

Údarás Náisiúnta Míchumais  
National Disability Authority

23 November 2020

Mr Mark Wilson,  
Director,  
Probation Service,  
Haymarket,  
Smithfield,  
Dublin 7

## **Subject: Probation Service Strategy Submission 2021-2023**

Dear Mark,

Many thanks for your letter requesting the National Disability Authority's submission to the Probation Service's Strategy Statement 2021-2023. We welcome the opportunity to share our views. We also welcome remarks made by Senior Probation Officer David Williamson when he spoke at the NDA's Annual Conference 2020, in which he said that the Probation Service is looking to build on existing interagency relationships, but is also seeking to build those relationships with other stakeholders in areas such as disability.

The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and advice to the Government on policy and practice relevant to the lives of persons with disabilities, and to promote Universal Design. The comments and advice below address issues related to the Probation Service's remit which fall within the NDA's competencies and expertise.

### **UN Convention on the Rights of Persons with Disabilities**

Ireland ratified the **UN Convention on the Rights of Persons with Disabilities (UNCRPD)** in March 2018. The overarching vision of the **UNCRPD**, which entered into force on 19 April 2018, is to ensure that persons with disabilities can participate in and contribute to society on an equal basis with others. Many of the Convention's Articles are relevant to the remit of the Probation Service and its stakeholders (for example, the Department of Justice, the Prison Service, An Garda Síochána), which is

why the NDA encourages a mainstreaming approach to their implementation. The most relevant Article for the Probation Service is Article 13, which obliges States Parties to ensure effective access to justice for persons with disabilities on an equal basis with others. During his presentation, David Williamson noted two outcomes of Ireland's implementation of Article 13 for the Probation Service: the need for equality of access for all service users and the need to support that equality of access by ensuring staff have access to appropriate training.

Other relevant Articles include Article 5 on equality and non-discrimination, Article 7 on children with disabilities, Article 9 on accessibility, Article 12 on equal recognition before the law, and Article 19 on living independently and being included in the community.

The NDA notes that Action 3B of the revised **National Disability Inclusion Strategy** requires all departments and agencies to develop plans to implement the obligations of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). The NDA has advised the Department of Justice to include a commitment in its Statement of Strategy 2021-2023 to develop a departmental UNCRPD action plan. As an initial step, the NDA advised that the Department undertake a review of the provisions of the UNCRPD with a view to identifying areas which come within its remit and actions which need to be progressed. While we advise that the Probation Service drafts its own UNCRPD implementation plan, we would also advise that you link in with the Department of Justice on this matter, and provide input to a departmental action plan that allows for a coordinated approach from all relevant agencies.

### **National Disability Inclusion Strategy**

The **National Disability Inclusion Strategy 2017 – 2021** (NDIS) was published in July 2017 and seeks to ensure that a whole-of-government approach is taken to disability issues. The NDA has identified several actions within the NDIS that are relevant to the Probation Service.

#### **Action 18B: Integrate a focus on the needs of people with disabilities in initiatives to enhance access to justice.**

This action was added to the NDIS following a mid-term review which took place in late 2019. The responsible bodies named against this action are the Department of Justice and all relevant agencies. The NDA is of the view that the Probation Service is a relevant agency in this instance, and would advise working closely with the Department to implement this action.

#### **Action 3B: Participation of persons with disabilities**

The Programme for Government includes a commitment to raising awareness of the lived experience of people with disabilities. The UNCRPD places an obligation on

States to ensure that people with disabilities are included in policy development and decision-making. The NDA notes that, in the development of the Probation Service's 2018-2020 Strategic Plan, consultations were held with focus groups and service users, and we would encourage the continuation of this practice, and the inclusion of service users with disabilities in the development of the next Strategic Plan.

The participation of service users with disabilities in policy and service development will also help the Probation Service to achieve the better outcomes in the management, rehabilitation and integration of offenders it hopes to focus on in this new Strategy.

### **Action 16: Compliance with the European Union (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020**

This Directive was transposed into Irish law on September 25<sup>th</sup> 2020 and requires public sector bodies to take necessary measures to make their websites and mobile applications more accessible by making them perceivable, operable, understandable and robust. The NDA will be the official monitoring body for this Directive and Regulations and is due to submit its first report in this regard to the Department of Communications, Climate Change and Environment by 23<sup>rd</sup> December 2021. The Probation Service, along with all departments and other public sector bodies, will be obliged to ensure its website meets the accessibility requirements outlined in the Directive.

