

**March 2023**

NDA Submission on Statement of Strategy 2023-2025 for Department of Enterprise, Trade and Employment[[1]](#footnote-1)

# Introduction

The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and evidence-informed advice to Government and officials in the public sector on disability matters, and to promote Universal Design. This submission on the Statement of Strategy 2023 - 2025 addresses issues related to this department’s remit which fall within the NDA’s competencies and expertise.

The NDA recommends that the Department of Enterprise, Trade and Employment include clear commitments in this Statement of Strategy with regard to how services and supports within its remit will be provided to members of the public with disabilities. A clear statement referencing how the Department of Enterprise, Trade and Employment will recognise and meet the needs of disabled persons when delivering services is a useful approach. This will require the department to disability-proof the policies and supports it provides, thereby also ensuring that the Department of Enterprise, Trade and Employment is playing its part in the delivery of the State’s commitments under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

# Areas requiring focus

## Comprehensive Employment Strategy

The department are likely aware of delays in getting agreement on the final the year action plan of the Comprehensive Employment Strategy for People with a Disability (2015-2024). The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) have advised that a draft of the plan will be circulated soon to all departments. It will be important that the Department of Enterprise, Trade and Employment work with DCEDIY to support the finalisation of the plan. The NDA advise that a concerted effort is required by the Department around subsequent implementation of the plan to address the persistent employment gap for persons with disabilities in Ireland. Ireland has one of the largest disability employment gaps within the EU. Data from 2016 shows that the employment rate of persons aged 20-64 with disabilities in Ireland is about half of the rate (36.5%) for persons without disabilities (72.8%).**[[2]](#footnote-2)**

Work will take place during 2023 on the development of a UNCRPD Implementation Strategy following the conclusion of the National Disability Inclusion Strategy in December. There is likely to be an employment pillar as part of that strategy and it will be important that the department is engaged in supporting the development of that strategy, particularly in light of its role to support businesses and employers in the State where significant employment opportunities lie.

## Employer Liaison

The NDA recommend that the Department of Enterprise, Trade and Employment (DETE), provide support and information to employers in hiring and retaining staff with disabilities, building on the work done by Employers for Change, as part of the Open Doors Initiative.[[3]](#footnote-3) Employers for Change is funded on a year to year basis through DCEDIY but the NDA advises that a more permanent arrangement should be put in place. We suggest that DETE should continue to work with other departments to promote employer awareness of policy changes, including changes to sick leave legislation, remote working, and enterprise policy. A key arrangement in this regard is the department working collaboratively with the Department of Social Protection on any upcoming changes to the Reasonable Accommodation Fund. A 2021 OECD report ‘Disability, Work and Inclusion in Ireland: Engaging and Supporting Employers’ recommended that Ireland create a well-embedded employer service as an additional arm of the public employment service that employers can access easily free of charge. [[4]](#footnote-4) This recommendation would require the Department of Enterprise, Trade and Employment to consider its role in funding and supporting an employer information and advice service, which could be achieved in collaboration with the Employer Engagement Unit in the Department of Social Protection. The NDA would welcome a clear commitment in this regard in this Statement of Strategy.

## Supporting Entrepreneurship

Many people with disabilities encounter significant barriers to employment, including lack of availability of accessible transport and discrimination, and many choose self-employment as it provides flexibility and the ability to pace work in accordance with their individual needs. Among people with a disability who are employed in Ireland, 14.8% are self-employed. OECD research shows that the share of part-time self-employment for persons with disabilities in Ireland is twice the observed share for persons without disabilities.[[5]](#footnote-5) The NDA recommends that this Statement of Strategy include a statement of intent regarding the inclusion of disabled people as entrepreneurs, and details specific measures and interventions that will support more disabled persons to access supports and services. Moreover, this recommendation could be informed by the 2022 OECD workshop examining inclusive entrepreneurship for Ireland, and lead to the production of a high-level roadmap describing steps that can be taken to strengthen entrepreneurship training schemes and supports for target groups.[[6]](#footnote-6)

