National Disability Authority Review of Part 5 2022

December 2022



# Foreword

This paper produced by the National Disability Authority (NDA) details the research findings developed as part of the Review of Part 5. In 2019, the NDA commissioned an external contractor Steelesrock Ltd to conduct a Review of the Part 5 of the Disability Act 2005. One of the main objectives of this Review was to guide the development and implementation of a process that could help the NDA to get richer data on the measures public bodies have in place to meet their obligations under Part 5 of the Disability Act (2005). Another key objective was to guide a more user friendly, streamlined, efficient and feasible process overall for the NDA to manage.

This paper also sets out recommendations for next steps.

Since 2021, the NDA has implemented a number of these recommendations. One of the key recommendations is that the two similar **Codes of Practice – the Code of Practice for Appointment to Positions in the Civil Service and Public Service** and **the Code of Practice for Appointment of Persons with Disabilities to Positions in the Civil Service and Certain Public Bodies** should be merged and updated to reflect current equality, diversity and inclusion policies and strategies, including guidance on confined competitions, alternative recruitment routes and accessible job specifications.

In May 2021, the NDA met with Commission for Public Service Appointments[[1]](#footnote-1) (CPSA) who had started to merge a number of similar **Codes of Practice for Appointment to Positions in the Civil and Public Service** into one **Code of Practice**. The NDA advised the CPSA regarding measures that could be included in this single **Code of Practice** to assist the public sector in developing and implementing inclusive recruitment practices and creating Equitable Diverse and Inclusive (EDI) work environments using a Universal Design approach. When public bodies use this type of approach, they are ensuring that all their products, services, communications (digital, written, spoken and signed) and the physical environment are universally designed and therefore easy to access, understand and use for everyone regardless of age size, ability or disability. In September 2021, the CPSA published a single **Code of Practice** – **Code of Practice for Appointment to Positions in the Civil and Public Service** and FAQs.

The NDA also became a member of the Public Sector Recruitment network set up by the Public Appointment Service (PAS) to help public bodies develop and implement more inclusive recruitment practices. This network currently consists of more than 40 public bodies. The NDA, through this network, will be able to help more public bodies meet their obligations under Part 5, particularly in relation to increasing the recruitment and retention of persons with disabilities, supporting employees to share their disability status and progressing towards reaching the minimum 6% target by 2024[[2]](#footnote-2).

In the next year, the NDA will begin the process of consulting with a diverse set of stakeholders to develop, pilot and implement the following recommendations from the Review of Part 5:

* Questions to get richer data from public bodies on the measures they have in place to create an EDI work environment using a Universal Design approach
* Questions to capture public sector employees’ perception of their respective organisations and the progress they are making in creating an EDI work environment
* Developing and implementing an online monitoring system that will streamline the data collection and verification process and facilitate more in-depth analysis on the employment and career progression of persons with disabilities in the public sector. It is envisaged that this monitoring system will also facilitate the analysis of data collected under the NDA’s different monitoring  functions including Part 3 (accessibility of  public services, information, public spaces and the built environment); Part 5 (employment of persons with disabilities);  European Union (Accessibility of Websites and Mobile Applications of Public Bodies Regulation). This system will enable the collection and analysis of data that will also inform the NDA’s roles regarding monitoring the progress public bodies are making in meeting their obligations under the **UN Convention of the Rights of Persons with Disabilities (UNCRPD), Comprehensive Employment Strategy for the Employment of Persons with Disabilities 2015 – 2024** and the next iteration of the **National Disability Inclusion Strategy**, which will likely be a **UNCRPD** Implementation Strategy.

Stakeholders in this consultation process will include Disabled Person’s Organisations (DPOs); individual persons with disabilities, disability organisations that provide services and supports for persons with disabilities; Senior Management and employees with and without disabilities in the public sector; and public sector trade unions.

The findings from the consultation and piloting processes will inform the changes that are made to the Part 5 process. It is estimated that these changes will be made over the next three years. The NDA will be providing the public sector with updates regarding same.

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# Executive Summary

## Overview of the Part 5 Process

Under Part 5 of the Disability Act 2005, public bodies have an obligation, where practicable, to promote and support the employment of persons with disabilities in the public sector and to ensure that a minimum of 3% of their employees are persons with disabilities.

The National Disability Authority (NDA) has a statutory role in monitoring the employment of persons with disabilities in the public sector, arising from Part 5 of the Disability Act 2005. This role includes providing an annual figure in relation to the minimum target via the annual Reports on Compliance with Part 5 of the Disability Act 2005; a process to determine non-compliance where the target has not been achieved for 2 consecutive years; and extensive guidance and support to help public bodies meet their obligations under the Act.

Under Part 5 of the Disability Act 2005, disability is defined as:

“a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.[[3]](#footnote-3)”

This definition is narrower than the definition used in the Equality Acts 2000 and as such, it requires the public sector to be more proactive in ensuring those who may be more likely to be excluded from employment opportunities can access and retain jobs in the public sector.

## Context and Approach to Review

The NDA considered it was timely to conduct a review of the Part 5 process for the following reasons:

* The processes to collect and report data and to determine public bodies’ compliance under Part 5 had been in place since 2007. The NDA was considering new approaches, including technological developments in the area of user insights, machine learning and AI (Artificial Intelligence), that could yield richer data, regarding the progress public bodies were making in creating equitable diverse and inclusive work environments that increased the recruitment and retention of persons with disabilities
* The Government’s commitment to increasing the minimum statutory employment to 6% by 2024[[4]](#footnote-4) as detailed in the **Comprehensive Employment Strategy for People with Disabilities 2015-2024**
* The overarching need to reach the goals of **UN Convention on the Rights of Persons with Disabilities (UNCRPD)** in relation to Article 27 of the Convention – Work and Employment. This Article recognises the right of persons with existing and acquired disabilities to work, on an equal basis with others in open, inclusive and accessible work environments.

This review is a synthesis of previous research, commissioned work, and the NDA’s reflections on the learning from this body of work. Previous work commissioned by the NDA adopted a mixed methods approach to the collection and generation of data that included an online literature review; interviews; focus groups; an audit map of the current Part 5 process, and two online surveys. Section 1.4 of the main report provides more detail on the methodology used.

This review offers recommendations regarding a series of actions that can be progressed over the next three years to refine and renew the Part 5 process and to further drive the equality and diversity agenda in the public sector, with particular regard to disability, and on foot of same, to improve data collection and reporting processes.

## Summary of Key Findings

There were a number of key findings that emerged from the literature review, interviews, focus groups, surveys and research conducted by the NDA regarding the following core areas:

* The Equality, Diversity and Inclusion (EDI) Agenda
* Lack of evidence regarding the efficacy of quotas
* Feedback on the current Part 5 process.

These key findings are summarised as follows:

### The Equality, Diversity and Inclusion (EDI) Agenda

* The creation of equitable, diverse and inclusive work environments is an important element in progressing the Equality, Diversity and Inclusion (EDI) Agenda in the Irish public sector
* The **Public Sector Equality and Human Rights** **Duty[[5]](#footnote-5)** and **Our Public Service (OPS) 2020[[6]](#footnote-6)** places requirements on public bodies to create equitable, diverse and inclusive work environments
* **The Comprehensive Employment Strategy for Persons with Disabilities 2015 – 2024[[7]](#footnote-7)** and the previous **National Disability Inclusion Strategy 2017 – 2021[[8]](#footnote-8)** also contain actions that public bodies must implement to increase the recruitment of persons with disabilities
* The findings in this review show that there does not appear to be a cohesive approach to addressing or implementing the EDI agenda across the public sector or examining data requirements in totality
* Maturity models have been developed in the past number of years to help drive the EDI agenda in the public and private sectors. These maturity models track the optimal trajectory of an organisation from a focus on compliance in the immature phase to a focus on inclusion in the mature phase. Examples of such models were found during the literature review and include those developed in private practice such as Accenture and those published by the **OPS 2020[[9]](#footnote-9)**
* Monitoring the implementation of the EDI agenda in the Irish public sector is essential to ensure its effectiveness. Organisations need metrics to collect:
* Qualitative data (e.g. productivity, quality relationships, the ‘felt sense’ of working for an employer, feeling included and accepted) and
* Quantitative data (e.g. the number/percentage of diverse employees, pay and rank, training opportunities, intersectional analysis)
* Employees frequently do not formally share their disability status due to fear of adverse consequences and because they are not confident/certain about how the data will be handled
* Anonymous staff surveys appear to provide employees with a safe space to discuss their experiences as employees with disabilities. Evidence from the National Health Services’ (NHS) Workforce Disability Equality Standard (WDES) found significant differences between employees self-declaring a disability on their employee record (3%) and anonymous survey respondents identifying as an employee with disabilities (18%)[[10]](#footnote-10)
* Emerging diversity and inclusion monitoring platforms using combinations of psychometric testing, staff surveys, user-inputted data, AI/machine learning and ‘big data’ analytic insights provide for intersectional analysis, insights on representativeness and employee sentiment, and can yield an employer ‘score’ on inclusion.

### Quotas

* Ireland is unique in that Part 5 is not a quota but is rather a statutory minimum. It does not rely on national registers of persons with disabilities, and does not have levies or fines to incentivise the employment of persons with disabilities
* Research shows that there is a lack of evidence regarding the efficacy of quotas in relation to monitoring the employment of persons with disabilities or promoting the employment of this cohort of people. There is little evidence of how data are collected and monitored regarding employers’ compliance with quotas
* A broad opinion throughout the literature is that when a global examination is undertaken, countries that have quota systems do not appear to have higher employment numbers than countries who do not
* Quotas are usually enforced using levies or fines, which are often ring fenced to subsidise promotional work for the employment of persons with disabilities. These levies are often not sufficient to encourage compliance and employers often view quota-imposed sanctions as necessary nuisance charges in the cost of doing business.

### Feedback on the current Part 5 process

* The Part 5 process is complex, involving multiple public bodies, Monitoring Committees, NDA staff and occasionally Government Ministers. The NDA is the fulcrum around which the Part 5 process revolves, but it is not the sole owner of the process. Ownership of the process is shared across the public service and change requires a whole of public service approach
* There appears to be inconsistencies regarding data collection, for example, some organisations conduct annual surveys, others rely on data maintained in HR departments, and some make estimates based on HR records
* There is considerable “data handling” in compiling information for the annual Part 5 report. This introduces multiple opportunities for errors, and inconsistencies in the data collection methodologies identified during this review that cast doubt on the reliability and accuracy of data presented in the annual Part 5 reports
* Because of concerns over data handing, the varying approaches to data collection methods and a reluctance of some staff to disclose a disability, it is not possible to attach complete confidence in the accuracy of the currently understood employment rate of 3.1% (2020 data). It more accurately could be described as an approximate index of public sector disability related practices.

A flowchart illustrating the existing Part 5 process is shown in Appendix B.

## Conclusions

The Part 5 process is a positive action measure designed to increase the numbers of persons with disabilities in the Irish public service. However, the findings of this review suggest that, as a measure, it lacks a clear and specific policy objective. Variations in the way in which data are acquired and compiled mean that the current process does not provide an accurate estimate of the numbers of persons with disabilities in the public service or a robust census of public sector employees with disabilities.

The current Part 5 process does provide an index of both employment rates of persons with disabilities and a sense of the culture of disability inclusion that exists in organisations. The annual reporting cycle, reflected in both the annual return and the subsequent Part 5 Annual Report, is a powerful motivator for senior management to focus on the topic. Regrettably, in many cases, once the statutory minimum is reached or surpassed, management attention can decline.

Improvements in the numbers of persons with disabilities working in the public sector, and in the quality of the career opportunities with which they are provided, depend not only on changes in the culture of individual organisations, but on the culture of the public service as a whole. This review shows that, without changes in the type of actions being taken by public bodies to increase the level of employment of persons with disabilities in the public service, the goal of achieving the minimum 6% target by 2024[[11]](#footnote-11) is unlikely to be met by all Government Departments and agencies. It should be noted however, a few public bodies have already reached or exceeded this target. In 2020, 61(28.4%) of public bodies reported that over 6% of their employees reported a disability. This a slight increase from 2019, when 48 (22.2%) public bodies reported that over 6% of their employees reported a disability.

Expectations that the NDA can provide leadership in this regard are rooted in the Authority’s expertise and influence. However, the NDA cannot be the only leader and the public sector needs to step up regarding their roles and responsibilities in relation to Part 5. The general perception of the NDA’s role in the wider public service overstates its role and responsibilities as currently laid out in the National Disability Authority Act of 1999 and the Disability Act 2005.

There is ample evidence of a poor appreciation and low value placed on disability inclusion by the public sector. This evidence includes poorly resourced roles such as Disability Liaison Officers (DLOs) and Access Officers, low rates of training in disability inclusion, failures to provide accommodations, unfulfilled commitments in Codes of Practice and the production of Codes of Practice that have not been fully utilised.

Many of the recommendations presented in this review have been outlined before in previous reports. Actions, such as conducting confined competitions and awareness campaigns, have surfaced repeatedly. Collectively, the public sector needs to move beyond articulating required actions to implementing those actions. The Part 5 process on its own cannot bring about the cultural change required.

## Recommendations

This review proposes a number of recommendations and describes various types of actions for the NDA to consider which are covered under the following five themes across a three-year time period:

* Guidance and advice
* The Part 5 process
* Communications
* Legislative change
* Research

The final chapter of this report, ‘Next Steps’ prioritises the recommendations and proposes a three-year timeline for implementation with a number of actions running concurrently over this time period. These are set out in summary form in the table below. The recommendations marked with a \* are recommendations that the NDA has implemented since 2021.

| **Next Steps** | **2020-2021** | **2021-2022** | **2022-2023** |
| --- | --- | --- | --- |
| **NDA Guidance & Advice** | * NDA to frame Part 5 within this wider legislative and policy context in their communications and guidance by producing infographics on: * Diversity and inclusion policy landscape * \*Explanation of the difference in the definitions of disability used by the various policies and legislation. * \*NDA to produce clear, easy-to-understand information on all data collection tools being presented to employees to support employees to share their disability status and allay fears. * \*NDA to discourage public bodies from maintaining the use of registers of employees with a disability for the purposes of making Part 5 returns. * \*NDA to highlight and advise on the implementation of confined competitions for persons with disabilities under the **Comprehensive Employment Strategy for People with Disabilities 2015 – 2024.** * \*NDA and the Centre for Excellence in Universal Design to continue the promotion of Universal Design to ensure that public bodies focus on creating accessible and inclusive work environments. | * \*NDA continues framing the Part 5 in the wider policy landscape to ensure organisations understand the value of reporting in meeting their overlapping diversity and inclusion obligations, e.g. the **Public Sector Equality and Human Rights Duty.** * NDA to collaborate with IHREC to identify communications and reporting mechanisms that complement both Part 5 and the **Public Sector Equality and Human Rights Duty.** * NDA to engage with DPER (OneLearning) and recommend civil and public service training providers ensure sufficient competence in disability awareness and practices that promote the employment of persons with disabilities. * Disability and diversity awareness training for civil/public sector staff should be included as an objective under future relevant strategies. * NDA to recommend a sustained promotional campaign in the public service on disability inclusion, highlighting the benefits of employing persons with disabilities. * NDA to advise the Minister on the establishment of a public service-wide disability forum to enhance understanding of issues across both the civil and wider public service. * NDA to consider providing online training modules and webinars, to create information and guidance for public sector employers on specific issues such as reasonable accommodations or autism. * Government Departments and public bodies should consider providing accredited training, relevant to the areas of disability and inclusion, to all Disability Liaison Officers and Monitoring Committee members. * \*NDA to recommend merging the two Codes of Practice on appointments in the civil and public service and updating to reflect current equality, diversity and inclusion policies and strategies, include guidance on confined competitions, alternative recruitment routes and accessible job specifications * NDA to request DPER to introduce a means for public bodies, independent of (or in addition to) normal voted budgets, to provide accommodations equivalent to the mechanisms available to private bodies from the State. | * Where the technical level of data collection and analysis at an organisational level exceeds staff capacity to deliver and analyse the data, consideration should be given to outsourcing the process (where appropriate under data protection obligations) or seeking help from external providers with relevant expertise. This recommendation to be considered following changes to the legislation and/or Part 5 metrics. |
| **Revisions to Part 5 process** | * \*NDA to advise public sector bodies to gather employee data under Part 5 anonymously. * NDA to consider and include standard caveats and clarifications to the Part 5 Annual Report, e.g. where organisational non-compliance is being reported but the non-compliance is historical. | * NDA to consider requesting Government Departments to report on compliance with Part 5 in their annual reports, similar to their **Public Sector Equality and Human Rights Duty.** * NDA to redevelop (anonymous) employee census in four phases:  1. Include metrics on employee rank, pay, retention, when the employee’s disability was acquired, the type of disability, factors that influenced employees to share their disability status, other employee demographic information, and the provision of reasonable accommodations 2. Explore options for ‘felt sense’ metrics and other qualitative metrics to include feelings of acceptance and belonging in the organisation, experiences of bullying/harassment, and perceptions of leaders’ visibility and commitment to diversity and inclusion in the organisation 3. Examine how commitments to diversity and inclusion are reflected in organisations’ performance management and promotion processes so that employees feel comfortable sharing information such sexual orientation, disability status, and other personal information such as being a single parent etc 4. NDA to pilot and review a redeveloped form before rolling out to all Part 5 organisations in 2022  * NDA to consider benefits of including an additionalquestion on disability status on data collection with due regard to the different definitions of disability, for example that used by the CSO or WG-SS. * \*NDA to consider asking public sector organisations to include details of training provided to Disability Liaison Officers, Monitoring Committee members and others involved in disability awareness and the promotion of the employment of persons with disabilities in their annual Part 5 returns. * NDA to consider adapting a diversity and inclusion model (such as the **OPS 2020** Maturity Model) to provide public sector organisations with a tool to implement cultural change. * NDA to consider a movement towards cloud-based diversity data collection tools. * NDA and the HSE to consider piloting Part 5 data collection and reporting by a Community Health Organisation (CHO). * NDA to consider changes to the analysis and presentation of the qualitative data gathered under Part 5 in order to show trends and key themes within the public sector. * \*NDA to request clarification from Ministers regarding the operation of Monitoring Committees under their aegis with respect to the requirements in the Disability Act (Sections 48(4) and 48(5)). * NDA and Monitoring Committees to examine public bodies that have achieved the minimum 3% target to identify the type of supports that will help them to increasing their sense of ownership regarding meeting their obligations under Part 5, and organisations’ progress in this regard. * NDA to request an extension of the role of the Disability Liaison Officer across all public sector organisations. * \*NDA to request Government Departments to report and maintain a list of public bodies under their aegis to identify those bodies not subject to Part 5. | * NDA to consider the use of an organisational scorecard and consideration given to publication of these scores. * Where revisions are made to the Part 5 process that refocus the work of Monitoring Committees away from procedural and reporting efforts, the Monitoring Committees could take a more central role in monitoring disability inclusion work in the public bodies under their aegis. * Monitoring Committees and the NDA should include all voluntary returns of levels of employment of persons with disabilities in its annual reports on Compliance. * NDA to consider a pilot programme to monitor the employment of persons with disabilities in small organisations that puts greater emphasis on the environment and policy factors rather than employment data.   NDA to consider ways to exercise greater influence and ownership of the Part 5 process by maximising its rights under the Act to introduce Codes of Practice (with permission from the Minister) which would formalise the guidance it currently provides on e.g. methods of data collection, interpretation of the definition of disability in the Act, and advice on compliance. Such changes to be piloted from 2022. |
| Communications with public bodies | * \*NDA to consider the language used in communications around the use of the word ‘target’ of 3%. The language should emphasise that this is a **minimum** compliance target rather than an end goal. * \*NDA will review existing training and guidance materials and ascertain if further materials need to be developed. | * NDA to further develop supports for staff in public sector organisations that are reporting on the Part 5 process, e.g. a dedicated webpage to include guidance documents, document templates, and links to best practice literature and tools, producing and hosting online training modules. * \*NDA to consider changing the language regarding data collection from ‘disclosure’ to ‘sharing’ disability status. * \*NDA will continue to review existing training and guidance materials and ascertain if further materials need to be developed. | * NDA will continue to review existing training and guidance materials and ascertain if further materials need to be developed. * NDA to consider ways to celebrate and draw attention to public sector organisations who embody good practice on the promotion of employment for persons with disabilities beyond the annual Part 5 report. e.g. through public sector excellence awards. |
| Legislative change |  | * \*The NDA will prepare legislative amendments and monitor the progress of the Miscellaneous Bill to see if there are opportunities to suggest amendments. | * NDA might recommend that a finding of non-compliance be made where an organisation does not submit accurate data or meet the timelines. * A Part 5 legislative amendment might consider whether organisations should be required to submit an action plan for the year setting out how the body will increase the numbers of persons with disabilities in employment. Such a plan might consider the following areas: * How new employees with disabilities will be recruited and promoted * How the organisation will retain existing employees with disabilities. * NDA to consider the potential for Monitoring Committees to review organisational annual action plans that promote the employment of persons with disabilities. * Government Departments to demonstrate that their Monitoring Committees have the requisite membership and have achieved the required number of meetings in order for that Department to achieve compliance. * Alteration of the membership and meeting requirements specified in the Act to reflect the operational realities of some Departments and their agencies. * NDA to consider introducing mechanisms (including primary or secondary legislation) to reduce the number of public bodies that are exempted from reporting, initially targeting the inclusion of universities and the Higher Education Authority (HEA). * NDA to consider the exclusion of smaller organisations obliged to submit returns under Part 5 (e.g. organisations with less than 30 employees). This change will also have an implication for action under the Part 5 Process in 2023. * \*NDA to consider a revision of the Part 5 reporting process from a 2-year cycle to a 1-year cycle so that an organisation immediately becomes non-compliant on reporting a failure to meet the statutory minimum level of employment of persons with disabilities.   NDA to consider the removal of steps from the Part 5 process requiring the NDA to engage with a Minister of Government before requesting further information from a public body. |
| Further research |  | * Public sector organisations should consider conducting an intra-organisational data audit to map common data needs (with all diversity and inclusion legislative obligations), collection tools, available information and data gaps. NDA to consider advancing this as an additional aspect of the CSOs **Equality Data Audit**. * In the context of the Part 5 process, the NDA may consider exploring employees’ experiences of remote working during the coronavirus restrictions to ascertain the benefits and challenges of such approaches. * NDA to conduct a review of differences that exist between the performance of Government Departments and semi-state public bodies (commercial and non-commercial) in reaching the 3% minimum. * NDA to consider a review of relevant legislation to: * Establish the extent to which the medical model is promoted in Irish law, and to identify opportunities for its removal * Examine if ambiguity exists in the definitions of disability in the Disability Act and the Equality Acts, in particular in relation to the obligations of public sector employers to provide reasonable accommodations. | * NDA to consider conducting a review of supports currently available to persons with disabilities seeking employment and/or promotion in the private sector, in order to identify any gaps in equivalent supports that are available to public sector employers, employees and candidates. |