### **Action 20: Disability Awareness training**

The National Disability Inclusion Strategy contains a commitment to “provide disability awareness training for all staff”. Disability awareness training frequently comes up in the UN Committee's Concluding Observations on a State Party's implementation of the UN Convention. The NDA has a disability awareness training e-learning module which is available to all public sector bodies.<sup>1</sup>

We welcome that the Probation Service included a focus on creating a culture of continuous learning in its 2018-2020 Strategic Plan and would encourage the continuation of this aspiration. We note that, while the Probation Service has developed policies in respect of mental health, gender and substance abuse, it has not yet developed a policy in respect of working with persons with disabilities. The development of a new Strategic Plan offers up an opportunity to commence work in this area, and would also tie in with the Service's commitment to continuous learning.

The NDA has developed Guidance for Justice Professionals in communicating with people with autism. This guidance provides background information about autism spectrum disorders and aims to assist those working in the civil and criminal justice

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<sup>1</sup> <http://nda.ie/Resources/eLearning/>

system who may come into contact with someone who has autism in order to best communicate with and support them. This includes public service officials such as An Garda Síochána, the Courts Service, the judiciary and the Prison Service and the Probation Service, and members of the legal profession such as solicitors and barristers. This guidance has been welcomed by relevant stakeholders.

### **Action 49: Compliance with Part 5 of the Disability Act 2005**

The National Disability Authority was pleased to hear David Williamson, Senior Probation Officer, reference Part 5 in his presentation at the Annual Conference. He noted that the Probation Service recognises the importance of equalising employment opportunities and continues to meet its 3% target. He informed the Conference that staff with disabilities are employed in both professional and administrative roles within the organisation. The NDA notes that an action in the Comprehensive Employment Strategy will raise the 3% target to 6% in the coming years.

### **Other relevant points**

#### **Collaboration**

The NDA welcomes the approach taken by the Probation Service and the Irish Prison Service in developing the Joint Strategic Plan for 2018-2020. As recently highlighted in the NDA's Annual Conference, collaboration between the Department of Justice and relevant agencies is critical to successfully facilitating access to justice for persons with disabilities. Achieving effective and equal access to justice involves a number of stakeholders, and therefore move towards further joined-up thinking is particularly welcome. We would also encourage engagement and collaboration with bodies outside the justice system, for example bodies who work in the area of education, employment or health services. The NDA notes that the Department is developing infrastructure for further collaboration, through its new Criminal Justice Sectoral Strategy, which we welcome.

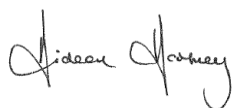
#### **Continued developments in data collection and dissemination**

Finally, the NDA has a particular role to strengthen and promote the collection of data and statistics relevant to people with disabilities, and to ensure public data can be disaggregated using disability as a variable. We note that a strategic priority in the Probation Service's Strategic Plan 2018-2020 was to provide evidence-informed interventions. We were pleased see the commitment to provide evidence-informed interventions to reduce reoffending, protect the public and enable sustained desistance from offending. We have been working closely with colleagues across a number of departments to promote improved data collection processes and we have been pleased to see recent improvements and developments. The NDA would like to take this opportunity to highlight the importance of departments, agencies and bodies collecting and disseminating relevant data. This information can then inform and guide future decision-making. We have very little data on persons with disabilities in the

criminal justice system. In 2000, a survey was undertaken by the Department of Justice, Equality and Law Reform entitled **A Survey of the Level of Learning Disability among the Prison Population in Ireland**. This survey has proven to be a rich source of data for the NDA, however, it is quite outdated. We do know that persons with disabilities continue to be over-represented in the criminal justice system. In order to support our work, and in turn effect change for persons with disabilities, we need departments and agencies to carry out similar data-collection exercises.

The NDA would be happy to meet with officials in the Probation Service to discuss any of the recommendations in this paper in further detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aideen Hartney', written in a cursive style.

**Aideen Hartney**

Director