**NDA Submission**

**on**

**Statement of Strategy 2023-2025**

**for**

**Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media[[1]](#footnote-1)**

April 2023



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**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 Tourism, Culture, Arts, Gaeltacht, Sport and Media includes clear commitments in this new 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 confirming the Government’s policy of ‘mainstreaming’ and referencing how the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media 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 Tourism, Culture, Arts, Gaeltacht, Sport and Media 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).

## Policy Commitments

Ireland ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2018. A UNCRPD Implementation Strategy is to be developed during 2023. While the development of the Strategy will be coordinated by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), there will be obligations and actions for all government departments and across the public sector, in order to ensure the rights of persons with disabilities are recognised and realised. Articles of the UNCRPD that are particularly relevant to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media include:

* Article 8 Awareness-Raising
* Article 9 Accessibility
* Article 30 Participation in Cultural Life, Recreation, Leisure And Sport

The NDA would encourage the Department to become actively involved in the development of the new UNCRPD Implementation Strategy.

We would recommend that the Department develops processes to ensure that local authorities are fully involved in the development of commitments under the upcoming UNCRPD Implementation Strategy, and that there are mechanisms to facilitate their reporting under the Strategy, so there can be effective monitoring of progress at local as well as national level.

## Participation and Engagement

The UNCRPD also places an obligation on states to ensure that people with disabilities are included in policy development and decision-making. The NDA encourages the Department to consult with stakeholders, including Disabled Persons’ Organisations (DPOs) and advises that meaningful engagement and participation should feature throughout the lifetime of the next Statement of Strategy, so that policy interventions planned and delivered by the department are disability-proofed from the outset. We acknowledge that the Department is seeking to engage with disabled people in relation to actions under the **Report of the Night-Time Economy Taskforce**. We also welcome the establishment by the Department of a Disability Consultative Committee (DCC) which shows a commitment to engagement with disabled people and relevant stakeholders. The DCC structure is likely to remain a key mechanism of monitoring the UNCRPD Implementation Strategy and we recommend that the DCC is recommenced once the new Strategy commences.

The NDA has published two documents that may help with this. The first ‘**Participation Matters: Guidelines on implementing the obligation to meaningfully engage with disabled people in public decision making’** aims to support public bodies in achieving meaningful engagement with disabled people, especially through their representative DPOs.[[2]](#footnote-2) The NDA also produced an ‘**Advice Paper on Disability Language and Terminology**’ which is intended as a practical guide for departments and public bodies on the use of language about disability.[[3]](#footnote-3)

## Crosscutting Strategies

Consideration of some of the key issues set out within the UNCRPD Articles identified above will require input from more than one Department, and the NDA looks forward to continuing collaborative working across government during the lifetime of this Statement of Strategy. One route to underpinning this approach is to ensure that commitments in relation to disability are articulated in this Statement of Strategy and that annualised business plans of the Department are aligned with other crosscutting strategies and national policies. For example the **Further Education and Training (FET) Strategy 2020-2024** is important for building capacity in the arts for disabled people. The Solas website[[4]](#footnote-4) lists approximately 380 art courses that disabled people can pursue and not lose their payments. The **Town Centre First[[5]](#footnote-5)** policy seeks to regenerate and revive town centres. There are funds available to develop accessible multi-purpose spaces that could be used for performances, exhibitions, or art courses.

The NDA would like to take this opportunity to highlight the following key areas of focus relevant to the Department, which we suggest could be incorporated within this new Statement of Strategy and has organised them under the headings of:

* Participation in culture and the arts
* Income from the arts
* Representation and portrayal
* Statutory obligations

A summary of recommendations is provided at the end.

# Participation in culture and the arts

## Accessible performances and exhibitions

In the NDA’s survey on Wellbeing and Social Inclusion 27% of people with a disability found visiting a cinema, theatre or cultural centre somewhat difficult or very difficult.[[6]](#footnote-6) This compares to 12% of people without a disability. Those with a disability to a greater extent experienced more difficulties at 42%. There are a number of ways that performances can be made more accessible. These are listed below with more information provided in the Appendix.

* Blended or streamed performances
* Audio description
* Induction loops
* Captioning
* Relaxed performances
* Touch tours and tactile boxes

The NDA is available to advise the Department on the accessibility options above and on how to implement a Universal Design (UD) approach to cultural performances and events.

