

Reasonable Accommodation Passports



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Irish Congress of Trade Unions



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Foreword



Patricia King
Congress

Congress is delighted to be jointly launching with Ibec the Reasonable Accommodation Passport scheme.

The scheme was brought to our attention by the TUC in the UK and the GMB trade union who brought a motion urging trade union support for such an initiative in Ireland. The motion – which has the strong support of our Disability Committee – acknowledged the significant benefit of quality work for disabled people and recognises the valuable contribution that they make to the workplace.

Equality legislation requires employers to make reasonable accommodation to enable disabled workers to carry out their work on an equal footing with others. The passport system 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. This system would ensure that everyone is clear about what has been agreed and reduce the need to reassess these each time an employee changes roles or has a change in line management.

The rights of disabled people to decent work is frequently denied. People with disabilities face enormous barriers to equal opportunities in the world of work. Compared to non-disabled persons, they experience higher rates of unemployment and economic inactivity.

We hope that this joint launch will lead to widespread use of the model in Irish workplaces and makes a contribution to the attainment of decent work for our disabled members.



Danny McCoy
CEO, Ibec

Today diversity and inclusion in our workplaces is a given - we know it is good for business, for solving complex problems, for helping us win the war on talent and being more responsive to our increasingly heterogeneous customers.

However, despite significant progress in recent years, people with disabilities continue to face barriers in accessing the labour market, education and training activities and remain a largely untapped source of talent.

Some companies may shy away from hiring candidates with disabilities in part because they are unsure what accommodations those employees will need to do the job. Employers imagine they will have to buy expensive equipment or adapt their office space, but the reality is quite different. Often accommodations are just productivity aids like a screen reader, changing start or end times or changing the height or location of a desk.

Another challenge that managers sometimes face is the discomfort that comes with not knowing how to discuss disability, or what questions they can ask about accommodations. However, people with disabilities usually know what they need to do the job, so Ibec and Congress have collaborated on the development and promotion of the Reasonable Accommodation Passport to facilitate these conversations.

This Passport is a tool to support individuals in fulfilling their potential and contributing to their own success and that of the organisation. It is hoped that it will form one of the supports to encourage the employment of people with disabilities and open up conversations around reasonable accommodation.

Ibec looks forward to playing a leadership role in promoting this tool and encouraging good practice. We have embraced the business case for diversity, now we need to leverage the benefits by ensuring inclusion is part of our organisational culture if we are to truly enable people of all abilities to contribute to the success of their organisations, be valued as individuals, derive value from differing perspectives and inspire talent to thrive.

Introduction

One in seven people in Ireland has a disability¹. People can be born with a disability or acquire a disability over the course of their lifetime as a result of an accident or illness.

As around one in five people of working age have a disability and many disabilities are acquired by individuals while they are in employment, the need to make workplace accommodations can arise at any time. However, people with a disability are less likely to be working. Of the population aged 20 to 64,² 73% are working. However, for people with a disability of the same age, only 36% are working. Looking at those at work – only 6.3% of all workers have a disability.

According to the National Disability Authority, the reasons for this are complex. While many employers successfully employ people with disabilities, for others, limited disability know-how and a fear of the unknown can be issues. From the individual's side, research shows other reasons for low employment rates can include poor health, lower levels of education and skills, low expectations, fears around loss of benefits, and practical issues such as transport or work arrangements. People with greater levels of impairment are less likely to be at work.

The UN Convention on the Rights of Persons with Disabilities came into force on 19 April 2018. The Convention includes Article 27 on work and employment. Article 27 – Work and employment states that:

“States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work.”

Decent work is now a crucial part of Agenda 2030 and the sustainable development goals that chart the global development agenda for the next 11 years. Target 8.5 set out under Goal 8 of the Sustainable Development Goals - states that:

“By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value”.

We believe that social dialogue is a key mechanism to ensure that the goals are achieved, awareness raised, and action taken and so have embarked on a joint initiative to develop and promote a Reasonable Accommodation Passport for employees, employers and trade unions alike.

The social model of disability

Congress and Ibec have adopted the social model of disability. The social model of disability focuses on the ways in which society is organised, and the social and institutional barriers which restrict disabled people's opportunities. The social model sees the person first and argues that the barriers they face, in combination with their impairments, are what disables them.

Barriers can make it impossible or very difficult to access jobs, buildings or services, but one of the biggest barriers is the problem of people's attitude to disability. Removing the barriers is the best way to include millions of disabled people in our society.

¹ The 2016 Census tells us that 643,131 people had a disability. That is 13.5 per cent, or 1 in 7 of the population

² CSO Census 2016

The duty to make reasonable accommodations

The Employment Equality Acts (1998 – 2015) place an obligation on employers to provide an employee who has a disability with reasonable accommodation, referred to in the Act as “appropriate measures”. The reasonable accommodation is something that helps to alleviate a substantial disadvantage due to an impairment or medical condition.

