high for those who are working part-time below 21 hours. It also suggested that the scheme could be expanded to include employees who acquire a disability after 12 months in order to provide the employer with a financial incentive to retain the employee.

A number of challenges to the grants available for both employers and employees have been identified. Many grants only provide assistance at a certain stage of employment to individuals such as those employed within the last 12 months, instead of continuous in-work support to promote progression and retention. The Personal Reader Grant³⁰ funds the recruitment of an individual to provide a reading service, however most blind and visually impaired people now use assistive technology for support, e.g. screen readers.

All grants have been reported as being administratively burdensome (e.g. requiring four lengthy soft copy forms per grant) and time consuming, with delays of up to two months during which time the employer is required to retain and pay the staff member,

²⁵ See: <https://nda.ie/publications/employment/employment-publications/indicators-for-monitoring-progress-under-the-comprehensive-employment-strategy-for-persons-with-disabilities-2015-2024.html>, p. 48.

²⁶ See: <https://nda.ie/publications/employment/employment-publications/indicators-for-monitoring-progress-under-the-comprehensive-employment-strategy-for-persons-with-disabilities-2015-2024.html>, p. 48.

²⁷ See: <https://www.gov.ie/en/service/62fd96-reasonable-accommodation-fund/>.

²⁸ See: <https://nda.ie/publications/employment/employment-publications/indicators-for-monitoring-progress-under-the-comprehensive-employment-strategy-for-persons-with-disabilities-2015-2024.html>, p. 47.

²⁹ See: <https://nda.ie/publications/employment/employment-publications/indicators-for-monitoring-progress-under-the-comprehensive-employment-strategy-for-persons-with-disabilities-2015-2024.html>.

³⁰ See: <https://www.gov.ie/en/service/231dfe-personal-reader-grant/>.

which is not always feasible for SMEs. The review of the obstacles to reasonable accommodation in Ireland highlighted a number of factors that are experienced as barriers for employers in hiring or retaining employees with disabilities, including the burdensome nature of the reasonable accommodation fund. To overcome this, the Department of Social Protection performed presentations nationwide to almost 2 500 employers, which included information on supports for people with disabilities, such as the Wage Subsidy Scheme.³¹

While it is the employer who applies for the workplace equipment/adaptation grant, the person with a disability retains ownership of the equipment. This can be problematic for an employee who wishes to change job or career as sometimes the technology can become embedded within a particular workplace and is not easily extracted.

The Disability and Employment Policy Paper developed between IBEC and the Employers for Change information service concludes with a number of recommended actions to make the grant system fit for purpose.³²

2.3 Reasonable accommodation

The Employment Equality Acts 1998-2015 require employers to take appropriate measures to accommodate the needs of current and prospective employees with disabilities. Section 16(3)(a) EEA provides that ‘a person who has a disability is fully competent to undertake, and fully capable of undertaking, any duties if the person would be so fully competent and capable on reasonable accommodation (in this subsection referred to as ‘appropriate measures’) being provided by the person’s employer’. It also states that the employer should take appropriate measures in particular cases to enable a person with disability to access employment, to advance within employment and to undergo training, unless the measures would impose a disproportionate burden on the employer. ‘Appropriate measures’ are defined under Section 16(4).

A key finding of the review of reasonable accommodations found that ‘some employers are not aware of the extent of their procedural and substantive obligations to provide reasonable accommodation under employment legislation and that some employers do not have policies and procedures in place to deal with requests for reasonable accommodation’.³³

2.4 Other relevant actions targeted at employers

The Disability Awareness Training Support Scheme (as part of the Reasonable Accommodation Fund) enables private sector employers to provide disability training for their staff by applying for a grant of up to EUR 20 000. The scheme aims to generate disability awareness training for employees to develop a better understanding of the key issues regarding disabilities in the workforce, including anti-discrimination and

³¹ See: <https://nda.ie/publications/employment/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>, p. 30.

³² See: <https://www.ibec.ie/connect-and-learn/media/2021/07/18/improving-employment-opportunities-for-people-with-disability-in-ireland>, p. 10.