### Irish Sign Language (ISL)

Under Section 9 of the **Irish Sign Language Act 2017** a scheme to provide access to events, services, and activities through ISL is provided for. In 2021, the Citizens Information Board and the Sign Language Interpreting Service launched a pilot project for a Voucher Scheme for users of Irish Sign Language to access free ISL/English interpreting for social, educational and cultural events and services (including medical) and other activities.

The pilot Voucher Scheme ran from 30 June 2021 to 30 September 2021. The Department of Social Protection is still considering the results of the pilot scheme. The NDA advises, however, that the Department could usefully collaborate with the Department of Social Protection to operationalise the findings of the pilot as relevant and appropriate.

## Night Time Economy

The NDA welcomes the work of the Department in progressing implementation of the recommendations in the **Report of the Night-Time Economy Taskforce**. In particular, the NDA has already provided advice to the Department on Action 7 of the report:

Those operating in the NTE sector or a representative body (e.g. Give Us the Night) to engage with Arts and Disability Ireland or another relevant agency to devise and roll out training and awareness raising.

The Department has made us aware that arising from discussions on Action 7 a number of other issues have arisen which may be worthy of looking at and developing, along with Action 7. However, some of these may be already being dealt with by other Departments/agencies and there may also be other funding streams available. In light of this the NDA advises that the following issues should be addressed on a cross-departmental basis to provide a holistic approach to improving the participation of disabled people in the night-time economy:

* Accessibility of venues for customers and artists
* Accessibility of urban streetscapes
* Availability and reliability of accessible transport
* Appropriate levels of environmental pollution

It is welcome that the Department wants to use focus groups to explore some of the issues raised in the Taskforce Report and more importantly develop and fund some practical solutions to the issues raised.

The impact of a pandemic on how the activities typically associated with urban centres might alter or shift, and how this might have a bearing on the work of this Department, should also be considered.

# Income from the arts

The NDA is aware that being an artist in Ireland is not a well-paying job for most who seek to make a career in the arts. The NDA has learned from evidence to the Oireachtas Joint Committee on Tourism, Culture, Arts, Sport and Media that the average income of all artists in Ireland is around €10,000 per annum[[7]](#footnote-7). There are grants available for which disabled artists can apply, however, disabled artists face regulatory barriers that other artists do not face, such as having to balance generating enough income from their work against the risk of losing some or all of their state supports if they earn over a certain amount.

## Basic Income for the Arts

In April 2022 the Department led out on the launch of the Government’s Basic Income for the Arts (BIA) pilot scheme to run from 2022-2025.

In 2021, the Government released its Cost of Disability in Ireland report[[8]](#footnote-8) stating that:

“the overall average annual cost of disability in Ireland ranges from €9,482 per annum to €11,734.”

Obviously, every disability is different, and the cost of each disability varies. However, the report clearly spells out that living with a disability comes at a significant financial cost over and above that experienced by the rest of the population.

The report states:

“The Government has committed to using this research into the cost of disability to inform the direction of future policy.”

Despite this commitment, the BIA terms and conditions suggest that these findings were not considered by Government when formulating the BIA framework.

Not only do disabled artists have increased living costs, but many have decreased earning potential. For example, an able-bodied artist may be able to commit full-time to their craft, while a disabled person may only be able to manage a part-time working schedule. Added to this, their ability to work may be episodic, depending on fluctuating levels of illness or pain, and access to the necessary support infrastructures. Some disabled people prefer the option of being self-employed because it allows them greater flexibility. Feedback from witnesses to this Committee has highlighted that disabled artists cannot afford to engage in artist projects at the same level as their able-bodied peers. Many disabled artists are also afraid to receive payment for their work for fear of how this will affect their disability supports, as outlined above. A one-off payment might mean their support will be re-assessed, and this once-off lump sum will be counted as their baseline income rather than a sporadic payment. They also fear losing essential supports such as medical cards and free transport, which are linked to their social welfare payments, and which are additionally essential for disabled people to access and participate in social, economic and community life.

The NDA notes that there are many stakeholders who do not consider the Disability Allowance, Blind Pension, or the BIA to be a living wage. Therefore, those in receipt either rely on income from other sources or fall under the poverty threshold based on their weekly income from allowances.

The NDA advises that the Department should consider a review of the BIA that takes note of the findings of the Cost of Disability in Ireland report.

