

**August 2024**

NDA Submission on Statement of Strategy 2024 – 2025 for Department 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 Department of Enterprise, Trade and Employment’s (DETE) Statement of Strategy 2024 - 2025 addresses issues related to this department’s remit which fall within the NDA’s competencies and expertise.

The NDA recommends that the DETE 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 will recognise and meet the needs of disabled persons when delivering services is a useful approach. The NDA notes the policy areas that are the focus on the strategy including championing enterprise, ensuring a competitive business base to incentivise work, sustainable enterprise, innovation and investment, strengthening global connections and trade, promoting fair and competitive markets and responsible business practice, as well as safe, flexible and decent workplaces through the regulatory and enforcement work of the department, its offices and its agencies. As policies and supports are developed in each of these areas the NDA advises that the department needs to disability-proof them to ensure they consider the needs of disabled people. In addition, over the 2024-25 period DETE will be required to describe clear manageable actions for its part in the delivery of the State’s commitments under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the European Accessibility Act (EAA).

# Areas requiring focus.

## New National Disability Strategy

The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) are leading the development of a National Disability Strategy and have been in discussions with DETE regarding the actions in the employment pillar which DETE is co-leading with the Department of Social Protection. The NDA advises that ambitious objectives with relevant targets are adopted. The NDA suggests that a concerted effort is required by the department to lead on the following actions to contribute to the overall goal of more people with disabilities in employment. The actions, which are outlined in more detail below are:

* Employer liaison,
* Supporting entrepreneurship including providing local and regional supports
* Remote working

## Employer Liaison

The NDA advises that DETE implement the recommendations from the 2021 OECD report ‘Disability, Work and Inclusion in Ireland: Engaging and Supporting Employers’ which 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. [[2]](#footnote-2) This recommendation will require DETE 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 and in the new National Disability Strategy. We are aware that DETE officials benefited from a disability awareness workshop with the Employers for Change service which is part of the Open Doors Initiative.[[3]](#footnote-3) Awareness raising is welcome, but it needs a mechanism for employers whereby they can raise questions relating to the specifics of their businesses. There is significant research already existing from the OECD, Employers for Change and the UK Employers Charter.[[4]](#footnote-4) Building on this knowledge base in their joint disability and employment paper from 2021 Ibec and Employers for Change[[5]](#footnote-5) described the issues to be addressed for employers as;

* Lack of awareness of disability or perception of what may be involved in reasonable accommodation and concerns over costs;
* Fear of legal liability/making a mistake and ending up down a litigious route.
* Concerns about potential risks of employing a person with a disability;
* Lack of knowledge of the challenges within existing company policies and procedures for people with disabilities to navigate; and
* Lack of knowledge how to proceed to proactively attract, recruit and retain a person with a disability.

The NDA believes a quick win would be a more permanent employer support service being in place and developing the peer support elements the research describes.[[6]](#footnote-6) DETE also need to work with other departments to promote employer awareness of policy changes, including changes to sick leave legislation, social enterprise, and enterprise/entrepreneurship policies and the forthcoming changes to the Reasonable Accommodation Fund.

## 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, in 2016, 14.8% were self-employed.[[7]](#footnote-7) 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. With more viable and practical supports delivered through LEO’s it is envisaged that more disabled people would access the self-employment route, thus alleviating their risk of poverty and social exclusion.[[8]](#footnote-8) The NDA recommends that this Statement of Strategy and the new National Disability Strategy include a statement of intent regarding the inclusion of disabled people as entrepreneurs, and improved access to self-employment supports with detail 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.[[9]](#footnote-9)

### 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.[[10]](#footnote-10) 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 enterprise development plans with clearly described goals relevant to disabled people, with adequate resources allocated and clear implementation timelines. Ireland, through Pobal, worked 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’. This tool describes the implementation of supports for social enterprises and inclusive entrepreneurship.[[11]](#footnote-11) The NDA recommends that this tool be operationalised over the lifetime of this statement of strategy period.

