

Public Consultation on the Reasonable Accommodation Fund Grants *A Submission by the Citizens Information Board – April 2022*

The Citizens Information Board (CIB) welcomes the opportunity to contribute to the public consultation on the Reasonable Accommodation Fund (RAF). CIB notes that the consultation is targeted at both people with disabilities and employers. This focus is a very important one. Capturing the experience and perspectives of people with disabilities on seeking, getting and retaining employment is vital. Crucially, there is a need to further identify and understand the issues that most concern people with disabilities in getting and retaining employment. Similarly, the experience and perspectives of employers will significantly inform the discussion.

CIB notes the low uptake of grant-aid from the fund¹ and shares the concerns expressed by the Department in this regard. Expenditure on RAF in 2020 amounted to less than €110,000. It is worth noting, in addition, that expenditure on disability awareness training under the Disability Awareness Support Scheme was less than €6,000 in 2020 and just over €20,000 in 2018.

The CIB, through reports and feedback from its funded services is acutely aware of the barriers and difficulties that people with disabilities continue to face in accessing and in retaining work. The rights of people with disabilities to equal opportunities in the world of work can be denied, due to barriers and resourcing, resulting ultimately in higher rates of unemployment and increased risk of poverty.

The right of people with a disability to *reasonable accommodation* and the legal obligations on employers to facilitate *reasonable accommodation* are important provisions of Ireland's equality legislation. The provision of *reasonable accommodation* is essential if physical, organisational and attitudinal barriers to accessing, progressing in, and retaining employment are to be addressed. The provision of grant aid for reasonable accommodation measures is an important element in a combination of state supports that can assist people with disabilities to gain and retain access to the open labour market, as well as encouraging and supporting private sector employers in the employment of people with disabilities.

Citizens Information Services (CISs) nationwide provide information, advice and advocacy to the public concerning a wide range of issues and problems. A considerable proportion of queries dealt with annually relate to employment matters, of which a number are disability and equality related. Feedback from CIS staff points to a low level of awareness and knowledge amongst both employers and employees (and job applicants) regarding the obligations and rights that exist regarding the provision of *reasonable accommodation* for people with disabilities.

¹ Minister for Social Protection. Heather Humphreys TD. Parliamentary Questions. 7th July 2021.
<https://www.oireachtas.ie/en/debates/question/2021-07-07/86/>

NDA research² likewise identifies poor knowledge and awareness of the provisions of equality legislation with regard to *reasonable provision*. It should be noted, however, that many of the WRC/Labour Court cases examined in the NDA research concerned types of *reasonable accommodation* that, most likely, would not have required expenditure on equipment or adaptations. Most cases involved failures to provide more flexible work arrangements. Of interest also is the fact that most cases were brought by current or former employees, and not by job applicants.

It would appear that smaller and medium sized employers (possibly those lacking dedicated HR staff) are most likely to either avoid hiring persons who have a disability, to be poorly informed regarding the legal obligations that apply, or to be unaware of the financial supports that are available in order to make *reasonable accommodation*.

While the work of the *EmployAbility* service providers and others around Ireland achieve results for many people with a disability in supporting their progression into employment, work experience or further training, it is likely that a substantial cohort of people with disabilities, especially those already in jobs, do not engage with these services, and are therefore less well prepared for the task of seeking and accessing *reasonable accommodation* from employers. Reports from CISs also suggest that a proportion of people with a disability - who do engage with these services – feel that some of the services mainly offer low-paid, unskilled, precarious employment and fail to meet the needs of people with higher career aspirations.

The funding provided by the State under various grant-aid schemes does not lessen the obligations of employers to provide *reasonable accommodation*. There is a need, therefore, not only to encourage, incentivise and enable employers to provide *reasonable accommodation*, but also to make clear that there is an issue of legal rights involved here. While there is a need for more widespread dissemination of information regarding benefits and supports (to both employer and employee), this must also be accompanied by direct referencing of equality legislation and support in understanding the meaning and implications of the obligations.

It is recognised that the provision of *reasonable accommodation* will not, in some instances, require expenditure by employers but will necessitate flexible approaches to the work arrangements of employees with disabilities. There are also situations in which physical adaptations will be required or in which personal supports e.g. Personal Assistance will be needed. While the Reasonable Accommodation Fund clearly has a role in such instances, the more widespread application of universal design principles would evidently make workplaces generally more accessible to people with physical/sensory disabilities.