**Representation and Portrayal**

In 2009, the NDA and the former Broadcasting Commission of Ireland published a substantial report on the **Representation and Portrayal of Persons with Disabilities in Irish Broadcasting[[9]](#footnote-9)**. The report found that in the past, there was very little, usually negative, portrayal of disabled people in broadcasting. There was very limited awareness of disability as a concern for broadcasters or as an issue that broadcasters should address. The report also found that this situation was changing as part of an increased awareness of the basic rights of individuals generally, and a realisation of the role and importance of broadcasting in representing diversity and minority viewpoints, ethno-cultural and race issues, with disability emerging as a specific focus. The NDA has worked with the Broadcasting Authority of Ireland (BAI) since then to try and develop a set of commitments and resources for broadcasters that will allow them to provide more opportunities for persons with disabilities to be seen and heard on screen and on the radio.

In the intervening years the NDA and BAI have met and discussed options with stakeholders representing all types of broadcasters and disabled people. Various proposals emerged from these engagements. Although most have not been advanced they are summarised below:

* Guidelines for the independent producers on how to speak about and describe various disabilities and mental health difficulties.
* Develop a process for supporting the industry to become more disability competent
* Hold a seminar for relevant disability stakeholders in the broadcasting industry, in partnership with Irish Actors’ Equity

We would advise that the new Coimisiún na Meán – as an agency under the remit of the Department - consider these suggestions as a way of increasing access to the broadcast media. It is important that disabled artists have opportunities to appear on TV, radio and film to tell the stories they want us to see and hear, as well as having the opportunities to work behind the camera in writing, casting, and other roles.

The NDA would like the work of Coimisiún na Meán to reflect the provisions of the UNCRPD in terms of the positive representation of person with disabilities and in terms of the accessibility of broadcasting to persons with disabilities. We would be happy to discuss these issues further.

The NDA recommends that Coimisiún na Meán follows a UD approach to its roles on overseeing the regulation of broadcasting and video-on-demand services and the development and enforcement of the Irish regulatory regime for online safety. We have produced communications material –mentioned elsewhere in this document – that will assist the Coimisiún na Meán in this function.

## Audio Visual Media Services Directive

The NDA notes that the Directive was recently transposed into Irish law via the **Online Safety Media Regulation Act 2022** which was commenced on 15 March 2023**.**

Ensuring the accessibility of audio-visual content is an essential requirement in the context of the commitments taken under the UNCRPD. The right of persons with disabilities to participate and be integrated in the social and cultural life of the EU is linked to the provision of accessible audio-visual media services. Therefore, Ireland, as a Member State, should, without undue delay, ensure that media service providers under its jurisdiction actively seek to make content accessible to persons with disabilities, in particular with a vision or hearing impairment. Accessibility requirements should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time. In order to measure the progress that media service providers have made in making their services progressively accessible to people with vision or hearing disabilities, Ireland should require media service providers to report to them on a regular basis.

The means to achieve the accessibility of audio-visual media services under the Directive should include, but need not be limited to, Irish Sign Language, subtitling for the deaf and hard of hearing, spoken subtitles, and audio description. However, the Directive does not cover features or services providing access to audio-visual media services, nor does it cover accessibility features of electronic programme guides (EPGs). These are covered by the European Accessibility Act, discussed below.

## Access Rules

The provision of ‘access services’ is covered under Coimisiún na Meán’s Access Rules referenced in Section 46O(6) of the **Online Safety Media Regulation Act 2022.** The current Access Rules have been in place since January 2019 and would be due for review were it not for the transition occasioned by the new legislation.

A known issue is that the quality of access services, such as closed captions, varies across different platforms. Persons with disabilities have reported issues with how closed captions are transported and displayed by providers such as Virgin Media.

Coimisiún na Meán do not monitor the quality, only the quantity, of access services. It is important that Coimisiún na Meán considers strengthening this aspect of the Access Rules. COVID-19 highlighted the necessity to ensure all emergency broadcasts and public health information are provided in an accessible format, including live subtitling and Irish Sign Language. This should be continued across all Irish licensed broadcasters as a regular part of their broadcasting output.

Public service broadcasting is now transmitted to and received on a variety of devices. This includes platforms such as the web and using media players such as the RTE Player.