## Remote working

The NDA welcome the introduction of a new Code of Practice for Employers and Employees on the Right to Request Flexible Working and the Right to Request Remote Working, which was required by Part 4, Section 31, of the Work Life Balance and Miscellaneous Provisions Act 2023. The Workplace Relations Commission introduced the Code in 2024 and it will remain important that the WRC report annually on the number and type of cases taken relevant to disabled people. Any learnings should then be shared with employers to better facilitate disabled people to work, noting that while remote work can increase opportunities for participation, it should not be seen as a way for employers to avoid making a wide range of relevant and appropriate accommodations for employees with disabilities.

**Statutory Obligations**

**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 economic operators involved in the design and/or production of 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 implementation. The NDA are available to link Department officials to the working committees on the development of these standards with the National Standards Authority of Ireland (NSAI) and it may be valuable for Department officials to join a number of these committees. The EAA specifies a number of regulatory functions, with key agencies designated as either a market surveillance authority in the case of products, or compliance authorities in respect of services. The role of these regulatory agencies across the EU, including Ireland, will be vital in the implementation of the EAA. The NDA are available to support the department to build and mainstream accessibility competency and capacity within DETE, and relevant agencies under its remit, to advance and implement this transformative new act.

**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 7% of employees reporting a disability in 2022. In addition, the public bodies under the aegis of the Department also exceeded the minimum 3% target.[[12]](#footnote-12) The NDA advises that the minimum target increases to 4.5% for 2024 and to 6% for 2025 so it is important to ensure continued compliance with this target 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).[[13]](#footnote-13)

**EU Web Accessibility Obligations**

The [EU Web Accessibility Directive](https://nda.ie/monitoring/eu-web-accessibility-directive), 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 [monitoring reports](https://nda.ie/publications/monitoring-report-eu-wad-ireland-2021-nda-report) to the European Commission.[[14]](#footnote-14) The NDA’s most up to date score for DETE’s web accessibility is 88.69% which is very good, the Authority also conducted a simplified review of Enterprise Ireland, which received an accessibility score, which is a weighted scoring of the number of issues identified, of 33.39% in 2023.[[15]](#footnote-15) The score for the Local Enterprise Offices was noted at 35.13%. The NDA is happy to advise Enterprise Ireland and the LEO’s on how to improve these scores.

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 any agency support such as Local Enterprise Office supports. 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 Services to the Public, 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.[[16]](#footnote-16) The NDA published the findings of the Part 3 Monitoring Report for 2022 which was published in 2023.[[17]](#footnote-17) The first monitoring activity under this Code examined Departments and public bodies against section 26(2) of the Act which has to do with the appointment of an Access Officer and promotion of details of same. As described under Section 26 of the Disability Act 2005, public bodies have a statutory requirement to appoint an Access Officer in the organisation.

Each head of a public body shall authorise at least one of his or her officers (referred to in this Act as “access officers”) to provide or arrange for and co-ordinate the provision of assistance and guidance to persons with disabilities in accessing its services[[18]](#footnote-18)

The NDA monitoring process found that the easiest way to assess whether information was available to the public was by reviewing the websites of public bodies for information on the Access Officer and contact details, this highlights the importance of digital communication and information for Departments and public bodies in communicating with the public. The report found that DETE and their aegis bodies were 64.3% compliant in promotion of access officers on their websites and 50% compliant with all criteria. This monitoring will be repeated in 2025 and it would be positive if the department and its aegis bodies could improve on this score.

## 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.

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[[19]](#footnote-19). 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 DETE 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.[[20]](#footnote-20) 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, it is expected that the next report on the operationalisation of this Act will be requested during the lifetime of this Statement of Strategy period i.e 2025.

**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.

# Appendix One

UK Disability Charter

1, Employment and pay gap reporting. The government should require all employers with 250+ employees to publish data annually on: the number of disabled people they employ as a proportion of their workforce; their disability pay gap; and the percentage of disabled employees within each pay quartile.

2. Supporting disabled people into employment. The government should: increase disabled people’s access to employment programmes and apprenticeships; increase the scale, quality and awareness of supported employment programmes and supported internships; and increase the provision of tailored careers advice to disabled people.

