

# Mental Health in the Workplace

## A Guide to Your Rights

### A Note from the CEO



Mental Health Reform (MHR) are pleased to present this guide to help people with mental health difficulties to understand and access their rights in the workplace.



This guide was co-produced and led by people with lived experience of mental health difficulties.



An important aim of this guide is to help make changes in understanding, attitudes and unfair behaviour to people with mental health difficulties in the workplace.



People with mental health difficulties meet more barriers in their lives than many other people. These barriers often stop them from accessing their rights, especially in the workplace.



We hope that more people with mental health difficulties will learn about the supports available when needed and claim their rights if they meet unfair barriers in the workplace.



We are very grateful to:

- the lived experience Steering Committee of the guide,



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- the Irish Human Rights Equality Commission (IHREC) for providing a grant for this important work,



- Barbara Brennan for her great work as the author of this guide.

We hope that this guide serves as an accessible tool to help people learn about and access their rights in the workplace.

## About Us



Mental  
Health  
Reform

Mental Health Reform (MHR) is Ireland's leading **coalition** on mental health. A **coalition** is when a lot of groups that have similar goals work together.



Our vision is to create an Ireland with accessible and inclusive mental health services by working together with 85 member organisations and supporters. Together we hope to drive reform and advocate for better policies.

# Mental Health in the Workplace

## A Guide to Your Rights

### About this Booklet



This guide sometimes talks about **psychosocial disabilities**. People with **psychosocial disabilities** face barriers in their lives due to long term mental health difficulties.



Mental health is something that we all have. For some people, at some point in their life, their mental health may become a challenge.



This may be a short-term issue or a long-term psychosocial disability. Recovery doesn't always look the same, but it is always possible.



Many people who have mental health difficulties are living a full life. This includes having a job if they want to.



This guide has been created to tell people about mental health in the workplace. It aims to empower people to know and access their rights.



With the right support in things like work, school or social activities, people with **psychosocial disabilities** can lead full and good lives.

### After reading this book, the reader will:



- ✓ Understand the supports around mental health in the workplace.



- ✓ Have a better understanding of the language around psychosocial disabilities.



- ✓ Be aware of the legal supports in place for people with psychosocial disabilities.



- ✓ Know the laws and policies that relate to mental health in Ireland.



- ✓ Have a better understanding of how to look for help in their own workplace.



- ✓ Know where to get more information.

## Introduction



Over the last ten years a lot of work has been done to help public understanding of mental health issues and how mental health difficulties can affect people's lives.



There are human rights international guidelines that talk about disability and mental health in the workplace.

These include:



- **European Union (EU) Framework on Mental Health and Well-being.** These guidelines promote and support mental health in the workplace. They also support mental health services and protect the rights of people with mental health conditions.



- **World Health Organisation (WHO) Mental Health Action Plan.** This plan supports mental health and the rights of people with mental health conditions. It has a focus on workplace policies.



- **International Labour Organisation (ILO) Code of Practice on Managing Disability in the Workplace.** This code gives guidance on supporting disabilities including mental health conditions. It outlines what employers and employees should do to create an inclusive and supportive workplace.

“I hope that people with lived experiences will feel more comfortable advocating for themselves in the workplace, and also for employers to recognise that they have a responsibility to make sure that their workers are getting the accommodations that they need”

**MHR Steering Committee member.**



Let's look at the terms you might see used in documents about mental health. Our national mental health policy is called Sharing the Vision. It uses the term **mental health difficulties**.



The United Nations Convention on the Rights of Persons with Disabilities uses the term **psychosocial disabilities** for people who have long term mental health difficulties.

This guide uses both these terms to mean the same thing.

Mental health recovery can mean different things to different people. It can involve steps such as:

- Personal growth
- Therapy
- Medication
- Professional support
- Support from family, friends and allies

Recovery can take time, but it will help people to make their own choices about their lives and be part of their community.



Mental Health Reform (MHR) believes that how you choose to talk about your mental health is your choice.

It is important to remember that human rights apply to everyone no matter how they talk about their mental health.

# Discrimination in the Workplace



Workplace discrimination happens when someone is treated unfairly due to things like race, age, gender or disability (which includes mental health difficulties).

There are two main types:



1. **Direct Discrimination:** This happens when someone is treated unfairly **because** of their mental health.
  - **Example:** If an employer will not hire a person because they have a history of depression. This is direct discrimination.



2. **Indirect Discrimination:** This happens when a rule or policy applies to everyone in the same way but affects people with mental health difficulties in a bad way.
  - **Example:** A company policy that says nobody is allowed to take unscheduled leave. This does not allow someone with mental health difficulties to attend unexpected health appointments.



Discrimination is unfair and against the law. Employers must make sure that all employees are treated fairly. There are 9 different ways that people can experience discrimination. We call these the 9 grounds.