This progressive view should also take into account that persons with disabilities have the same access needs in relation to content broadcast via these platforms as they do for content broadcast via the digital, satellite and cable platforms. The RTE Player is also available for use on mobile.

In recognition of the existing and projected convergence of broadcasting technologies, the NDA is aware of legislation in other regions, such as the **21st Century Communications & Video Accessibility Act[[10]](#footnote-10),** in the USA, which requires that broadcasters that provide content with subtitles on TV must also ensure that the same content be subtitled when broadcast via the web.

## TV Licence

The NDA advises that any recommendations to alter the current TV licencing system take into account the needs of disabled people.

The NDA is aware that the Department chairs an Implementation Group to oversee the implementation of the recommendations set out in the Future of media Commission Report[[11]](#footnote-11) One of these recommendations is being addressed by a Technical Advisory Group examining options for the reform of the TV licence system.

The NDA recommends that the Department would commit implementing the recommendations of the above-mentioned report in the Statement of Strategy. A commitment to a public consultation would be important given the importance of television and broadcasting to many disabled people as a means of connection and engagement. The NDA can advise the Department on how to run an accessible consultation. .

In the meantime we would advise a portion of any new model for future funding of public service media be provided:

1. for the development of the RTE Player on all platforms and devices such that it can support subtitles
2. to ensure all programming that is currently provided by RTÉ with subtitles and Audio Description on TV is provided with subtitles and Audio Description via the web

We are aware that some stakeholders favour the development of a “device independent charge” rather than the current TV licencing model. The NDA advises there this may be one of several options that could be further considered as this reform is progressed.

With all of this the NDA advises the importance of retaining current exemptions under the existing TV licence system. The television represents a vital source of entertainment and provides a link with society in general for many disabled people. It is essential that any possible new regime of charges to view television continues to be waived for those persons with disabilities who are eligible for same. As with the link between the cost of disability and the BIA, mentioned earlier, the NDA advises that the Department takes that report into account when any future reforms are being considered.

The ability to view TV content on mobile smart phones may require further discussion around a reassessment of how the Department of Social Protection’s Household Benefits Package is structured as it currently has separate provisions for TV and phones. The Package helps with cost of a TV Licence and was received by 504,000 people in January 2023[[12]](#footnote-12).

**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 10.8% in 2021[[13]](#footnote-13). In addition, across the 18 public bodies under the Department’s remit there was average compliance rate of 6.3%. Only two public bodies failed to meet the target. It is important to continue maintaining compliance with Part 5 of the Disability Act as a key focus of the Department's HR strategy, and 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).[[14]](#footnote-14) The **Assisted Decision-Making (Capacity) (Amendment) Act 2022** increases the minimum target from 3% to 6% by 2025.

## EU Web Accessibility Obligations

The EU Web Accessibility Directive[[15]](#footnote-15), 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[[16]](#footnote-16) 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 Act 2000-2015**, whichever so applies. The NDA 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 submitted [two monitoring reports](https://nda.ie/publications/monitoring-report-eu-wad-ireland-2021-nda-report) to the European Commission in December 2021 and 2022, in this regard, and issued a Notice of Monitoring to the departments in December 2022.[[17]](#footnote-17)The Department has received a Notification of Monitoring for a Simplified Review and has commenced the registration process.

The NDA has conducted Simplified (automated) Reviews on 10 public bodies under the remit of the Department with accessibility scores ranging from 0.1% to 92%.

The NDA engages with all public bodies that have been monitored to advise them on their score and what mitigating actions are required.

We look forward to engaging directly with Department on its Review. We also recommend that the public bodies already audited address the issues identified in their Simplified Reviews.

The NDA advises that the Department follows through on its statutory obligation to ensure all its websites, and the websites of 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. 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 format.

## European Accessibility Act (EAA)

Directive (EU) 2019/882[[18]](#footnote-18) of the European Parliament and of the Council, of 17 April 2019 on the accessibility requirements for products and services requires that, from 28 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.

These products include equipment related to digital television services and access to audio-visual media services such as television broadcast and related consumer equipment.

The following services providing access to the actual audio-visual content will need to be accessible because of the EAA:

* Websites and online applications
* Set-top box-based applications
* Downloadable applications
* Mobile device-based services including mobile applications and related media players and connected television services and electronic programme guides (EPGs).

