Reasonable Accommodation Fund Grants

NDA submission, May 2022

# Introduction

The National Disability Authority (NDA) is the independent statutory advisory body on disability policy and practice, and on Universal Design. It is within this remit and area of expertise that the following advice regarding the Department of Social Protection Review of Reasonable Accommodation Fund (RAF) is offered. This submission differs to the review template as it allows for a fuller description of NDA points.

Reasonable Accommodations as defined under the Employment Equality Acts[[1]](#footnote-1), obliges employers to take reasonable steps to accommodate the needs of employees with disabilities, except where to do so would impose a disproportionate burden on them. The literature defines reasonable accommodations as a modification to the tasks or structure of a job or workplace, which allows the qualified employee with a disability to perform the job to the best of their abilities.

In practice reasonable accommodations are effective and useful changes that an employer is required to put in place to enable a person with a disability to carry out their work on an equal footing with others. Reasonable accommodations take a variety of forms and can include flexible working arrangements, remote working arrangements, assistive technology or an adaptation of the physical workplace.

# Summary of key points

The review underway by Department of Social Protection is with regard to the current grant scheme, which consists of funding for the following elements:

* The workplace equipment adaptation grant (WEAG)
* The job Interview Interpreter Grant (JIIG)
* The personal reader grant (PRG)
* The employee retention grant (ERG)

Through consultation with employers[[2]](#footnote-2) and research conducted on reasonable accommodation, the NDA advises there are a number of perceived drawbacks to the current scheme:

* Many employers are unaware of the RAF scheme and those who are aware and have experience of the grant scheme, described the experience as administratively burdensome.
* Anecdotal evidence is that the current scheme is considered bureaucratic. Employers advise the need to obtain three quotes for the accommodation and the waiting period for a response from DSP as key obstacles to accessing the grant.
* Some employers expressed the need for clear practical information relevant to the specifics of their employment situation as essential requirements. Proactive employers who are actively engaged in supporting employees often require support and guidance regarding the provision of RA, therefore the information provided by DSP needs to go beyond generic information.
* From the perspective of the individual with disabilities it is noted that the RAF is not currently person centred and the range of available supports available do not reflect recent developments in assistive technology, and should be extended to include the role of personal assistance and sign language interpretation at work.
* This scheme should be extended to support self-employed disabled people (this group are not currently covered by the grant scheme)
* Lack of awareness about RAF has led some people with acquired disability to discuss the challenges of getting supports, in terms such as having to ‘beg’ and ‘fight’ for reasonable accommodations, and having to source their own equipment and technologies for work’[[3]](#footnote-3).
* Although not currently available to public sector staff it, the NDA advises that its own research on this area suggests a clear need for the RAF to be available to the public sector, as the issues described in this paper are also widely experienced by people who are employed in the public sector[[4]](#footnote-4).

The NDA advises importance of a seamless reasonable accommodation funding scheme for the employee and the employer alike. To achieve this, we recommend that the following be given careful consideration in the course of the review:

* Where possible fund the individual rather than the employer, thus allowing the ‘accommodation’ to travel with the person with a disability. This would lessen the need for multiple applications. This approach would allow for sharing of disability details only once by the individual requesting the accommodation. This process could build on reasonable accommodations provided in pre-employment scenarios such as education. This could also allow for updates and inclusions of transport grants and schemes to meet the individual’s changing needs getting to and from employment. This seamless process would allow for provision of accommodation in all employment and self-employment situations. This option to fund the individual should not increase the administrative burden on the employee.
* By allowing the individual to ‘own’ the accommodation (e.g. equipment or assistive technology) the DSP system could better link in with the Ibec and ICTU developed ‘reasonable accommodation passport[[5]](#footnote-5)’, which has a proven track record of supporting the disabled person.[[6]](#footnote-6) This joint initiative by two key employer organisations supports workers requiring an adjustment to assist them in staying in their job, or accessing training. It can also set out the accommodation required due to their disability and agree an action plan with management. This passport removes a sensitive part of the discussion between employer and employee, since using the passport allows the employee disclose disability and the employer to evaluate the request.
* There is evidence to indicate that the process to access these grants can often be delayed. It will be important for this process to be streamlined and sped up wherever possible. This NDA suggests that a response time of between 3- 5 days for the accommodation grant to be issued would be appropriate.
* For this grant scheme to be perceived as ‘fit for purpose’, it will be important that the process is not burdensome for disabled people. The NDA understands that there are an average of approximately 40 applications for the Workplace Equipment Adaptation Grant per annum, while there a similar number of applications for the Personal Reader Grant. Given that there are over 100,000 disabled people in employment, the number of applications seem very low. This low take-up is not a reflection that grant scheme is not needed, rather it is low awareness and perceived bureaucracy with the added challenge that many are unsure what ‘accommodation’ is most beneficial
* **Self-employed** disabled people should be listed as a group that can have access to this scheme
* The current range of supports funded do not represent the extent of accommodations now available or required. The NDA advises that any revised system should incorporate accommodations in relation to provision of personal assistance at work, provision of Irish Sign Language at work and an extensive array of Assistive Technologies that can make it possible for people with a disability to be productive employees. It may also be worth considering how a scheme could be configured to be responsive to new technologies that may emerge over time.
* This grant scheme does not operate in isolation and while DSP is not responsible for informing employers about procedures and duties regarding reasonable accommodation requirements under employment equality legislation, this is an important information feature of the reasonable accommodation process and must be reflected in the material used to promote the renewed grant scheme.

