

Reasonable Accommodation FAQ

What is the definition of a disability for employment purposes?

The definition of a disability is very broad. For employment purposes we refer to the definition as per the employment equality legislation.

“Disability” is defined in the Employment Equality Act 1998–2015 (EEA) as:

- (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) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
- (e) a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour, and shall be taken to include a disability which exists at present, or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person.

What are my rights as a person with a disability?

People with disabilities have the same employment rights as everyone else. Equality laws protect you from discrimination related to disability, and employers are required to provide reasonable accommodations to support employees with disabilities. This is covered under the Employment Equality Acts 1998–2015 (EEA), which prohibits discrimination on nine specific grounds one of which includes disability.

What is the requirement of my employer to provide reasonable accommodation?

Employees with disabilities have a right to reasonable accommodation in the workplace as long as it does not constitute a “disproportionate burden”. Some employers may not realise that under the Employment Equality Acts 1998–2015 (EEA), they have a legal obligation to take all reasonable steps to accommodate employee needs by providing special arrangements, job modifications or other facilities.

Reasonable accommodation is crucial because it ensures that people with disabilities can fully participate in the workplace on an equal footing. It enables:

- Access to employment opportunities without unnecessary barriers

- Full participation in their current role and to advance their careers
- Receipt of training and professional development needed to progress

By providing reasonable accommodation, employers help remove barriers that may prevent disabled employees from enhancing their skills and have an opportunity to develop a more inclusive and equitable workplace.

What is meant by a 'disproportionate burden'?

While your employer has a responsibility to provide reasonable accommodations to support your needs, this responsibility however is limited if the financial or other costs of the accommodation would impose a “disproportionate burden” on the employer.

In assessing “disproportionate burden”, your employer must do the following:

- Carefully evaluate the financial and other costs involved
- Explore options for public funding, grants, or other assistance that could offset these costs
- Consider the size and financial resources of their own company

It is important to note that many reasonable accommodations may have little to no cost at all and there can be an incorrect assumption by employers that they are expensive and cumbersome to implement. Therefore, employers should explore all practical solutions to ensure their employees can fully participate and succeed in the workplace.

What are some typical examples of reasonable accommodation?

- Modifying company documentation, website, tests and training materials in appropriate formats
- Providing various forms of assistive technology, i.e. alternative keyboards, personal listening devices etc.
- A talking lift with tactile floor buttons
- Ramps, automatic doors
- Adjustable-height desks
- Hands-free telephone sets
- Later start and finish times or remote work
- Partial re-deployment: continuing part of the original job with new tasks.
- Re-deployment: moving to a different role with retraining

- Accepting that there may be alternative ways of accomplishing a given task or objective which were not taken into account during the preparation of the job description or selection criteria

What should the employer do to provide reasonable accommodation?

We have reviewed best practice and in general there are 5 steps that the employer should take:

1. Assessment

Before the employee can receive reasonable accommodation, the employer should carry out an assessment to understand the employee needs. The requirement to provide reasonable accommodation can only be properly satisfied where the employer has carried out this assessment and this may include medical, ergonomic, or occupational evaluations to determine what measures would best support the employee in performing the job.

2. Identification of Needs

This stage should involve the employee directly around the following:

- Including the employee in every step of the process
- Exploring different ways to provide workplace accommodations that support the employee
- Reviewing their job description and job profile to determine the essential functions of the role
- Discussing with the employee their job-related functional limitations and identifying accommodations that could address them
- Deciding whether and how co-workers who may be affected will be informed
- Consulting rehabilitation or other relevant professionals when necessary

3. Implementation

The employer should select and put in place the accommodation that is most reasonable, effective, and appropriate for both the organisation and for the employee. Any accommodation provided should be reliable, easy to use, and readily available to support the employee to participate in work to the best of their ability.

4. Review

The accommodations provided should be reviewed regularly. Over time, the employee needs may change, or certain supports may no longer be necessary. The employee has a part to play here by informing their manager if they require any changes or adjustments.

5. Follow-up

If needed, the employer should provide follow-up by modifying the accommodation or revisiting the earlier steps to ensure the support remains appropriate and effective.

The employer should also get the advice from occupational health where appropriate or other specialist organisations.

Does the employer have to consult me on the reasonable accommodation?

The person with a disability is the expert and knows how their disability will impact on them, if at all, in the workplace. That said the legislation does not go so far as to say consultation is a mandatory obligation, although it would be wise for employers to do so.

What if I acquire a disability while I am employed?

The same applies with regard to the employer's duty to provide reasonable accommodation. If you are on sick leave then the employer must also make accommodations to enable your return to work having acquired a disability.

Does reasonable accommodation begin at the recruitment level?

Yes, it does. The employer may ask at the recruitment stage what accommodations might be required for you to fully participate in the workplace should you be successful in taking up a position with that employer.

What are the exceptions to the employer providing reasonable accommodation?

As outlined above the employer is not obliged to provide special treatment or facilities if the cost of doing so is excessive or disproportionate.

The employer is also not obliged to provide you with equipment that you would normally provide for yourself such as reading glasses or hearing aids.

However, the most important point is that an employer is not obliged to hire or keep someone in employment if they cannot fulfil the requirements of the job.

What must I do to get reasonable accommodation?

You need to ensure that you have "disability" within the meaning of section 2 of the Employment Equality Act as outlined above. You should provide relevant medical report accordingly. You also need to notify your employer and make them aware of your disability and your workplace requirements.

What is the reasonable accommodation passport scheme?

The Irish Congress of Trade Unions and IBEC launched the reasonable accommodation passport scheme. It is a written record of accommodations or workplace adjustments

that have been agreed between the employee with the disability and their employer (line manager or designated contact within the organisation).

The passport aims to ensure that all parties are clear about what accommodations have been agreed and has a record of these. This should reduce the need to reassess and renegotiate accommodations every time an employee changes jobs, is relocated or is assigned a new manager. It also provides an employee and employer with the basis for future conversations about accommodations.

While not legally obliged to implement this scheme, employers should give this careful consideration as it does make the implementation of reasonable accommodation a lot more efficient for all involved.