



Údarás Náisiúnta Míchumais
National Disability Authority

01 April 2021

Deputy Commissioner Anne Marie McMahon
Strategic Governance & Performance
Garda Headquarters
Phoenix Park
Dublin 8

Subject: NDA Submission to An Garda Síochána's Strategy Statement 2022-2024

Dear Deputy Commissioner McMahon,

Many thanks for the opportunity to contribute to An Garda Síochána's Strategy Statement 2022-2024. The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and advice to the Government on policy and practice relevant to the lives of persons with disabilities, and to promote Universal Design.

The NDA is also a member of An Garda Síochána's Strategic Human Rights Advisory Committee. The NDA was very pleased to be asked to sit on the re-established Strategic Human Rights Advisory Committee (SHRAC), which seeks to embed a human rights approach in the foundation of all the work carried out by An Garda Síochána. The NDA remains impressed by the ambitions and approaches of the SHRAC, as well as its openness to hearing about the diverse needs of people engaging with Gardaí. The NDA wishes to express its appreciation to the three members of the SHRAC who presented at the NDA's Annual Conference in 2020, which focussed on the topic of access to justice for persons with disabilities.

The comments and advice below address issues related to the An Garda Síochána's remit which fall within the NDA's competencies and expertise.

UN Convention on the Rights of Persons with Disabilities

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

The most relevant UNCRPD Article for An Garda Síochána is Article 13, which obliges States Parties to ensure effective access to justice for persons with disabilities on an equal basis with others. This includes providing procedural and age-appropriate accommodations, in order to facilitate their effective participation in all legal proceedings, including at investigative and other preliminary stages. It also obliges States Parties to promote appropriate training for those working in the field of administration of justice, including police and prison staff.

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

Article 4(3) obliges States Parties to closely consult with and actively involve persons with disabilities in the development and implementation of legislation and policies to implement the Convention, and in other decision-making processes concerning issues relating to persons with disabilities. The NDA advises that An Garda Síochána considers how it might engage with and capture the voice of lived experience of persons with disabilities in the development and implementation of its policies.

The NDA advises that An Garda Síochána review the UNCRPD in order to consider its own obligations, and to reflect a commitment to those obligations in its Strategy Statement.

National Disability Inclusion Strategy

The **National Disability Inclusion Strategy 2017 – 2021** (NDIS) was published in July 2017 and seeks to ensure that a whole-of-government approach is taken to disability issues. The Minister of State with Responsibility for Disability, Anne Rabbitte T.D., has recently announced that the NDIS will be extended for one year, until the end of 2022. The NDA has identified several actions within the NDIS that are relevant to An Garda Síochána.

Action 3B: Develop plans to implement the obligations of the Convention on the Rights of Persons with Disabilities

This action requires all departments and agencies to develop UNCRPD implementation plans. The NDA has advised the Department of Justice to include a commitment in its Statement of Strategy 2021-2023 to develop a departmental UNCRPD action plan. As an initial step, the NDA advised that the Department undertake a review of the provisions of the UNCRPD with a view to identifying areas which come within its remit and actions which need to be progressed. While we advise that An Garda Síochána drafts its own UNCRPD implementation plan, we would also highlight the benefits of linking in with the Department of Justice on this matter, and providing input to a departmental action plan that allows for a coordinated approach from all relevant agencies.

This action was added to the revised Strategy following a midterm review of the NDIS in 2019, and the NDA notes that the NDIS Steering Group has not yet received an update on its implementation.

Action 18A: The Policing Authority will monitor the actions taken by An Garda Síochána to make its services and information accessible to, and supportive of, people with disabilities

The NDA advises a collaborative approach between An Garda Síochána, the Policing Authority and the Department of Justice, that will lead to the effective implementation of this action and regular updates to the NDIS Steering Group.

This action was added to the revised Strategy following a midterm review of the NDIS in 2019, and the NDA notes that the NDIS Steering Group has not yet received an update on its implementation from the Responsible Body (Department of Justice).

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

This action was added to the NDIS following a mid-term review, which took place in late 2019. The responsible bodies named against this action are the Department of Justice and all relevant agencies. The NDA is of the view that An Garda Síochána is a relevant agency in this instance, and would advise the importance of working closely with the Department- and other stakeholders- to develop an approach to implementing this action and tracking its progress. As we note throughout this paper, An Garda Síochána is certainly integrating a focus on the diverse needs of different groups of people in how it carries out its work, however it would be helpful if the NDIS Steering Group could be updated in a systematic way of this progress.

Action 18C: Develop an advice paper to guide on an intermediaries support approach to support persons with communication difficulties in the Irish justice system

The NDA developed an advice paper on the use of intermediaries in the criminal justice system in 2020, and it was informed by a roundtable of relevant stakeholders, held in 2019. An Garda Síochána participated in this roundtable, and the NDA appreciates the input provided at that meeting, which was incorporated into the final advice paper.

This advice paper is now guiding the advice given by the NDA to the O'Malley Sub-Group on Intermediaries, established by the implementation plan for the O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences. The NDA advises that it would be helpful if An Garda Síochána were in a position to take up membership of the Sub-Group on Intermediaries, as the position taken in both the O'Malley Review and the NDA's paper is that the involvement of an intermediary begins at the earliest possible stage; in many cases, this will be in a Garda station.