3. Reform of Access to Work (AtW). The government should: remove the AtW support cap; ensure application/renewal processes are efficient, personalised, and flexible; entitle disabled job-seekers to ‘in principle’ indicative awards; facilitate passporting of awards between organisations and from Disabled Student’s Allowance to AtW; and increase awareness of AtW support.

4. Reform of Disability Confident. The government should: require all employers at Disability Confident Levels 2 and 3 to meet minimum thresholds regarding the percentage of disabled people in their workforce; and remove accreditation from employers that do not move up within 3 years from Level 1 to Levels 2 or 3.

5. Leveraging government procurement. The government should: ensure award decisions for all public sector contracts take into account the percentage of disabled people in the workforce of tendering organisations; require government contractors to work towards a minimum threshold regarding the percentage of disabled people in their workforce; and take failure to achieve this threshold into account in future contract award decisions.

6, Workplace adjustments. The government should: require employers to notify employees on decisions regarding reasonable adjustment requests within two weeks; make the option to work flexibly from day one the legal default for all jobs; introduce stronger rights to paid disability leave for assessment, rehabilitation and training; and fund an increase Statutory Sick Pay to the European average.

7. Working with disabled people and their representatives. The government should: require employers to consult and negotiate with disabled people and their representatives on disability equality matters; and provide trade union equality representatives and disability champions with statutory rights to time off to perform their role.

8. Advice and support. The government should create a ‘one stop shop’ portal to provide information, advice and guidance to employers on recruiting and retaining disabled people, and to disabled people on their employment rights.

9. National progress on disability employment. The government should take into account increasing disability prevalence in calculating the disability employment gap, and use the ‘prevalence corrected’ employment gap measure in monitoring national progress on disability employment.

1. https://enterprise.gov.ie/en/consultations/consultations-files/draft-statement-of-strategy-2024-2025-for-consultation.pdf [↑](#footnote-ref-1)
2. [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-2)
3. <https://employersforchange.ie/> [↑](#footnote-ref-3)
4. <https://www.disabilityemploymentcharter.org/faq> [↑](#footnote-ref-4)
5. https://www.ibec.ie/influencing-for-business/labour-market-and-skills/disability-and-change [↑](#footnote-ref-5)
6. [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-6)
7. Specific figures for Census 2022 not yet available. [↑](#footnote-ref-7)
8. <https://www.oecd.org/cfe/disability-work-and-inclusion-in-ireland-74b45baa-en.htm> [↑](#footnote-ref-8)
9. OECD workshop for DETE on the results of the OECD-EU Better Entrepreneurship Policy Tool, April 28 2022 [↑](#footnote-ref-9)
10. <https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221064573_EN/lang--en/index.htm> [↑](#footnote-ref-10)
11. [Homepage | The Better Entrepreneurship Policy Tool](https://betterentrepreneurship.eu/) [↑](#footnote-ref-11)
12. https://nda.ie/uploads/publications/Report-on-Compliance-with-Part-5-for-2022-English.pdf [↑](#footnote-ref-12)
13. <https://nda.ie/publications/nda-annual-reports-on-compliance-with-part-5-of-the-disability-act> [↑](#footnote-ref-13)
14. [Monitoring-Report-EU-WAD-Ireland-2023.pdf (nda.ie)](https://nda.ie/uploads/publications/Monitoring-Report-EU-WAD-Ireland-2023.pdf) [↑](#footnote-ref-14)
15. ibid [↑](#footnote-ref-15)
16. <https://universaldesign.ie/communications-digital/customer-communications-toolkit-a-universal-design-approach> [↑](#footnote-ref-16)
17. [Monitoring Report on Access Officers - National Disability Authority (nda.ie)](https://nda.ie/publications/monitoring-report-on-access-officers) [↑](#footnote-ref-17)
18. The NDA has produced [Access Officer Guidance for Public Bodies](https://nda.ie/publications/access-officer-guidance-for-public-bodies) to assist public bodies and Departments in understanding the role of access officer and providing information on how best to support and make use of the Access Officer role [↑](#footnote-ref-18)
19. https://nda.ie/publications/draft-code-of-practice-for-accessible-public-buildings [↑](#footnote-ref-19)
20. 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-20)