# Context for employment supports

The review of reasonable accommodation funds is a commitment in the Comprehensive Employment Strategy for people with disabilities 2015 -2024 (CES). This strategy is the government’s acknowledgement that a concerted effort is required to address the employment gap for persons with disabilities in Ireland**.** The current employment rate of persons with disabilities in Ireland is about half of the rate for persons without disabilities - 36.5% vs. 72.8% (aged 20-64)[[7]](#footnote-7). Ireland has one of the largest disability employment gaps within the EU.

The CES is built on collaborative and cross departmental working that are key mechanisms for the delivery of this government strategy. Cross departmental between DSP and the Department of Trade Enterprise and Employment is necessary for the delivery of a seamless reasonable accommodation grant scheme, as this scheme requires aligned working between employee and employer. Specifically both DSP and DETE can provide useful promotional and awareness raising information regarding the scheme and its practical application for employer and employee.

The NDA advises that a revised Reasonable Accommodation Fund scheme administered by the Department of Social Protection should have due regard to the following themes:

## Support return to work for those with a work history:

The publication ‘NDA Policy Advice on Vocational Rehabilitation Provision in Ireland’ 2021, collated research on return to work post acquiring a disability. Evidence indicates that about three quarters of people of working age with disabilities have acquired their disability after the age of 18 and before the age of 65. Many of those affected cease employment within a fairly short time, after acquiring their disability.[[8]](#footnote-8) One study showed employment rates of people who acquired a disability dropped to about a third.[[9]](#footnote-9) A number of those remaining at work do so part-time. This is a group of people with a history of employment and who in some instances have a job to return to but the current reasonable accommodation has proven difficult for them to access. This scheme would suit the needs of this group, if:

* They had access to a vocational rehabilitation officer who could discuss RA options with the employee and employer
* Timing of issuing of grants was guaranteed within a 3- 5 day period

## Case Officers in Intreo

Lack of awareness of the RAF and of ‘accommodations’ that can support the individual are key reasons for lack of uptake of the scheme. In NDA consultation on return to work, disabled people suggested that ‘a centralised reasonable accommodation service’ would allow for better use of the scheme. The same consultees also suggested that Intreo case officers are best placed to ‘signpost individuals to specialist services’, who may have technical information on accommodations or adjustments.

# Reconceptualised RAF

Reasonable accommodation has a legislative background but it is the practical result of supporting more people with disabilities to access employment that the grant scheme needs to address. Groups of people with disabilities that may require an RAF grant are:

* people **interviewing** for a new job or promotion
* new employees on **joining** an organisation
* people **returning** to work having acquired a disabilities
* **Self-employed** disabled people (this group are not currently covered by the grant scheme)

Persons with a disability can face a range of individual and structural barriers at different stages of employment including recruitment, retention and re-entering the workforce. The integration of reasonable accommodations into routine recruitment and employment processes is an important element in addressing the barriers and challenges that adversely affect the employment of persons with disabilities.

## Issues with the wider system on provision of reasonable accommodations

Various factors can impede a seamless reasonable accommodation process, such as, lack of human resources capacity; the affordability of obtaining medical or psychological reports etc. However, a number of key obstacles featured regularly in a report by the NDA that included a literature review, a review of Workplace Relations Commission and Labour Court decisions relating to reasonable accommodation, and consultations with stakeholders.