## Beyond 2023

* Further to implementing actions and recommendations included in this report and the roll out of new processes, the NDA should consider a future reporting and data audit mechanism that can check the validity and accuracy of data gathered and reported by public sector organisations and Monitoring Committees under any revised Part 5 process.

# Introduction

## 1.1 Background

Part 5 of the Disability Act of 2005 establishes legal duties on all Government Departments and public sector bodies, as defined, to be proactive in promoting and supporting the employment of persons with disabilities, including setting a minimum statutory employment target of 3% of their workforce to be achieved. The 3% is a minimum compliance target that sets a minimum threshold beyond which public bodies are expected to achieve and exceed. The Act also assigns specific duties to the NDA to monitor and report annually on performance to the Minister.

As the procedures and processes to support the implementation of duties are in place since 2007 and the minimum target is due to increase in further legislation, the NDA considered there would be value in commissioning a review of how Part 5 operates in practice, as well as any learning from other jurisdictions and developments related to diversity, equality and inclusion initiatives to guide improvements.

The review was also considered to be timely to support the implementation of the Government’s **Comprehensive Employment Strategy for People with Disabilities 2015-2024,** which includes a specific commitment to increase the statutory minimum requirement for the employment of persons with disabilities in the public sector from a minimum target of 3% to a minimum target of 6% by 2024[[12]](#footnote-12). This is also a commitment under the **Programme for Government 2020.**

This document brings together a number of studies including research conducted by the NDA and previous commissioned work.

## Overview of the Part 5 process

Part 5 is an annual process. The duties in Part 5 relate to numbers employed in the public service, but also require that Government Departments and public bodies are actively working to create inclusive work environments and good HR practices, to attract, support and retain employees with disabilities.

* Every year the NDA provides guidance and advice to the Departmental Monitoring Committees. The establishment of these Committees is a requirement of the Act and it is expected that they will also work to encourage compliance with the Act within their own Department and by public bodies under their aegis. The Monitoring Committees disseminate this guidance to public bodies under their remit
* The NDA also provides the Monitoring Committees with forms for the collecting/updating and reporting of Part 5 data, which the Committees also send to their public bodies
* The Disability Act is not prescriptive of how public bodies should count or identify employees with a disability. The NDA provides guidance to these organisations about the methods that may be used to collect and/or update data, but it is the responsibility of each organisation to decide on its own approach. Current methods used include a staff survey, a census, or by using the HR records of staff to identify staff changes during the year, with the appropriate data protection measures in place. The NDA also advises that compliance with the **General Data Protection Regulation** (**GDPR**) that became enforceable on 25 May 2018, is a matter for each public body as data controller. Public bodies must comply with the principles set out in the GDPR, particularly regarding transparency. This means that it is essential that before collecting data for their annual Part 5 returns, public bodies must have informed all of their employees why their data is being collected, and how this data is being processed. Public bodies should also inform employees of their rights under the GDPR (including, if applicable, the right to object to their data being included in their organisation’s annual Part 5 returns)
* Public bodies report to their respective Departmental Monitoring Committees using a common statutory form and related Excel spreadsheet (see Appendix A for copies of forms for data collection and data reporting). They provide information on the measures they have in place to support the employment of persons with disabilities, highlighting any issues preventing them from achieving the minimum target, reporting data on employees and indicating how they collected these data. Public bodies also report information to allow the NDA to categorise them by, for example, Departmental groups, organisation size, and organisation type (e.g. Non-Commercial, Public Body Staffed by Civil Servants, etc.)
* Public bodies must collect/update their data for the preceding year to their Departmental Monitoring Committee no later than 31 March every year in compliance with Section 48 (2) of the Disability Act 2005
* The Monitoring Committees collate the information they receive from public bodies under their remit into a statutory form and Excel spreadsheet. At the outset, the NDA received Ministerial approval for the forms that are used to collect and return data for Part 5, to ensure that public bodies would use these statutory forms to submit this data on an annual basis
* Each year the NDA publishes a monitoring report describing the performance of public bodies in meeting the statutory minimum target based on the reports it receives from the Departmental Monitoring Committees. These annual reports indicate the number of staff reported as being employed by each public body and the percentage of staff that have a disability in these organisations for the same year. The qualitative data is summarised in a general description of measures in the Part 5 report and is not broken down by each public body. However, where public bodies have not met the minimum 3% target for two consecutive years this qualitative data is analysed in detail according to organisational size (medium: 50-99 employees and large: 100-5,000 employees). The qualitative data informs the NDA’s determinations of non-compliance
* The NDA monitors the performance of smaller public bodies with less than 50 employees that do not make the minimum 3% target on a consistent basis. However, the NDA recognises that in smaller public bodies, employees may be less likely to disclose their disability status which can make it difficult for the public body to demonstrate that they have an inclusive work environment in place that promotes and supports the employment of persons with disabilities. In such small organisations, reporting one person with a disability means the difference between achieving the minimum 3% target or not. The NDA provides these public bodies with continuous advice and guidance to help them improve their performance under Part 5

A process flowchart of the Part 5 process is in Appendix B and a more complete discussion of the Part 5 Process and findings related to same are outlined in Chapter 3.

## Definition of disability under the Disability Act 2005

It should be noted that reported numbers under Part 5 are required to relate to the definition of disability as set out in the Disability Act 2005, which defines disability as:

“a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.[[13]](#footnote-13)”

This is a distinct definition that is narrower than the definition used in the Equal Status Act 2000:

“(a) the total or partial absence of a person’s bodily or mental functions, including the absence of a part of a person’s body,

(b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness,

(c) the malfunction, malformation or disfigurement of a part of a person’s body,

(d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or

(e) a condition, disease or illness which affects a person’s thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour[[14]](#footnote-14)”

The narrower definition of disability used under the Disability Act requires the public sector to be proactive in ensuring those who may be more likely to be excluded from employment opportunities can access and retain jobs in the public sector.

In some countries that operate quota schemes employers rely on a register of persons with disabilities to help them to identify and recruit employees with disabilities. These registers tend to align with a medical model definition of disability. Having neither a quota system nor a state register of persons with disabilities, employers and employees in the Irish public sector should refer to and apply the Disability Act 2005 definition of disability when reporting under the Part 5 process.

## Context and Approach to Review

The NDA has undertaken considerable research and developed evidence-informed advice to guide national policy in supporting greater employment opportunities for persons with disabilities in the open labour market. This research and guidance has informed our advice for the **Comprehensive Employment Strategy for Persons with Disabilities** **2015 - 2024**, and the role that Government Departments, state agencies, employers and unions have to play in this Strategy. It has also informed our advice to guide both private and public sector employers. Reports from the NDA draw attention to the challenges faced by employees with disabilities in obtaining and retaining employment and how changes in the culture of organisations can lead to a fully inclusive workplace. A feature of these NDA reports is the recognition of the need for greater knowledge by public sector employers concerning practical changes in the workplace.

The **Public Sector Equality and Human Rights Duty** and **OPS 2020** also place further requirements on public bodies to create equitable, diverse and inclusive work environments that will attract a more diverse workforce including persons with disabilities, persons from migrant or minority origin, women, and other traditionally underrepresented groups[[15]](#footnote-15). In this context, the data sources that contribute to monitoring the Part 5 process can be used by public sector organisations to help make them more attractive to potential employees with a disability. For example, the literature notes the desirability of inclusion for organisational reputation[[16]](#footnote-16) [[17]](#footnote-17) and the benefits of diversity on organisational performance.[[18]](#footnote-18) As such, an organisation may wish to be seen as a ‘good place to work’ for members of diverse groups, including persons with disabilities.

Building on further research work carried out internally by NDA staff and the learning from the consultants’ review, the NDA’s review is intended to guide on:

* Models of good practice in the fields of diversity and inclusion from other jurisdictions and sectors that the Irish public sector can adapt if necessary and incorporate into their HR processes to increase the recruitment and retention of persons with disabilities
* Improvements to the Part 5 process to capture good data that can help provide learning to improve employment levels and HR practice, for example,:
* A review of census forms and questionnaires
* Use of technologies such as moving to an online data entry system
* Further improvements to achieve a more efficient and effective process
* A review of the type of guidance and support public bodies may need to help them meet their obligations under Part 5 of the Disability Act 2005
* Learning what would be helpful to guide a review of the legislative provisions in Part 5 of the Act.

## Data collection and methodology

Previous work commissioned by the NDA required that the consultants engage in an extensive consultation and review of the Part 5 process that involved conducting:

* An on-line literature review through academic and commercial databases. This review was confined to publications between 2009 and 2018. The literature review was supplemented by references to relevant national and international sources provided by the NDA
* Semi-structured interviews with three different groups. These were senior managers and human resources officers in public bodies, international practitioners/specialists in employment and persons with disabilities, and managers in both national and international companies. This strand resulted in a total of 27 interviews
* A series of three focus group meetings involving 23 individuals. The NDA identified and invited participants drawn from public bodies’ human resource departments, members of Part 5 Monitoring Committees (which included persons with disabilities) and Disability Liaison Officers, to these focus groups
* A fourth focus group, organised by the Irish Congress of Trade Unions, comprised members of its National Disability Committee
* A process audit and mapping exercise of the current Part 5 process, including discussions with NDA staff
* **Survey One.** An online survey for Human Resource managers, members of Monitoring Committees and members of the Disability Liaison Officers network in the public sector that was sent to 360 named individuals, resulting in 142 responses (39%). The survey ran from 8 July to 9 August 2019. Questions in this survey were designed to cover two areas. Firstly, cultural issues relating to disability inclusion and the broad area of diversity management; and secondly, feedback on the operation and management of the Part 5 process
* **Survey Two.** An online survey targeting both staff with and without disabilities was sent via the NDA to members of the Monitoring Committees, requesting that it be forwarded to all staff in public bodies reporting under the Part 5. The survey ran from 19 July to 6September 2019. Returns to this survey included 6,043 responses from a total potential population of 225,809 (2.6%). Staff from Government Departments contributed the largest response (14%), with staff from non-commercial semi-state bodies accounting for the lowest response (0.28%). Some 9% of those surveyed identified themselves as having a disability, yet only 7% indicated they had declared a disability for the purposes of Part 5 of the Act. **Survey One** and **Survey Two** were informed by the findings of the literature review, the results of the process audit and feedback obtained in interviews and from focus groups.

## Key findings

This study along with further research carried out by the NDA, identified a broad range of issues and expectations amongst both employers and employees concerning the employment of persons with disabilities in public bodies. In particular, there is a widespread view that barriers exist which inhibit the recruitment and retention of persons with disabilities and that organisational cultures are not always supportive. Generally, the findings are similar to those from the literature review conducted by the consultants.

The analyses of feedback related to the Part 5 process indicate inconsistencies across several areas concerning the acquisition, management and reporting of data, in order to demonstrate compliance by public bodies with the requirements of Part 5 of the Disability Act 2005. For example, survey responses highlighted inconsistencies in relation to the frequency of census data collected (ranging from annual collection to once every ten years). Interviews with senior managers and HR professionals in the public sector highlighted the variation in data collection approaches. Some public sector organisations used a staff census, others used a staff survey, while others use HR records of staff to update their annual data, regarding staff who have joined, staff who have left, or requests for reasonable accommodations. Public bodies used the latter approach to identify changes in intermediate years, with appropriate data protection measures in place. Some staff reported being reluctant to respond to surveys, whilst others chose not to answer questions about or to declare a disability.

Highlights of the findings from this work and further research conducted by the NDA are presented below in the following chapters:

* Chapter 2 Literature Review
* Chapter 3 The Part 5 process
* Chapter 4 Equality, Diversity and Inclusion.

Conclusions and recommendations are presented in Chapter 5 and next steps for implementing recommendations are proposed in Chapter 6.

# Literature review

The literature review focuses on the broad field of diversity management and issues related to the inclusion of persons with disabilities in employment. It yielded insights to issues that would later be explored in an Irish context via the interviews, focus groups and surveys. It was also a source of insights to best practices and emerging issues of diversity and inclusivity of persons with disabilities in employment, (including a comparative look at exemplar organisations), and of the many barriers encountered by persons with disabilities in seeking employment and in employment. The review also considered the Irish diversity policy context and the responsibilities on public sector organisations in this regard. Key messages from the literature review are presented below.

## The Development of an Inclusive Organisational Culture

There appears to be no common approach to bringing about diversity and inclusion in the workplace. While there is general agreement around what should be done to bring about change, the research indicates that there is generally no agreement on how to do it.

Despite an absence of a common approach, there are common themes throughout the literature that highlight positive practice in fostering an inclusive work environment. Some of these are visible cultural artefacts and values, for example:

* Inclusion is a strategic organisational objective for which staff and management are held accountable
* Leaders are visibly committed to Equality Diversity and Inclusion (EDI) and this includes communicating and engaging with staff
* Reasonable accommodations are readily accessible and are seen as ‘no big deal’
* There are employee networks, e.g. an employee disability network
* Recruitment practices are accessible, fair and recognise the need for a case-by-case (as opposed to blanket) approach
* Co-worker assistance or mentorship schemes are available
* There are visible role models or ‘diversity champions’
* Diversity training is undertaken by all staff.

There are also more intangible, invisible cultural aspects, for example, implicit beliefs and unconscious bias, the presence of ‘cliques’ and in-groups and corresponding out-groups, and the willingness of an employee to share their disability status. The management of an inclusive culture should consider both visible and invisible aspects and may require a re-evaluation of mainstream able-bodied organisational culture and beliefs.

Compared to the wider field of diversity, there is little research specifically related to the employment of persons with disabilities and management practices that are supportive of workplace inclusivity. This may be reflective of a ‘diversity hierarchy’, where work on inclusion favours certain groups over others. The diversity and inclusivity agenda tends to be concerned with gender, cultural background, and sexual identity, while disability generally - and mental health in particular - are often not prioritised.

Barriers to creating an inclusive workplace for persons with disabilities include, knowledge gaps about supports such as reasonable accommodations and environmental barriers more generally (for example, transport to and from work); bias and stigma concerning persons with disabilities (including bullying and harassment); organisational inertia; a lack of focus on people development and selection and promotion processes; and low expectations about the job performance of those with disabilities.

Organisational culture that does not support people to feel accepted can lead to the reluctance of staff to identify their disability. This can contribute to issues around performance management, for example, participants in the focus groups highlighted examples of people with a disability failing to disclose their disability, and the knock-on effect on performance since they are not provided with accommodations or equipment to support them in their work. Staff may also be reluctant to share other information about sexual identity, being a single parent etc. and this could also prevent them from getting relevant supports in the workplace.

Organisations struggle to prioritise the various steps required to extend beyond being merely diverse and achieving genuine inclusivity. Diversity is often metric driven and focuses on the presence of diverse groups within the organisation (e.g. employee demographics). Inclusivity relates more to the practices and cultural attitudes of organisations and the degree to which they reflexively leverage their diverse employee assets (e.g. rethinking strategies, tasks, processes and practices by using diverse perspectives).

Encouraging organisations to develop an inclusive culture has sometimes taken the form of a ‘business case’ for inclusion, which outlines the advantages to organisations of recruiting and valuing diverse employees, for example, the benefits of having a diverse talent pool, reductions in staff turnover, and increased staff morale and understanding. A business case often cited for increasing diversity and inclusion in the workplace is the positive organisational and reputational image this creates.[[19]](#footnote-19) However, Homan et al. (2007) highlighted the challenges that moving to diverse and inclusive workplaces can bring and that in some instances, team or organisational diversity can impact on communication and co-operation, with implications for management actions required to mitigate same.[[20]](#footnote-20)

To support organisations to achieve inclusivity, the past number of years have seen the emergence of change models that prioritise actions based on an assessment of the maturity of organisations’ existing and desired inclusivity practices.

Maturity models for diversity track the optimal trajectory of an organisation from a focus on diversity to a focus on inclusion. In the ‘immature’ phase, an organisation’s diversity focus emphasises legislative compliance, remedial work on visible cultural aspects, demographic profile change, and focusses on diverse groups of employees as a sub-set of the whole workforce. In the ‘mature’ phases, the organisation internally drives an inclusion agenda to enhance overall organisational performance, focusses on the whole workforce and seeks to implement inclusion as a cultural expression of the organisation.