# Legal Frameworks and Policies Related to Mental Health in the Workplace.



The main sources of information about this guide are:

- The Employment Equality Acts
- The Public Sector Equality and Human Rights Duty
- The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

## THE EMPLOYMENT EQUALITY ACTS



The Employment Equality Acts 1998 – 2015 are important laws in Ireland that prevent discrimination in employment. They do not allow discrimination based on nine protected grounds including disability, which includes mental health. Employers must provide reasonable accommodations. This means making changes to the workplace or how things are done there to support everyone fairly.



## THE PUBLIC SECTOR EQUALITY AND HUMAN RIGHTS DUTY (PSED)

The PSED states that public sector bodies in Ireland must promote equality and protect human rights under law. This includes government departments, local authorities like your County or City Council, and public agencies.



## UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (UNCRPD)

The UNCRPD is a global agreement that protects the rights of people with disabilities (including mental health). It covers all areas of life to make sure they have the same rights and dignity as everyone else. The governments of all countries that sign it make a promise to work with disabled people. Article 27 of the Convention talks about the right to employment.

## What are your Rights?



Understanding mental health in Irish employment law means knowing your rights. You can speak up for your rights at work better if you know what they are.



### You have the right to:

✓ Work in a safe space free from bullying.



✓ Be free from discrimination at work.



✓ Reasonable accommodations to support your mental health needs in the workplace. This can include things like flexible working hours, assistive technology and easy-to-read documents.



✓ Privacy and confidentiality. This means that nobody can know your personal information unless you want them to. This includes any support needs you have in the workplace.



✓ Workloads that are not harmful to your mental health.



- ✓ To be treated fairly when you return to work after you have taken a break to support your mental health.



- ✓ The right to do something if you feel that your rights have not been respected or upheld. Employers should have clear and easy ways for you to do this.

## Claiming your rights in the workplace

### What your company must do:



1. Companies must meet the demands of the law and what it says about disability and mental health rights. You can read here about what employers can do to work within the law to create an inclusive workplace. This includes **Reasonable Accommodations**.



2. **Non-Discrimination:** This means fair treatment of all employees no matter their disability in all areas of the workplace. This includes when they are looking for staff and training them.



3. **Confidentiality:** Respect employees by keeping their information private when they are getting a Reasonable Accommodation to support them.



4. **Equality Training:** Train staff on mental health difficulties, the law and ways to support employees.



5. **Policies and Procedures:** Create inclusive ways of doing things to support mental health needs in the workplace. These should include ways to stop discrimination.

## Disclosure



Disclosure means telling somebody something. In this case it means telling your employer or your boss something about your mental health.



**Disclosure is your choice and equality laws don't say that you have to do this.**



You may not be able to see mental health difficulties.



People are sometimes afraid to tell someone about their mental health as they think they will treat them different or feel differently about them

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## Disclosure and employee rights



Before you share anything about yourself at work it is important to know and think about your rights and other things:



1. **Right to Privacy:** You have the right to keep your health information private, including your mental health.



2. **Informed Decision-Making: Think about how this may affect your job and well-being.** Do you need to tell your employer for you to be able to work in a healthy way. You may want to talk it over with a trusted friend or family member first.



3. **Legal Protections:** If your rights under the law are not being respected after you tell your employer you may want to look for legal support.



4. **Workplace Culture:** Think about how people in your workplace see and talk about mental health.



5. **Reasonable Accommodations:** If you need your workplace changed in some way to support you, you may need to tell your employer about your mental health. You do not have to tell them everything about it. Just what they need to know to support you.



6. **Confidentiality and Trust:** Think about how your employer has treated issues of trust in the past. Do they respect that they should not share someone's information unless they say so?



7. **Personal Boundaries:** Personal boundaries are the things that you will or will not accept about how people treat you. Think about if you will feel better in your job after you tell your boss about your mental health. Will it make your workplace better for you and your mental wellbeing?

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## Disclosure and employer responsibilities.



Employers must work to support your mental health in the workplace under the law and in the way that the law says.



They must keep your information and what you say private unless you say so. There are rules that say how they must keep your information safe called **Data Protection.**

## Who will know?

If you need support in the workplace for your mental health, you usually work together with:

- Your boss, supervisor or manager.
- Human Resources (HR). This is the person or department that looks after employee's rights and how they are treated in the workplace.



Make sure that you keep them up to date on how your supports are working.



If you face challenges getting your supports talk to HR or advocacy groups for help.



## Will my job be safe?

Employees and their mental health needs are supported in law. Employers must work within these laws to support you with Reasonable Accommodations and protect you from discrimination.



Employers must talk to you about anything affecting you in the workplace and any changes that need to take place.



Your employer must treat you fairly and can't fire you because of your disability or mental health. If you are worried this is not the case, you can get legal support to learn about steps to take.