## Regional Development

Supports for self-employed workers and employers must be ‘fit for purpose’ and require development of local infrastructure. Local and regional supports should be designed to ensure that people with disabilities are informed of available services and supported in entrepreneurial activities. The NDA advise ensuring that local enterprise offices (LEO) are accessible and that mentors and contractors employed by LEO are appropriately trained to support persons with disabilities. Research has found that many people with disabilities who are self-employed never received any help from official institutions and that many enterprise support agencies still do not recognise or appreciate the additional and distinctive challenges that people with disabilities face when establishing their own business.[[7]](#footnote-7) Tailored solutions are required if agencies wish to address such challenges in a supportive and inclusive manner. Barriers should be addressed through local and regional development plans with clearly described goals relevant to disabled people, with adequate resources allocated and clear implementation timelines. Ireland, through Pobal, work with the OECD’s Local Economic and Employment Development Programme on a joint OECD/ EU Commission initiative, which has led to the development of ‘The Better Entrepreneurship Policy Tool’ which describes implementation of supports for social enterprises and inclusive entrepreneurship.[[8]](#footnote-8) The NDA recommends that this tool be operationalised in the next enterprise policy.

## Remote working

The Employment Equality Acts 1998-2015 includes provision for reasonable accommodations to support people with disabilities to access or return to employment. Many people with disabilities may also choose blended or remote working as it allows increased autonomy and flexibility, as well as facilitating medical breaks. An adaptable approach to remote working by employers can support increased labour market participation, including for persons with disabilities. However, there are also a number of reasons for people with disabilities to choose office based work, including social inclusion and community access. Employers must ensure that those who attend the office are not unfairly advantaged over those who work remotely in terms in promotion and allocation of projects. While remote working is not a panacea for people with disabilities, it comes with particular issues that should be carefully considered in the context of supporting employees with disabilities. As remote working becomes an established feature of employment in Ireland, the NDA recommends a commitment to the development of guidance regarding remote working for both employers and employees in this Statement of Strategy. The NDA welcomes the collaborative work between DETE and DCEDIY on the Work Life Balance and Miscellaneous Provisions Bill and suggest that there remains a clear role for DETE in the introduction of the new bill and the development of a Code of Practice, with respect to remote working. The NDA recommends a consultation is conducted to learn from the experience of persons with disabilities. The NDA published ‘Participation Matters: Guidelines on implementing the obligation to meaningfully engage with disabled people in public decision making’ which may support the department in conducting such a consultation.[[9]](#footnote-9)

**Statutory Obligations**

**Compliance with Part 5 of the Disability Act 2005**

Part 5 of the Disability Act 2005 details the obligations public bodies have to promote and support the employment of persons with disabilities. The NDA is pleased to note the record of the Department in relation to the employment of persons with disabilities, achieving 8.1% of employees reporting a disability in 2021. In addition, the public bodies under the aegis of the Department also exceeded the minimum 3% target. The recent enactment of the Assisted Decision Making (Capacity) (Amendment) Act 2022 will increase the minimum target from 3% to 6% by 2025. The NDA advises the importance of continued compliance with Part 5 of the Disability Act as a key focus of the department's HR strategy. Articulating a commitment to same in the department’s overall Statement of Strategy can also demonstrate the department’s standing as an employer invested in equality, diversity and inclusion (EDI).[[10]](#footnote-10) Public bodies under the aegis of your department, such as Enterprise Ireland and the National Standards Authority of Ireland, have focused on creating EDI work cultures and meeting their obligations under Part 5, using a Universal Design approach.

**EU Web Accessibility Obligations**

The [EU Web Accessibility Directive](https://nda.ie/monitoring/eu-web-accessibility-directive/eu-web-accessibility-directive-monitoring-reports), which came into force in September 2020, requires Member States to ensure that websites and mobile applications of public sector bodies are fully accessible to persons with disabilities and comply with the harmonised standard EN 310 549 (v3.2.1). The Directive further requires public bodies to maintain an [Accessibility Statement](https://nda.ie/monitoring/eu-web-accessibility-directive/accessibility-statements) in a prominent location on all its websites. This must include a clear feedback mechanism for users to ask for assistance with inaccessible content and features as well as the statutory complaints mechanism through which a person can make a formal complaint about the website’s accessibility in-line with the Disability Act 2005 or the Equal Status Acts 2000-2015, whichever so applies. The National Disability Authority is named in Irish Regulations as the National Monitoring Body for the purposes of monitoring compliance with and reporting on the EU Web Accessibility Directive. The NDA has submitted [two monitoring reports](https://nda.ie/publications/monitoring-report-eu-wad-ireland-2021-nda-report) to the European Commission in December 2011 and 2022 in this regard, and issued a Notice of Monitoring to the departments in November 2022.[[11]](#footnote-11) The NDA conducted a simplified review of Enterprise Ireland, which received an accessibility score, which is a weighted scoring of the number of issues identified, of 1.37% in 2021.[[12]](#footnote-12)