³³ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>, p. 117.

equal opportunities legislation, different disabilities and abilities, appropriate language and behaviour and how to deal with mental health issues in the workplace. Training is provided by a number of disability NGOs and DPOs that represent a range of impairments.³⁴ IBEC reported that the Disability Awareness Training Grant is only available to employers that have a member of staff who has declared a disability. Declaring one's disability in the workplace is an ongoing cultural adjustment, and providing disability awareness training within the workplace despite such a declaration would be an encouraging move in creating an open and inclusive work environment.³⁵

The Open Doors Initiative (ODI)³⁶ is tasked with developing awareness for employers by providing them with advice and information about recruiting and employing marginalised people, including persons with disabilities. It hosts the Employers for Change information service, which provides a web-based information resource as well participating in awareness-raising and outreach activities, it maintains links with employer stakeholders and disability stakeholders and it promotes the positive business case for the employment of persons with disabilities. The Employers for Change information service was launched in March 2021 and has since 'had direct contact with 79 employers and 90 additional communications approaches with Employers/Human Resources during 2021'.³⁷ The service's main area of support is in providing information on disability inclusion/awareness training and confidence building across a range of activities and engagements. It acts as a central source of information and advice for employers that informs them about all aspects of working with people with disabilities and encourages them to actively recruit from this group.

The service does this by:

- providing a dedicated helpline giving advice and information to employers about recruiting and employing people with disabilities, with a response within 24 hours;
- hosting a central web-based information resource incorporating guidance and a FAQ section;
- providing and participating in awareness raising and outreach activities;
- maintaining links with employer stakeholders and disability stakeholders;
- promoting the positive business case for the employment of people with disabilities.

The website covers an array of information including inclusive recruitment practice, reasonable accommodation, toolkits, supports and useful links. This provides an opportunity for employers to access advice and training, which will improve their business and their workforce, as well as maintaining their obligations under the Employment Equality Acts 1998-2015.

Specific disability organisations (Not So Different, Walk, Rehab Group, and AsIAM) were funded in 2020 by the National Disability Authority to create online training programmes to support employers in becoming inclusive in their recruiting, retention

³⁴ See: <https://www.employersforchange.ie/Employer-Specific-Information-Disability-Awareness-Training>.

³⁵ See: <https://www.ibec.ie/connect-and-learn/media/2021/07/18/improving-employment-opportunities-for-people-with-disability-in-ireland>, p. 6.

³⁶ See: <https://www.opendoorsinitiative.ie/>.

³⁷ See: <https://nda.ie/publications/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>, p. 27.

and promotion of persons with disabilities. These programmes were launched at the end of 2020.³⁸

The Department of Public Expenditure and Reform approved two paid and mentored disability internship schemes within the civil service: the OWL Programme and the WAM Programme,³⁹ funded by the Department of Social Protection. While constituting a form of supported employment for persons with disabilities, these schemes provide a partnership with employers, working towards long-term employment for persons with disabilities. Under the OWL programme, 9 of the 10 interns competed in a confined civil service recruitment competition for permanent part-time roles with civil service employers. 25 paid full-time placements for third level graduates commenced during the year, with the assistance of AHEAD, and work is underway to scope a pilot civil service recruitment competition for permanency for graduates who successfully complete their WAM placement form Q4 2022.⁴⁰ This is an action under the People Strategy for 2020-2023.⁴¹

2.5 Examples of good practice

The practices chosen represent initiatives aimed at generating long-term impact: the public service quota, employer and stakeholder partnerships, and inclusive pathways of employment within the civil service.