## Equality Data Monitoring at the International/National Level

Public sector organisations are obliged to report and progress an array of work areas regarding equality, diversity and inclusion (EDI). The **Public Sector Equality and Human Rights Duty**[[21]](#footnote-21) places a statutory obligation on public sector organisations to eliminate discrimination, promote equality, and protect the human rights of staff carrying out their daily work and those to whom they provide services. Action 16 under **OPS 2020**[[22]](#footnote-22) states that “public service organisations should be representative of Irish society as a whole”. **The Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion**[[23]](#footnote-23) requires organisations to report on gender balance and diversity at Board level. There are also several policies and strategies which require data gathering, action and reporting work by public sector organisations.

Most of these duties, strategies and policies have their own recommended reporting structures, tools and actions. In the public sector, it is recognised that actions under one strategy can help fulfil requirements under another strategy.[[24]](#footnote-24) However there doesn’t appear to be a holistic view or map of equality, diversity and inclusion requirements placed on public sector bodies that could help in enabling to carry out monitoring and data collection.

The EU published a set of guidelines in 2019 on improving the collection and use of equality data[[25]](#footnote-25). These guidelines provided a set of actions for Member States. The Central Statistics Office (CSO) then conducted an **Equality Data Audit**[[26]](#footnote-26) across the public sector in 2020 to examine all data sets in public bodies and determine the extent of data available on one or more of the nine dimensions of equality in the Equal Status Act. This audit exercise was conducted to support the development of the National Data Infrastructure (NDI). The core concept of the NDI involves the collection, maintenance and storage of all public sector data such as PPSN, Eircode and Unique Business Identifier (UBI, to be developed) whenever they are relevant to Public Sector Body transactions with customers so that it can support the development of targeted policy interventions. A public sector-wide data mapping exercise to identify data required from public sector organisations (for example, employment data) to fulfil their obligations regarding the various duties, policies and strategies – one of which is Part 5 - would likely increase efficiency and cohesion in the collection of data.

## Quotas

There is often confusion about the difference between targets and quotas and what legislation says about them. Targets are aspirational goals which, for example, a political party might set itself but not mandate any of its office bearers to achieve. Quotas, on the other hand, are mandated outcomes decided by a political party[[27]](#footnote-27). As stated previously in the context of Part 5, the 3% is a minimum compliance target that sets a minimum threshold beyond which public bodies are expected to achieve and exceed.

This section explores the use of quotas and whether they are applicable for the Part 5 process.

A review of 103 counties that operate quota schemes conducted by the International Labour Organisation (ILO) in 2019[[28]](#footnote-28) [[29]](#footnote-29) revealed that that there is little evidence of how data is collected and monitored regarding employers’ compliance with quotas in different countries. This finding has also emerged in other research reviewed for this project (Burke, 2002[[30]](#footnote-30); Greve, 2009[[31]](#footnote-31); Sargeant, Radevich-Katsaroump and Innesti, 2014[[32]](#footnote-32); Fuchs 2014[[33]](#footnote-33))

Quotas and anti-discrimination measures are viewed as contrary in nature[[34]](#footnote-34) [[35]](#footnote-35). Quotas come from a place of highlighting the ‘burden of disability’ as something that should be shared (medical model, individual focus), while anti-discrimination focusses on mainstreaming inclusion within society (social model, environmental focus). Just over half of the jurisdictions with quota systems examined by the ILO also have equality/anti-discrimination legislation.

Employers often view quota-imposed sanctions as necessary nuisance charges in the cost of doing business. They are happy to pay fines and levies for non-compliance rather than look at how they can promote the employment of persons with disabilities. One possible contributing factor is productivity perception - that outside or new hires are regarded as ‘unknown quantities’ in terms of productivity (and ability)[[36]](#footnote-36). As such, employers are more likely to engage with the retention of existing employees who have acquired a disability rather than opt to recruit persons with disabilities from the open labour market. This issue highlights the need to provide employee data relating to new recruitment, for example, routes to employment; the types of contract and grade within the organisation (i.e. entry, middle, management).

Demographic changes linked to an ageing working population acquiring disabilities were also highlighted in the literature, particularly within the context of retention (versus recruitment) of staff and exiting the labour market around retirement age. Both factors may appear as ameliorated unemployment rates however, they conceal the lack of long-term gains[[37]](#footnote-37). Data collection tools that can provide additional detail to control for this would be of benefit. Examples of additional detail that could be gathered include investigating whether the employee had a disability at recruitment or acquired a disability while working for the organisation; being able to disaggregate employee data by age may indicate that the rate of employment for persons with disabilities decreased through retirement rather than recruitment, in addition to other demographic information.

There is little evidence available regarding the effectiveness of quota systems that looks at the effects of quotas in isolation from incentivising schemes and/or anti-discrimination measures. A broad opinion throughout the literature is that when a global examination is undertaken, countries that have quota systems do not appear to have narrower employment gaps than countries who do. Two studies, Lalive et al. (2013)[[38]](#footnote-38) and Mori and Sakamoto (2014)[[39]](#footnote-39) provide some evidence of the effectiveness of quotas by looking at organisations who are just below and just above the application of the quota (i.e. where the size of the organisation dictates the obligation). Small organisations increasing in size are incentivised by the quota to employ more persons with disabilities.

Lalive et al. (2013)[[40]](#footnote-40) further suggested that firm size is positively related to employment of persons with disabilities, possibly because large organisations find it easier to accommodate employees with disabilities. Elsewhere the literature presented a different view, with Malo and Pagan (2014)[[41]](#footnote-41) finding that when the size of the organisation grew, so too did the difficulty of meeting the quota and variations in the proportion of persons with disabilities employed seemed to reflect the differences in organisations’ characteristics rather than the focus on employing people with disabilities.

In just over half the quota schemes examined by the ILO, employers with smaller workforces, generally less than 20 employees, were exempt from the quotas. In some jurisdictions, certain employment sectors are exempt, for instance, diplomatic and consular missions. There is evidence of weighting and special categories of people being counted towards quota fulfilment. For example, the severity of disability may see one employee being counted as three, or a family member of a person with disabilities may be counted in other schemes. Weighting may allow for extra emphasis to be put on more disadvantaged subsets of persons with disabilities, for example, women with disabilities.

Yalcin (2016)[[42]](#footnote-42) notes the difficulty in observing the effect of country-level policy factors (such as quotas) as a group on employment outcomes. Individual-level factors have a significant part to play in whether persons with disabilities face labour market discrimination, with some evidence of intersectional issues, especially in jurisdictions that focus only on integration policies. For example, the following groups faced further exclusion among those with disabilities: women, people who were less educated, persons with mental health problems, someone with an intellectual disability, persons (age-wise) being at the beginning or end of the labour market, those who report having limitations particularly in working hours and transportation, or those in need of special working arrangements.

## Monitoring Disability Data in the Workplace

The literature on best practices for monitoring data in the workplace includes general monitoring of equality, diversity and inclusion (EDI) data as well as disability-specific data. There does not appear to be a set standard for measuring disability in the workplace. Different definitions of disability (e.g. under different legislation) and different organisational contexts prevents a one-size-fits-all approach to specific metrics, quantitative or qualitative. There is, however, lots of best practice that can be developed and adopted to assist in data gathering and reporting.

Findings from the focus groups, interviews and online surveys carried out for this review found that differences in the disability definitions used for Part 5 of the Disability Act 2005 and the Equality Acts 2000 are confusing for public sector staff charged with data gathering. Additionally, different definitions do not allow for accurate comparisons to be made. For example, the CSO provides data on the employment of persons with disabilities using a relatively medical-based measure of disability. Though this measure is useful to consider, direct comparison to the findings of rates of employment for persons with disabilities in the public sector is not appropriate as it is measuring a different definition of disability. It should be noted that difficulties with definitions and categorisation are present, far beyond organisations and at national and international level.[[43]](#footnote-43)

Most recommended metrics for organisational data collection have elements of quantitative employment data[[44]](#footnote-44) (e.g. the number/percentage of diverse employees, recruitment/retention data, pay and rank, training opportunities, intersectional analysis[[45]](#footnote-45)) and qualitative data (e.g. productivity, quality relationships, innovation, exit interview data, case studies on good practice). Best practice metrics also explore the ‘felt sense’ of working for an employer, for example feelings of acceptance and belonging.[[46]](#footnote-46) This latter type of data relates to culture and the degree to which employees feel included.

The two main sources of employment data used to monitor diversity and disability, reported widely in the literature and among exemplar organisations, are individual employee records, e.g. held by HR, and staff surveys (anonymous). Employees may not share their disability status on their formal employment records mainly due to fear of adverse consequences and because they are not confident or certain about how the data will be handled.

Anonymous staff surveys appear to provide employees with a safe space to discuss their experiences as employees with disabilities. Evidence from the NHS’s Workforce Disability Equality Standard (WDES) found significant differences between employees self-declaring a disability on their employee record (3%) and anonymous survey respondents identifying as an employee with disabilities (18%)[[47]](#footnote-47). This literature reflects a significant divergence from the WRC report (2007) which found that “self-identification appears to have little effect on the rate of disclosure of people with disabilities”[[48]](#footnote-48).

People’s concerns regarding sharing their disability status is a common obstacle to monitoring diversity on disability in different sectors, as well as monitoring other group statuses like LGBTQ+ staff identities. Inclusive environments in and of themselves create conditions to improve job candidates’ and employee’s likelihood to self-identify as a person with a disability to employers. However, along the way to inclusion some measures can improve self-identification. These include clear communication on why the person is being asked to provide this information and how the data will be treated. They also include providing regular opportunities for a person to self-identify.

Inappropriate and unclear language can have an impact on an employee’s likelihood to share their disability status. Though there is considerable variation in the language used around disability, all collection and reporting tools should seek to use the most acceptable language (within legislative restraints) and consultation with disability employee networks might assist this. For example, the use of the word ‘disclosure’ has been viewed as unhelpful by some sources in the literature, suggesting that it implies that disability is a secret, or something to warrant being hidden by an employee. Talking about ‘sharing’ disability status is one recommendation and would fit in with an inclusive culture.

Depending on the nature of metrics and measurements being used, staff’s lack of expertise in data gathering and analysis may hamper measurement and monitoring. As a result, outsourcing data collection and analysis is recommended in some of the literature as a means of increasing data validity and accuracy.

There are some emerging diversity and inclusion monitoring platforms using combinations of psychometric testing, staff surveys, user-inputted data, AI/machine learning and ‘big data’ analytic insights. The technology at this level is significantly more sophisticated than the use of the Excel spreadsheet model of data collection and analysis, which is currently used in the Part 5 process. These systems provide for intersectional analysis, insights on representativeness and employee sentiment, and can yield an employer ‘score’ on inclusion. Diversity scorecards are also used to encompass a range of quantitative/qualitative factors and produce a measurement of the organisation overall on diversity.

Arising from the literature on best practice, the review proposed a range of indicators that the NDA might consider adopting. These are outlined in Table 1.

Table - Indicators proposed

| **Diversity** | **Equality** | **Inclusion** |
| --- | --- | --- |
| Defined strategy (yes/no) | % of workforce with disability *v* non-disabled | Internal promotion (yes/no) |
| Published policy (yes/no) | % of disabled staff appointed *v* non-disabled to all positions | Career development paths (yes/no) |
| Diversity forum (yes/no) | % disabled staff *v* non-disabled staff believing that their employer provides equal opportunities for all | Management training (yes/no) |
| Diversity process (yes/no) | % persons recruited with a disability *v* persons disclosing acquired disability | Skills training for employees (yes/no) |
| Mandatory diversity training for all employees (yes/no) | % disabled staff *v* to non-disabled staff experiencing harassment, bullying or abuse | Average training hours (h/person) |
| Presence of diversity role models (yes/no) | % disabled staff *v* to non-disabled staff reporting experiencing harassment, bullying or abuse | Training costs per employee (€/person) |
| Rate of persons sharing their disability status (%) | % disabled staff *v* non-disabled staff saying that they are satisfied the organisation values their work. | Employee satisfaction (%) |
|  | % disabled staff provided with accommodations to enable them to carry out their work |  |

## Monitoring Exemplars

### The National Health Service (NHS) Workforce Disability Equality Standard (WDES)[[49]](#footnote-49)

The WDES is a set of specific metrics that enable NHS organisations to compare the experiences of employees with and without disabilities. The metrics were devised from research conducted through staff reviews and through research and consultation with universities and organisations that provided services to persons with disabilities. Metrics are gathered on an annual basis and the WDES uses a social model of disability.

The purpose of the WDES is to effect cultural change by driving organisations to identify, take action, and improve the experiences of employees with disabilities working in the NHS. By developing an annual action plan, priorities and focus areas are clearly laid out and WDES reports are published publically (e.g. on Trust’s websites).

There are three main data sources:

1. Electronic Staff Records which provide data on workforce representation
2. Staff surveys, including topics such as bullying, harassment and discrimination, career opportunities, presenteeism, feeling valued, adjustments and engagement
3. Local data (e.g. from individual NHS Trusts) such as data on recruitment, capability, engagement and board representation.

Completion of WDES reporting is a contractual obligation for all NHS Trusts and Foundations and organisations must submit three reporting components on an annual basis: a metrics spreadsheet, an online reporting form, and the publication of a WDES annual report. NHS Trusts use the process to develop a local action plan, enabling them to demonstrate progress against the indicators of disability equality, and make comparisons to other NHS organisations.

The metrics spreadsheet includes data on, for example, the percentage of staff in ‘Agenda for Change’ pay-bands[[50]](#footnote-50) or medical and dental subgroups and very senior managers (including Executive Board members) compared with the percentage of staff in the overall workforce. These percentages are compared for both staff with and without a disability[[51]](#footnote-51).

The online reporting form asks organisations to provide additional qualitative information on each metric (e.g. interventions, successes, relevant details like whether staff have self-service access to their HR record). The form also asks the responding organisations to outline any challenges experienced in data collection. These types of qualitative data are asked under each metric heading, e.g. workforce representation, shortlisting, capability, and so on). The staff survey generates a composite score of employee engagement by asking staff the degree to which they agree with statements such as “I look forward to going to my work” and “I am able to make suggestions to improve the work of my team / department.”[[52]](#footnote-52)

The reports generated by individual organisations and Trusts are then reported on collectively in the NHS WDES Annual Report[[53]](#footnote-53). This report primarily groups organisations by geographical region, trust type and size (workforce headcount). The report itself provides an overview of metric results across the NHS and makes wide use of graphical and visual presentations of data.

The report also contains an annex related to the technical analysis of data provided by a Trust. This includes the statistical assumptions around analysis, some caveats around data validity and accuracy, and caveats around which metrics might (and should not be) impacted by external forces (for example, Trusts undergoing a merger, a major restructure or under exceptional financial pressures).

Staff are supported in the data collection and monitoring process in a number of ways. The first is an online resource library specifically for the WDES.[[54]](#footnote-54) This library provides staff with information on the individual metrics, quick guides like factsheets detailing key information (like the timetable for reporting), and broader information. For instance, employers can also find information and guidance on approaches to leave and reasonable accommodations in the library. The second is the WDES Technical Guidance document.[[55]](#footnote-55) This resource provides detail on the obligations on organisations, the legal landscape around the WDES, the definitions and models used under the WDES, specific instructions on data gathering for each metric, and other areas of consideration such as staff engagement, increasing disclosure, and the role of leadership. The third support is a WDES Data Collection Helpdesk which organisations can contact with specific queries regarding their returns. The Helpdesk’s website also has a repository of further information (documents, webinars, etc.) that staff can use to inform their work in the employment of persons with disabilities. The final support consists of a series of regional workshops preparing staff for WDES data gathering and reporting.

### Stonewall (UK) ‘Do Ask Do Tell’ guide to monitoring sexual orientation in the workplace[[56]](#footnote-56)

The guide focusses on three main approaches to data gathering. Depending on the scope or strategy behind the data collection, it may be appropriate for organisations to choose one or more of these data gathering techniques.

1. Attaching data to confidential HR records (self-identification)

* This involves asking employees demographic questions at any stage of employment (including recruitment) and crucially, this data can be updated or withdrawn by the employee at any time
* Provides rich and specific data on career development, training opportunities, rates of pay, grade spread of employees, etc.

1. Anonymous staff satisfaction surveys

* Surveys may include general sets of demographic questions and might include subsets of questions for employees identifying as LGBTQ+
* Provides an opportunity to learn more about perceptions and barriers, for example, engagement with colleagues and whether LGBTQ+ staff feel their organisations is committed to equality/is an inclusive organisation

1. Snapshots of employees

* These include staff censuses to provide a quick overview of numbers and examples of when information like this can be gathered, for example, when an employee enters (e.g. through recruitment documentation or staff pre-employment medical) or exits an organisation (e.g. through exit interviews), to help employers learn about specific issues around the recruitment or retention of LGBTQ+ staff. Specifically, the guide notes that snapshot data should not be attributable to any individual
* Provides relatively limited data from one point in time. Depending on when the snapshot is taken (e.g. on entry/exit), it may be possible to understand whether the organisation is a desirable employer, or the reasons for leaving (e.g. dismissed, made redundant, etc.)

The Guide stresses the importance of appropriate data processing and storage from the perspective of the **General Data Protection Regulation (GDPR)**. Where data gathering is conducted anonymously, there should be no way to trace responses back to individuals (a small sample size may impact this). The guide mentions the benefits of outsourcing data collection to an external provider, where they acquire and process the raw data and provide data overviews and reports back to the organisation.

The Guide also emphasises the importance of inclusive, sensitive language and options for employees to complete surveys at home (especially in open-plan office set ups).

## Public Sector Equality and Human Rights Duty

The **Public Sector Equality and Human Rights Duty** places a statutory obligation on public sector organisations to eliminate discrimination, promote equality, and protect human rights of those to whom they provide services and staff when carrying out their daily work. The **Public Sector Equality and Human Rights Duty** is set out in Section 42 of the **Irish Human Rights and Equality Act 2014**.

The 2014 Act requires a public body, having regard to its functions, purpose, size and resources available to it, to:

1. Assess - set out in its strategic plan an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body
2. Address - set out in its strategic plan the policies, plans and actions in place or proposed to be put in place to address those issues
3. Report - report on developments and achievements in its annual report[[57]](#footnote-57)

These three points inform the IHREC approach to implementing the **Public Sector Equality and Human Rights Duty**.

Organisations must incorporate the **Public Sector Equality and Human Rights Duty** into their strategic planning and reporting cycle (emphasising the ongoing nature of this work) and account for their actions to address the human rights and equality impact of their work. Indeed, Section 42(2) (a) of the IHREC Act 2014 requires an organisation to set out in its strategic plan:

“an assessment of the human rights and equality issues it believes to be relevant to the functions and purpose of the body and the policies, plans and actions in place or proposed to be put in place to address those issues”.[[58]](#footnote-58)

Given the broad nature of organisations in the public sector, meeting the obligations of the **Public Sector Equality and Human Rights Duty** does not have a one-size-fits all approach. The Irish Human Rights and Equality Commission (IHREC) has a mandate to give guidance and encouragement to public bodies in developing policies and good practice in relation to human rights and equality. IHREC also has a monitoring and enforcement role in relation to the **Public Sector Equality and Human Rights Duty**. In Q4 2019, IHREC sent out a survey to public bodies in order to monitor compliance with the **Public Sector Equality and Human Rights Duty**. IHREC is in the process of developing its monitoring role in relation to the Duty.

Where a public body has not provided sufficient evidence of conducting their work in line with the **Public Sector Equality and Human Rights Duty**, IHREC can invite that organisation to complete a review and/or develop and implement an action plan related to the performance of its functions. Reviews and action plans may focus more generally on equality of opportunity and human rights, or more specifically on a particular aspect of human rights or discrimination in the organisation.