The NDA is available to support the Department in building its own competency and capacity, and the relevant agencies under its remit, to advance and implement this transformative new act.

## Compliance with Part 3 of Disability Act 2005

Part 3 of the Disability Act details obligations public bodies have to ensure that information and service are accessible to persons with disabilities. Where practical and appropriate, public bodies should ensure that services provided to disabled persons and persons without disabilities are integrated. The Centre for Excellence in Universal Design at the NDA developed a **Customer Communications Toolkit for Services to the Public - A Universal Design Approach**, 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. An updated version of the Toolkit has just been published in partnership with the Department of Public Expenditure, NDP Delivery and Reform[[19]](#footnote-19).

There is also a specific publication for the tourism sector called the **Universal Design for Customer Engagement Toolkit[[20]](#footnote-20)**. This Toolkit provide practical guidance on how to use UD as a tool for better engaging with customers.

The Department recently responded to the findings of the Part 3 Monitoring Report, which contains the results of a desk based exercise, assessing the websites of public bodies as defined by Part 3 of the **Disability Act 2005**.

Out of 22 public bodies under the aegis of the Department, there were three public bodies (13.6%) that met all criteria of the standard indicator regarding Section 26(2) - Access Officers. This is below the average (33.9%) of public bodies overall. The NDA looks 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.

## Heritage sites

In many local authority areas there are prominent heritage sites that form a central part of their cultural offering to local people and to visitors. Some arts and culture events may well take place in a heritage site. The statutory **Code of Practice on Accessible Heritage Sites 2011**[[21]](#footnote-21) was developed, by the NDA, to guide public bodies in meeting their statutory obligation under Section 29 of the **Disability Act 2005** by providing practical advice and examples**.** Public bodies that comply with this Code of Practice are considered to be in compliance with Section 29 of the Act. The statutory obligations relating to heritage sites do not apply if it would have a significant adverse effect on the conservation status of a species, habitat or the integrity of a heritage site or if it would compromise the characteristics of the heritage site. No adaptations or modifications of any heritage site can be taken that are contrary to law**.**

The NDA had previously planned a review of this Code of Practice but was delayed due to COVID. Work will resume later in 2023, as it is our aim to have this Code developed in a manner that allows it to be consistent with the Code of Practice on Accessible Public Buildings.

The NDA would welcome a commitment from the Department to work in cooperation on a review of this Code of Practice.

## Procurement Requirements

Central to delivering universally designed services is procurement. If accessibility and UD are key requirements at the procurement stage, this will remain a central component of design and delivery throughout.

The NDA would like to remind the Department of accessibility in procurement requirements under S.I. No. 284/2016 - **European Union (Award of Public Authority Contracts) Regulations 2016[[22]](#footnote-22)** in the case of the public service and also in all public works contracts. In addition, **EU Directive 2019/882[[23]](#footnote-23)** on the accessibility requirements for procurement of products and services needs to be considered and this is of particular importance to information and communications technology. Accessibility of services provided to public bodies is also a requirement under Section 27 of the **Disability Act 2005**.

The NDA recommends that the Department incorporates procurement requirements into all processes to ensure these obligations are consistently met. The Department should ensure that these requirements are recognised and consistently applied throughout bodies under its remit. Accessibility requirements for cultural and sporting facilities are particularly important when procuring services as their exclusion can create repercussions throughout design and implementation processes and can ultimately lead to inaccessible locations.

“Public bodies are required to specify accessibility as a mandatory requirement when procuring communications products and services. They can do this by including accessibility criteria as part of the technical specifications or in the award criteria, or both. Where accessibility standards exist, public bodies are expected to use these as the basis of the accessibility criteria.”

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

Section 25 of the **Disability Act 2005** requires all departments and public bodies to ensure that the parts of their buildings which are accessed by the public, apart from heritage sites, are brought into compliance with Part M of the building regulations, which deals with access and use. 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 advises that each department and public body 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 any public buildings, 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[[24]](#footnote-24)** was published by the NDA in 2019 providing guidance on how public bodies can comply with Section 25 and as mentioned earlier a Code of Practice on Accessible Public Buildings is currently under development.

Most artistic and cultural venues come under Part M while a number would also come under Section 25. While building regulations are not applied to buildings constructed pre-1992, it should not prevent them from adding accessible features to these buildings.