1. The public sector quota system of compliance for employing persons with disabilities in public sector bodies has been successful thus far in reaching its target of 3 % since its inception. However, this is due to increase to 6 %, with the National Disability Authority noting that 'significant work is required across the public service to achieve the 6 % target by 2024'.⁴² A review of Part 5 of the Disability Act 2005 is due to be published this year, which will address recommendations to enhance 'the Part 5 process as a key driver of the Equality, Diversity and Inclusion (EDI) agenda of the public sector', with implementation occurring over the following three years.⁴³
2. The Open Doors Initiative generates network connections between employers and marginalised people, offering connections towards education, training and employment opportunities. It is recently established, with further research on outcomes to be evaluated, including on the Employers for Change service with regard to employer disability information.
3. The disability-affirmative pathway of employment from public service training programmes into public service roles. The continuity developed with this pathway

³⁸ See: <https://nda.ie/file-upload/comprehensive-employment-strategy-nda-year-end-assessment-202011.pdf>, p. 26.

³⁹ See: <https://nda.ie/publications/employment/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>.

⁴⁰ See: <https://nda.ie/publications/employment/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>.

⁴¹ See: <https://www.gov.ie/en/organisation-information/bc7ef-people-strategy-2020-2023/>.

⁴² See: <https://nda.ie/file-upload/comprehensive-employment-strategy-nda-year-end-assessment-202011.pdf>, p. 27.

⁴³ See: https://www.nda.ie/publications/employment/employment-of-people-with-disabilities-in-the-public-service/reports-on-compliance-with-public-sector-jobs-target/report-on-compliance-with-part-5-of-the-disability-act-2005-for-2020_.pdf, p. 9.

ensures that the skills and knowledge developed in the training programme are relevant and suitable for employment. The pathway encourages employers to provide inclusive work environments, and to make reasonable accommodations that generate long-term sustainable employment.

2.6 Good practice guides, websites and advice services directed at employers

1. *Employees with Disabilities: An employer's guide to implementing inclusive health and safety practices for employees with disabilities.*⁴⁴
2. *Retaining employees who acquire a disability: A guide for employers.*⁴⁵
3. *Employer Guide for Supporting Autistic Adults.*⁴⁶

Several guides and websites provide information and support for employers to recruit and retain employees with disabilities. The first selected guide is created by the Health and Safety Authority in Ireland (HAS) and targets inclusive health and safety practices within organisations that can practically assist employers in generating a more inclusive workplace and in making adaptations in their workplace that can accommodate persons with disabilities and maintain health and safety regulations. It includes information on legislation and legal obligations, on understanding disabilities, including hidden disabilities, and on how these can be accommodated at work. It provides guidance on generating an inclusive health and safety policy and attendant practices for employers, including the safe evacuation of employees with disabilities. Usefully, the guide provides case studies of employees across impairment types to illustrate how the information can be practically applied. Lastly, the guide provides further information about DPOs and representative NGOs that can guide employers, as well as funding resources available for employers.

The second guide selected was developed by the National Disability Authority to assist employers in retaining employees who acquire a disability. The guide includes employers' legal obligations; employer supports provided by government; how to focus, structure and communicate policies within the workplace; how to build capacity to support employees with disabilities; the key steps to retaining employees; and how to address employees who are unable to return to their previous role, along with useful contacts and resources for further support and information.

The third guide is a web-based guide, providing practical steps for employers to support autistic employees, and was developed by the national autism charity AsIAM. The content addresses inclusive recruitment practices and specifies ways of including potential recruits from the autistic community, covering factors such as location, removing uncertainty and being mindful of language. The guide provides information on reasonable accommodations and examples of reasonable accommodations that can support an autistic person. Guidance on the website also addresses inclusive ways

⁴⁴ See: https://www.hsa.ie/eng/publications_and_forms/publications/safety_and_health_management/hsa_disability_guidelines_2021.pdf.

⁴⁵ See: <https://nda.ie/publications/employment/employment-publications/retaining-employees-who-acquire-a-disability-a-guide-for-employers.pdf>.

⁴⁶ See: <https://asiam.ie/advice-guidance/employment/employer-guide-for-employing-autistic-adults/>.

of enhancing workplace culture, recognising various work patterns and flows. It also covers government support, including funding that is available for employers.

