

**26th May 2023**

NDA Submission to Department of Social Protection on Changes to Social Welfare Regulations[[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. The NDA welcomes the opportunity to comment on proposed changes to the regulations governing social welfare appeals proposed by the Department of Social Protection. The NDA welcomes many of the proposed changes, including giving additional timeframes to appellants to submit an appeal, imposing greater responsibility on the Department to meet timelines and increasing the responsibility of the Appeals Office, in line the recommendations of the Comptroller and Auditor General. The NDA recommends the Department of Social Protection (DSP) gives further consideration to the recommendations below in order to ensure the changes to Social Welfare Regulations are suitable for persons with disabilities.

## Appeals on Medical Schemes

The NDA notes that according to the Department’s figures, a large portion of disability allowance applications that are initially rejected are awarded their allowance on appeal. The latest figures from DSP show that, between January 2021 and March 2023, 60.1% (3,355) of disability allowance appeals were found to be favourable to the appellant. According to DSP, this is partially due to additional information being submitted by the appellant, a trend which is particularly prevalent in medical schemes.[[2]](#footnote-2) The NDA recommends that further analysis is carried out on the number of applicants that provide new information to support their application at appeal stage, to examine the reasons why that information was not provided during the application process.

The ability to obtain medical information in a timely manner can be an issue for disabled people, as GPs may refer social welfare applicants to a medical specialist. Delays accessing medical specialists have been well documented and may be a factor in the late submission of medical information on specific appeal cases. Furthermore, appellants may not be in the financial position to access medical services. According to Citizen’s Information there are certain services that GPs are not obliged to provide free of charge, including medical certificates for absences from work. Citizen’s Information notes that ‘if a medical report is required for a social welfare payment, the Department of Social Protection may cover the fee’. [[3]](#footnote-3) The NDA recommends that further information be provided on how individuals can make this request to DSP, and the circumstances in which DSP may cover this fee. The proposed changes to the social welfare appeals system sets a 21 day (3 week) timeframe to appellants to return documents with further extension on reasonable grounds. The NDA suggests that this timeframe be extended to give appellants adequate time to prepare their documents, particularly considering difficulties in accessing relevant medical professionals.

## Consistency of Approach

The NDA suggest that the Department could carry out periodic reviews of successfully appealed cases where no new or additional material information was provided. These reviews would assist the Department in learning from cases determined by appeals officers, and would improve the quality and consistency of decisions. The proposed new legislation (Article 10 replaced by Article 8) does away with the requirement for a Deciding Officer to provide a statement in all appeal cases on the grounds that it imposes an unnecessary burden and causes delays. The NDA recommends that the legislation in this area is not amended and that Appeals Officers continue to be required to set out detailed reasons for their decisions in all cases, in order to encourage consistency of decision making.

## Accessibility of systems

The trend outlined by DSP of a high number of cases providing additional information on appeal underlines the importance of the accessibility of the initial appeals system, including modes of communication. The NDA recommends that appeals forms are designed in such a way that applicants find them easy to understand and complete, and it should not be presumed that all applicants have the same literacy skills, including digital literacy, or understanding of evidence including medical evidence. The NDA recommends the provision of a visual map or schematic of the appeals process, that would be made available to staff and appellants so that there is a clear understanding of the process, and where the appellant sits within in. The NDA further recommends that appeals have the right to request reasonable accommodations and that reasonable accommodations are built into the system to ensure the system is accessible to persons with disabilities. It is worth noting the increased likelihood of success on appeal where an oral hearing is held, the overall success rate of appeal was 54%, which went up to 69.8% where an oral hearing was held.[[4]](#footnote-4) It is important that appellants are made explicitly aware of their right to request an oral appeal as well as their right to access ISL Interpretation services for oral hearings.