These were categorised into eight obstacles[[10]](#footnote-10)

1. The reluctance of some employees and prospective employees to disclose their disability to an employer and to request reasonable accommodations
2. The failure of some employers to have policies and procedures in place regarding reasonable accommodations and to follow the procedures required by law
3. The failure to provide reasonable accommodation in a timely manner
4. The low awareness of the legal obligations on employers to provide reasonable accommodations and the types of reasonable accommodations available
5. The failure to provide reasonable accommodations arising from low levels of understanding and awareness of disabilities as well as negative attitudes towards reasonable accommodations
6. The low awareness of financial supports available to employers in the provision of reasonable accommodations
7. The limitations of existing financial supports available to employers to provide reasonable accommodations
8. The lack of provision for monitoring and reviewing reasonable accommodations

These obstacles regarding the provision of reasonable accommodations for people with disabilities are the context in which the DSP grant system operates, and the review of the scheme should give due consideration to same.

## An improved reasonable accommodation process

The process for providing reasonable accommodations typically comprises a number of stages:

* making of a request for reasonable accommodations by a person with a disability
* evaluation of such a request by an employer and the process followed in reviewing such a request, this is the where the RAF comes into play,
* implementation of any approved reasonable accommodation measure
* monitoring of implemented reasonable accommodation measures

In a seamless process, employees and employment candidates are comfortable disclosing their disability and requesting reasonable accommodations; and employers follow correct procedures, provide any reasonable accommodation measures required under employment equality legislation and monitor implemented reasonable accommodations. This outline of the process highlights the need for a coherent time line whereby the employer and employee are confident that the accommodation will be issued within a time line that allows the job to commence.

Research reveals that a reasonable accommodation funding scheme also requires the following supporting infrastructure:

* Development of an online resource tool that provides information for employers on the reasonable accommodation process, (similar to the process mentioned earlier)
* Expand the programme of supports to keep up to date with developments in assistive technology etc. This would require the maintenance of information similar to the US Jobs Accommodation Network[[11]](#footnote-11). This resource is described further below.
* Create a proactive awareness campaign for both employer and employee about available supports

### Online resource required for RAF

The US initiative the ‘Job Accommodation Network’ (JAN) is a source of free, expert, and confidential guidance on job accommodations and disability employment issues. This service is currently not available in Ireland. The closure of the Assist Ireland website further depleted necessary information in this area. JAN is accessible to users outside of the USA and has supported employers and employees for over than 35 years. JAN provides free one-on-one practical guidance and technical assistance on job accommodation solutions. Importantly the JAN online tool also provides information for disabled people who are interested in self-employment and entrepreneurship options. JAN provides individualised consultation to assist:

* Employers and their representatives seeking guidance on practical ways to engage in the interactive process, provide job accommodation solutions,
* Individuals with medical conditions and disabilities seeking information about job accommodation solutions, employment rights under the ADA, and self-employment and entrepreneurship opportunities; and
* Family members and rehabilitation, medical, educational, and other professionals in their effort to support successful employment outcomes for individuals with medical conditions and disabilities.

An online resource detailing the information listed above is a significant gap in the Irish disability employment information landscape.

## Extending the range of accommodations

The NDA advises that disability supports have expanded and developed considerably since the establishment of the RAF scheme. Supports necessary for people to access to employment should be based on addressing barriers. The ‘askjan’ website provides details on the A-Z on accommodations and can be viewed by disability type, by limitation, by work related function and by accommodation please see for further details [A to Z of Disabilities and Accommodations (askjan.org)](https://askjan.org/a-to-z.cfm). This is one version of how to capture information on accommodations, the additional function of this online service is discussing accommodation options with people with disabilities.

The following describes areas where the nature of accommodations have evolved over time:

### Availability of communications supports,

People in Ireland who use Irish Sign Language (ISL) experience significant communication barriers at work. While there is a Job Interview grant to fund an ISL interpreter for an interview involving a Deaf person, if the person is successful in getting the job, there is no communication support in the workplace (apart from 1-2 hours for induction/training). This means that if a Deaf person is successful in getting a job, they may feel marginalised in the workplace.