The guides chosen above represent efforts to address specific challenges identified in the employment or retention of persons with disabilities. They have been drawn up relatively recently, with evidence of their impact yet to be measured. This can form part of the monitoring work under the Comprehensive Employment Strategy.

3 Support and partnerships available to employers to assist them in making reasonable accommodations

3.1 Support available to employers for making reasonable accommodation

A recent review of 82 Workplace Relations Commission and Labour Court decisions on the barriers to reasonable accommodations highlighted how employers had failed to ‘undertake sufficient enquiries to ascertain the extent of the employee’s disability and the factual position concerning the employee’s capability’,⁴⁷ nor did they attempt to reschedule or facilitate the work duties of the employee to enable them to complete the range of duties associated with the position, nor ‘consult with and allow the employee concerned a full opportunity to participate at each level of the process’.⁴⁸ The review also found a lack of knowledge by employers of their obligations and the procedures to follow, with many employers having no policies nor procedures in place for dealing with requests of reasonable accommodation. The majority of complaints occurred within the private sector and from employees with disabilities (physical and mental health experience) who were in employment, rather than those applying for employment.

In order to assist with the organisation and planning of reasonable accommodation requests, the Irish Human Rights and Equality Commission has published a Disability Resource Pack⁴⁹ that provides advice and information on positive actions for the recruitment and retention of people with disabilities in the public sector. The Employer Disability Information (EDI) service operated between 2016 and 2020, and it provided information on the retention of employees with acquired disabilities and hidden disabilities, and examples of reasonable accommodations.⁵⁰

For the private sector, the state operates a Reasonable Accommodation Fund, which incorporates resources for both employers and employees and is regulated by the Department of Social Protection. Employers apply to the Department of Social Protection online for the fund, which includes the workplace / equipment adaptation grant, the wage subsidy scheme, the disability awareness training support scheme and the employee retention grant. Although funding has targeted raising awareness among employers of the ways in which both employers and the workplace can be inclusive, including through reasonable accommodations, responsibility remains with the employer to seek the information from an external provider or source. Employers have described their experience of the funding package from the Department of Social Protection as administratively burdensome, as they have to obtain quotations for purchases and they then experience delays in receiving the funds. In 2019, there were 37 applications for the workplace equipment adaptation grant, a decrease from 64 applications in 2015.

⁴⁷ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>, p. 117.

⁴⁸ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>, p. 117.

⁴⁹ See: https://www.ihrec.ie/download/pdf/disability_resource_pack.pdf.

⁵⁰ See: <https://nda.ie/publications/employment/employment-publications/indicators-for-monitoring-progress-under-the-comprehensive-employment-strategy-for-persons-with-disabilities-2015-2024.html>, p. 51.

While the availability of support is prevalent, the fund remains burdensome and takes a long time for employers to access, and it lacks the flexibility necessary to support employees who acquire a disability after 12 months in the workplace or those who work part-time (under 21 hours a week). Research has also indicated that employees can be reluctant to disclose their disability and request reasonable accommodations due to the perceived negative consequences of doing so. Policies and procedures within workplaces are required for transparency, effective engagement and procedural efficiency. Low awareness by both employees with disabilities and non-disabled employees and employers is recognised as hindering successful employment environments.

However, applications to this Reasonable Accommodation Fund remain low with, for instance, just one application for employee retention in 2018 and with employers reporting the application process as being burdensome and experiencing long delays. Other reports⁵¹ suggest the necessary upgrade of the current grant scheme for employers and amalgamation of all current disability supports into one grant that will cover an employee's needs; and that those supports remain with the jobseeker, removing the onus from the employer to apply for grant support (similar to the UK's Access to Work⁵² scheme) as well as suggesting ways in which the network between employer and employee can be strengthened by the state and individual employers.⁵³