## 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,[[5]](#footnote-5) which provides guidance 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. The Toolkit is based on the Universal Design approach and is for organisations who provide services to the public and can be used for planning communications, training staff, informing suppliers and procuring communication products and services. The NDA recommends this toolkit is used by Intreo staff and Appeals Officers in all their communications with social welfare applicants and appellants. Article 21 of the proposed changes provides that any notice or document required shall be deemed to be duly sent if sent by post or by electronic means, updating it to provide for electronic communications. The NDA recommends that the appellant should be able to designate their preferred method of correspondence, and that all communications should be delivered in the method requested.

## 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 Department should be mindful of the EU Web Accessibility Directive in relation to the design, layout and content of appeals forms. The Directive 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 Act 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.[[6]](#footnote-6) NDA’s monitoring demonstrates that most of the Department of Social Protection’s PDFs lack accessibility and the forms, including the social welfare appeals forms, published in PDF, are inaccessible and do not comply with the standard set out under the Directive. The NDA recommends that DSP urgently make the appeals forms and relevant websites compliant under the EU Web Accessibility Directive.

## Provision of Training

The NDA welcomes the accredited training programme developed specifically for the Social Welfare Appeals Office for Appeals Officers, and looks forward to its continued roll-out to all Appeals Officers, noting that over half of the Appeals Officers have completed the programme. The Customer Communications Toolkit for Services to the Public, referenced above, would be a useful resource for training both Intreo officers and Appeals officers. The NDA recommends further development of training for Intreo officers for their role in advising disabled people, which would improve the experience of disabled people accessing social welfare services, and potentially lead to less social welfare appeals through improved communication and understanding of complex social welfare systems. The NDA recommends this training be informed by engagement with disabled persons and their representative Disabled Persons’ Organisations.

## Further Consultation

The UNCRPD places an obligation on states to ensure that people with disabilities are included in policy development and decision-making. The NDA published ‘Participation Matters: Guidelines on implementing the obligation to meaningfully engage with disabled people in public decision making’ in 2022 to support public bodies in achieving meaningful engagement with disabled people, especially through their representative DPOs.[[7]](#footnote-7) 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.[[8]](#footnote-8) The NDA recommends that the Department carry out further consultation with stakeholders, including Disabled Persons’ Organisations (DPOs), so that the proposed changes to social welfare appeals are disability-proofed and that the lived experience of disabled people is considered, particularly with regards to how they experience the social welfare appeals system.

## Conclusion

The NDA are happy to advise further on any of the issues raised in this submission.

1. [gov.ie - Public Consultation on Important Changes to Social Welfare Appeals Regulations (www.gov.ie)](https://www.gov.ie/en/consultation/7ddab-public-consultation-on-the-new-social-welfare-appeals-regulations/) [↑](#footnote-ref-1)
2. <https://www.oireachtas.ie/en/debates/debate/joint_committee_on_social_protection_community_and_rural_development_and_the_islands/2022-11-09/2/> [↑](#footnote-ref-2)
3. <https://www.citizensinformation.ie/en/health/health-services/gp-and-hospital-services/gp-services-to-medical-card-holders/> [↑](#footnote-ref-3)
4. See pages 21 and 30, Social Welfare Appeals Office Annual Report 2021 available at: <https://www.gov.ie/en/publication/888e0f-social-welfare-appeals-office-annual-report-2018/#2021> [↑](#footnote-ref-4)
5. [Customer Communications Toolkit for Services to the Public - A Universal Design Approach | Centre for Excellence in Universal Design](https://universaldesign.ie/products-services/customer-communications-toolkit-for-services-to-the-public-a-universal-design-approach/) [↑](#footnote-ref-5)
6. [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-6)
7. <https://nda.ie/publications/participation-matters-guidelines-on-implementing-the-obligation-to-meaningfully-engage-with-disabled-people-in-public-decision-making> [↑](#footnote-ref-7)
8. <https://nda.ie/publications/nda-advice-paper-on-disability-language-and-terminology> [↑](#footnote-ref-8)