## Our Public Service (OPS) 2020 (Action 16)

**OPS 2020**[[59]](#footnote-59) is the framework for development and innovation in Ireland’s public service and follows two public service reform plans that began in 2011. These plans have embedded a range of new approaches to governance, people management and service delivery, to make the work of the public service more transparent, decision-making more accountable, and service delivery more effective. The reforms under **OPS 2020** emphasise collaboration, innovation, efficiency, flexibility and evaluation in order for public sector organisations to increase their overall effectiveness and deliver better outcomes for the public. The reforms focus in particular on HR, ICT and public sector renewal.

Published in 2017, **OPS 2020** is built on three pillars:

1. Delivering for Our Public
2. Innovating for Our Future
3. Developing Our People and Organisations.

The framework has 18 headline actions across the three pillars and they represent cross-cutting strategic reforms that are being implemented across the public service. These actions were decided following consultation across the civil and public service, as well as through public consultation on public service reform. The objective is that, by 2020, these actions will be significantly advanced across the public service.

Each action in the framework has a defined objective, rationale and clear ownership, with resourcing for each action identified across organisations as part of the implementation process. A strong approach to reporting has been considered in the design and formulation of the actions. An Action Team is assigned to each action from across the public sector and these networks provide peer review and shared learning on overcoming common challenges in key areas such as customer service, innovation, project management and strategic human resource management.

Action 16 focusses on the make-up of the public service workforce, stressing the importance that “public service organisations should be representative of Irish society as a whole”[[60]](#footnote-60). To achieve this, the action identifies the need for greater equality of opportunity, diversity and inclusion, and promotion of human rights within the public service (in line with equality legislation). The action specifically names the inclusion of under-represented groups in their organisations, including their advancement. All public service organisations are responsible for this action.

A number of sub-actions are set out which public sector organisations must adhere to, as follows:

* Consider best practice and lessons learned on promoting equality, diversity and inclusion in public service organisations from new initiatives in this area such as the planned **Diversity and Inclusion Policy** in the Civil Service People Strategy and the LGBTI Network of the HSE, which can be shared with other public service organisations
* Improve gender balance at all levels through the implementation of actions under the **National Strategy for Women and Girls, 2017-2020**. This will include increasing gender balance on state boards and at senior levels across the public service
* Work to meet the minimum target of 6% for representation of persons with disabilities in the public sector in line with the **Comprehensive Employment Strategy for Persons with Disabilities 2015-2024** and is a commitment under the **Programme for Government 2020**
* Work to achieve the target that at least 1% of the civil service should be of minority or migrant origin by 2020 in line with the **Migrant Integration Strategy 2017-2020** and consider how the public service can also support this Strategy
* Have regard to guidance issued by the Irish Human Rights and Equality Commission to assist public sector organisations in ensuring compliance with the **Public Sector Equality and Human Rights** **Duty**, which sets out the need to eliminate discrimination, promote equality and protect human rights; and
* Continue to support work-life balance arrangements in line with the **Public Service Stability Agreement, 2018-2020**[[61]](#footnote-61)

In 2019, a cross departmental Acton 16 team was established to progress work on this Action. The NDA was part of the Action 16 Team that produced two resources for public sector employers in consultation with public service employees and not-for-profit organisations that represent people of diverse backgrounds. A Vision Statement and an Equality Diversity Maturity Model[[62]](#footnote-62) were developed and rolled out in May 2021.

The Equality Diversity Inclusion Vision Statement was developed as part of a roadmap as to how the public sector can create equitable, diverse and inclusive work environments that that will attract and retain a diverse workforce. This Vision Statement contained four commitments that focussed on assisting the public sector to achieve this objective while meeting the following core public service values:

* To be **equitable** and **fair**, the Public Service will aim to attract and develop a diverse workforce, and ensure that each individual feels valued and respected in their workplace
* To be **responsive** to the public as a whole, the Public Service will strive to reflect the diversity of the communities it serves
* To be **innovative**, the Public Service will seek out and learn from multiple perspectives

A consultation on this Vision statement took place in Q3 2020 with different stakeholders, including persons with disabilities. The findings from this consultation and additional feedback from members of the Acton 16 group informed the final version of this Vision Statement which was published and disseminated in May 2021.

The four commitments in the Vision Statement remain focused on the areas of communication; approaches to collecting and monitoring diversity data; using this data to establish Equality Diversity and Inclusion goals; agree actions and set a timeframe for their implementation; and reviewing the progress the public sector is making in meeting Equality Diversity and Inclusion goals.

As part of the approach to collecting and monitoring data, enhanced diversity metrics will be developed that will be focused on employee’s experience of inclusion. The development of these metrics link to the equality, diversity and inclusion maturity models developed by companies such as Accenture in the private sector.

## Other Equality, Diversity and Inclusion Policies and Strategies

### Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion[[63]](#footnote-63)

In 2014, it was decided that the Minister for Public Expenditure and Reform should prepare guidelines setting out requirements which would apply to all State Board appointments. These guidelines would incorporate the target, set in 1993, to achieve 40% representation of women and of men on State Boards. The **2016 Code of Practice for the Governance of State Bodies** states:

“Appointments to State Boards should be made against objective criteria with due regard for the benefits of diversity on the Board. The Chairperson of the Board, in assisting the Department in drawing up the specification for the Board appointment should have due regard for the benefits of diversity on the Board including gender.

Chairpersons should maintain a focus on those Boards on which either women or men are significantly under-represented and should actively seek to appoint candidates of the under-represented gender from the Public Appointments Service short list where possible.”[[64]](#footnote-64)

To progress work on achieving the 40% target, an Inter-Departmental Group on Gender Balance in State Boards was convened in early 2019 to identify and report best practices in relation to Gender Balance, Diversity and Inclusion on State Boards which could be adopted across Government[[65]](#footnote-65). The Annex to the 2016 **Code of Practice** **for the Governance of State Bodies** (that is, the **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion[[66]](#footnote-66)**) implements the relevant recommendations.

The Annex notes the need for State bodies to address barriers to increasing diversity, including culture, people development, selection and promotion processes, in order to create an enabling environment for female participation. Addressing these issues is also noted as a necessary component of organisations meeting their **Public Sector Equality and Human Rights Duty**. The Annex highlights the importance of organisations recognising the significant pool of qualified and experienced female talent that already exists, but too often is overlooked when key appointments are made. Though these statements focus on gender balance, they closely mirror similar challenges and opportunities regarding promoting and advancing the employment of persons with disabilities.

The Annex also notes:

“The key metrics of performance for State bodies are not only economic, but also include culture, diversity and inclusiveness together with the well-being of those employed, fostering greater engagement among staff and stakeholders and leading in turn to better outcomes for citizens and communities.”[[67]](#footnote-67)

This perspective is also closely aligned to the current focus and objectives of **OPS 2020**.

The rationale for increasing gender diversity on State Boards is included in the Annex and could be read as a ‘business case’. A culture of fairness, professionalism and integrity is advocated, which is led from the top down and visible at all levels of the organisation. A link is made between inclusive cultures, professionalism and public service values, with inclusive culture being seen as a remedy to decrease reputational risk (as well as ‘groupthink’[[68]](#footnote-68)) and give appropriate attention to areas such as risk management and internal controls, human resource management and staff wellbeing.

The recommendations arising from the Inter-Departmental Group on Gender Balance in State Boards centre around the length of time a Board Member serves, reporting Board Membership to the relevant Minister, and highlighting gender and diversity when making submissions to the Minister regarding (re)appointment of Board Members. The aim of these recommendations appears to provide relatively regular opportunities for the membership of the board to change and also serves a reminder that diversity and gender should be key criteria when appointing new Board Members.

### The National LGBTI+ Inclusion Strategy 2019-2021

The National LGBTI+ Inclusion Strategy 2019-2021[[69]](#footnote-69) offers a strategic approach to the equality and inclusion of LGBTI+ persons. The strategy is underpinned by the **Public Sector Equality and Human Rights Duty** and sits within the context of existing Irish and EU equality legislation. It is a framework for action which includes the assessment of outcomes, employment being one of them. The goals of the strategy are to increase the visibility, equality, health and safety of LGBTI+ people in Irish society and takes an explicitly intersectional approach.

# Findings relating to the Part 5 process

The following are a number of considerations regarding the process for implementing Part 5 of the Disability Act as follows.

## Scope of the Part 5 Process

The Part 5 process is complex, it involves different participants, multiple steps and a cycle time that can extend to greater than 2 years, including issuing determinations of non-compliance if required (a flowchart of this cycle is included in Appendix B). The NDA is the fulcrum around which the Part 5 process revolves, but it is not the owner of the process. The Part 5 process is a matter for the entire public sector. The NDA’s responsibilities and scope to effect change are therefore limited to its statutory mandate. The NDA is entirely reliant on the cooperation of public bodies and the Monitoring Committees to provide data.

Despite guidance from the NDA, public bodies stated that there was confusion regarding applying the definition of disability in the Disability Act 2005 for the purpose of identifying who would be included in reports.

The definition of disability under the Disability Act 2005 that is applied to Part 5 is narrower than the definition used under the Equality Acts 2000. Under Part 5, public bodies have obligations, where practicable, to increase the recruitment and retention of persons with disabilities and that a minimum of 3% of their employees are persons with disabilities. If public bodies are to meet their obligations under Part 5 using this narrower definition of disability than they are required to be more proactive in ensuring those who may be more likely to be excluded from employment opportunities can access and retain jobs in the public sector. Use of the wider equality definition on the other hand, could potentially indicate higher numbers.

Participants in the focus groups and respondents in **Survey One** and **Survey Two** questioned what they viewed as the narrow way in which disability is perceived. Many respondents also expressed the view that irrespective of the definition in the Disability Act, management confined their view to a strictly medical approach of “recognised” disabilities. Comments included negative views of some people with disabilities who did not regard others as having a “real” disability. The following quotation illustrates this:

“Prior to accepting the position I informed HR and senior management that I had recently been diagnosed with MS. I was told I didn't have a disability and was subjected to an explanation of what a person with a disability looked like.”

From 2007-2019, the annual Part 5 reports[[70]](#footnote-70) were submitted to the Minister of Justice, the Minister with responsibility for Disability Issues and relevant officials on or before the statutory deadline of 30 November. The Department of Justice placed the report before the Oireachtas for approval. Once the report was approved, the Department granted the NDA permission to publish the report. In 2020 the NDA moved from the Department of Justice to the Department of Children, Equality, Disability Integration and Youth. Since 2020, Part 5 reports have been be submitted to the Ministers and relevant officials in this Department.

Not all public bodies have to submit returns under Part 5 of the Act. The Act states that the Defence Forces, the Garda Síochána and Prison Officers are exempt from Part 5.

Several public bodies, which would appear to fall within the Act do not submit reports. These include the universities, the Institute of Public Administration, Education and Training Boards and the Central Applications Office. It is apparent that some public bodies make voluntary returns; e.g. NUI Galway, Trinity College Dublin, Education Training Boards, but these are not included in the annual Part 5 report.

There is no central register of public bodies, to which the NDA (or a relevant Government Department making a decision) can ascribe the reasons for inclusion or exclusion from the Part 5 process.

Requirements for the operation of Monitoring Committees are defined in the Act. Feedback from HR Managers , Monitoring Committees and Disability Liaison Officers (from **Survey One**) highlighted the inconsistencies that exist regarding how Monitoring Committees operate; some operate without a full membership, do not hold the required number of meetings or fail to meet at all because of competing work pressures. A factor contributing to this is a failure on the part of some members of Monitoring Committees to prioritise attendance. This indicates the lack of importance attached to membership of these Committees and management putting this as a low priority.

In many cases Monitoring Committee members and Disability Liaison Officers do not receive any training for their roles in the reporting process or to improve general disability awareness.[[71]](#footnote-71) Disability Liaison Officers are confined to the main Government Departments so not every public body has access to this type of Officer. Most Monitoring Committees members and Disability Liaison Officers do not volunteer for these positions, rather they are appointed, with little or no consideration given to the possession of relevant skills and qualifications in areas related to disability. In many cases being a member of a Monitoring Committee is an additional responsibility that an employee takes on while completing their other duties. It would appear that public bodies have difficulties regarding having adequate resources/staff available to participate in the Departmental Monitoring Committees.

Monitoring Committees reported in the review conducted stated that they believed that the Statutory Report (MC1) captured the attention of Departmental Managers regarding the issue of employing persons with disabilities, but rarely stimulated actions that lead to the cultural changes required to achieve a sustained increase in the levels of employment the of persons with disabilities.

The positive outcomes of the impact of the Part 5 process on the employment of persons with disabilities identified during this review, demonstrates the importance of organisational cultures and strategies that prioritise diversity, equality and inclusion of all minorities. Feedback from senior managers and HR professionals in the public sector interviewed during this review indicates that the Part 5 process brings the disability agenda into focus.

However, the impact of Part 5 in terms of awareness creation is minimal and temporary. Annual monitoring and reporting clearly draws the attention of senior management towards the public bodies’ responsibilities as defined by Part 5 of the Act. However, such attention is transient and is associated with an organisation’s status as being non-compliant or in danger of being non-compliant. This has parallels with maturity models and how ‘immature’ organisations focus on compliance rather than mainstreaming diversity and inclusion in the fabric of the organisation’s work.

## Levels of compliance

Non-Commercial public bodies employ more than half of the total number of public sector employees. Commercial bodies, Government Departments, Local Government and Public Bodies Staffed by Civil Servants account for the balance of public sector employees. Considerable variability exists between public bodies in complying with Part 5 of the Act.

Returns to the NDA for 2020 indicate 1.9 per cent of employees in Non-Commercial semi-state public bodies were persons with disabilities, whereas employees with a disability make up between 4.0% and 5.0% of employees in other public bodies. Government Departments, Local Government and Public Bodies staffed by Civil Servants are the best performers.

The **Report on Compliance with Part 5 of the Disability Act (2005) for 2020** [[72]](#footnote-72) contains a summary of the progress the public sector overall is making in meeting the minimum 3% target. Table 2 below details this progress from 2007 – 2020

Between 2007 and 2013, the total number of public sector employees decreased year-on-year, while the total number of employees reporting a disability fluctuated over the same period. Since 2014, the total number of public sector employees has increased year-on-year. At the end of 2020, the total number of employees in the relevant public sector bodies was 245,190, an increase of 7,016 (+3.0%) from 2019.

The total number of employees reporting a disability increased each year from 2014 to 2017. However this number fell in 2018 and 2019. In 2020, the number of employees reporting a disability increased by 318 (4.4%) to 7,637 from the 2019 figures. However, in light of the overall increase of employee numbers in the public sector the overall percentage of employees reporting a disability in the public sector remained at 3.1%, the same percentage as 2019.

**Table 2. Progress towards minimum 3% target, 2007-2020**

| **Year** | **Total number of employees** | **Employees reporting a disability** | **% of total employees reporting a disability** |
| --- | --- | --- | --- |
| 2007 | 238,833 | 5,879 | 2.5% |
| 2008 | 229,000 | 6,083 | 2.7% |
| 2009 | 219,653 | 6,380 | 2.9% |
| 2010 | 210,249 | 5,748 | 2.7% |
| 2011 | 205,068 | 6,171 | 3.0% |
| 2012 | 197,588 | 6,611 | 3.3% |
| 2013 | 192,576 | 6,464 | 3.4% |
| 2014 | 195,278 | 6,771 | 3.5% |
| 2015 | 201,341 | 7,245 | 3.6% |
| 2016 | 213,991 | 7,457 | 3.5% |
| 2017 | 225,809 | 7,796 | 3.5% |
| 2018 | 231,784 | 7,584 | 3.3% |
| 2019 | 238,174 | 7,319 | 3.1% |
| **2020** | **245,190** | **7,637** | **3.1%** |

In 2020, a small number of public bodies reported that they did experience some difficulties collecting data due to the pandemic and that this did impact their ability to meet the minimum 3%.

A few public bodies also reported that the pandemic had caused them to close down their operation and that this had resulted in a significant loss of employees.

Public bodies also reported other reasons why they did not meet the minimum 3% target in 2020 such as:

* An increase in employees with disabilities retiring from the workforce resulted in them reporting a decrease in the number and percentage of employees reporting a disability for this year
* Ongoing challenges in accurate data collection, in some cases due to a reluctance to share disability status on the part of employees.

The emphasis of Part 5, from the perspective of public bodies, is on the numbers of persons with disabilities and the extent that this number meets or exceeds the minimum statutory level of 3%. Various incorrect interpretations of the Part 5 requirement of a minimum employment level exist in the public sector, including - a goal, a once off target, a quota, with little recognition of 3% as a baseline or a minimum level.

The NDA has continuously advised that the 3% is a minimum compliance target that public bodies must exceed. Most public bodies indicate satisfaction once they achieve 3%, and few indicate any effort on their part to continue increasing the level of employment of people with a disability or planning for further increases. If the findings of the organisation are that they are non-compliant with Part 5, the organisation may easily prioritise the promotion of employment for persons with disabilities within the organisation. However, the risk of the converse – that being deemed compliant results in a deprioritisation of disability within that workplace – may need further exploration.

The Government has committed to increasing the minimum statutory employment target to 6% by 2024[[73]](#footnote-73), as detailed under the **Comprehensive Employment Strategy for Persons with Disabilities 2015-2024** and the **Programme for Government 2020.** If the current annual rate of increase in the employment of persons with disabilities in public bodies observed between 2007 and 2020 continues, the statutory minima of 6% proposed for 2024 will not be reached until 2038.

The NDA has therefore advised public bodies that they need to change their focus and concentrate on increasing the recruitment and retention of persons with disabilities and supporting employees with disabilities to disclose their status in order to meet this new statutory employment target by 2024[[74]](#footnote-74).

The NDA cannot unilaterally change the Part 5 process, as this is prescribed in legislation, and is clear on the duties of all of the organisations involved including Government Departments, public sector bodies, the Departmental Monitoring Committees and those of the NDA. Improvements by individual organisations in terms of compliance requires internal prioritisation; but this is insufficient unless there is a corresponding recognition of, and a call for, prioritisation at a higher Ministerial level across the entire public service, and engagement by staff themselves in the process.

The NDA requests that public bodies who have been deemed non-compliant with Part 5 of the Act submit Action Plans and reports on the progress they are continuing to make in meeting their obligations under Part 5, even if they have subsequently reached/exceeded the minimum 3% target. Maintaining public bodies’ focus on increasing the recruitment and retention of persons with disabilities and creating work environments where employees feel comfortable and supported in disclosing a disability are key considerations regarding the future of Part 5.

The current process does not put pressure on public bodies to initiate any corrective action, despite their obvious awareness that they are under performing, until the second year of reporting. This delay and the emphasis on non-compliance likely contributes to some public bodies’ expression of frustration and their view of the Part 5 reporting process as “little more than an annual box-ticking exercise”.

## [Data collection, accuracy and reliability](#_Toc21279951)

The Disability Act 2005 does not set out any particular methods of counting or identifying employees with disabilities, although the NDA has advised public bodies about various methods that may be used. Each public body is responsible for choosing the appropriate method for counting employees with disabilities in their organisation each year. The NDA has advised public bodies to maintain consistent approaches over time where possible, to avoid any major variations in the reported data. Variations in approaches can contribute to inaccurate data being submitted to the NDA which can take considerable time and effort to address.

A staff survey or a census is in many/most cases used to collect data about the numbers of persons with disabilities employed in Government Departments, offices and in public sector organisations. This survey is generally conducted by Human Resource Departments in these public bodies. HR staff perform multiple roles in relation to the annual survey and data collection, ranging from distributing the survey forms, to promoting the awareness of the staff survey or a census and maintaining records of the number of persons with disabilities employed based on data collected on entry to employment. This review found that apparently variations in approaches exist, some public bodies conduct annual staff surveys, while others choose not to, or rely on data maintained in HR departments, and it would appear that some public bodies make estimates.