3.2 Partnerships to assist employers to make reasonable accommodations

1. As part of the Comprehensive Employment Strategy a partnership exists between the Public Employment Service (PES) and potential employers. A person seeking employment is assigned a case officer who has the capacity to provide 'proactive and deliberate effort to ensure that persons with disabilities are supported to access employment'.⁵⁴ In 2020, the employer engagement unit of the Department of Employment Affairs and Social Protection presented that 3 000 jobseekers [with disabilities] are availing of EmployAbility⁵⁵ services at any one time (with 24 contracted providers) at various stages on their employment journey. Average placement rates into employment across all providers was in the order of 40 %. Nineteen out of 713 young people in the Youth Employer Support Scheme were in receipt of a disability related payment, and the NDA recommend adaptation of the scheme to improve access for young people with disabilities, including through greater flexibility of the hours of work required to participate. Work remains to be done on providing further measures and actions to provide for long-term sustainability for work programmes, such as the IPS programme or the Ability projects, along with action to implement a coordinated approach to assist individuals requiring a high level of support.⁵⁶

⁵¹ See: <https://www.ibec.ie/connect-and-learn/media/2021/07/18/improving-employment-opportunities-for-people-with-disability-in-ireland>, p. 10.

⁵² See: <https://www.gov.uk/access-to-work>.

⁵³ See: https://www.nda.ie/publications/employment/employment-publications/executive-summary-disability-work-and-inclusion-in-ireland_oecd-sept21.pdf, p. 3. See also <https://nda.ie/publications/employment/employment-publications/comprehensive-employment-strategy-nda-year-end-assessment-2021.html>, p. 28.

⁵⁴ See: <https://nda.ie/file-upload/comprehensive-employment-strategy-nda-year-end-assessment-202011.pdf>, p. 19.

⁵⁵ See: <https://www.gov.ie/en/service/8578c4-access-the-employability-service/>.

⁵⁶ See: <https://nda.ie/file-upload/comprehensive-employment-strategy-nda-year-end-assessment-202011.pdf>, pp. 20-21.

2. DPOs and disability representative NGOs provide disability awareness training upon request by employers with funding available, through the Disability Awareness Training Fund. This training covers ways in which reasonable accommodation can be addressed and includes training provided by persons with disabilities, which can feature lived experience of reasonable accommodations.
3. The Employers for Change website maintains links between employer stakeholders and disability stakeholders to ensure engagement and consultation between them. It provides information and advice for employers in relation to reasonable accommodation. As this website was established in 2021 the impact of its work on employment statistics for persons with disabilities has yet to be established.
4. The Irish Congress of Trade Unions and IBEC have launched the Reasonable Accommodation Passport Scheme,⁵⁷ which ‘provides a confidential live record of the barriers people face and the accommodations that have been agreed to prevent or reduce its impact in the workplace’.⁵⁸ More information on the scheme is not yet active.

⁵⁷ See: <https://www.employersforchange.ie/Reasonable-Accommodation-Passport-scheme>.

⁵⁸ See: <https://www.employersforchange.ie/Reasonable-Accommodation-Passport-scheme>.

4 Illustrative examples of good employer practice for providing reasonable accommodations for persons with disabilities

4.1 Good practice guides for employers regarding reasonable accommodation

There is no specific guide dedicated to providing employers with advice or information on the process of responding to requests for reasonable accommodation. Instead, such information is collated within guides or resource packs that provide information on employing persons with disabilities more broadly. Below are three such guides that provide information and guidance for employers on providing for reasonable accommodations in the workplace.

1. Disability Resource Pack⁵⁹ – Irish Human Rights and Equality Commission
2. *Retaining employees who acquire a disability: A guide for employers*⁶⁰ – National Disability Authority
3. HSA Disability Guidelines 2021 – Health and Safety Authority⁶¹

