According to the last census approximately one in ten people in Ireland have a disability. The employment rate for people with disabilities has remained consistently low at 36.3%. This number has remained persistently low throughout the economic boom of the 2000’s and was unaffected by rises in employment levels throughout Ireland. Coupled with this, there are low rates of people who have a disability since birth in employment with low rates of job retention for people who have an acquired disability.

The Disability Champions at Work project aims to promote awareness of issues relating to disability in the workplace and to improve employment policies and procedures for people with disabilities. This action pack aims to act as a guide for all Disability Champions and union representatives working in the area of disability equality.

‘It is of vital importance that the trade union movement representing workers in Ireland should be fully aware of its responsibility to ensure a fair deal for people with disabilities. Let us look deep into our hearts and consider whether we include people with disabilities when we use the term brother or sister. If we don’t include them, then let us use our muscle and clout to ensure that the rights of people with disabilities become more a reality, less a struggle’ - Liam Maguire Trade Union and Disability Rights Activist

Jane Clare
Disability Champions Officer
Congress believes in equal rights for all workers and is committed to combating all forms of discrimination and promoting equality. It is widely recognised that the workplace is a strategic entry point to free society from discrimination and so Congress places great emphasis on supporting our affiliate trade unions in representing the interests of a very diverse membership – including people with disabilities.

The extent of equality and anti-discrimination legislation has improved over the last decade or so and showed a growing climate of equality and support for anti-discrimination action. Yet, despite being unlawful, discrimination occurs in the world of work every day and leads to isolation, abuse and victimisation. Recent cases won by affiliated unions show that unions are working to meet the challenges of representing a very diverse workforce.

However, it is also clear that promoting equality and combating discrimination become particularly important at a time of economic downturn for people experiencing inequality as it is these groups who are most vulnerable in such a period. This resource summarises key elements for people with disabilities of the Employment Equality Act, 1998 as amended by the Equality Act 2004.

It is hoped that this Congress Guide will provide additional assistance to unions in fighting discrimination and in ensuring equality for all. The recent row back in our government’s commitment to equality, as evidenced by the disproportionate cuts to equality bodies in Budget 09, however show that we need to remain vigilant in ensuring equality for all.

David Joyce
Equality Officer
How am I protected against disability discrimination?

The Employment Equality Act 1998 and the Equality Act 2000 prohibits employers treating workers less favorably than others on account of their disability. Workers are protected at all stages of employment against discrimination, which includes harassment and victimization.

Employers also have a duty to take steps and make reasonable accommodations to prevent a disabled person from being at a substantial disadvantage.

What is a Disability?

Under the Employment Equality Act 1998 disability is defined as:

- The total or partial absence of a person’s bodily or mental functions, including the absence of a part of a person’s body
- The presence of a part in the body of organisms causing, or likely to cause, chronic disease or illness
- The malfunction, malformation or disfigurement of part of a person’s body
- The malfunction which results in a person learning differently from a person without the condition or malfunction
- 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

This is a broad definition and attempts to cover most aspects of disability to include all types of disability including hidden disabilities, mental health problems and learning disabilities.
What is a Reasonable Accommodation?
Appropriate measures are effective and practical measures, where needed in a particular case, to adapt the employer’s place of business to the disability concerned. They can include the adaptation of premises and equipment, patterns of working time, distribution of tasks or the provision of training or integration resources. It does not include any treatment, facility or thing that the person might ordinarily or reasonably provide for themselves.

What counts as a disability for discrimination purposes?
For these purposes, a disability is anything that is covered under the definition of disability in the Employment Equality Act 1998

What can I expect my employer to do to take into account my disability?
Under the legislation, an employer has the duty not to discriminate against anyone on the basis of their disability. They also have the duty to provide reasonable accommodations for employees. Employers are only relieved of their obligation when they can prove that the financial burden that the reasonable accommodation would impose would be too great for them to bear.

Does the law include a set of disabilities?
No, it does not include a list of disabilities, but it provides guidelines as to what can be considered a disability.
What are my disability rights?
You have the right not to be discriminated against on the basis of your disability in employment and also in terms of career progression and training opportunities. You have the right to a reasonable accommodation and you also have the right to trade union representation.

Who is covered by the Employment Equality Act 1998?
There are nine grounds for discrimination covered under this legislation:

- Gender Ground (one is a woman and the other is a man)
- Marital Status (they are of different marital status)
- Family Status (one has family status and the other does not)
- Sexual Orientation (they are of different sexual orientation)
- Religion (one has a different religious belief from the other, or one has a religious belief and the other has not)
- Age (between age 18 to 65) - (they are of different age)
- Disability (one is a person with a disability and the other either is not or is a person with a different disability)
- Race (they are of different race, colour, nationality or ethnic or national origins)
- Membership of the Traveller Community (one is a member of the traveller community and the other is not.)

Are reasonable accommodations expensive?
There are many different types of reasonable accommodations available and not all types require physical changes or alterations to a workplace. For example:

- Adaptation of premises and equipment
- Patterns of working time
- Distribution of tasks
- Provision of training
- Integration of resources
FAS has numerous grants and supports available to employers for the implementation of reasonable accommodations. A full list of these is available at www.fas.ie FAS also have some grants and supports available to jobseekers.

How soon should I talk to my employer about my disability?

In order to be eligible for a reasonable accommodation, you must disclose your disability to your employer. In order for you to make arrangements for your disability in your workplace, it is advisable that you talk to your employer as soon as is possible. However, if your disability does not affect your working life you do not have to disclose it.