At several points during this review, the issue of the census forms that can be used annually, or less frequently, to collected data on the numbers of people with a disability working in an organisation was raised. Focus group feedback suggested that confusion exists across agencies as to whether they could customise the census forms or whether they could only using forms that comply entirely with the NDA census form template. Most organisations have retained the use of the NDA survey form template in surveys, believing they have no scope to change the format or content of the form.

Many survey respondents expressed the view that for employees to feel comfortable sharing their disability status, a census should be anonymous[[75]](#footnote-75), but a significant number were of the view that the NDA require staff to identify themselves in a census, pointing to the signature on the model declaration form. Many questioned the legality of this requirement, following the introduction of the **General Data Protection Regulation (GDPR)**. There were also concerns that use of data sources other than the census for compiling returns to the Monitoring Committee may not comply with data protection regulations.

The reluctance of some staff to disclose a disability, and findings from the review relating to same, are discussed in more detail in Section 4.2 of this report but are mentioned here as low levels of response to surveys presents data collection challenges for organisations.

Low survey response rates do not provide a full picture of the actual number of employees with a disability in an organisation. There is a perception in the public sector that the data collected under annual census forms is not rich enough to act as a driver to focus management’s attention on prioritising the employment of persons with disability. Some small sized public bodies believe management estimates to be more accurate than any response to a survey.

Changes in personnel working on Part 5 in HR departments - who have received little training in managing Part 5 and are struggling with competing deadlines - can contribute to delays in the public bodies submitting their reports with accurate data to the Monitoring Committees. This then results in a delay in the Monitoring Committee getting accurate Departmental reports to the NDA and can increase the workload for the Monitoring Committees and public bodies to submit data in a timely manner. Since 2017, Monitoring Committees have succeeded in submitting the data two weeks after the annual statutory deadline of 30 June. In the annual Part 5 report, the NDA has listed those public bodies that have been late in submitting their returns.

Late returns are taken into consideration when the NDA is determining whether a public body who has not reached the minimum 3% target in two consecutive years warrants a determination of non-compliance under Part 5. However, there are no penalties for the late submission of data. The review found that the absence of penalties for late-returns, staff turnover, and lack of belief on the part of some public bodies in the usefulness or impact of the census or a staff survey could contribute to a lack of commitment to Part 5.

Interviews with senior managers and HR professionals in the public sector stated that in their opinion the NDA’s concentration on compiling numerical indicators is not seen as advancing the employment of persons with disabilities. Interviews and focus groups, indicated that not enough focus was placed on more qualitative aspects in the overall Part 5 process. Despite the NDA’s guidance some bodies therefore include little to no qualitative data, particularly regarding any steps planned by public bodies to ensure a lasting increase the levels of employment of persons with disabilities.

Presently, data gathered provides little insight on a number of key issues:

* The numbers of employees who had reported a disability when they were recruited
* The number of employees who have acquired a disability
* The diversity of disability in the workplace, for example, physical, cognitive, visual or hearing impairment, mental health, etc.[[76]](#footnote-76)
* The type of recruitment practices that public bodies use to attract persons with disabilities
* When persons with disabilities decide to disclose their status for example: at interview; at induction, when they have passed probation?
* What are the key factors that are more likely to help an employee with a disability to disclose their status?
* At what level of the organisation is the person employed (and further data related to this on pay, types of contract, nature of the work, e.g. managerial, semi-skilled, etc.)
* The intersection of other group memberships and identities, for example, disaggregating disability data for gender, age, ethnicity, and so on[[77]](#footnote-77).

Public bodies reported that they perceived that there was a **single quantitative** piece of data analysed and reported on a per organisation level in the Annual Part 5 regarding compliance with the minimum 3% target. For example, several survey respondents queried whether the quantitative nature of the Part 5 process provided sufficient insight into an organisation’s performance, which would suggest a lack of awareness regarding more qualitative or narrative aspects in the process. In their opinion this meant that there was less focus on information that could benefit a wider audience, e.g. sharing models of good practice in the public sector on the recruitment and retention of persons with disabilities.

Participants expressed the view that this was potentially a missed opportunity in terms of understanding cultural enablers of positive employment outcomes and therefore driving same in other organisations. However, as stated previously, this type of qualitative data is collected as part of the overall Part 5[[78]](#footnote-78) process although it is summarised in a general description of measures in the Report and is not broken down by each public body.

The compilation of the Annual Part 5 Report requires assurance from public bodies that the data reported by them to the Monitoring Committees is accurate. It would be not be appropriate for the NDA to validate numbers against individual employees. The review of exemplar monitoring systems noted that the WDES Annual Report (compiling returns from over 200 NHS organisations) specifically included a technical caveat on data validity:

“As a result of using trust verified data, there are differences for a small number of trusts, which has resulted in small differences at national level between the data reported in the WDES and the national staff survey dataset.”[[79]](#footnote-79)

The multiple opportunities for possible errors, data corruption and inconsistencies in Part 5 data collection methodologies identified during the review, in conjunction with the challenges around employees sharing their disability status on a voluntary basis, would indicate that rather than being an absolute measure of the employment of persons with disabilities employed in the public service, the annual percentage figure would be more accurately described as an index. An index is the result that is determined for a given indicator at a given moment. In other words, it is the numerical value assumed by an indicator at a particular instant. For example, an organisation uses as an indicator the number of employees with a higher education divided by the total number of employees. This indicator shows 0.6, or 60%, at a given time; this, then, will be the organisation’s employee higher education index.[[80]](#footnote-80)

Any proposed alternative data collection process should take into consideration the dependency of same on a clear understanding by public bodies of the data required, and that they have effective systems in place to accurately gather and report on same. In particular, the overall system would benefit from a standardised approach across the civil and public service on data collection.

The issue of staff capacity to collect accurate data and to verify and validate data before it is submitted for the Part 5 process also needs to be considered. Several sources in the best practice literature note that these issues could be addressed by using an external provider that will collect, verify and analyse public bodies’ data. However, no matter what system is adopted it is important to note that it will be an employee’s decision whether they wish to share their disability status.

## Use of the Disability Act 2005

The Act provides opportunities to Ministers and to the NDA to direct actions that would positively contribute to increases in the employment of persons with disabilities in the public sector. The use of many of the provisions of Section 47(3), Section 47(5), Section 49 (3) and Section 50 of the Disability Act 2005 have not been exploited to the full. These sections deal with specific elements regarding the employment of persons with disabilities in the public sector that are summarised below:

* Section 47(3) details the Ministers’ powers to specify compliance targets relating to the recruitment and employment of persons with disabilities

In public bodies, the members of whose staff are civil servants and the public bodies accountable to them. The Ministers can also specify actions that public bodies can take to promote and support the employment of persons with disabilities that include the holding of recruitment competitions confined to persons with disabilities and the provision of a work experience placements to persons with disabilities each year

This review found that there was no evidence of the use of Section 47(3), which allows individual Ministers to set “compliance targets relating to the recruitment and employment of persons with disabilities in the public bodies under their respective remits”

* Section 47(5) states that an order under subsection 47(3), as detailed above, may relate to all public bodies, or specified public bodies, that are accountable to the relevant Minister who makes the order
* Section 49(3) details the measures, a public body who has been determined to be non-compliant under Part 5 for two consecutive years may be requested to implement by the NDA, with the permission of the relevant Minister. Some of these measures include: the provision of training and education for persons with disabilities for the purposes of qualifying them for specific posts in public bodies; the amendment of the requirements for particular posts to enable persons with disabilities to compete for these posts in an organisation and the provision of reasonable accommodations
* Section 50 focuses on the development of Codes of Practice including Codes of Practice on the Employment of Person with Disabilities that can be developed by the NDA and approved by the Minister. This review found that the use of Codes of Practice, as provided for under the Act, is an underused tool in this regard that could have an impact on increasing the recruitment and retention of persons with disabilities in the public sector

# Diversity, inclusion and equality

## [Recruiting persons with disabilities into public sector employment](#_Toc21279945)

The current recruitment and appointment processes in the public sector are not always compatible with the needs of persons with disabilities and do not allow for alternative routes of entry, for example work experience programmes. The literature on recruitment noted the use of partner organisations in many jurisdictions to assist employees with disabilities to identify prospective employers, and employers to identify prospective candidates. One such example is AViQ in Belgium which is a public body that provides a 360-degree approach to the employment of persons with disabilities. As well as monitoring the compliance with the regional quota, the organisation provides direct advice and support to employers and employees, including advice on reasonable accommodation.

The most frequently used pathway for recruitment to public bodies is the Public Appointments Service (PAS), which is used by bodies that represent over 60% of the bodies falling within the remit of Part 5 of the Act.[[81]](#footnote-81) PAS recruitment processes reflect the recruitment policy guidelines and regulations of the Commission for Public Service Appointments (CPSA). The overriding principles of the CPSA’s policies being to ensure appointments to positions in the public service are fair and transparent.

The review found that the **Code of Practice for Appointment to Positions in the Civil Service and Public Service** and **the Code of Practice for Appointment of Persons with Disabilities to Positions in the Civil Service and Certain Public Bodies** are effectively the same document. Neither adequately recognises the existence of specific challenges faced by persons with disabilities in obtaining employment. It is unclear if these Codes of Practice are used or what impact they have on increasing the recruitment and retention of persons with disabilities in the public sector[[82]](#footnote-82).

Feedback from interviews and focus groups point to persons with disabilities typically being recruited to entry-level posts. Data on the numbers of persons with disabilities recruited into senior posts in public bodies are not available.

The standard PAS recruitment process requires all candidates to demonstrate they possess specific competencies except when clients of the PAS request changes to the recruitment process. As such candidates must demonstrate their competence across a number of areas that include for example: analytical and decision making skills, judgement, communication skills strategic thinking, team working etc.

This reliance on previous experience across a number of areas can be an issue for some persons with disabilities who may not have had the same opportunity to acquire the same level of work experience as people without disabilities. Job descriptions that do not provide a clear and accurate description of the type of essential competencies required for a role; and inaccessible application forms are just a few of the issues that can also make it challenging for persons with disabilities to apply for job vacancies.

One survey respondent noted:

“There is no mechanism for recruiting a person who has successfully taken part in a Willing Able and Mentoring (WAM)[[83]](#footnote-83) placement and has proven that they are really well suited to the job. I know that many people with a disability find doing Civil Service exams really challenging as there is no allowance made for dyslexia or other such conditions.”

There is a limited use of recruitment intermediaries such as e.g. AHEAD (Association for Higher Education Access and Disability) and others by public bodies, even though outcomes are typically reported as successful for both parties. However, these initiatives tend only to be used in the context of filling temporary posts and offer little scope for full time employment. The following quotation from a survey respondent illustrates this:

“When we had an employee with a disability on a temporary contract, we were unable to offer him a normal contract when his contract expired. There was no discussion, the rules could not be changed for an individual. The irony was the next week we got an email about the need to hire people with disabilities and to encourage applications from people with disabilities. It was like one part of the organisation wasn't talking to another part. We lost out on an exceptional worker because there was no flexibility in the hiring process.”

Under the **Comprehensive Employment Strategy for Persons with Disabilities 2015-2024,** work is underway regarding increasing levels of coordination between employers, recruiters and local line management to ensure that persons with disabilities apply for positions and if successful in their application are also given the appropriate resources and supports to be successful in their jobs.

DPER are working to establish an internship programme similar to the OWL project in the Oireachtas. It is hoped that this internship pilot will be supported in 6 departments and that it will lead to jobs for people with disabilities as an alternative recruitment approach.

The NDA welcomes these positive steps.

## 4.2 [Providing reasonable accommodation](#_Toc21279946)

Despite the definition of “reasonable accommodation” in the Employment Equality Acts 1998 – 2015, the provision of accommodation continues to be a contentious issue and open to interpretation in the public sector. A contributory factor to inconsistencies in the provision of accommodation is a degree of confusion concerning the definition of “reasonable accommodation”, principally as a result of a lack of understanding on the part of managers and supervisors, and of legal responsibilities under the Disability Act 2005 and the Equality Act 2000. This included a failure to recognise responsibility under employment and common law regarding an employer’s duty of care to employees. Contributing to this situation, according to focus group participants, is the absence of a common system to assess both the level of disability, and the workplace accommodation needs of the person with a disability.

Reasonable accommodation attracted 39 comments from survey respondents. A significant number of these related to difficulties in obtaining reasonable accommodation, or the length of time taken to have the accommodation installed. Another frequently raised topic was difficulty having an accommodation provided “away from the desk”, such as at meetings.

There remains extensive reliance on the medical model in connection with reasonable accommodation. This reliance manifests in a need for persons with disabilities to present medical certificates on an ongoing basis for long-term and life-long disabilities. This approach conflicts with national policy goals which are based on a societal model; the result of which is the confusion outlined above.

The absence of reasonable accommodation is a major barrier to the recruitment and employment of persons with disabilities. Most of the public bodies interviewed are apprehensive about providing accommodations; many do not fully understand the extent of their responsibilities in this regard.

Persons with disabilities may need accommodations at the start of the recruitment process and throughout their employment; sometimes this may require adaptation as the nature of a person’s disability changes.

The cost of providing accommodation is cited as a major reason why accommodation is denied, however, this view fails to recognise the long-run benefits to society that result from the employment of persons with disabilities and a low-level of understanding of the contribution of universal design as a strategy in the workplace. In any event, such perceived costs are likely overstated.

The Department of Social Protection’s Workplace Equipment Adaptation Grant can be used to help the private sector to provide accommodations. Similarly, persons with disabilities seeking employment can receive subsidies for various interview accommodations. However, public bodies and their staff are not eligible for either. Such accommodations should be very much part of an organisation’s **Public Sector Equality and Human Rights Duty**.

There appears to be no standard response to the provision of workplace accommodations in the public sector. Distributed budgets, management decisions, knowledge gaps and organisational culture all contribute to variation in providing accommodations for persons with disabilities.

In 2019 the NDA published a report on **Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with disabilities.** Some of the key findings from this report include:

* Some employers lack of knowledge regarding the extent of their obligations in providing reasonable accommodations and the types of reasonable accommodations which may be available and appropriate for employees with disabilities, can result in a delay in the provision of accommodations to employees. This can have a particular adverse effect on persons seeking reasonable accommodations at the recruitment stage
* Lack of awareness amongst management and employees without disabilities of the needs of people with disabilities, reasonable accommodations and the relevant law can create difficulties for persons with disabilities in the workplace
* There is no dedicated, centrally-based national resource of peer advice and information for employers on the employment of persons with disabilities.

As detailed above the issues regarding the provision of reasonable accommodations in the public sector also impacts on the recruitment and retention of persons with disabilities in this sector.

## [The challenge and impact of disclosing a disability](#_Toc21279947)

The Part 5 process is reliant on employees disclosing a disability. Many persons choose not to disclose a disability and this choice is based on many reasons, including the inclusiveness and supportiveness of organisational culture. Other reasons given as to why a person with a disability may choose to withhold declaring a disability include: concerns over privacy; concerns about how others would perceive them; concerns about the negative impact of sharing their disability status on career opportunities; the disability is not relevant to their work activity.

The promotion of an open, honest and inclusive environment in relation to disability is key in encouraging persons to sharing their disability status. Unfortunately, the findings from the review conducted show that individual public bodies often struggle to achieve this type of work environment.

In the employee survey, most of the people who indicated the presence of a condition which made it difficult for them to carry out their job, stated that they did not disclose their disability in the workplace for fear of adverse consequences. The following quotations from the survey illustrate this:

“I have not declared it as I was informed by my manager at the time that it could affect my chance of promotion”.

“I did not declare my mental health status knowing that it would get around the workplace and knowing it would affect my promotional value.”

“People who are seen to have a disability don't seem to get promotion in the public service.”

Results from this employee survey also showed that the main reason why persons did not share their disability status was related to their concerns about how they would be perceived by their colleagues as exemplified by this comment:

“I have [detail of disability omitted]. I’m afraid that I might be put on disability and made to retire even though I can do my job to the best of my ability. I am on my own and I have to pay my own way in life so I can’t afford to lose my job. Also I am afraid if people know they will treat me differently even though they do not mean to and this would make my work life harder.”

## [Diversity and disability in the public sector](#_Toc21279948)

There is a clear distinction between diversity and inclusivity. A diverse organisation is not necessarily an inclusive one in the sense that it treats all staff as equal and takes steps to provide support. The review found that a narrow view of diversity exists in public bodies. Descriptions of diversity were generally confined to equality of treatment and opportunity in organisations regarding gender, religion, race, origin and sexual identity.

Responses from the survey distributed to the Disability Liaison Officer network and the Chairs of all Monitoring Committees during the review indicate that 43% of public bodies have developed dedicated diversity and inclusion strategies that include reference to disability.

There is a widespread view including management feedback, that diversity and inclusion are not only low priorities in participating organisations but also across the wider public sector. Further, there is a belief that this stems from the absence of public sector wide leadership in developing cultures that support inclusion and disability.

There are examples in the Irish public sector where management leadership and organisational cultures oriented towards diversity and inclusivity exist. Management in these organisations display a lasting commitment to diversity, set specific goals and support a range of disability related initiatives.

## [Positive recruitment](#_Toc21279949)

Whilst recruitment practices contribute to diversity management, they can also act as barriers to the employment of minorities. Despite the prevalence of equality legislation and stated commitment to equal opportunities, systematic discrimination in recruitment and selection processes remains (Shen et al., 2009). The literature review found that the recruitment of persons with disabilities involves a series of positive actions on the part of the employer commencing with job definition and assessment. They also include ensuring applications are received from persons with disabilities and facilitating the interview process. The role of organisations that support the recruitment of persons with disabilities is significant. Such organisations can support the sourcing of candidates, job design, and candidate coaching.

Building a relationship with disability organisations provides employers with a source of information and support on disability-related questions, and can influence how jobs are developed to suit people with a disability. Employers access to information about disability awareness training; workplace accommodations and costs of providing such accommodations; and the benefits resulting from recruiting people with a disability, are a positive influence on creating a “culture of openness and support towards hiring persons with disabilities. These relationships can help employers to obtain institutional commitment and support from top levels of management regarding the implementation of positive recruitment actions to increase the recruitment and retention of persons with disabilities.

Processes designed to overcome recruitment as a barrier to employment, involve HR and operational staff seeking to fill the position, being fully aware of the real requirements of the available jobs and the functional and cognitive competencies required of the applicant.[[84]](#footnote-84)

Workplace accommodations are relevant to persons with disabilities throughout the recruitment – employment cycle, from recruitment, hiring, retention, and promotion of workers. Inclusive organisations ensure workplace supports extend further than the provision of physical accommodations.

Evidence from the literature, reinforced by views expressed in this review indicates that diversity change is dependent on applicant diversity, appointment bias and diversity bias. Without steps to alter one or more of these variables all other efforts are likely to fail. The priority given to the female candidate of equal merit to other applicants competing under the Top Level Appointments Committee where they are under-represented on the Management Board of the Department/Office, is an example of positive bias that could be applied to the recruitment of persons with disabilities by public bodies. The Athena Scientific Women's Academic Network (SWAN) provides a further example.[[85]](#footnote-85)

## [Implementing best practices](#_Toc21279954)

The steps required for Irish public bodies to become inclusive are well known to the NDA and HR professionals through previous reports, available literature and individual experience. The key to organisations becoming fully inclusive regarding persons with disabilities are management commitment, clear leadership and suitable change models.