The NDA recommends that the Department of Enterprise, Trade and Employment articulates its statutory obligation to ensure all its websites, and the websites of employment services the department contracts, comply with the EU Web Accessibility Directive, in the Statement of Strategy. The department should continue to be mindful of the EU Web Accessibility Directive in the development of any future online content, particularly the development of online forms that people with disabilities may be required to complete to access necessary welfare entitlements. The NDA recommends that this obligation and an action plan to address access issues is referenced in relevant strategic objectives and that the Statement of Strategy itself is published in a fully accessible PDF.

**Compliance with Part 3 of Disability Act 2005**

Part 3 of the Disability Act details obligations public bodies have to ensure that information and services are accessible to persons with disabilities. The Centre for Excellence in Universal Design at the NDA developed a Customer Communications Toolkit for the Public Service, which provides guidance for public servants on how to communicate with the public using the simplest and clearest language possible and to ensure that all services are accessible, and meet the diverse needs of all customers.[[13]](#footnote-13) This document is being updated and relaunched towards the end of March.

The NDA recently forwarded the findings of the Part 3 Monitoring Report to the Secretary General of the Department of Enterprise, Trade and Employment, which contains the results of a desk based exercise, assessing the websites of public bodies as defined by Part 3 of the Disability Act. We advise the department to review its findings and those of its agencies and to make improvements where required. The NDA look forward to continued work on the recommendations detailed in the report, to ensure best practice is followed, and in assisting public bodies who do not meet this indicator to address gaps.

## Requirement for Accessible Public Buildings under Section 25 of the Disability Act 2005

Section 25 of the Disability Act requires all departments and public bodies to ensure that the parts of their buildings which are accessed by the public, are brought into compliance with Part M of the building regulations, which deals with access and use. This does not apply to heritage sites which have separate requirements under Section 29 of the Act. The requirement is to upgrade older public buildings so that they comply with Part M, within a ten-year time-frame of any amendment to Part M. Part M 2010 commenced on 1 January 2012 and was subsequently reviewed and replaced again with Part M 2022, which commenced on 1 January 2023. Under Section 25 therefore, public bodies are required to bring their public buildings into compliance with Part M 2010 by 1st January 2022 and Part M 2022 by 1st January 2033. The new requirements under Part M 2022 relate to the provision of changing places toilets.

The NDA advise that each department and agency should develop an action plan including access audits, planned improvements works, timeframes for implementation and earmarked funding, to work towards achieving compliance with these legal obligations. This may involve engaging with other authorities as appropriate, including for example, the OPW. We also advise that compliance with Section 25 should be factored into performance framework agreements with agencies as a governance matter to comply with legal duties. The NDA recommends that the department develops a plan to implement Section 25 recommendations in buildings within its remit, including Local Enterprise Offices, and that this commitment is clearly articulated in the Statement of Strategy.

An Operational Review of the Effectiveness of Section 25 of the Disability Act 2005 was published by the NDA in 2019 providing guidance on how public bodies can comply with Section 25. Under Part 3 of the Disability Act, the NDA is developing a statutory Code of Practice on Accessible Public Buildings at the request of the Minister, informed by the findings of the Operational Review. When completed, the NDA will have a role to monitor compliance with same, and to provide advice to departments on areas requiring further action or focus.

**Irish Sign Language Act**

The Irish Sign Language (ISL) Act 2017, which recognises the right of ISL users to use ISL as their native language, and to develop and preserve it, was enacted in December 2020. This Act places a statutory duty on all public bodies to do all that is reasonable to provide ISL users with free ISL interpretation when availing of or seeking to access statutory entitlements and services provided by or under statute. The NDA is pleased to note that in the recently published report on the operation of the Act, the Department of Enterprise, Trade and Employment reported themselves as being aware of the ISL Act and their responsibilities under it, have procedures in place for arranging ISL interpretation and assessed themselves as compliant with the Act.[[14]](#footnote-14) We recommend the department make clear their commitment to continued compliance with the ISL Act within their statement of strategy and ensure internal procedures reflect this.