The NDA welcomes the membership of An Garda Síochána on another O'Malley Sub-Group, on the development of specialist training for legal professionals, and we look forward to working closely together on this topic.

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

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

Action 20: Disability Awareness training

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

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

We welcome that An Garda Síochána included a focus on creating a culture of continuous learning in its 2019-2021 Strategic Plan and would encourage the continuation of this aspiration.

We note that An Garda Síochána has recently collaborated with the University of Limerick to develop a 12-week-long, accredited module on Human Rights and Policing, taught by staff of both the university and An Garda Síochána. The NDA welcomes the inclusion of 'disability' as a topic in the module. At a recent SHRAC meeting, it was announced that the first course, which began in January 2021, was oversubscribed. It was also announced that an extension of the course had been approved, and it will run again later in 2021, and in early 2022. By the time the three courses will have taken place, it is envisaged that 10% of An Garda Síochána would have received accreditation in this course.

The NDA also welcomes the significant work being carried out to review and amend the Custody Risk Assessment form, which will allow for a better understanding of any vulnerabilities a person in custody might have (including neurodiversity and mental health difficulties), and the appropriate approach to take in such cases.

The NDA has developed Guidance for Justice Professionals in communicating with people with autism. This guidance provides background information about autism spectrum disorders and aims to assist those working in the civil and criminal justice system who may come into contact with someone who has autism in order to best communicate with and support them. This includes public service officials such as An Garda Síochána, the Courts Service, the judiciary and the Prison Service and the Probation Service, and members of the legal profession such as solicitors and barristers. This guidance has been welcomed by relevant stakeholders.

Action 28: Support legislation to ensure that all public bodies provide ISL users with free interpretation when accessing or availing of their statutory services

The NDA welcomes the growing awareness of the needs of persons with disabilities in the area of community policing. We appreciate the efforts made by An Garda Síochána to introduce, on a pilot basis, a service offering Irish Sign Language interpretation in two of its stations. We look forward to seeing an evaluation of this pilot, and the further roll-out of this service.

The pilot is in line with new obligations under the recently commenced Irish Sign Language Act 2017, which sets out requirements and obligations on public bodies for the provision of ISL services. The NDA is currently preparing the first report on the operation of the ISL Act 2017, which includes consideration of provision in certain sectors, including the justice sector.

Action 49: Increase the public sector employment target of persons with disabilities from 3% to 6% by 2024

While compliance targets in respect of the employment of persons with disabilities, put in place by Part 5 of the Disability Act 2005, do not apply to An Garda Síochána, it should be noted that the Disability (Miscellaneous Provisions) Bill 2016 sought to amend this, to include civilian members of An Garda Síochána in compliance targets. The current target is to have persons with disabilities make up 3% of all employees in public bodies, and this is set to rise to 6% by 2024. While the Disability (Miscellaneous Provisions) Bill lapsed with the dissolution of the last government, it is likely that this suggested amendment will be brought forward in another piece of proposed legislation.

Action 25: Bring all public sector buildings into compliance with Part M accessibility standards by 2022

The NDA notes that this action applies to Garda stations, and advises that An Garda Síochána engages with the Office of Public Works in order to progress its implementation.

Other relevant points

Collaboration and cross-sectoral working

Collaboration between the Department of Justice and relevant agencies and bodies, including An Garda Síochána, is critical to successfully facilitating access to justice for persons with disabilities. Achieving effective and equal access to justice involves a number of stakeholders, and a move towards further joined-up thinking- for example, between An Garda Síochána and Tusla in relation to the care of vulnerable children, is particularly welcome. We would also encourage engagement and collaboration with bodies outside the justice system, for example bodies who work in the area of education, employment or health services. The NDA notes that the Department is currently developing infrastructure for further collaboration, through its new Criminal Justice Sectoral Strategy, which we welcome.

Continued developments in data collection and dissemination

Finally, the NDA has a particular role to strengthen and promote the collection of data and statistics relevant to people with disabilities, and to ensure public data can be disaggregated using disability as a variable. We note that a strategic priority in the An Garda Síochána's Strategy Statement 2019-2021 was to 'rebuild confidence in our data, through accurate recording and governance'.


The NDA would like to take this opportunity to highlight the importance of departments, agencies and bodies collecting and disseminating relevant data. This information can then inform and guide future decision-making. We have very little data on persons with disabilities in the criminal justice system. In 2000, a survey was undertaken by the Department of Justice, Equality and Law Reform entitled **A Survey**

of the Level of Learning Disability among the Prison Population in Ireland.

This survey has proven to be a rich source of data for the NDA, however, it is quite outdated. We do know that persons with disabilities continue to be over-represented in the criminal justice system. In order to support our work, and in turn effect change for persons with disabilities, we need departments and agencies to carry out similar data-collection exercises.

Once again, we appreciate the opportunity to put forward the considerations highlighted above, and we hope to see some of these priorities reflected and articulated in the forthcoming Strategy Statement. The NDA would be happy to meet with officials in An Garda Síochána to discuss any of the recommendations in this paper in further detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aileen Hartney'.

Dr Aileen Hartney

Director