Various generic models of diversity and inclusion exist which are fully accessible to public bodies. The key elements of these include:

* A commitment and determination of the part of organisational leadership (from CEO to the management team) to deliver the process of change required to realise the diversity and inclusion agenda
* Mechanisms to collect relevant data, establish baseline benchmarks, set targets, measure performance towards the goal, and use data to prioritise actions
* An articulation of the link between the diversity and inclusion process to the organisation’s overall growth strategy, which includes metrics to be used in assessing the status of diversity
* Definition of the various initiatives required to support the transformation process such as refining the recruitment, training, promotion and benefits systems
* Delivery of a clear coherent message based on facts, which resonates with all employees and other stakeholders about the diversity management initiative
* Recognition that the various diversity initiatives should consider any specific requirements need to meet local geographic or cultural conditions

An essential element of all the various models, is that organisations tend to/typically incrementally progress through a series of steps or levels; there is no apparent “quick fix” to become a lasting diverse inclusive organisation.

# Conclusions and Recommendations

This chapter outlines the conclusions of the review under several key headings, with related recommendations provided under each. The following chapter ‘Next Steps’ prioritises these recommendations and provides a roadmap and timeline for the implementation of these proposed actions.

## Overall Conclusions

The Part 5 process is a positive action measure designed to increase the recruitment and retention of persons with disabilities in the Irish public service. However, the findings of this review suggest that, as a measure, it lacks a clear and specific policy objective. Variations in the way in which data are acquired and compiled means that the current process does not provide an accurate estimate of the numbers of persons with disabilities in the public service or a robust census of public sector employees with a disability.

The current Part 5 process does provide an index of both employment rates of persons with disabilities and a sense of the culture of disability inclusion that exists in organisations. The annual reporting cycle, reflected in both the annual return and the subsequent Part 5 Annual Report, is a powerful motivator for senior management to focus on the topic. However, there is a concern regarding the Part 5 process that once the statutory minimum target is reached and/or exceeded that management’s attention regarding prioritising the recruitment and retention of persons with disabilities could decline.

Improvements in the numbers of persons with disabilities working in the public sector, and in the quality of the career opportunities which they are provided with, depend not only on changes in the culture of individual organisations but on the culture of the public service as a whole.

Expectations that the NDA can provide leadership in this regard are rooted in the Authority’s expertise and influence. However, the NDA cannot be the only leader and the public sector needs to step up regarding their roles and responsibilities in relation to Part 5.The general perception of the NDA’s role in the wider public service overstates its role and responsibilities as currently laid out in the National Disability Authority Act of 1999 and the Disability Act 2005. A general awareness campaign on the statutory role of the NDA in relation to Part 5 may need to be considered.

As detailed previously in this document, there is ample evidence of a poor appreciation and the low value being placed on disability inclusion by the public sector. This evidence includes poorly resourced roles such as Disability Liaison Officers and Access Officers, low rates of training in disability inclusion, failures to provide reasonable accommodation, and unfulfilled commitments as defined in Codes of Practice.

This review shows that without change in the types of action being taken by public bodies to increase the level of employment of persons with disabilities in the public service, the goal of achieving the minimum 6% target by 2024 is unlikely to be met by all Government Departments and agencies, although a few public bodies have already reached or exceeded this target. In 2020, 61 (28.4%) public bodies reported that a minimum of 6% of their employees reported a disability. This a slight increase from 2019, when 48 (22.2%) public bodies reported that over 6% of their employees reported a disability.

Many of the recommendations presented in this review have been suggested in previous reports. Actions, such as the conduct of confined competitions and awareness campaigns have surfaced repeatedly. Collectively, the public sector needs to move beyond articulating required actions to implementing those actions. The Part 5 process on its own cannot bring about the cultural change required.

## Creating Disability Inclusive Cultures

If the current annual rate of increase in the employment of persons with disabilities in public bodies continues, the statutory minimum of 6% set for 2024[[86]](#footnote-86) will not be reached until 2038. This review highlighted that, despite NDA guidance, few public bodies have plans in place to assist them to reach the minimum of 6% by 2024.

The word “target” in the context of the current 3% statutory minimum set out in the Disability Act may serve to limit management ambition in relation to the employment of persons with disabilities.

The review of literature, as well as feedback from participants, notes that employees’ willingness to share their disability status is impacted by the degree to which an organisation is perceived to be inclusive by its employees.

The review of cultural change and diversity literature highlighted a number of aspects which organisations, and leaders in particular, should attend to when attempting to create (disability) inclusive cultures. These include linking inclusion work with strategic organisational objectives, providing readily accessible reasonable accommodations, having visible employee networks and role models for staff, providing diversity training for staff, and questioning attitudes and unconscious bias, particularly regarding recruitment and career progression.

However, feedback from participants gathered during this review highlighted deficits when measured against these aspects. For instance, leadership and ownership of the Part 5 process within the public service on the topic of disability inclusion appeared lacking. There was an absence of role models in the public service of persons with disabilities. The review found that knowledge gaps about the potential of persons with disabilities, coupled with the absence of disability awareness training in organisations, lead to negative perceptions of disability. This constitutes one of the many barriers that persons with disabilities face in terms of obtaining and retaining employment.

The review found that challenges involved in disability inclusion are frequently misunderstood and at times, were perceived to be reduced to measuring whether an organisation has achieved the statutory minimum 3% target. Despite the publication of the **Civil Service People Strategy 2017-2020**, diversity and inclusion remain low priorities across the public sector. Increasing the level of understanding of diversity and disability inclusion in the public sector could lead to a more proactive approach regarding disability inclusion. Additionally, the review highlighted that the employment of persons with disabilities does not always feature in public sector employment-related strategies. Though recent strategies draw attention to various Acts, they stop short of mentioning any public sector wide actions to increase the levels of employment of persons with disabilities. The Part 5 process may be perceived in isolation to these other strategies.

In this context, the work public bodies undertake to meet their obligations under Part 5 may complement the actions they are implementing to meet their commitments under the **Public Sector Equality and Human Rights Duty** and **OPS 2020**. The **Public Sector Equality and Human Rights Duty** and **OPS 2020** emphasise the importance of public bodies creating equitable, diverse and inclusive work environments, developing appropriate methods to collect data and producing reports that showcase the measures they are taking to meet their obligations in this regard. The onus on organisations to ‘assess, address and report’ on their **Public Sector Equality and Human Rights Duty** links inclusion to the strategic objectives and plans of organisations.

It is important that public sector organisations can recognise the value of their work to promote the employment of persons with disabilities in the context of meeting other diversity and inclusion obligations, like the **Public Sector Equality and Human Rights Duty**. There is scope for organisations to meet multiple data gathering indicators and cultural change markers by embarking on a cohesive plan for the inclusion of all staff.

The review found that disability has a low-level of recognition when describing diversity in public bodies. There appears to be far greater visibility of other minority groups, for example, LGBTQ+ community. The literature and feedback from participants would suggest the presence of a ‘diversity hierarchy’, with work on and awareness of disability inclusion coming towards the bottom.

This may warrant attention to the type of equality, diversity and inclusion work being implemented in organisations. For example, it would be beneficial if under the **Public Sector Equality and Human Rights Duty** it could be identified how disability is considered along with the other protected statuses.

The steps required to bring about cultural change, such as that described in guidance from the NDA and the aforementioned literature, require buy in and support from senior management. This review would suggest that staff assigned to deal with the topic of disability inclusion can struggle to capture the attention of the leadership in the organisation. However, where public bodies developed a culture and had senior management embraced diversity, they engaged in actions to support the inclusion of persons with disabilities.

Responsibility for delivering the Part 5 process rests upon all public bodies, and while the NDA has a statutory responsibility for Part 5 monitoring, it does not have complete authority. The NDA is unable to unilaterally change the process, so the Part 5 process needs to be more fully understood and endorsed by the public sector. The NDA plays a part in creating an awareness of the requirement for public bodies to recruit and retain persons with disabilities. However, the focus of attention from public bodies’ point of view is often drawn to the data aspect of the process, rather than on measures to promote and support the recruitment of persons with disabilities.

The feedback of participants provides an illustration of this point. Although the Form MC1 – Statutory Report invites Monitoring Committees to make general recommendations, there is little evidence that they avail of the opportunity to recommend significant actions to improve the levels of employment of persons with disabilities. Instead, the sample reviewed focused on procedural matters connected with completion of the MC1 annual report.

Staff turnover in HR departments and a lack of awareness and/or training within an organisation regarding Part 5 can result in delays in public bodies making returns to Monitoring Committees. Slow responses lead to an increased workload for Monitoring Committees (with knock-on effects for the NDA) and might reflect a lack of commitment on the part of public bodies to comply with a legal requirement. Public bodies and Monitoring Committees have improved their performance regarding late submissions but it still remains an issue. In the past, the annual Part 5 reports have listed those Departments that have been late in submitting their returns. The submission of late returns is one of the factors that is taken into consideration when the NDA is determining whether a public body that has not meet the minimum 3% target for two consecutive years warrants a determination of non-compliance with Part 5. The review found that the absence of penalties for late-returns, staff turnover, and lack of belief on the part of some public bodies in the usefulness or impact of the census or a staff survey could contribute to a lack of commitment to Part 5.

In addition, some public bodies are aware of failing to meet the statutory minimum target at the time of submitting their report to the Monitoring Committee. However, they do not simultaneously submit details of their plans to address the deficiency.

### Related recommendations

#### Ensuring a commitment to disability inclusion

* The NDA might consider the recommendations of this report alongside relevant actions highlighted in previous Part 5 reports. In particular, the NDA will examine those recommendations that relate to cultural change with a view to adopting or adapting a diversity and inclusion model (such as the **OPS 2020** Maturity Model) based on best practices. Such a model could emphasise the inclusion of persons with disabilities and be made available to all public bodies
* In considering possible amendments to Part 5 of the Disability Act, the NDA should recommend that a finding of non-compliance be made where an organisation does not submit accurate data or meet the timelines for reporting returns laid down in the Act
* A further amendment might consider whether organisations be required to submit an action plan for the year setting out how the body will increase the numbers of persons with disabilities in employment. An amendment like this might be particularly useful in the context of increasing the focus on qualitative and other disability metrics. Such a plan should consider the following areas:
* How new employees with disabilities will be recruited, including how to increase this pool of candidates (this pool might also consider employees for promotion)
* How the organisation will retain existing employees with disabilities
* Where revisions are made to the Part 5 process that refocus the work of Monitoring Committees away from procedural and reporting efforts, these Committees could take a more central role in monitoring disability inclusion work in the public bodies under their aegis, including reviewing organisational annual action plans that promote the employment of persons with disabilities
* \*[[87]](#footnote-87)The NDA will give consideration to the language used in communicating to the public sector around the ‘target’ of 3%. The language should emphasise that this is a **minimum** compliance target rather than an end goal. The Miscellaneous Bill and move to a 6% minimum compliance target present an opportunity to reframe the language in NDA communications
* Once public bodies achieve and/or exceed the minimum 3% target, the NDA and the Departmental Monitoring Committees need to examine the type of supports that will help these public bodies to focus on increasing their sense of responsibility and ownership regarding meeting their obligations under Part 5. The NDA and the Monitoring Committees should continue to assess public bodies’ progress in this regard
* The NDA will consider writing to the Minister to request an extension of the role of the Disability Liaison Officer across all public sector organisations under their aegis.

#### Framing the Part 5 Process in the Irish policy landscape

* \*[[88]](#footnote-88)The Part 5 reporting process is one aspect of a wider set of diversity and inclusion obligations on public sector organisations. The NDA could consider framing Part 5 within this wider legislative and policy context in their communications and guidance
* The NDA could produce a simple infographic showing the diversity and inclusion policy landscape as it pertains to the work of public sector organisations and data needs
* A further infographic could be considered to explain the difference in disability definition used by the various policies and legislation. The value of Part 5 reporting, and disability inclusion, should be understood by organisations in meeting a number of their overlapping diversity and inclusion obligations, e.g. the **Public Sector Equality and Human Rights Duty**
* To increase efficiency and cohesion, public sector organisations should consider conducting an intra-organisational data audit to examine the type of employee equality data they hold. The goal of such an audit would be to map common data needs, collection tools, available information and data gaps. Though this recommendation is beyond the remit of the NDA, it is something that the organisation might consider advancing with the CSO through their work on the **Equality Data Audit 2020** that seeks to map the equality data held by public sector organisations on their customers and service users. (For example, the CSO might include employment data as a section of this audit)
* The **Public Sector Equality and Human Rights Duty** and Part 5 process should dovetail and have regard for measures that complement the objectives of both. The NDA might consider collaborating directly with IHREC to understand how public sector organisations engage with disability inclusion work to meet their **Public Sector Equality and Human Rights Duty** and to develop related communications mechanisms between both organisations.

#### Increasing awareness and staff training

* Given the importance of awareness in effecting change, the NDA could consider recommending for civil and public service training providers to ensure sufficient competence in disability awareness and practices that promote the employment of persons with disabilities. For example, disability awareness should be integrated into training commissioned by One Learning (DPER) to the civil/public service, and included in future strategies, such as **OPS 2030**. Such a competency should exist across the public sector to meet the statutory requirements of Monitoring Committees, Disability Liaison Officers and public service managers
* Government Departments and public bodies should consider providing accredited training, relevant to the areas of disability and inclusion, to all Disability Liaison Officers and Monitoring Committee members
* The next iteration of the **National Disability Inclusion Strategy** should includean objective for disability and diversity awareness training for civil/public sector staff and should be included as an objective under any future and other relevant strategies
* The NDA could consider recommending a sustained promotional campaign in the public service on disability inclusion, driven by DPER, and highlighting:
* The benefit to other persons with disabilities of an individual sharing their own disability
* The benefits to employers of employing persons with disabilities, and low cost and effort associated with reasonable accommodations
* Monitoring Committees should put out a call for voluntary role models of persons with disabilities employed in the public sector [[89]](#footnote-89)
* Any awareness campaigns and civil/public sector training initiatives should be included as a key objective in the next iteration of the **National Disability Inclusion Strategy** , which will likely be a UNCRPD Implementation Strategy, and other national strategies
* The NDA could suggest or advise on the establishment of a public service-wide disability forum (further to the suggestion in the report on the employment and career progression of persons with disabilities in the Irish Civil Service, and calls by participants in this review). The objective of such a forum could be to enhance understanding of issues across both the civil and wider public service and to provide the basis for an “eco-system” of disability awareness practitioners. The forum could also be empowered to identify public service wide actions required to promote disability inclusion.

## Data collection and reporting under Part 5

Feedback during interviews, focus groups and from survey responses indicate inconsistencies in the process of data collection under Part 5. The variations in the approaches and methods used by individual public bodies to collect data on the numbers of employed persons with disabilities can contribute to data inaccuracy and create doubt around data validity and reliability.

The Part 5 returns process typically involves the data passing between at least three parties - the public body, the Monitoring Committee and the NDA. There are inconsistencies in how Monitoring Committees approach data validation. Some adopt a robust approach, ensuring consistency in interpreting guidance from the NDA, whilst others do not.

In respect of calculating the public body’s return against the 3% minimum target, this introduces multiple opportunities for errors and inconsistencies to occur and creates a margin of doubt on the reliability and accuracy of data presented in the annual Part 5 reports.

The findings of this review regarding the inconsistent use of surveys illustrates this conclusion. Some organisations conduct annual staff surveys or census, others rely on data maintained in HR departments, and some make estimates based on HR departmental records. There are variations in the use of the surveys, the levels of detail requested and reported on, and misunderstandings about the use of the survey form. Whilst some public bodies require staff to identify themselves on the census form, others don’t.

Some public bodies doubt the accuracy of the census returns, even though they report returns from up to 45% of staff. Some larger public bodies question the justification of the survey based on its accuracy and utility as a management tool. These organisations commissioned independent surveys, the results of which indicate levels of employment of persons with disabilities are multiples of the three per cent minima in the Act. These surveys yield data that likely are more reliable and accurate than data managed and collected in the in-house survey.

Organisations feel constrained to use the survey template without modification, despite wanting to modify it to enhance its utility. Some believe there is a statutory obligation to use the form, which prevents the use of any other format. A number of the focus group participants and interviewees expressed the view that the current Part 5 data collection process does not yield data that is useful in an organisational management context. Many organisations are unaware of the scope to modify the NDA staff census form. This has prevented the collection of additional data; the use of IT enabled collection systems and the distribution of census forms.

The issue of employees sharing their disability status is a recurring theme in both the literature and in the responses of participants. Where the identification of employees with disabilities is linked to the registration of disability with national bodies in many jurisdictions, the Part 5 process asks employees to self-identify as an employee with disabilities. The review identified employee’s concerns regarding sharing their disability status as a key barrier to data gathering and reporting. The requirement for staff to sign the annual census form appears to deter them from completing the form. Results from the employee survey conducted for the review highlighted the fact that most of the persons, indicating the presence of a condition which makes it difficult for them to carry out their job choose not to declare a disability for a number of reasons, including fears of adverse consequences and fears of how data would be handled.

Inclusive environments in and of themselves create conditions to improve job candidates’ and employees’ likelihood to self-identify as a person with a disability to employers. However, along the way to inclusion some measures can improve self-identification. These include clear communication on why the person is being asked to provide this information and how the data will be treated. They also include providing regular opportunities for a person to self-identify, and attention to how the question is asked, for example, using sensitive and inclusive language. This might include a shift from ‘disclosing’ disability status to ‘sharing’ it.

Many participants interviewed and surveyed in this review questioned the legality of the requirement of staff to sign the census form, following the introduction of the General Data Protection Regulation (GDPR). Indeed, the review found that some of the data collection and management practices used by public bodies and identified during this review may not comply with GDPR and good data management practices. The practice of public bodies using registers of persons with disabilities should be discontinued where organisations demonstrate that they are conducting regular anonymous surveys with high levels of participation. Organisations that cannot demonstrate the use of such surveys should be encouraged to do so.

The review also found confusion among the staff of public bodies around understanding, interpreting and applying the definition of disability under the Disability Act 2005. This confusion is a factor that impacts the number and percentage of employees that report that they have a disability. In the current process, the definition focusses on restrictions related to social factors, for example, inaccessible social and cultural environment and services, and the enduring nature of the disability. The definition of disability under Part 5 of the Disability Act 2005 differs with the definition of disability under other legislation and data collection tools, for example, the Equality Act, CSO Census data, Washington Group on Disability Statistics (WG-SS).

The Census and other indicators (such as Labour Force Surveys – Disability Module, where available) provide rich contextual information which should be included in the annual Part 5 report produced by the NDA. However, any comparisons should be aware of the different definitions of disability used across data sources. **Direct** comparison may not be appropriate due to the specific definition of disability under Part 5.

There is a perception among public sector staff surveyed and interviewed that there is an over reliance on numerical data and compliance in the reports (form PB1), submitted by public bodies to their respective Monitoring Committees. The perception is that this comes at the expense of the opportunity to capture more qualitative data, particularly the steps planned by public bodies to ensure a sustained increase in the levels of employment of persons with disabilities and examples of good practice. The review found that the reporting template used by Monitoring Committees (form MC1), as with the public body (form PB1) does not encourage public bodies to provide more qualitative data, particularly details of the steps planned by public bodies to continue the increased recruitment and retention of persons with disabilities.

To effectively monitor the performance of diversity and inclusion initiatives, data from multiple indicators are required. For example, data submitted to the Monitoring Committees does not differentiate between persons with disabilities acquired during employment with the public body from persons with a pre-existing disability, rendering the subsequent analysis of the recruitment of persons with disabilities impossible.

The literature review found that where quotas are used, they can stimulate employers to manipulate data to meet targets. Although no such misrepresentation or misuse of data amongst Irish public bodies has been found during this review, the possibility exists that organisations could opt to identify existing employees with a disability, rather than recruit new employees to ensure they remain compliant with the Act.