**New European Accessibility Act (EAA)**

Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services requires that, from 28th June 2025, a range of specified products and services are designed, and where necessary manufactured, to ensure that they are accessible to persons with disabilities. The directive is known as the European Accessibility Act (EAA). The directive focuses on private companies selling products or services that:

* Are seen as highly important for persons with disabilities, and
* Have wide ranging accessibility requirements across the member states.
* It obliges providers to ensure the products or services they are marketing are accessible for disabled people – i.e. that they can be easily and readily used by disabled users.

There are a series of harmonised standards that are being developed that will underpin the requirements on the provision of accessible products and services and it will be important for the department to engage in their development as well as in their implication. The role of market surveillance authorities across the EU, including Ireland, will be vital in the implementation of the EAA. The NDA are available to support the department in building competency and capacity within DETE, and relevant agencies under its remit, to advance and implement this transformative new act.

**Conclusion**

The NDA would be happy to engage with officials from the Department of Enterprise, Trade and Employment on any of the points raised in this submission. We also look forward to making submissions on forthcoming consultations on various pieces of work which can have a significant impact on the lives of people with disabilities.

1. <https://www.gov.ie/en/consultation/d497d-public-consultation-on-the-development-of-the-dete-statement-of-strategy-2023-2025/> [↑](#footnote-ref-1)
2. CSO Census 2016: [NDA Factsheet 2: Employment | The National Disability Authority](https://nda.ie/Resources/Factsheets/NDA-Factsheet-2-Employment/NDA-Factsheet-2-Employment.html) The NDA has also analysed data that shows that among 16-24 year olds, the percentage of disabled people who are not in education, employment or training (NEET) is also more than double that of those in this age group who do not have a disability – at 23% vs 10%. [↑](#footnote-ref-2)
3. <https://employersforchange.ie/> [↑](#footnote-ref-3)
4. [Disability, Work and Inclusion in Ireland: Engaging and Supporting Employers | en | OECD](https://www.oecd.org/ireland/disability-work-and-inclusion-in-ireland-74b45baa-en.htm) [↑](#footnote-ref-4)
5. <https://www.oecd.org/cfe/disability-work-and-inclusion-in-ireland-74b45baa-en.htm> [↑](#footnote-ref-5)
6. OECD workshop for DETE on the results of the OECD-EU Better Entrepreneurship Policy Tool, April 28 2022 [↑](#footnote-ref-6)
7. <https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221064573_EN/lang--en/index.htm> [↑](#footnote-ref-7)
8. [Homepage | The Better Entrepreneurship Policy Tool](https://betterentrepreneurship.eu/) [↑](#footnote-ref-8)
9. <https://nda.ie/publications/participation-matters-guidelines-on-implementing-the-obligation-to-meaningfully-engage-with-disabled-people-in-public-decision-making> [↑](#footnote-ref-9)
10. <https://nda.ie/publications/nda-annual-reports-on-compliance-with-part-5-of-the-disability-act> [↑](#footnote-ref-10)
11. [Monitoring Report EU WAD Ireland 2021: NDA Report - National Disability Authority](https://nda.ie/publications/monitoring-report-eu-wad-ireland-2021-nda-report) [↑](#footnote-ref-11)
12. [Ireland's EU WAD Monitoring Report 2021 (nda.ie)](https://nda.ie/uploads/publications/monitoring-report-eu-wad-ireland-2021.pdf) [↑](#footnote-ref-12)
13. [NDA - Universal Design Public Service Toolkit - Foreword](http://publicservice.universaldesign.ie/) [↑](#footnote-ref-13)
14. See Technical Annex 2 on the Public Body Survey: [Report on the Operation of the Irish Sign Language Act 2017 (December 2021) - National Disability Authority (nda.ie)](https://nda.ie/publications/report-on-the-operation-of-the-irish-sign-language-act-2017-december-2021) [↑](#footnote-ref-14)