1. Disability Resource Pack

The Disability Resource Pack was prepared by the Equality Authority (which merged with the Irish Human Rights Commission to form the Irish Human Rights and Equality Commission (IHREC)) and the Department of Justice, Equality and Law Reform, with the aim of providing information on positive actions for the recruitment and retention of people with disabilities in the state sector upon introduction of the commitment within the public service of a 3 % target for the employment of people with disabilities. The pack addresses the benefits of inclusivity and equality for employers and employees and wider societal goals. It provides guidance on how to plan and implement actions or a code of practice to address issues facing persons with disabilities working within an organisation. It sets out how an employer can incorporate inclusive practices pre-recruitment and during recruitment and how they can maintain this focus long-term by addressing retention and promotion. It also provides guidance for employers on employees who acquire a disability, including practical information on how the employee can be reasonably accommodated. The resource pack also covers barriers experienced by persons with disabilities when entering employment, including attitudinal barriers, accessibility, and institutional barriers such as a lack of recruitment strategy, a lack of flexibility and failure to provide reasonable accommodation. Lastly, it provides information on where employers can receive further support and information.

2. Retaining employees who acquire a disability: A guide for employers

The information in *Retaining employees who acquire a disability: A guide for employers* was prepared by the National Disability Authority to inform private sector employers about how to help employees who have acquired a disability to stay in work. The guide contains information on key legal provisions, including unfair dismissal and minimum notice. It provides information on disability-specific supports by the Department of Employment Affairs and Social Protection through Intreo, such as the EmployAbility Service and the various grants available for employers to address reasonable

⁵⁹ See: https://www.ihrec.ie/download/pdf/disability_resource_pack.pdf.

⁶⁰ See: <https://nda.ie/publications/employment/employment-publications/retaining-employees-who-acquire-a-disability-a-guide-for-employers.pdf>.

⁶¹ See: https://www.adarehrm.ie/getmedia/0c7aaa8b-410c-4503-8ca3-d707be8db4e8/hsa_disability_guidelines_2021.pdf.

accommodations. It also addresses key policies that employers should have in place and advice on how to create and communicate such policies. Lastly, it provides information on how to keep abreast of transformations that may require flexibility over the course of careers, as well as where further information and support can be sought.

3. An employer's guide to implementing inclusive health and safety practices for employees with disabilities

Employees with Disabilities: An employer's guide to implementing inclusive health and safety practices for employees with disabilities, developed by the Health and Safety Authority,⁶² provides information on ways in which inclusive policies and practices within work environments can accommodate employees with disabilities.

Evidence of the effectiveness of these guides is limited. The public service quota is monitored through the annual report on compliance, mentioned above, and the National Disability Authority works closely with public bodies to improve or overcome any challenges they face. Monitoring of the Comprehensive Employment Strategy provides data on applications to the reasonable accommodation fund.

4.2 Any other sources of information regarding good practice for employers regarding reasonable accommodation

A comprehensive review in 2019 of reasonable accommodations considered the obstacles and opportunities to the employment of persons with a disability. It comprised a literature review and a review of decisions from the Workplace Relations Commission and the Labour Court relating to reasonable accommodation, as well as consultation with key stakeholders including persons with disabilities. It was found that, in 40 % of the cases examined (33 out of 82), the relevant employer was deemed to have breached their obligations to provide reasonable accommodation. The majority of cases were taken up by current or former employees, rather than at the access stage. Some 55 cases were taken up against the private sector, 19 (or 25 %) against the public sector and 4 cases against the community or voluntary sector. Cases were pursued by people with back issues (14), depression (12), anxiety (8) and stress/workplace stress (6). Interestingly, autistic people and those with an intellectual disability did not feature. Among the concluding findings, the report noted that 'some employers are not aware of the extent of their procedural and substantive obligations to provide reasonable accommodation under employment equality legislation and that some employers do not have policies and procedures in place to deal with requests for reasonable accommodation'.⁶³

The review of reasonable accommodation⁶⁴ contains 'key lessons and areas for improvement' and sets out what employers should do relating to reasonable accommodation.

⁶² See: <https://www.hsa.ie/eng/>.

⁶³ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>, pp. 117-119.

⁶⁴ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>.