Proposals

CIB suggests a number of inter-related approaches to addressing the issues identified above:

- There is a need to ensure that the requirements of equality legislation with regard to *reasonable accommodation* are vigorously and robustly publicised, monitored and enforced. Employers, whatever the scale of their businesses, need to be made aware of and fully understand their obligations.

² NDA. (2019). *Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with a Disability*. <https://nda.ie/publications/employment/employment-publications/reasonable-accommodations-obstacles-and-opportunities-to-the-employment-of-persons-with-a-disability1.pdf>

- A targeted awareness raising programme is required in order to remove any elements of doubt, to educate both the public generally and employers regarding the challenges and benefits of recruiting from this group of prospective employees, and to draw attention to the financial supports that are available.
- A parallel awareness raising campaign needs to be aimed at people with disabilities through multiple channels, support groups and media types in order to ensure that people know their rights and entitlements.
- Consideration should be given to the provision of grant aid to employers, initially through a pilot scheme, aimed at supporting them in addressing the most common access and *reasonable accommodation* issues that exist in their workplaces, such as ramps, accessible toilets, and other such provisions, in order to make their premises 'disabled-friendly' in the broadest sense of the term.
- Preliminary grants aimed at encouraging employers to conduct accessibility audits could constitute a first step in this proposed action. This funding could support audits of workplaces to be carried out, in the context of current guidelines (see NDA's codes etc.).

These grants would be made prior to any requests or need for *reasonable accommodation* for specific individuals. This would make workplaces more attractive to prospective employees and would overcome the problems involved in responding rapidly to any *reasonable accommodation* needs.
- Some employers, especially those with small staff numbers and limited management resources, may perceive the employment of people with disabilities as having the potential for a much-increased management/supervisory/administrative burden. It is noted that under the Wage Subsidy Scheme (WSS)³ employers in Strand I (less than three workers employed under the WSS) only receive the wage subsidy itself – which is paid to the relevant employee. However, employers in Strand II receive a small additional subsidy which is intended to cover the extra supervisory, management and other work-based costs which may derive from a firm's decision to employ three or more people with a disability.

The provision, to all employers, of such an additional subsidy regardless of numbers employed under the scheme would act as a small but attractive incentive to engage with prospective employees who have a disability.

The Reasonable Accommodation Fund grants have the potential to broaden and increase the participation of people with disabilities in the workforce with resulting benefits for employees, employers and society. However, it needs to be borne in mind that the Fund does not operate in isolation from other complementary schemes and incentives, including measures under the Comprehensive Employment Strategy for People with Disabilities There will be value, therefore, in ensuring that other employment-enabling and supporting measures are fit-for-purpose, recognise the varied needs of individuals, and dovetail with the assistance offered by the Reasonable Accommodation Fund.

The financial expenditures and risks involved in exploring new approaches to meeting the aims of the Fund are likely to be relatively small. An analysis of workplace equipment/adaptation grant

³ Operational Guidelines, Wage Subsidy Scheme <https://www.gov.ie/en/publication/789802-operational-guidelines-wage-subsidy-scheme/>

allocations over the past number of years should provide a good template for a different and more integrated approach.

There is a clear need to explore further the potential of the Reasonable Accommodation Fund in the context of supporting people with an intellectual disability, those on the Autism spectrum and those experiencing mental health difficulties in the workplace. This is an area where further research and analysis of the experience to date is required. Particular reference is needed in relation to how the Reasonable Accommodation Fund integrates with other employment support services, e.g. the EmployAbility Service, Intreo and the Comprehensive Employment Strategy for People with Disabilities, in meeting the employment support needs of these groups. Another area requiring further consideration is the workplace support needs of people with a hidden disability.

The emerging option of home working will have significant knock-on effects for people with disabilities in the workforce. This will present new challenges for employers as well as opportunities to access a hitherto significantly untapped talent pool by adopting a wider geographic approach to recruitment. It is reasonable to suggest that remote working options will require some reconfiguration of the employment supports that are available, including the Reasonable Accommodation Fund, in order to enable people to make the necessary adaptations to enable home working.

Finally, it is the CIB view that there is a need to more actively engage employers through their representative groups (IBEC and ISME) in identifying and addressing the employment support needs of people with disabilities and, thereby, foster a wider debate on the multi-faceted aspects of recruiting and supporting people with a disability in the workplace. In particular, there is a need for more discussion on the interface between supporting employees with a disability, retaining employees who acquire a disability and the needs of employers who have to run a business and deliver a service to an appropriate standard.