## What should I do if I feel unwell?

You may be nervous if you need to tell your boss that you need support at work because of your mental health. There are steps you can take to make the process easier and make sure your rights and wellbeing are protected.



- **Reach Out to someone you trust in work:** They can talk to you about it and support you.



- **Use Your Trade Union:** This is a group that can advocate for you and give you advice if you are a member.



- **Have a Support Person Present:** Think about bringing a work friend or someone from the trade union with you when you talk to your boss. They can help you keep track of what is being said and support you to speak up for yourself.



- **Focus on Self-Care:** Your mental health is important. Taking care of yourself at this time will be good for your wellbeing.



- **Keep a Record of Everything:** Write down anything that happens. Keep any documents that you need or get in a safe place.





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- **Get Information from IHREC:** The Irish Human Rights and Equality Commission (IHREC) offers a Your Rights Service that can provide you with information about your rights.



- **Seek Legal Advice if Needed:** If you meet with challenges and feel that your rights are not being respected you can contact an employment lawyer or a disability rights organisation. They can guide and support you.



## Who do I contact at work?

It is important to know who to contact for help when you are dealing with mental health or disability at work.

Here's who you can reach out to:



- Your supervisor or manager.
- Human Resources (HR).
- Employee Assistance Programme (EAP). This is a programme of supports for employees around different work and personal issues. Not all workplaces will have an EAP.
- Diversity and Inclusion Officer. Some workplaces have a special person who works to support inclusion at work and to support disabled people.
- Trade Union Representative. If you are a union member they can guide and support you in work issues.



## USEFUL RESOURCES

### WHO TO CONTACT OUTSIDE THE WORKPLACE

**Legal Advisor or Disability Rights Advocate:** A legal advisor or disability rights advocate offer legal guidance and can assist you in taking appropriate action if you face discrimination or believe your rights are violated.

**Confidential Resources:** Organisations like ombudspersons or anonymous reporting systems have confidential channels for raising concerns while maintaining confidentiality.

**External Bodies:** The Workplace Relations Commission (WRC) or the Irish Human Rights and Equality Commission (IHREC), can investigate complaints and take remedial action if necessary.

#### **IHREC: Your Rights Service**

Irish Human Rights and Equality Commission

16-22 Green Street, Dublin 7, D07 CR20

T: 01 858 3000 or Lo call 1890 245545

E: [YourRights@ihrec.ie](mailto:YourRights@ihrec.ie)

W: [www.ihrec.ie](http://www.ihrec.ie)

#### **Workplace Relations Commission (WRC)**

Information & Customer Service

O'Brien Road, Carlow, R93 E920.

T: 059 9178990

Lo Call 0818 80 80 90

W: [www.workplacerelations.ie](http://www.workplacerelations.ie)

#### **National Disability Authority (NDA)**

25 Clyde Road, Dublin 4, D04 E409

T: +353 1 6080400

E: [info@nda.ie](mailto:info@nda.ie)

W: [www.nda.ie](http://www.nda.ie)

**www.Gov.ie**

### **EmployAbility Service**

The EmployAbility Service assists individuals with disabilities, injuries, or illnesses in finding and maintaining employment. It offers various supports, including job coaching for both jobseekers and employers. The service operates through sponsor organisations in local communities, acting on behalf of the Department of Social Protection (DSP).

Contact your local EmployAbility Service directly (details on [www.gov.ie](http://www.gov.ie))

### **Intreo**

Intreo (the Public Employment Service) is a single point of contact for all employment and income supports and services.

Contact your local Intreo directly (details on [www.gov.ie](http://www.gov.ie))

### **Health and Safety Authority (HSA)**

Head Office: The Metropolitan Building, James Joyce Street, Dublin 1, D01 K0Y8

T: 0818 289 389

E: [contactus@hsa.ie](mailto:contactus@hsa.ie)

W: [www.hsa.ie](http://www.hsa.ie)

### **Mental Health Reform Member Organisations**

MHR member organisations campaign to drive progressive reform of mental health services and supports in Ireland and are dedicated to reducing mental health inequalities in Ireland.

<https://mentalhealthreform.ie/membership/>.

## **APPENDIX**

### **References**

- [Mental Health Reform UNCRPD guide](#)
- [www.gov.ie](http://www.gov.ie)
  - [Public Sector Equality and Human Rights Duty](#)
- [European Convention on Human Rights Act 2003](#)

- [Disability discrimination & the right to reasonable accommodation - IHREC](#)
- [OHCHR Training Convention on the Rights of Persons with Disabilities](#)
- [www.nda.ie](http://www.nda.ie)
  - [Retaining employees who acquire a disability](#)

## ABOUT THE AUTHOR



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## CONTACT DETAILS FOR MENTAL HEALTH REFORM

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