There are many examples of good practice from other jurisdictions where this obstacle has been addressed. For example, in May 2019 RTE broadcast a documentary about three Irish Deaf adults who moved to London to work where the provision of ISL in the workplace was highlighted. These adults choose immigration in order to access communication support in the workplace via the Access to Work scheme available in the UK. All of them had been able to progress their careers due to the support of the Access to Work service. Two of them availed of sign language interpreters in the workplace, while one used a live captioning service. It was evident that these individuals could not progress their careers in Ireland in the same way due to the absence of a communication support service in the workplace.

Information regarding the access to work employment support available for anyone with a disability or health condition in the UK is available at <https://www.gov.uk/access-to-work>

This grant can pay for:

* special equipment, adaptations or **support worker services** to help with things like answering the phone or going to meetings
* help getting to and from work

### Assistive Technology

According to the Centre for Disability Rights in the USA the most commonly requested accommodation in the workplace is assistive technology[[12]](#footnote-12) such as adapted computers, hearing aids, wheelchair ramps, speech communication devices, Braille note taking computers, etc[[13]](#footnote-13).

Microsoft have produced a website devoted to accessibility and available tools under the following categories, neuro-diversity, communications, vision, learning mobility and mental health[[14]](#footnote-14).

While the provision of AT as an accommodation is essential, there is a need for wider support services to support that AT use and to make it an effective accommodation. In this regard Intreo case officers should refer jobseekers with disabilities on to a specialist information source similar to the Assist Ireland website which was supported by the Citizens Information Service until 2019. Based on good practice such a service should be able to provide:

* evaluation of the AT needs and providing advice and guidance to the employee and employer;
* purchasing, leasing, or otherwise acquiring the AT;
* selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing AT devices;
* coordination and use of therapies, interventions, or services with AT devices;
* training or technical assistance for individuals with disabilities, professionals, employers, or other individuals providing services to individuals with disabilities.

# Better Reasonable Accommodation guidance

In 2018 the NDA published a review of Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with a Disability.

The review found that future provision of reasonable accommodation supports for both employer and employee, require both guidance and a code of practice concerning the provision of reasonable accommodations in the employment context, including the recruitment process.

The NDA welcomes the work underway in the Irish Human Rights and Equality Commission (IHREC) to develop a code of practice that would explain the complexities of the law in this area, and direct employers about how they can comply with their statutory obligations under the **Employment Equality Acts**.[[15]](#footnote-15) A code of practice would also assist persons with a disability who are seeking to understand their entitlements in this area. It will be important for DSP in their RAF to highlight this code of practice and the obligation on employers in relation to same.

NDA also intends to develop guidance on RA. It is envisaged that this guidance would be broader than a code of practice and would complement it. While the code of practice would focus on legal requirements and compliance, and be admissible in evidence in court proceedings, the guidelines on reasonable accommodations would provide a non-mandatory, practical resource for employers and promote good practice, which in many cases extends beyond minimum legislative requirements. This will also be an important resource for employers and employees.

There is no specific national employer information and training resource currently available to guide employers on disability matters. Employers for Change is a pilot programme funded by the Department of Children Equality Disability Integration and Youth but as yet there is no commitment to sustainable funding or an expanded role. The NDA recommends that the employer engagement unit in DSP could consider how a dedicated national resource of peer advice and information for employers on the employment of persons with disabilities, including reasonable accommodations could be established. The NDA advises that such a resource could assist in building awareness and understanding amongst employers of disabilities, reasonable accommodations and their obligations under employment equality legislation. It could also provide guidance to employers as to how reasonable accommodations can be implemented and funded in practice.

# Employers’ perspectives

During 2021 the Organisation for Economic Cooperation and Development (OECD), published a report on Ireland called ‘Effective engagement with employers to improve labour market outcomes for persons with disabilities’ in which they state that,

‘Employer engagement and support for employers are critically important for the improvement of the labour market situation for persons with disabilities in Ireland. Effective strategies for employer engagement are critical to overcome disability-related misperceptions and discrimination and to raise awareness about available support programmes and subsidies. Yet, Ireland has an underdeveloped employer engagement structure with respect to information and supports for the employment of persons with disabilities[[16]](#footnote-16).’

The NDA recommends that the Pathways to Work strategy can be the mainstream policy vehicle to effectively address the issues mentioned by the OECD in relation to employers and disability.

Similarly DSP can address the issues raised in the Employers for Change joint policy paper with Ibec on what employers require to support more employees with disabilities[[17]](#footnote-17). The recommendations centred on the need for greater investment in evidence-based employment supports to benefit individuals with disability, the economy and society. The sub-set of recommendations listed below are those most relevant to the DSP review of reasonable accommodation grants.

