

**March 2023**

NDA Submission to the Department of Agriculture, Food and the Marine on their Statement of Strategy 2023-2026[[1]](#footnote-1)

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 - 2026 addresses issues related to this department’s remit which fall within the NDA’s competencies and expertise.

# 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 3.6% in 2021. In addition, the public bodies under the aegis of the department also exceeded the minimum 3% target with an average of 4.2% of employees reporting with a disability in 2021. The NDA advise that further action is required from aegis bodies which did not meet the 3% target, including Bord Bia which reported that 2% of employees reported with a disability in 2021. 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).[[2]](#footnote-2) Recent legislation relating to the Assisted Decision Making (Capacity) (Amendment) Act 2022 will increase the minimum target from 3% to 6% by 2025.

## EU Web Accessibility Obligations

The [EU Web Accessibility Directive](https://nda.ie/monitoring/eu-web-accessibility-directive/eu-web-accessibility-directive-monitoring-reports), which came into force in September 2020, requires Member States to ensure that websites and mobile applications of public sector bodies are fully accessible to persons with disabilities and comply with the harmonised standard EN 310 549 (v3.2.1). The Directive further requires public bodies to maintain an [Accessibility Statement](https://nda.ie/monitoring/eu-web-accessibility-directive/accessibility-statements) in a prominent location on all its websites. This must include a clear feedback mechanism for users to ask for assistance with inaccessible content and features as well as the statutory complaints mechanism through which a person can make a formal complaint about the website’s accessibility in-line with the Disability Act 2005 or the Equal Status 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 2021 and 2022 in this regard, and issued a Notice of Monitoring to the departments in November 2022.[[3]](#footnote-3)

In 2021 the NDA conducted a simplified review of some of the websites of aegis bodies under the department. Bord Bia received an accessibility score of 3.1%, and the Marine Institute received an accessibility score of 0.1%. The NDA recommends that the Department of Agriculture, Food and the Marine articulates its statutory obligation to ensure all its websites comply with the EU Web Accessibility Directive, in this 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. 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.

## 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 the Public Service, which provides guidance for public servants on how to communicate with the public using the simplest and clearest language possible and to ensure that all services are accessible, and meet the diverse needs of all customers. [[4]](#footnote-4)

The NDA recently forwarded the findings of the Part 3 Monitoring Report to the Secretary General of the Department of Agriculture, Food and the Marine, which contains the results of a desk based exercise, assessing the websites of public bodies as defined by Part 3 of the Disability Act. Initial findings show that 2 of the 13 public bodies (15.4%) under the aegis of the Department of Agriculture, Food and the Marine, meet all criteria of the standard indicator regarding Section 26(2) – Access Officers, which is below the average (33.9%) for public bodies overall. However, these figures may be subject to change, as the department and its aegis bodies have until 30th March 2023 to revert with additional information or updated websites, before final publication of the report. The NDA recommends that further action is taken by bodies who do not meet the criteria, before final publication of the report, and look forward to continued work on the recommendations detailed in the report and in assisting public bodies who do not meet this indicator to address gaps.

## Requirement for Accessible Public Buildings

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. This may include local agricultural offices. 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 and that this commitment is clearly articulated in the Statement of Strategy.

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

## Irish Sign Language Act

The Irish Sign Language 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. 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.

**Procurement Requirements**

Central to delivering universally designed services is procurement. If accessibility and universal design 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](https://www.irishstatutebook.ie/eli/2016/si/284/made/en/print) in the case of public service and also in all public works contracts. As well as the EU Directive 2019/882 on the accessibility requirements for procurement of products and services (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](https://www.irishstatutebook.ie/eli/2005/act/14/section/27/enacted/en/html). 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 are particularly important when procuring services as their exclusion can create repercussions throughout design and implementation processes and can ultimately lead to inaccessible services.

# Conclusion

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

1. <https://www.gov.ie/en/consultation/bf945-public-consultation-process-for-the-statement-of-strategy-2023-2026/#:~:text=A%20copy%20of%20the%20Department's,by%20Wednesday%2C%2015th%20March%202023>. [↑](#footnote-ref-1)
2. <https://nda.ie/publications/nda-annual-reports-on-compliance-with-part-5-of-the-disability-act> [↑](#footnote-ref-2)
3. [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-3)
4. [NDA - Universal Design Public Service Toolkit - Foreword](http://publicservice.universaldesign.ie/) [↑](#footnote-ref-4)