When carrying out works on arts and culture venues, the guidance provided by our Centre for Excellence in Universal Design, in its publication **Building for Everyone: A Universal Design Approach[[25]](#footnote-25)** should be applied and venues are advised to strive to achieve above the minimum requirements of Part M of the building regulations.

**Booklet 7, Building Types** includes guidance on museums, galleries, libraries, entertainment, conference and lecture facilities, and historic buildings and sites.

When alterations or refurbishment works are being planned to arts and cultural venues, it is important to be aware of aspects of the existing facility that cause difficulties for the people who use it, including persons with disabilities. An access audit should be carried out prior to alterations or refurbishment works being planned, so that improvements to access to the building can be integrated from the outset. An access audit should establish how well the building performs in terms of access and ease of use by a wide range of potential users, including persons with disabilities, and recommend access improvements**.**  Access audits should be carried out in line with NDA guidance.[[26]](#footnote-26)

## Irish Sign Language Act 2017

The **Irish Sign Language Act 2017**, which recognises the right of Irish Sign Language (ISL) users to use ISL as their native language, and to develop and preserve it, was formally commenced 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 notes that in the recently published report on the operation of the Act, [[27]](#footnote-27) of the 42 responses received, 12 public bodies (including the Department) self-assessed as compliant while 17 self-assessed as partially compliant. The NDA encourages the Department to look at how it can encourage greater awareness among all public bodies under its remit and provide a more inclusive service for those of its customers who use ISL.

Section 8 of the ISL Act, in reference to ISL programming, requires broadcasters to ‘…adhere to the principles of equality, dignity and respect in terms of the promotion and broadcasting of such programmes, [[28]](#footnote-28)The NDA review of the Act found that in terms of fulfilling the targets and requirements of the Access Rules with equality, dignity and respect, it appears that these principles have not been adhered to in broadcasting programmes with ISL. The report recommended

* reviewing and amending the wording of Section 8 to improve support for television programmes with ISL
* Establishing monitoring processes that assess the quality of ISL in programming, and assess broadcaster delivery of targets based on daily provision

The Department should commit to provide guidance and clarity for broadcasters and Coimisiún na Meán as to the practical implementation of the principles of equality, dignity and respect in Section 8 of the **Irish Sign Language Act 2017** to include:

## Assisted Decision-Making (Capacity) Act 2015

This Act commenced on 26 April 2023 following the recent passage of the **Assisted Decision-Making (Capacity) (Amendment) Act 2022**. We note the potential implications for all relevant public bodies under the remit of the Department.

The Act ensures that, to the greatest extent possible, people who experience diminished capacity are supported to retain control over their own decision-making.

Decision Support Service’s Code of Practice on Supporting Decision-Making and Assessing Capacity sets out the guiding principles of the legislation, including the presumption of capacity.

This Act will have implications for all customer communications and interactions carried out by officials in the Department and the public bodies under its remit so it is important that staff are aware of their obligations under the act.

## Public Sector Duty

The Public Sector Equality and Human Rights Duty (the Public Sector Duty) is set out in Section 42 of the **Irish Human Rights and Equality Commission Act 2014**. It is a statutory obligation on public bodies, in the performance of their functions, to have regard to the need to eliminate discrimination, promote equality of opportunity and protect human rights of staff and service users. It requires public bodies to assess, address and report on progress in relation to equality and human rights, in a manner that is accessible to the public.

Based on statements given to the Oireachtas Committee the Department, and by extension the Arts Council, is now encouraging arts organisations to comply with their public sector duty. This has resulted in many arts organisations taking on equality, diversity and inclusion (EDI) in a meaningful way. For example, venues such as the Project Arts Centre has developed its new EDI policy[[29]](#footnote-29) where the four prioritised areas are: Sexuality and Gender Diversity; Disability; Socio-Economic Background; and Cultural Diversity.

The NDA advises that it is important that in complying with the public sector duty that organisations are aware of the intersectionality of disability with gender and cultural background.

**Conclusion**

The NDA would be happy to engage with officials from the Department on any of the points raised in this submission, which are summarised below for convenience. We also look forward to making submissions on any forthcoming consultations on areas under the Department’s remit which can have a significant impact on the lives of disabled people.