The purpose of providing reasonable accommodation is to enable a person who has a disability: -

- (i) to have access to employment;**
- (ii) to participate or advance in employment; or**
- (iii) to undergo training.³**

What that means is that an employer makes a change to the distribution of the tasks or adaptation to premises or equipment, or makes changes to patterns of working time so that an employee with a disability can do the job to the best of their ability and enjoy equal employment opportunities, thus providing equality of access and opportunity for all.

Employers must also make accommodations to enable people with disabilities to return to work having acquired a disability, as well as to participate in the job application process and enjoy benefits and privileges accorded to other employees.

However, under equality legislation, employers are not obliged to provide special treatment or facilities if the cost of doing so is excessive or disproportionate. If you have to make changes to accommodate a disabled employee, the demands should be reasonable and should not impose a disproportionate burden on the employer. In other words, the changes and the costs should be realistic for the business to bear depending on several factors:

- **The financial and other costs of the accommodation requested;**
- **The scale and financial resources of the employer’s business.**

Employers must also consider possible sources of funding, such as supports, and grants provided by the Department of Employment Affairs and Social Protection when assessing the cost of a particular accommodation. Rather than assuming the costs will be high, it is critical to establish what accommodations are needed as not all supports require financial outlay. Research shows that most accommodations cost nothing and involve task adjustments.

In a work context, reasonable accommodations are now commonplace, often inexpensive and uncomplicated to implement. They can vary greatly from individual to individual and so consultation with the person with the disability is key to finding the best solution.

Many supports are minor adjustments such as keeping hallways and office space free from obstacles or increasing the font size on a computer screen. Others can involve assistive technology such as screen reading software that reads the computer screen information out loud or magnification software to enhance visibility, speech to text dictation software or induction loops. While others can include adaptations to the work environment such as wheelchair ramps or relocation of desks, flashing or audio alarms.

There is no limitation on the type or category of measures that an employer can be expected to take, provided that they do not involve a disproportionate cost. It can involve effective and practical measures, where needed in a particular case, to adapt the employer’s place of business to the disability concerned. It may, in particular, involve the adaptation of premises and equipment, patterns of working time, distribution of tasks or the provision of training or integration resources⁴. There are, however, some limitations. For instance, employers are not obliged to provide anything that the person would normally provide for themselves and employers are not required to employ, retain or promote someone who is not competent or capable of doing the essential duties of the job.

³ Section 16(3)(b)

⁴ Section 16(4)

The Labour Court has summarised the nature of the obligation to provide reasonable accommodation as follows: -

The provision of special treatment or facilities is not an end in itself. It is a means to an end and that end is achieved when the person with a disability is placed in a position where they can have access to, or as the case may be, participate in or advance in employment or to undergo training. This can involve affording the person with a disability more favourable treatment than would be awarded to an employee without a disability. Thus, it may be necessary to consider such matters as adjusting the person's attendance hours or to allow them to work partially from home. The duty to provide special treatment may also involve relieving a disabled employee of the requirement to undertake certain tasks which others doing similar work are expected to perform. The scope of the duty is determined by what is reasonable, which includes consideration of the costs involved. This is an objective test which must have regard to all the circumstances of the particular case."

What is a Reasonable Accommodation Passport?

Reasonable Accommodation Passports are designed for employees who require workplace adjustments or accommodations because of a disability, impairment, health condition, mental health issue or long-term injury. It is a written record of accommodations or workplace adjustments that have been agreed between the employee and their line manager.

They are 'live' confidential documents agreed between an employee and their manager about changes to work, with a built-in review period to ensure they reflect the current situation for the employee in the workplace. It will ensure reasonable accommodations are put in place and kept up to date, in line with changes in job role or fluctuations in employee' conditions. For some individuals who have fluctuating conditions, additional steps can be spelt out regarding short-term flexibility required within the overall reasonable accommodation passport framework.

To complete a Reasonable Accommodation Passport involves the individual employee requesting a meeting with their line manager, which should take place in a quiet and confidential space. It is important that line managers create an open and supportive environment where employees feel they can share that they have a disability, health condition, mental health issue or long-term injury that may benefit from workplace adjustments. An employee's decision to talk to their line manager about the Passport may require courage and should be treated sensitively and respectfully at all times.

The Reasonable Accommodation Passport allows the employee, to:

- **explain the impact of their working conditions on them, given their personal circumstances;**
- **explain the barriers that they encounter that may stop them participating fully at work;**
- **suggest adjustments that they think will make it easier for them to fully participate;**
- **review the effectiveness of accommodations provided and the ongoing impact this has on their work;**
- **explain any change to their health or circumstances;**
- **feel reassured that their manager will know what to do if they become unwell at work, when to contact emergency services and who to contact if necessary;**
- **know how and when their manager will keep in touch should they be absent from work due to their disability;**
- **consider including more information from their GP, specialist or other expert as appropriate to support their request.**

The line manager will follow up on any agreed actions to implement workplace adjustments for the employee. If someone has a passport, they can share it with anyone they think needs to know about the barriers they face and the accommodations that are needed to reduce the effect of these barriers in their work environment. It also removes the need for the employee to have to repeat potentially difficult conversations or renegotiate their accommodations every time they move roles or change manager,

something that is both unnecessary and stressful, as the passport can be part of the handover documents.