* Reworking and updating the current grants system
* Amalgamate all the current disability supports into one grant
* Create an online application platform for all grants and supports
* Remove the onus from the employer to apply for grant support
* Provide €15m to extend personal assistant supports

The issues raised by the Ibec and Employers for Change service highlight the gaps in knowledge and supports available for both employer and employee, and the NDA advises that the DSP review of RAF provides an opportunity to address these concerns.

# Conclusion

From consultation and research conducted on the topic of reasonable accommodation it is evident that disabled people and employers have different needs with regard to the grant system.

The NDA recommends that a new approach to the RAF should be a seamless streamlined process, one in which the administrative requirements are minimised, and the range of supports available are developed to include recent developments in assistive technology, and personal assistance. As the RAF is an employment support, it is also important to consider how it could be extended and made available to disabled self-employed people. Funding the person with a disability rather than the employer would address a number of the issues outlined above.

Notwithstanding the outcome of the reviews of the Reasonable Accommodation Fund, the NDA advises that the Department of Social Protection could consider an information campaign to build awareness amongst employers of the financial supports available to provide reasonable accommodations. Such a campaign could be useful in addressing the information deficit which exists amongst some employers of the various financial supports and incentives available to them to assist in reasonably accommodating employees and employment candidates with a disability.

The NDA welcomes the commencement of this review and looks forward to working with the department to ensure that the findings are implemented in a way that will support more people with disabilities who wish to access employment and have rewarding careers.

# Additional Reading materials

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2. <https://www.employerdisabilityinfo.ie/> NDA funded 3 year employer disability support service which ran from 2016 to 2018 [↑](#footnote-ref-2)
3. https://nda.ie/publications/employment/employment-publications/vocational-rehabilitation-policy-paper-consultation.html [↑](#footnote-ref-3)
4. https://nda.ie/publications/employment/employment-publications/reasonable-accommodations-obstacles-and-opportunities-to-the-employment-of-persons-with-a-disability1.html [↑](#footnote-ref-4)
5. https://www.ictu.ie/publications/reasonable-adjustment-disability-passport [↑](#footnote-ref-5)
6. https://www.ibec.ie/employer-hub/hr-management-guide/employment-equality/implementation-guidelines/employing-people-with-a-disability [↑](#footnote-ref-6)
7. CSO Census 2016 [↑](#footnote-ref-7)
8. A 2007 survey of Illness Benefit recipients showed that 40% of those on benefit for six months, and 58% of those on benefit for 12 months, were no longer in employment. WRC Social and Economic Consultants (2008) Research Report on Acquired Disability and Employment [↑](#footnote-ref-8)
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10. https://nda.ie/publications/employment/employment-publications/reasonable-accommodations-obstacles-and-opportunities-to-the-employment-of-persons-with-a-disability1.html [↑](#footnote-ref-10)
11. Accommodation Network [JAN - Job Accommodation Network (askjan.org)](https://askjan.org/) [↑](#footnote-ref-11)
12. https://ecommons.cornell.edu/bitstream/handle/1813/76543/\_286LD\_OnLine\_\_\_\_Center\_for\_Implementing\_Technology\_in\_Education.pdf?sequence=1&isAllowed=y [↑](#footnote-ref-12)
13. https://cdrnys.org/blog/advocacy/assistive-technology-as-a-reasonable-accommodation/ [↑](#footnote-ref-13)
14. https://www.microsoft.com/en-us/accessibility/ [↑](#footnote-ref-14)
15. The Irish Human Rights and Equality Commission is preparing a new legal code of practice to promote greater employment of people with disabilities. Irish Human Rights and Equality Commission, **‘Discrimination Against People with Disabilities in Employment a Persistent and Pernicious Roadblock to Worker’s Dignity and Inclusion’** [press release], available from their website at <https://www.ihrec.ie/discrimination-against-people-with-disabilities-in-employment-a-persistent-and-pernicious-roadblock-to-workers-dignity-and-inclusion/>. [↑](#footnote-ref-15)
16. https://www.nda.ie/publications/employment/employment-publications/disability-work-and-inclusion-in-ireland-engaging-and-supporting-employers.html [↑](#footnote-ref-16)
17. https://www.ibec.ie/connect-and-learn/media/2021/07/18/improving-employment-opportunities-for-people-with-disability-in-ireland [↑](#footnote-ref-17)