## Summary of Key Recommendations to the Department

The NDA advises that the Department include the following clear commitments in the Statement of Strategy 2023-2025:

* Continue to involve DPOs in the consultation structures of the Department on all matters relevant to them.
* Work with the Department of Social Protection to operationalise the findings of the ISL voucher pilot.
* Implement a Universal Design (UD) approach to cultural performances and events
* Implement Action 7 of the Night Time Economy report.
* Engage with Government colleagues and with disabled workers in the arts sector to resolve all issues arising from the interaction between arts funding and social protection supports insofar as this affects disabled arts workers. This should be done in the context of the cost of disability report findings
* Ensure that Coimisiún na Meán adopts a UD approach to its information roles overseeing the regulation of broadcasting and video-on-demand services and the development and enforcement of the Irish regulatory regime for online safety
* Propose recommendations to alter the current TV licencing system taking into account the needs of disabled people
* Maintain compliance with Part 5 of the Disability Act as a key focus of the department's HR strategy.
* Reference the obligations of the Department under the EU Web Accessibility Directive and develop an action plan to address access issues
* Prepare the Department for its obligations under the European Accessibility Act
* Continued work on the implementation of the recommendations of the Part 3 Monitoring Report, in assisting public bodies under the aegis of the Department who do not meet their requirements.
* Ensure that accessible procurement is applied across the Department and public bodies
* Maintaining compliance under Section 25 of the Disability Act. Arts venues should make all efforts to comply with existing guidelines to make their buildings physically accessible.
* Attention also needs to be given to making performances accessible and removing barriers for disabled people to participate in and be employed in the arts.
* Improve performance under the Irish Sign Language Act 2017
* Ensure that all officials are made aware of the changes now in law under the Assisted Decision-Making (Capacity) Acts
* It is important that in complying with the public sector duty that organisations are aware of the intersectionality of disability with gender and cultural background.

# Appendix

These are some ways in which a cultural event can be made more accessible, in more detail.

### Blended or streamed performances

With the restrictions on in-person performances during the COVID-19 pandemic, we note the extent to which technology made it possible to provide accessible digital engagement for people who would not normally be able to access an in-person performance. While there has been a return to in-person performances, the possibilities of these media should not be neglected. Phones, tablets and PCs contain accessible features that can be used by disabled people to watch performances and visit exhibitions online and give rise to the possibility of new types of blended performances.

### Audio Description

Audio Description for live performance is a live verbal commentary providing information on the visual elements of a production as it unfolds, from sets, props and costumes to actors’ facial expressions and movements across the stage. Audio-described performances are available on certain performances throughout the year. The NDA is aware that at the Abbey Theatre there are only 20 headsets for audio description. If a play runs at the Abbey for a month and only one performance is audio described, only 20 vision impaired people will get to access that performance.

### Induction loops

Induction loops and infrared systems enable people with hearing aids to receive amplified sounds from within a specific area directly into their hearing device, without interference from background noise being amplified too. Performance spaces can be fitted with a hearing loop system to assist those with hearing impairment.

### Captioning

Captioning gives deaf and hard of hearing people access to live performances and screenings. It is similar to television and film subtitling. Captioning converts the spoken word into text, which is displayed on one or more caption units situated on, above or next to the stage or screen.

### Relaxed Performances

Relaxed Performances are specifically designed to welcome people who will benefit from a more relaxed performance environment, including people with an Autism, sensory and communication disorders, or a learning disability. They also benefit people with hidden disabilities and people who require a more flexible environment. These are sometimes called autism friendly performances. Taking a universal design approach as discussed earlier can make a venue more suitable for people with sensory issues on a more permanent basis.

### Touch tours and tactile model boxes

A Touch Tour is not only for vision impaired patrons but can also be beneficial for those who process information differently. It is a tactile exploration of the geography of an arts and culture venue. A tactile model box is designed to allow a user distinguish different materials. Each material will make the user become more aware of and associate different textures around them. The boxes can help stimulate tactile sensory needs and develop fine motor skills.