The review identified further issues pertinent to data collection. First, depending on the nature of metrics and measurements being used, local staff expertise in data gathering and analysis may hamper measurement and monitoring. Though the NDA already provides extensive guidance on data collection for the Part 5 process, it may not be reaching the people most in need of it (for example, new staff may not be cognisant of the range of guidance and support available).

Second, the task of data gathering naturally varies with organisation size, though the literature offers different views on whether large organisations are better or worse equipped to easily increase the employment of persons with disabilities. Larger organisations may need a number of staff handling collection and methods of data gathering may vary across sites. In the case of the HSE, the sheer size and geographic spread of the organisation increases the logistical difficulty of collecting valid, accurate data.

This review identified technological developments in the area of user insights, machine learning and AI (Artificial Intelligence) that offer new approaches to data collection and a move away from the survey/form tools and towards online, user-uploaded, real-time data. Such mechanisms of comprehensive equality, diversity and inclusion monitoring might offer value-for-money and efficiency for the whole public sector in reporting on diversity and inclusion work (which includes Part 5) across a range of policy work, e.g. the **Public Sector Equality and Human Rights Duty**, gender balance on State Boards, and so on.

In the current Part 5 process there are difficulties obtaining an accurate figure and percentage regarding the number of persons with disabilities employed in public bodies and in the overall public sector due to concerns over data handing, the use of non-standard data collection methods and a reluctance for some staff to share their disability status. In this context the overall number and percentage of employees reported as having a disability in the public sector in 2020 (7,637 or 3.1%), could be more accurately described as an approximate index of public sector disability related practices.

As a result of these concerns, the value and contribution of the percentage employment of persons with disabilities - as a metric – may need to be re-evaluated. The considerable efforts of the NDA to verify and validate data needs to be rooted in accurate and valid data gathered by the public sector organisations and Monitoring Committees. Many of the following recommendations dealing with staff support, data collection tools and data collection processes are implicitly related to increasing data accuracy and validity across the Part 5 monitoring process overall but especially in the reporting practices of public sector organisations and Monitoring Committees.

### Related recommendations

#### Support for staff doing the data collection for Part 5

* Any revisions to the Part 5 process provide an opportune time to review or pilot alternative communication approaches to public bodies, to review the way in which this information is disseminated, and to ensure all employees clearly understand why their data is being collected and how it is being used. Specific priorities for communication should include:
* \*[[90]](#footnote-90)How data gathered under the Part 5 process is treated with respect to privacy, purpose and data handling
* \*Promoting awareness of the definition of disability as provided for in the Disability Act (among HR personnel in particular), and highlight that the Equality Acts definition does not have primacy in relation to reporting under Part 5
* The NDA could consider support mechanisms for staff in public sector organisations that are reporting on the Part 5 process. For example, a dedicated webpage, well-advertised on the NDA homepage and through the Monitoring Committees, could provide a repository of useful resources including guidance documents, document templates, and links to best practice literature and tools (for example, the NDA’s extensive publications for employment and universal design best practices). Consideration could also be given to producing and hosting online training modules for staff, for example, introducing some of the key statistics, metrics and data gathering tools. There may be scope to partner with stakeholders in the Department of Justice[[91]](#footnote-91) given that developing capacity in these areas is a key strategic objective for the Department
* As production platforms for online video training, webinars and tutorials (e.g. Panopto) become more cost-effective and available, the NDA could consider using different media to provide guidance support, for example, as well as documentation, providing bite-sized video tutorials on aspects of data gathering (these bite-sized tutorials could be later compiled as one module)
* This report noted the presence of advisory bodies for public sector employers in other jurisdictions, for example, to give guidance on reasonable accommodations. The ideal situation would be for Irish public sector employers to have a similar resource (this was a recommendation in the NDA’s report on reasonable accommodations), however, in the medium term the NDA could extend online training modules and webinars, drawing on the considerable expert research and policy produced by the organisation, to produce information and guidance for public sector employers. For example, developing modules on reasonable accommodations, or modules for line managers and HR professionals on assisting people with autism in employment (using existing NDA publications for content)
* The NDA will review existing training and guidance materials and ascertain if further materials need to be developed. All training and guidance materials could be publicised to public sector organisations in line with the NDA’s new Communications Strategy
* Where the technical level of data collection and analysis at an organisational level exceeds staff capacity to deliver and analyse the data, consideration should be given to outsourcing the process (where appropriate under data protection obligations) or seeking help from external providers with relevant expertise. An added benefit of data gathering being decoupled from the organisation is to minimise the perceptual risk to the employee of the data being used in a discriminatory way by their employer or colleagues, as well as providing for increased privacy

#### Data collection tools

* Following best practices outlined in the literature, data collected for Part 5 should continue to include quantitative and qualitative data as part of the annual return process. The census form should be redeveloped making use of the indicators proposed on pages 36 and 37 of this report with proposed actions as follows:
* Metrics should be initially expanded to include employee rank, pay, retention, when the employee’s disability was acquired, the type of disability, the factors that influenced employees to share their disability status, other employee demographic information (to build an intersectional picture of the employee experience) and the provision of reasonable accommodations
* Additionally, metrics that explore the ‘felt sense’ of the employee in the organisation (such as whether they feel accepted, feelings of belonging) should be explored and developed. Experiential and perceptual factors might also be considered, such as experiences of bullying/harassment and perceptions of leaders’ visibility and commitment to diversity and inclusion in the organisation
* Consideration will also be given to examining how commitments to diversity and inclusion are reflected in organisations’ performance management and promotion processes so that employees feel comfortable sharing information such as sexual orientation, disability status, and other personal information, for example, being a single parent etc.
* The redeveloped employee census should be piloted and reviewed before being rolled out across all public sector organisations involved in the Part 5 reporting process
* The NDA might give consideration to any possible benefits of including an additionalquestion on disability status in the data collection process with due regard to the different definitions of disability, for example that used by the CSO or WG-SS. This could allow for appropriate comparison with national disability statistics that use different definitions of disability and follows suggested best practice in the use of definitions that allows for comparison across tools and jurisdictions. This recommendation might be considered with respect to the CSO’s **Equality Data Audit** (which is exploring equality data held and the definitions in use). This measure might also allow researchers to better identify an individual’s perception and nature of their disability and how it impacts or not impacts on their employment[[92]](#footnote-92)
* Further to work on Action 16 in **OPS 2020** and the development of a Maturity Model, the NDA may wish to consider:

1. The development of a model-based approach to organisational assessment in the future to promote cultural change, for example, the use of the **OPS 2020** Maturity Model
2. Consideration could be given to asking organisations to self-assess their maturity level with respect to disability. A further option for consideration might be for the NDA to convey to organisations their progress on the employment of persons with disabilities, and the desired direction of travel, using such a model.
3. \*Serious consideration should be given to gathering employee data anonymously as well as from identifiable sources, for instance, anonymous staff surveys. The NDA might consider revising its guidance to public bodies on this point. Asking employees with disabilities to identify themselves appears to be a deterrent in gathering data. This was a common view expressed in numerous sources in the best practice literature as well as the practical experience of the NHS WDES annual reporting exercise

* \*[[93]](#footnote-93)The NDA should consider discouraging public bodies from maintaining the use of registers of employees with a disability for the purposes of making Part 5 returns as these are problematic from a data protection perspective. Bodies should take particular account of guidance provided by the Data Protection Commission regarding carrying out audits of personal data holdings, risk assessments of such holdings, minimising the amount of data retained, and only holding such data for as long as is necessary
* \*All data collection tools being presented to employees should include clear, easy-to-understand information on how the data collected will be handled in order to support employees to share their disability status and allay fears. This information could be given in a number of formats explaining why the data is being collected and how it will be treated, for example using short video explainers for employees as well as written formats. This guidance should indicate that their explicit consent is required. In preparing this guidance and communications on this point, the NDA should liaise with the organisation’s GDPR Officer[[94]](#footnote-94)
* \*Consideration should be given to changing the language regarding data collection from ‘disclosure’ to ‘sharing’ disability status. NDA communications should reflect this
* Given the technological advances identified in diversity data monitoring, the NDA should consider a movement towards cloud-based diversity data collection tools, possibly in collaboration with IHREC and their monitoring of the **Public Sector Equality and Human Rights Duty.** Examples of such tools and platforms include those provided by Inclusio (based in Dublin City University) and Aephoria Associates (South Africa). The use of such tools could take different reporting forms, for example, anonymous employee-generated data inputted to a tool managed by the NDA or an individual Monitoring Committee. Exploration of such tools should further consider the appropriate ownership of such a centralised data-gathering process and the NDA’s role in its management
* The NDA may wish to conduct a review of differences in compliance that exist between the performance of Government Departments and semi-state public bodies (Commercial and Non-Commercial) in reaching the 3% minimum target.

#### Data collection process

* The NDA, in collaboration with the HSE, might consider the piloting of data collection and reporting in the HSE by a Community Health Organisation (CHO). Such a pilot scheme might also seek to explore data sources and collection techniques in use, optimal data collection methods, and rates of employees sharing their disability status in more detail
* Further to implementing actions and recommendations included in this report and the roll out of new processes, the NDA should consider a future reporting and data audit mechanism that can check the validity and accuracy of data gathered and reported by public sector organisations and Monitoring Committees under any revised Part 5 process.

#### Presentation of findings under Part 5

* The NDA should consider making changes to the analysis and presentation of the qualitative data gathered under Part 5 in order to show trends and key themes within the public sector. For example, the prevalence of particular recruitment measures or common approaches to reasonable accommodations. The UK’s **NHS WDES Annual Report 2019** provides an interesting example of what this analysis and presentation might look like
* The NDA might consider ways to celebrate and draw attention to public sector organisations who embody good practice on the promotion of employment for persons with disabilities beyond the annual Part 5 report. For example, organisations that are identified as high-performing through the Part 5 process could be rewarded through, for example, public sector excellence awards. Adding an awards category for the promotion of employment for persons with disabilities to existing public sector awards would be one option. An awards scheme could also raise the profile of the NDA’s work and fit in with our Communications Strategy
* The NDA might consider the use of an organisational scorecard (and this may be an output of a maturity model or a move to cloud-based data collection tools). If at any point in the future an organisational scorecard system were to be adopted, these scores could be published and public sector bodies could benefit from the reputational kudos and identification as a ‘good place to work’ for employees with disabilities.

## Monitoring Committees and Disability Liaison Officers

The review found inconsistencies in the operation of Monitoring Committees. Not all committees have full membership, some do not hold the required minimum number of meetings and some do not meet at all. High numbers of bodies reporting to a Monitoring Committee, difficulties in obtaining members and the failure of some members to prioritise attendance each contribute to this.

The role of Disability Liaison Officers is currently only present in Government Departments in the Civil Service. Public sector organisations do not have Disability Liaison Officers.

In many cases Monitoring Committee members and Disability Liaison Officers do not receive any training for their roles in the reporting process or to improve general disability awareness. Most Monitoring Committee members and Disability Liaison Officers do not volunteer for these positions, rather they get appointed, with sometimes little consideration given to the possession of relevant skills and qualifications in areas related to disability. Part 5 reporting does not provide insights to the training provided to people in these roles.

### Related recommendations

* \*[[95]](#footnote-95)The NDA might consider writing to the Minister to request clarification on the operation of the Monitoring Committee under their aegis with respect to the requirements in the Disability Act (Sections 48[4] and 48[5]). Specifically, the NDA might seek further information on the numbers of meetings held, the nature of these meetings, the make-up of committees, particularly regarding the inclusion of employees with disabilities, the training they have for Part 5 work, and how this work fits with other duties
* The NDA may wish to consider the following points regarding legislative change that affects the Monitoring Committees under Part 5:
* The NDA might consider whether a recommendation should be made to amend relevant sections of Part 5 of the Disability Act 2005 concerning Monitoring Committees. An example of one suggested amendment would be for a Government Department to demonstrate that its Monitoring Committee has the requisite membership and has achieved the required number of meetings in order for that Department to achieve compliance. Such a change could have regard to the learning from a review of the Monitoring Committees
* A further suggested amendment for consideration could be the alteration of the membership and meeting requirements specified in the Act to reflect the operational realities of some Departments and their agencies
* The NDA might consider writing to the Minister to request an extension of the Disability Liaison Officer’s role across all public sector organisations under their aegis
* \*The NDA could give consideration to asking public sector organisations to include details of training provided to Disability Liaison Officers, Monitoring Committee members and others involved in disability awareness and the promotion of the employment of persons with disabilities in their annual Part 5 returns. This information could then be taken into account when the NDA is considering a finding of non-compliance, for example, where inadequate training has been provided.

## Organisations obliged to report under Part 5

Not all public bodies have to submit returns under Part 5 of the Disability Act 2005. Obvious exceptions include the Defence Forces and An Garda Síochána (Section 46(3)). Whilst these exclusions are clear, the review found that a degree of confusion exists regarding whether all public service organisations should report under the Act (Section 42 (2) (d)). For example, this review identified a few organisations falling within the scope of Section 42 (d) which do not appear to submit reports (e.g. the Institute of Public Administration, Education and Training Boards, and the Central Applications Office).

There are three possible reasons for the exclusion of such institutions. The first and the most probable is that they fall outside the scope of the Act. The second is that there was a legal or administrative decision taken to exclude the body. The third, and most unlikely, situation is that the omission stems from an oversight. Save for very limited circumstances the exclusion of certain public bodies, even if such exclusions result from legal constraints, are not within the spirit of the law that support the employment of persons with disabilities.

A few public bodies make voluntary declarations under the Part 5 process, including large organisations such as the universities. For example, the 2015 Higher Education Authority’s (HEA) Annual Report includes reference to the body as having provided “voluntary annual returns to the Department of Education and Skills[[96]](#footnote-96) under the 2005 Disability Act” and discloses the “percentage of staff employed by the HEA with a disability as at December 2015 was 4.3%”.[[97]](#footnote-97)

The process of tracking what public bodies should or should not be included annually is administratively time consuming for the NDA. Bodies are merged, dissolved and created annually. Responsibility for public bodies frequently moves from one Government Department to another. The absence of a central register of public bodies, to which the NDA (or relevant Government Departments making a decision) can ascribe the reasons for inclusion or exclusion from the Part 5 process requires further exploration.

In just over half the quota schemes examined by the International Labour Organisation, employers with smaller workforces (generally less than 20 employees) were exempt from quotas. There is also some limited evidence that small organisations increasing in size are incentivised by the quota to employ more persons with disabilities Lalive et al. (2013)[[98]](#footnote-98) and Mori and Sakamoto (2014).[[99]](#footnote-99)

Smaller Irish public sector organisations are less compliant than larger ones in employing persons with disabilities, however, they have fewer opportunities to recruit and exert less influence on the overall employment figure of persons with disabilities. Large organisations, however, have a major influence on the total employment of persons with disabilities. Table 3 below highlights the impact that the HSE – as the largest employer in the public sector - has on the overall percentage of employees reporting a disability in the public sector in 2020.

Table 3. Overall percentage of employees reporting a disability with and without HSE Data in 2020

| **Year** | **Total number**  **of employees** | **Employees reporting a disability** | **% of total employees reporting a disability** |
| --- | --- | --- | --- |
| **2020 (including HSE data** | 245,190 | 7,637 | 3.1% |
| **2020 (excluding HSE data)** | 152,578 | 7,123 | 4.7% |

If the HSE data was excluded from the 2020 returns, the reported percentage of people with disabilities in the public sector would be 51.6% higher than when the HSE data is included.

### Related recommendations

* The NDA may request Government Departments to report on compliance with Part 5 in their annual reports similarly to their **Public Sector Equality and Human Rights Duty**
* \*[[100]](#footnote-100)The NDA might consider requesting Government Departments to report and maintain a list of public bodies under their aegis. The Departments could identify those bodies not subject to Part 5 of the Disability Act, with an explanation of the legal basis for their exclusion with reference to the Act
* The NDA might consider introducing mechanisms (including primary or secondary legislation) to reduce the number of public bodies that are being exempted from reporting, initially targeting the inclusion of universities and the HEA
* Monitoring Committees and the NDA should include all voluntary returns of levels of employment of persons with disabilities in its annual reports on Compliance with Part 5 of the Disability Act on the Employment of People with Disabilities in the Public Sector
* The NDA might consider the exclusion of smaller organisations obliged to submit returns under Part 5 (e.g. organisations with less than 30 employees)
* The NDA might consider a pilot programme to monitor the employment of persons with disabilities in small organisations that puts an even greater emphasis on the environment and policy factors rather than employment data (for example, using an organisational ‘score’, or, a diversity scorecard or the **OPS 2020** Maturity Matrix as well as monitoring the percentage). This might be a way of providing small organisations who struggle year-on-year to meet the minimum 3% target with other quantifiable measures of their work regarding the employment of persons with disabilities
* If the use of an organisational scorecard proved useful and effective, future consideration could be given to expanding the system to organisations of all sizes in the public sector.

## Process Change

This review identified key elements within the Part 5 process that the NDA should consider changing such as:

1. How this process could report on and capture cultural change
2. Underpinning NDA guidance with existing and new statutory Codes of Practice
3. Streamlining the process whereby public bodies are determined to be compliant or non-compliant with Part 5.

### Capturing Cultural Change

There is a wealth of advice and information regarding how organisations can bring about cultural change regarding disability inclusion. Five earlier reports were identified, some of which the NDA commissioned, indicating the tasks involved in realising cultural change. Changes made to the types of qualitative questions asked and the type of data analysed in the Part 5 process could help capture and highlight trends in cultural change within the public sector. This data could be invaluable to helping the public sector to create a more equitable diverse and inclusive work environment and meet their commitments under the **Public Sector Equality and Human Rights Duty** and the new **OPS 2030**.

### Underpinning NDA guidance with statutory Codes of Practice

The advice and guidance provided by the NDA, for example, data collection methods that could be used for Part 5 has no recognised statutory status. New Codes of Practice could provide clarity on the monitoring and compliance components of the Part 5 process. The Codes could include guidance on data collection methods, data quality monitoring (such as audits) that public bodies should carry out, and provide additional detail to the measures provided for in Section 49(3) of the Act.

### Streamlining the compliance process

The process by which the NDA currently determines whether a public body is non-compliant or compliant with Part 5 is detailed and complicated. It involves the NDA in potentially unnecessary activities, which add to the duration of the reporting process and creates additional work. These include e.g. requesting permission from the Minister to request further information from a public body and to contact a public body regarding a final determination of non-compliance and actions the NDA is recommending that this public body should implement.

Monitoring Committees submit annual reports based on data and information received from public bodies describing whether public bodies comply with the Act. The NDA reviews and analyses these reports and notes public bodies with over 50 staff who have not meet the minimum 3% target for two consecutive years.

Under S.49 of the Act, the NDA can seek permission from the relevant Minister to request further information from a public body that has not made the minimum 3% target in two consecutive years. The NDA does not make this request until the 2 years have passed, despite the public body being aware of its non-compliance at the point of the first year’s return.

This feedback cycle can result in a process that lasts more than the notional two years as documented in Appendix B. It can in fact span four calendar years after the year in which the original non-compliance occurred. This results in public bodies explaining corrective actions associated with past events, often at the same time as reporting compliant performance for the most recent year. Public bodies interviewed and surveyed for this review believe this cycle, which stems from the current legislation, results in considerable and unnecessary administration over a lengthy period. It also generates frustration and further confusion in public bodies about their “compliance” status and undermines the value and trust placed in the process by senior management.