The review includes six key suggestions:

1. Carry out a full assessment of the needs of the person with a disability and of the measures necessary to accommodate that person's disability. It is necessary to ascertain the factual position concerning the employee's capability, including the degree of impairment arising from the disability and its likely duration. The employer may be obliged to engage with the person with a disability and obtain appropriate expert advice, including medical advice.
2. Consider with an open mind what special treatment or facilities could realistically overcome any obstacles to the person doing the job for which they are otherwise competent.
3. Consult with the person concerning their request for reasonable accommodation at every stage of the decision-making process. The employee should be allowed an opportunity to influence the employer's decision and should be allowed to present relevant medical reports and submissions.
4. Have specific policies and procedures that deal with reasonable accommodations for employment candidates and employees with a disability.
5. Respond to requests for reasonable accommodation and implement any approved accommodations in a timely manner.
6. Provide requested reasonable accommodations to employment candidates and employees with a disability, in particular alternative working arrangements, subject to the proviso that these measures do not impose a disproportionate burden on the employer.⁶⁵

4.3 Examples of individual reasonable accommodations which reveal good practice

Individual testimonies of reasonable accommodation met by employers could not be located in the public domain.

Examples of reasonable accommodations are, however, provided on the Employers for Change website,⁶⁶ including:

- adjusting or modifying tests and training materials;
- accepting that there are alternative ways of accomplishing a given task or objective which was not previously considered;
- providing company information in accessible formats and assisting in communication, where necessary e.g. staff manuals or health and safety notices;
- a talking lift with tactile floor buttons;
- adjustable-height desks;
- hand-free phone sets;
- flexible working times;
- organising the distribution of work tasks in a team so that staff members who are hard of hearing are not expected to take minutes.

⁶⁵ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>, p. 118.

⁶⁶ See: <https://www.employersforchange.ie/Examples-of-Reasonable-Accommodation>.

5 Recommendations and guidance regarding good practice and reasonable accommodation

5.1 Recommendations regarding good practice and reasonable accommodation in recruitment and hiring

The Employers for Change website includes advice on inclusive recruitment practices tailored for persons with disabilities. Six steps are set out, including job analysis, applications, shortlisting, testing, interviews and getting support.⁶⁷ Employers for Change also provides further support through AHEAD's *Advice for Employers on Recruitment of Graduates with Disabilities*⁶⁸ and a guide to disability in the recruitment process.⁶⁹ *Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with a Disability*⁷⁰ provides measures that can constitute good practice in building a disability-inclusive work environment. It also provides guidance on policies and procedures that can be put in place, as well as addressing the recruitment process.

Combining the above resources, Employers for Change recommends that:

Vacancies

- The focus remains on the outcome of the specific task, as there are different ways in which a task may be performed, and not on the individual who fills it.
- Work patterns or work hours should not be specified unless necessary. Other ways in which the job may operate should also be suggested, e.g. part-time or job share. Consideration should be given as to whether job tasks can be combined in different ways to open up opportunities.
- Application forms should provide space for the applicant to request reasonable accommodation at pre-interview or interview stage. The application form should have clear instructions and be in Plain English, and further information on the position should be available in accessible formats, i.e. large print, Braille or e-mail.
- A preferred method of contact for candidates should be requested, as well as identifying a contact person within the organisation (email or telephone number) in order for a person with a disability to request and discuss any necessary reasonable accommodation.
- If a recruitment agency is used, has its ability to accommodate potential candidates with disabilities been assessed?
- Contact disability organisations and supported employment schemes to encourage applications from diverse communities.
- Employers should be proactive when advertising positions and compiling job application forms to reassure candidates with disabilities that reasonable accommodations will be provided.

⁶⁷ See: <https://www.employersforchange.ie/Inclusive-Recruitment> (accessed on 3 May 2022).

⁶⁸ See: <https://www.ahead.ie/publications-for-employers?id=60&qstring=>.

⁶⁹ See: <https://www.hays.com.au/diversity/disability-recruitment>.

⁷⁰ See: <https://nda.ie/Publications/Employment/Employment-Publications/Reasonable-Accommodations-Obstacles-and-Opportunities-to-the-Employment-of-Persons-with-a-Disability1.pdf>.