Where else can I get help on my disability?

There are numerous disability organizations that can help you with the many different aspects of your disability. There is a comprehensive list of all these organizations on the workway website: www.workway.ie

What can I do if my employer won’t help me?

If you have concerns that your employer is not fulfilling their obligations under the equality legislation, you can contact your local union office, or if you need further information you can contact the Equality Authority.
The main issue for the union negotiator is how to translate national trade union policies and legislation into practical measures in the workplace. One such example of this is reasonable accommodation.

Reasonable accommodation is defined under the Equality Act 2004 as: Appropriate measures are effective and practical measures, where needed in a particular case, to adapt the employer’s place of business to the disability concerned. They can include the adaptation of premises and equipment, patterns of working time, distribution of tasks or the provision of training or integration resources. It does not include any treatment, facility or thing that the person might ordinarily or reasonably provide for themselves. The aim of reasonable accommodation is to ensure that people with disabilities are given an equal chance to participate in the workforce. Reasonable accommodation varies from employee to employee and employer to employer, and there is no one size fits all solution.

Negotiating for reasonable accommodation is best viewed as a three party process that engages the employee, the employer and a trade union representative or expert in the area. The process of reasonable accommodation involves finding an agreed point that is identified as the least costly, but most effective, accommodation that the employee is willing to accept. Consultation and communication between all parties is essential in this process.

The legislation requires an employer to provide a reasonable accommodation for an employee with a disability unless the reasonable accommodation obligation places a disproportionate burden on the employer. The only other situation where an employer is not obliged to provide a reasonable accommodation occurs when it can be proved that the worker is not fully competent and fully capable of performing their duties and a reasonable accommodation solution that does not incur a disproportionate burden is not possible.
It is also important to remember that reasonable accommodation includes a number of measures designed to increase the accessibility of workplaces, some of these are listed below. FAS also supply a grant to cover the costs of reasonable accommodation under their Workplace Adaptation Grant of up to €6,350.

» Adaptation of premises and equipment  
» Patterns of working time  
» Distribution of tasks  
» Provision of training  
» Integration of Resources  

There is a key role for trade union negotiators in this area and it is essential that all possible information is gained to enable the most appropriate solution to be found.
Raising awareness is the key to achieving equality in the workplace. These 10 action points form a Disability Equality action plan and will assist Disability Champions in working towards greater equality for people with disabilities in the workplace:

» Set up disability committee/meetings/forum to discuss issues relating to disability in the workplace
   If there is an existing disability equality structure in place get involved and participate!

» Ensure that disability is introduced/retained as an agenda point in meetings e.g. partnership or equality meetings. There may be no direct issues about disability at a given meeting, but it is important to have it down as a regular agenda point for every meeting

» Set up awareness training for other union representatives in the workplace and staff members
   This is a key element in creating awareness of disability issues in the workplace and FAS offer a grant to cover disability awareness training in the workplace

» Develop welfare at work policies/awareness – build awareness of an employers duty of care
   This is also key in building awareness of issues that are directly linked to disability and working with the employer to develop a proactive approach

» Initiate disability audit and an accessibility audit
   This will provide the employer and union with an indication of their employment rate of people with disabilities. This can be done in a number of ways and it is important to choose the correct method of data collection for your organisation. An accessibility audit also provides a clear picture of the physical accessibility of a workplace and will show areas for improvement

» Encourage employers/union to apply for awards in the disability sector – e.g. NDA Accessibility awards
   There are numerous awards relating to the employment of people with disabilities and they encourage positive change by promoting best practise

» Communicate the message of the Disability Champions project and the role of the Disability Champion
   The Disability Champions project aims to educate and raise awareness of trade union representatives about disability and it is important to both promote yourself as a Disability Champion and to encourage other people who may have an interest in the project to take part

» Promote cultural change in the workplace/union
   This action may take longer to achieve but may have the longest impact in an organisation. It may also come about as a result of introducing some of the other actions, but it is important to include it as an over all aim as a Disability Champion

» Ensure there is active policy review and development
   This is essential to achieve lasting and effective change for the employment, recruitment, retention and promotion of people with disabilities in an organisation

» Monitor these commitments on a regular basis!
The Right to live independent, active and full lives

The Right to equipment, assistance and support services necessary to live a fully productive life. These should be provided in a way that promotes dignity and independence

The Right of persons with disabilities to participate in the planning and management of services provided by both statutory and voluntary agencies

The Right to an income or wage sufficient to provide adequate food, clothing, accommodation and other necessities of life

The Right to accessible, convenient and affordable housing within the community

The Right to quality counselling, physical and mental health care

The Right to meaningful training and employment without discrimination or stereotype. Training and employment should have regard to the ability and choice of the individual

The Right of workers in sheltered employment to join a trade union and be represented in discussions concerning their pay and conditions

The Right to accessible transportation and freedom of movement

The Right to bear, adopt and raise children and have a family

The Right to free and appropriate education integrated into the public education system at primary, secondary and third level

The Right to participate in and benefit from entertainment and recreation

The Right to communication and access to information, available in the medium appropriate to the individual

The Right of equal access to and use of all business, facilities, services and activities in the community

The Right to a barrier free environment

The Right to legal representation and to full protection of all legal rights

The Right to determine one’s own future and make one’s own life choices

The Right to vote in all local, national and European elections on the same basis as other citizens
How can I become a disability champion?

If you are a member of an affiliated trade union and want to get involved as a disability champion you can contact:

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