The passports purpose is to:

- **make sure that everyone is clear about what accommodations have been agreed and has a record of these;**
- **reduce the need to reassess and renegotiate accommodations every time a worker changes jobs, is relocated or is assigned a new manager;**
- **provide a worker and manager with the basis for future conversations about accommodations.**

The passports should only be shared with the incoming line manager once the written permission of the worker has been given. Although the worker has control of the information and who it is shared with, it is usual practice for the manager to have a signed copy as well, and sometimes the organisation's HR or personnel team.

The passports and agreed reasonable accommodations should be reviewed six months after the adjustments have initially been put in place for two reasons:

- **to ensure they remain effective in removing any identified workplace barriers;**
- **and where they are found no longer to meet that requirement, to allow a timely conversation to take place to identify accommodations that will address the issues faced by the worker.**

Further reviews will be at the worker's request, and/or when there is any change to a worker's job that might create additional barriers. A check in these circumstances can ensure the accommodations are still appropriate and effective.

Changes to the type of reasonable accommodations that need to be considered are not uncommon. They can change for a number of reasons, including technological advances that may mean there are better ways to overcome workplace barriers, changes to a worker's job or changes to an individuals' condition. An individual may require a combination of several workplace adjustments to enable them to do their job effectively.

A Passport is not legally binding and is not intended to impact your employment rights.

Example:

Mike is a civil servant who is autistic. He agreed his accommodations with his line manager which included accommodations to reduce anxiety, one of the major symptoms of his condition.

The agreed accommodations included changes in the way his line manager communicated with him and how formal management meetings were conducted. This was recorded in his passport which was signed by Mike and his manager.

Mike found that his passport became a useful tool for him and his line manager who could refer back to it when discussing the effectiveness of the accommodations. Where improvements were agreed, they were recorded within the passport. All the information about Mike's accommodations was recorded in one place and on one form.

He found that his passport has ensured that his accommodations stayed in place when his line manager has changed. Mike is confident that if he moves to a different job or the people around him change, his passport will be a useful guide to the best way to support him.

TUC 2019

Conclusion

Our vision is a future where all workplaces are accessible, inclusive and without barriers that prevent equal participation of disabled people. Both employers and trade unions have an important role in working to address major work inequalities if we are to meet this vision.

Sample Reasonable Accommodation Passport

Name of employee:

Name of manager:

Passport history:

(This table gives details of the history of the passport – the dates previous meetings were held and who the manager was at the time.)

Date of review	Manager Name

Document completion information

In completing this Passport, the employee consents to the information being held by their manager and if appropriate their HR Manager.

If the employee has a change of manager, the manager leaving will seek the employee's consent prior to the Passport being transferred in strictest confidence to the new manager.

	Details
Date of meeting to complete the Passport	
Employee name	
Manager name	
Other attendees and their role	
Purpose of meeting	
Current role of individual	

Overview of employee's health, disability or circumstances and history

(This will allow the employee and manager to gain a better understanding of the individual's condition or illness and how it affects the individual)

Suggested questions to start the discussion:

Question	Answer	Action points, date, owner
What is the general nature of your health or disability?		
How does your disability, health condition, mental health condition or long-term injury impact on your day to day work, if at all?		
Are these impacts constant or do they fluctuate?		
If relevant: what ongoing treatment or support are you receiving outside of work?		
What is the impact on you physically, emotionally or behaviourally?		
What adjustments/ accommodations do you believe would enable you to do your job more effectively?		
Are these adjustments/ accommodations required on a temporary basis (up to 6 months) or more permanently?		
Is there a work colleague you trust to advise you if they think you are becoming unwell? If so, please give their name/ contact details.		

Agreed Accommodations

Provide a list of all of the currently agreed accommodations

Accommodation	Date of adjustment	Date of review	Change of accommodation required (if appropriate)

Emergency Information

Please provide any additional information that may be useful in case of an emergency related to your situation if appropriate. These should be checked and updated at review meetings as appropriate.

Who are the people you would like to be contacted in the event that you become unwell at work?	Name: Relationship: Contact details:
Are there any external sources of support that you would be happy for your line manager to contact on your behalf if you become unwell? E.g., GP; Psychotherapist; Specialist etc.	Name: Role: Contact details:
How would you prefer to communicate with your manager if you are unable to come to work?	Text: Email: Phone call: Phone call by designated person:

Employee's signature: _____ Date: _____

Manager's signature: _____ Date: _____

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