- Information on vacancies should be provided in accessible formats, e.g. a font that is easy and large enough to read while being compatible with assistive software.

Shortlisting/Testing

- Consider stating that applicants who meet the qualification requirement and have disclosed a disability on their CV or application form will be automatically invited to interview.
- Employers should provide reasonable accommodations to an applicant with a disability by ensuring that the testing location and materials are accessible for people with all types of disability, including neurodiverse applicants, those with specific learning difficulties such as dyslexia and those with sensory and physical disabilities. Examples include:
 - providing written instructions in an accessible format, such as documents with an enlarged font;
 - allowing a person with a disability extra time to complete the test;
 - permitting a person with a disability the assistance of a reader or scribe during the test;
 - allowing an applicant with a disability to take an oral test in writing or a written test orally;
 - allowing an applicant with a disability to use a laptop, with or without assistive software;
 - permitting a person with a disability to sit the test or assessment in a separate room;
 - putting the test onto different coloured paper.
- Consider using other measures of assessment to evaluate applicants. Decisions based on these results will not ensure a diverse mix of candidates.

Interview process

- Members of the interview panel should be appropriately trained in disability awareness.
- Ask all candidates the same open and direct questions about their ability to perform the functions of the role.
- Do not concentrate on the disability or how it may impact at work. Focus on the ability of the candidate.
- Be open-minded as to how the job can be done – people with disabilities will approach tasks differently.

5.2 Recommendations regarding good practice and reasonable accommodation in initial employment

- Appropriate disability awareness training should be provided to managers and staff within the workplace. This training should give managers insights into how to deal with individuals who are more sensitive about disclosing or discussing the impact of their disability.
- Developing collaborative approaches during induction will assist in ensuring the cooperation of workers on an ongoing basis.
- Induction training and training materials should be accessible for employees.

- It is important to note that the impact of the disability or work practices may change over time, and to remain open-minded about the way in which solutions can be generated and barriers overcome.

5.3 Recommendations regarding good practice and reasonable accommodation in promotion and career development

- Employers should ensure that employees are provided with reasonable accommodations in order to avail of all available training and opportunities for promotion and that reasonable accommodations follow through their career progression.
- Training venues should be accessible and training materials should be made available in accessible formats.
- Employers should encourage employees with disabilities to apply for opportunities for promotion with the assurance that reasonable accommodations will be provided for any competitions for promotion.

5.4 Recommendations regarding good practice and reasonable accommodation in retention, i.e. enabling people to stay in work if they develop an impairment or their impairment changes

The National Disability Authority's *Retaining employees who acquire a disability: A guide for employers*⁷¹ suggests the following key steps:

- Early intervention: Offer appropriate supports from the early stages of absence from work.
- Keep in Touch: When a person is off work, check if they would like to be kept up to date with social activities and other work events and agree how to communicate same.
- Return to work assessment: When the person is due to return to work, give their doctor and your occupational health doctor a detailed job specification in order for them to advise on what tasks the employee is able to do on their return, and any special requirements they may need to do their work. Further assessment may be required by your occupational health practitioner.
- Return-to-work plan: Develop a return-to-work plan, over an agreed period of time, based on the above assessment. This plan should detail what happens in the initial period on return to work and how any potential difficulties might be managed.
- Reasonable accommodation: Before they return to work, discuss with the person what supports they may need to do their job, for example, assistive technology, flexible working hours. Ensure these supports are in place when they return to work.
- Option for phased return: A person may need some time to resume the full range of tasks. Before they return to work, agree with them what the transitional arrangements will be, and how they will be reviewed
- What to tell colleagues: Ask the person what they would like their colleagues to know about their disability. Discuss your joint approach to this.

⁷¹ See: <https://nda.ie/publications/employment/employment-publications/retaining-employees-who-acquire-a-disability-a-guide-for-employers.pdf>.

- Reintegration into work: Support line managers with appropriate training, so they are able to offer the appropriate supports to a colleague with a disability and to help the person reintegrate into the social life of the workplace.

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