

## **Employment Equality Act 1998 - Reasonable Accommodation\***

In case ADJ11959 the issue of reasonable accommodation was dealt with. The AO looked at the case of Nano Nagle Centre v. Daly 2018 IECA11 as regards reasonable accommodation. The AO in this case rejected that case as being relevant as there was not a sufficient parallel correspondence between the facts of the case to justify this fundamental reliance on that case by the respondent being the provisions of Section 16(1) and 16(3). In this case the AO held that the Complainant was fully fit for all her duties except that she had to have a shorter working week or at best reasonable breaks between periods of work. It was pointed out that this was not a case of a fundamental inability to carry out essential duties as considered in the Nano Nagle case.

The AO held that the failure to adequately address this work break issue was a key factor in the discrimination over reasonable accommodation. The AO held that as the Respondent was able to facilitate a shorter week initially rising to four days in 2017 the AO could not see any realistic argument put forward as to why this could not continue. It was pointed out that the position that a finance manager supporting a sales force who was open to a more detailed examination in terms of rostering of staff to provide the necessary cover. It was argued that the additional cost was prohibitive. The AO held that this was not a disproportionate burden. An award of €65,000 was made.

This case is a useful case in dealing with the issue of reasonable accommodation.

It is becoming an issue particularly where there is an employee who has an illness in being able to provide reasonable accommodation to them because of their illness. It is a full Defence for an employer if the employer can show there was a disproportionate burden or that it was not feasible for the employer to accommodate the employee. There is also a full Defence where an employer can show that the employee was not capable of performing the functions.

***\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.***

***\*\*In contentious cases, a solicitor may not charge fees as a proportion or percentage of any award or settlement.***