1. <https://www.gov.ie/en/consultation/38f26-consultation-process-for-statement-of-strategy-2023-2025/> [↑](#footnote-ref-1)
2. <https://nda.ie/publications/participation-matters-guidelines-on-implementing-the-obligation-to-meaningfully-engage-with-disabled-people-in-public-decision-making> [↑](#footnote-ref-2)
3. <https://nda.ie/publications/nda-advice-paper-on-disability-language-and-terminology> [↑](#footnote-ref-3)
4. <https://www.fetchcourses.ie/course/finder?search=1&view=0> [↑](#footnote-ref-4)
5. <https://www.gov.ie/en/publication/473d3-town-centre-first-policy/> [↑](#footnote-ref-5)
6. <https://nda.ie/news/national-wellbeing-and-social-inclusion-survey> [↑](#footnote-ref-6)
7. https://www.oireachtas.ie/en/debates/debate/joint\_committee\_on\_tourism\_culture\_arts\_sport\_and\_media/2022-02-16/4/?highlight%5B0%5D=10%2C000 [↑](#footnote-ref-7)
8. <https://www.gov.ie/en/publication/1d84e-the-cost-of-disability-in-ireland-research-report/> [↑](#footnote-ref-8)
9. <https://nda.ie/publications/attitudes/bci-nda-report-representation-and-portrayal-of-people-with-disabilities-in-irish-broadcasting/> [↑](#footnote-ref-9)
10. <http://www.govtrack.us/congress/bills/111/hr3101/text> [↑](#footnote-ref-10)
11. <https://www.gov.ie/pdf/?file=https://assets.gov.ie/229731/2f2be30d-d987-40cd-9cfe-aaa885104bc1.pdf#page=null> [↑](#footnote-ref-11)
12. <https://www.oireachtas.ie/en/debates/question/2023-01-18/886/?highlight%5B0%5D=payment&highlight%5B1%5D=payment&highlight%5B2%5D=payment&highlight%5B3%5D=payment&highlight%5B4%5D=payment&highlight%5B5%5D=bonus&highlight%5B6%5D=payment> [↑](#footnote-ref-12)
13. <https://nda.ie/news/report-on-compliance-with-part-5-of-the-disability-act-2005-for-2021> [↑](#footnote-ref-13)
14. <https://nda.ie/publications/nda-annual-reports-on-compliance-with-part-5-of-the-disability-act> [↑](#footnote-ref-14)
15. <https://nda.ie/monitoring/eu-web-accessibility-directive/how-nda-monitors-compliance-under-the-directive> [↑](#footnote-ref-15)
16. <https://nda.ie/monitoring/eu-web-accessibility-directive/accessibility-statements> [↑](#footnote-ref-16)
17. [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-17)
18. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0882> [↑](#footnote-ref-18)
19. <https://universaldesign.ie/products-services/customer-communications-toolkit-for-services-to-the-public-a-universal-design-approach/> [↑](#footnote-ref-19)
20. https://universaldesign.ie/Products-Services/Customer-Engagement-in-Tourism-Services/ [↑](#footnote-ref-20)
21. https://nda.ie/publications/code-of-practice-on-accessible-heritage-sites-nda-report [↑](#footnote-ref-21)
22. <https://www.irishstatutebook.ie/eli/2016/si/284/made/en/print> [↑](#footnote-ref-22)
23. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0882> [↑](#footnote-ref-23)
24. <https://nda.ie/publications/an-operational-review-of-the-effectiveness-of-section-25-of-the-disability-act-2005-nda-report> [↑](#footnote-ref-24)
25. <https://universaldesign.ie/built-environment/building-for-everyone/> [↑](#footnote-ref-25)
26. Building for Everyone, Booklet 8, Building Management, Section 8.4.1, relating to Access Audits and the NDA Guidelines for Access Auditing of the Built Environment. The Guidelines for Access Auditing of the Built Environmentwere published in 2005. While references in the document may be out of date, the general principles and guidance on the process and contents of an access audit should be followed. [↑](#footnote-ref-26)
27. 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-27)
28. Broadcasters (within the meaning of the Broadcasting Act 2009) in fulfilling their obligations in relation to Irish Sign Language targets and requirements in respect of programmes transmitted on a broadcasting service (within the meaning of that Act) provided by the broadcaster as set out in the broadcasting rules made under section 43 (1)(c) of the Broadcasting Act 2009 by the Broadcasting Authority of Ireland shall adhere to principles of equality, dignity and respect in terms of the promotion and broadcasting of such programmes. [↑](#footnote-ref-28)
29. <https://projectartscentre.ie/wp-content/uploads/2021/11/Small_Project-Arts_Tedi-Report_AW.pdf> [↑](#footnote-ref-29)