The Act provides for the NDA to request public bodies to take specific measures to address non-compliance. Section 49(3) includes six measures that the NDA could ask public bodies to take to improve levels of compliance, of these the NDA used (e) and (f). Measure (e) refers to accommodations in the workplace and (f) concerns the provision of information to employees.

The following is what the review found on the other four measures.

No evidence that public bodies implemented the following two measures:

(a) “the provision by or on behalf of the body concerned of the training or education of persons with disabilities who are employed by the body, either in or outside it for the purpose of qualifying them for specific posts or employments in the body”.

(b) “the amendment of the requirements for particular posts or employments in the body to enable persons with disabilities to compete for posts or employments in the body in relation to which the work is similar or of equal value”.

For the two other measures the review found the following:

Some bodies have reported updating job descriptions used in advertisements as part of their action plans.

(c) “measures for the filling, by suitably qualified such persons of employment vacancies or specified such vacancies or of categories of such vacancies in the body, either for a specified period or until the provisions of [Part 5] have been complied with”.

Some bodies have reported making use of schemes such as the AHEAD Willing Able Mentoring (WAM) programme, and engaging with AHEAD and similar initiatives. As noted elsewhere in this report, these are typically for time-limited positions.

(d) “the holding of competitions for recruitment to specific posts employments which are confined to such persons”.

Some bodies reported that a limited number of such competitions, as little as two, have been conducted since the introduction of the Act.

A partial implementation of the Act limits its ability to increase the employment of persons with disabilities in public bodies. Existing provisions in Part 5 of the Act, if fully used, would help to address significant weaknesses in the performance of public bodies to comply with the Act.

### Related recommendations

* The NDA might consider further ways to exercise greater influence and ownership of the Part 5 process by maximising its rights under the Act, such as, to introduce new Codes of Practice (with permission from the Minister) which would formalise the guidance it currently provides on e.g. methods of data collection, interpretation of the definition of disability in the Act, and advice on compliance
* \*[[101]](#footnote-101)NDA to action parts of the Act under Section 49(3) regarding measures that the NDA could ask public bodies to improve levels of compliance such as:
* Holding of competitions for recruitment to specific posts which are confined to persons with disabilities
* Training of existing staff to apply for internal posts
* Amendment of the requirements for particular posts to enable persons with disabilities to compete for these posts
* \*The NDA should consider a revision of the Part 5 reporting process from a 2-year cycle to a 1-year cycle so that an organisation immediately becomes non-compliant on reporting a failure to meet the statutory minimum level of employment of persons with disabilities
* To streamline the compliance process, the NDA could consider the removal of steps from the Part 5 process requiring the NDA to engage with a Minister of Government, (if deemed appropriate to do so), before requesting further information from a public body
* The NDA should consider including some additional standard caveats and clarifications to the Part 5 Annual Report, particularly where organisational non-compliance is being reported but the non-compliance is historical – for example, where a previously non-compliant organisation is now compliant. Examples of these types of technical data caveats can be found in the NHS WDES Annual Report

## Promoting the employment of persons with disabilities in the public sector

The most frequently used pathway for recruitment by public bodies is the Public Appointments Service (PAS). PAS recruitment is used by bodies that represent over 60% of the population falling within the remit of Part 5 of the Act. Other recruitment paths used by public bodies are direct recruitment and via intermediaries.

The PAS recruitment processes reflect the recruitment policy guidelines of the Commission for Public Service Appointments (CPSA). The overriding principles of the CPSA polices being to ensure appointments to positions in the public service are fair and transparent.

Two Codes of Practice are especially relevant to this review: **Code of Practice for Appointment to Positions in the Civil Service and Public Service** and a **Code of Practice for Appointment of Persons with Disabilities to Positions in the Civil Service and Certain Public Bodies**. However, a review of both documents showed that **The Code of Practice for the Appointment of Persons with Disabilities to Positions in the Civil Service and Certain Public Bodies** differs only in presentation style and foreword text from a companion **Code of Practice for Appointments to Positions in the Civil Service and Public Service,** and thus could appear not to prioritise the employment of persons with disabilities[[102]](#footnote-102).

Positive recruitment outcomes for persons with disabilities occur where organisational culture and strategies recognise and prioritise diversity and inclusion of all minorities. Interviewees and participants in the focus groups for this review, expresses the importance and necessity of improving their efforts regarding the employment of persons with disabilities. They agreed that progress in this area was inhibited by uncertainty regarding how to start this process. A framework or pathway approach was seen as a more useful approach than a range of best practices. Steps to bring about a cultural change are prerequisites in developing a fully inclusive organisation.

Organisational cultures that encourage diversity and inclusion are known to create conditions beneficial to the recruitment of persons with disabilities. The steps required for Irish public bodies to become inclusive are well known to the NDA and HR professionals. The key to organisations becoming fully inclusive regarding persons with disabilities, is management commitment and clear leadership (as has been identified and discussed in relation to ‘Creating Disability Inclusive Cultures’ in this Chapter).

Various generic models of diversity and inclusion exist which are fully accessible to public bodies. Some enable an organisation to assess its position in the diversity continuum and help them to develop action plans to become more inclusive (i.e. maturity models). Although it has not been possible to identify any processes designed specifically to increase the employment of persons with disabilities, it is likely that these generic models for diversity could be used a basis for developing a common approach to help public bodies to become more inclusive of persons with disabilities.

The review noted that persons recruited to public bodies through the Public Appointments Service typically fill entry level posts and are recruited based on competencies, a process which is known to disadvantage persons with disabilities. The current recruitment practices for appointments to public bodies managed by the PAS are often not compatible with the needs of persons with disabilities. HR recruitment processes can enhance diversity and inclusion or be a barrier to the recruitment of persons with disabilities. Several practices were identified as inhibiting the recruitment of persons with disabilities, for example, the use of competence-based interviews, outsourcing recruitment services and inadequate accommodations (including the built environment) available in the public sector.

Feedback from interviews and focus groups, reinforced by evidence in the literature and interviews with international practitioners, indicate that the provision of supports to allow persons with disabilities to access and progress in the workforce are critical to achieve full disability inclusion. Participants in this review repeatedly pointed out the difficulties local managers have in providing such supports due to local budgetary pressures.

Supports available to private sector employers are not available in the public sector. Whereas state grants towards the costs of providing accommodations are made to the private sector, the public sector does not have access to similar support. Since the state ultimately funds accommodations in the private and public sectors, there is no logic to the denial of support to public bodies. No policy for funding the provision of reasonable accommodations in public bodies exists. Persons with disabilities receive different levels of accommodations depending on where they work.

Failure to provide persons with disabilities with appropriate workplace accommodations and supports contributes to poor employment retention. The cost of providing accommodations is cited as a major reason why accommodations are denied, however, this view fails to recognise the long-run benefits to society that result from the employment of persons with disabilities. Inadequate provision of accommodations continues, even though the benefits to employers may outweigh their costs. Even where employers provide dedicated infrastructure, employees may not be able to access the workplace because of inadequate or inaccessible transport, or the absence of supports in the home.

Focus groups and interviewees describe accommodations as a “confusing situation” since the Disability Act relies on the definition in the Employment Equality Acts. This appears to be not so much an issue with the Acts but rather a failing on the part of organisations to understand their responsibilities towards their staff. The review noted the potential for ambiguous language in the legislation (including the Equality Acts and the Disability Act) and the need for such language to be removed, or guidance on its interpretation provided through secondary legislation such as Codes of Practice.

The literature indicates legislation introduced to ensure equality of opportunity or designed to eliminate discrimination can have the opposite effect if it allows for exclusions, such as scope for employers to limit the extent of accommodations that they provide. Despite the definition of “reasonable accommodation” in the Employment Equality Acts 1998 – 2015, the provision of accommodations continues to be a contentious issue and open to interpretation.

Increased use of the principals of Universal Design in workplace environments would ease the task of providing accommodations. Its use should not be confined to physical environments but can be extended to, for example, business processes including procurement of services, equipment and information systems.

It is notable that the coronavirus pandemic led to a large-scale movement of remote working. The NDA received a request for submissions from the Special Committee ahead of its meeting on 17 July 2020. The NDA made two submissions on the impact of COVID-19 on persons with disabilities and the disability sector and on the impact of Covid-19 on non-Covid-19 healthcare, respectively. In the first submission the NDA noted that remote working was one of the innovations introduced in the public sector regarding the employment of persons with disabilities under the **Comprehensive Employment Strategy for Persons with Disabilities 2015 – 2024.**

The impact of Covid-19 and the increase in remote working has resulted in changes which may alter environmental barriers for persons with disabilities, for example, transport and accessible routes to work, The issue as to whether a person’s home is designed to help them perform their work to the best of their ability needs also needs to be considered. The pandemic provides a natural research opportunity to explore whether the provision of remote working with appropriate supports could be an effective means of increasing the recruitment and retention of persons with disabilities. At the same time, a future landscape where employees with disabilities tend to work remotely while employees without disabilities work in the physical office may cause segregation. Further research to understand the benefits and challenges faced by employees and employers with regard to remote working might highlight positive changes that could be carried into a return to the workplace, while identifying which unhelpful aspects should be discontinued.

The NDA’s submission to the Oireachtas Special Committee on the impact of COVID-19 on persons with disabilities and the disability sector, also advised on the importance of continued commitment from all relevant actors to the implementation of the **Comprehensive Employment Strategy** **for Persons with Disabilities 2015- 2024** once the immediate crisis has passed. The NDA advised that restoring employment levels and the economy would be critical areas for attention as the COVID-19-related restrictions are lifted. It would be important that any planning such as the provision of new activation and employment support measures for same always have due regard to the employment of persons with disabilities, as they continue to experience low employment levels and may be most likely to be impacted by any downturn. In particular, the NDA highlighted a need for employer engagement in relation to employing persons with disabilities and for addressing issues in relation to developing the skills of persons with disabilities for a labour market which is likely to have more of a focus on a digital-virtual world - where technology and remote working practices will be key components of future work practices.

Many of the conclusions and recommendations note the importance of reasonable accommodations regarding the promotion of employment for persons with disabilities, for example, in recruitment processes and on the job. The NDA may wish to consider the following recommendations detailed below in addition to those identified in the NDA’s report on **Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with disabilities[[103]](#footnote-103)**.

### Related recommendations

#### Positive Recruitment

* \*[[104]](#footnote-104)Instead of having two very similar Codes of Practice in place on appointments in the civil and public service, the NDA could consider recommending that these Codes to be merged into one. This new Code would be renamed and updated to reflect current equality, diversity and inclusion policies and strategies and include the following guidance:
* Give specific guidance on how and when confined competitions should be conducted (as envisaged in the next iteration of the **National Disability Inclusion Strategy** which will likely be a UNCRPD Implementation Strategy, and the **Comprehensive Employment Strategy for Persons with Disabilities 2015 - 2024**)
* Provide guidance on alternative recruitment routes for persons with disabilities (e.g. alternatives to competency based interviews)
* Provide guidance on making job specifications accessible for persons with disabilities early in the role formation process
* The NDA could work with colleagues in DPER and other members that were involved in the Action 16 Group to explore potential implications of combining the existing Codes of Practices and potential next steps
* \*The **Comprehensive Employment Strategy for People with Disabilities 2015 - 2024** includes the objective, “special public service competitions for people with disabilities will be arranged and we will open up alternative recruitment channels for people with disabilities” (p.3). The NDA should continue to highlight and advise on the implementation of this objective across the public sector
* The NDA could consider conducting a review of relevant legislation to be conducted that would:
* Establish the extent to which the medical model is promoted in Irish law, and to identify opportunities for its removal
* Examine if ambiguity exists in the definitions of disability in the Disability Act and the Equality Acts, in particular in relation to the obligations of public sector employers to provide reasonable accommodations
* The NDA might consider conducting a review of supports currently available to persons with disabilities seeking employment and/or promotion in the private sector, in order to identify any gaps in equivalent supports that are available to public sector employers, employees and candidates.

#### Reasonable Accommodations

* The NDA could consider making a request to DPER to introduce a means for public bodies, independent of (or in addition to) normal voted budgets, to provide accommodations equivalent to the mechanisms available to private bodies from the State
* \*The NDA and the Centre for Excellence in Universal Design should continue to promote the use of a Universal Design Approach to ensure that public bodies focus on creating work environments where products, services, the built environment and internal and external information and all communications are easy to access, understand and use for everyone regardless of age, size, ability or disability. Consideration should be given to integrating this as part of the business processes throughout the public service, possibly through engagement with the Institute for Public Administration
* In the context of the Part 5 process, the NDA may wish to consider an exploration of employees’ experiences of remote working during the coronavirus restrictions to ascertain the benefits and challenges of such approaches

# Next Steps

The recommendations outlined in the previous chapter describe several themes and actions:

1. Guidance and Advice
2. Part 5 Process
3. Communications
4. Legislative Change
5. Research

These actions have been prioritised, listed under each type of action, and a suggested three-year timeline is proposed below with a number of the actions running concurrently over this period.

The symbol \* is for recommendations the NDA has implemented since 2021.

## Actions for 2020-2021

### Guidance and Advice

* \*NDA to frame Part 5 within this wider legislative and policy context in their communications and guidance by producing infographics on:
* The diversity and inclusion policy landscape as it pertains to the work of public sector organisations and data needs
* An explanation of the difference in the definitions of disability used by the various policies and legislation
* \*Include clear, easy-to-understand information on all data collection tools being presented to employees about how the data collected will be handled in order to support employees to disclose their disability status and allay fears (written format as well as short video explainers)
* \*NDA to discourage public bodies from maintaining the use of registers of employees with a disability for the purposes of making Part 5 returns. NDA communications to reflect this guidance
* \*NDA to highlight and advise on implementation of confined competitions for persons with disabilities under the **Comprehensive Employment Strategy for People with Disabilities 2015 - 2024**
* \*NDA and the Centre for Excellence in Universal Design to continue the promotion of Universal Design to ensure that public bodies focus on creating accessible and inclusive work environments (possibly integrating this as part of public sector business processes through engagement with the Institute for Public Administration).

### Part 5 Process

* \*NDA to advise public sector bodies to gather employee data under Part 5 anonymously (employees do not having to sign their name on the forms)
* NDA to consider and include standard caveats and clarifications to the Part 5 Annual Report, e.g. where organisational non-compliance is being reported but the non-compliance is historical.

### Communications

* \*NDA to consider the language used in communications around the use of the word ‘target’ of 3%. The language should emphasise that this is a **minimum** compliance target rather than an end goal. The increase in the minimum statutory employment target provided for in the Disability (Miscellaneous Provisions) Bill 2016 presents an opportunity to reframe the language in NDA communications
* \*NDA will review existing training and guidance materials and ascertain if further materials need to be developed. All training and guidance materials could be publicised to public sector organisations in line with the NDA’s Communications Strategy.

## Actions for 2021-2023

### Guidance and Advice

* \*NDA to continue framing the Part 5 in the wider policy landscape to ensure organisations understand the value of reporting in meeting some of their overlapping diversity and inclusion obligations, e.g. the **Public Sector Equality and Human Rights Duty**
* NDA to collaborate with IHREC to identify communications and reporting mechanisms that complement both Part 5 and the **Public Sector Equality and Human Rights Duty**
* NDA to engage with DPER (OneLearning) and recommend civil and public service training providers ensure sufficient competence in disability awareness and practices that promote the employment of persons with disabilities
* Disability and diversity awareness training for civil/public sector staff should be included as an objective under future relevant strategies, for example, in the next iteration of the **National Disability Inclusion Strategy**, which will likely be a UNCRPD Implementation Strategy.
* NDA to recommend a sustained promotional campaign in the public service on disability inclusion, driven by DPER, highlighting the benefits of employing persons with disabilities and reasonable accommodations, and including employees with disabilities as role models
* NDA to advise the Minister on the establishment of a public service-wide disability forum in order to enhance understanding of issues across both the civil and wider public service and to provide the basis for an “eco-system” of disability awareness practitioners
* NDA to consider providing online training modules and webinars, drawing on the considerable expertise in research and policy produced by the organisation, to create information and guidance for public sector employers. For example, developing modules on reasonable accommodations, or modules for line managers and HR professionals on assisting people with autism in employment (using existing NDA publications for content)
* Government Departments and public bodies should consider providing accredited training, relevant to the areas of disability and inclusion, to all Disability Liaison Officers and Monitoring Committee members
* \*NDA to recommend merging the two Codes of Practice on appointments in the civil and public service and updating to reflect current equality, diversity and inclusion policies and strategies and include guidance on confined competitions, alternative recruitment routes and accessible job specifications. NDA to work with DPER and other members that were involved in the **OPS 2020** Action 16 Group to progress the creation of equitable, diverse and inclusive work spaces
* NDA to request DPER to introduce a means for public bodies, independent of (or in addition to) normal voted budgets, to provide accommodations equivalent to the mechanisms available to private bodies from the State.

### Part 5 Process

* NDA to consider requesting Government Departments to report on compliance with Part 5 in their annual reports, similar to their **Public Sector Equality and Human Rights Duty**
* NDA to redevelop (anonymous) employee census in four phases:

1. Include metrics on employee rank, pay, retention, when the employee’s disability was acquired, the type of disability, the factors that influenced employees to share their disability status, other employee demographic information, and the provision of reasonable accommodations
2. Explore options for ‘felt sense’ metrics and other qualitative metrics to include feelings of acceptance and belonging in the organisation, experiences of bullying/harassment, and perceptions of leaders’ visibility and commitment to diversity and inclusion in the organisation.
3. NDA to pilot and review redeveloped forms before rolling out to all Part 5 organisations in 2022
4. Examine how commitments to diversity and inclusion are reflected in organisations’ performance management and promotion processes so that employees feel comfortable sharing information such as sexual orientation, disability status, and other personal information, for example, being a single parent etc.

* NDA to consider benefits of including an additionalquestion on disability status on data collection with due regard to the different definitions of disability, for example that used by the CSO or WG-SS
* NDA to consider asking public sector organisations to include details of training provided to Disability Liaison Officers, Monitoring Committee members and others involved in disability awareness and the promotion of the employment of persons with disabilities in their annual Part 5 returns
* NDA to consider adapting a diversity and inclusion model (such as the **OPS 2020** Maturity Model) to provide public sector organisations with a tool to implement cultural change. Further consideration given to organisations using such a model to self-assess, and the NDA to provide feedback to organisations using this model
* NDA to consider a move towards cloud-based diversity data collection tools, possibly in collaboration with IHREC and their monitoring of the **Public Sector Equality and Human Rights Duty**
* NDA and the HSE to consider piloting Part 5 data collection and reporting by a Community Health Organisation (CHO)
* NDA to consider changes to the analysis and presentation of the qualitative data gathered under Part 5 in order to show trends and key themes within the public sector
* \*NDA to request clarification from Ministers regarding the operation of Monitoring Committees under their aegis with respect to the requirements in the Disability Act (Sections 48(4) and 48(5))
* NDA and Monitoring Committees to examine public bodies that have achieved the minimum 3% target to identify the type of supports that will help them to focus on increasing their sense of responsibility and ownership regarding meeting their obligations under Part 5, and organisations’ progress in this regard
* NDA to request the Minister to extend of the role of Disability Liaison Officers across all public sector organisations
* \*NDA to request Government Departments to report and maintain a list of public bodies under their aegis to identify those bodies not subject to Part 5.

### Communications

* NDA to consider further development of support mechanisms for staff in public sector organisations that are reporting on the Part 5 process, e.g. a dedicated webpage to include guidance documents, document templates, and links to best practice literature and tools. Further consideration given to producing and hosting online training modules (webinars and tutorials) for staff, for example, introducing some of the key statistics, metrics and data gathering tools
* \*NDA to consider changing the language regarding data collection from ‘disclosure’ to ‘sharing’ disability status
* \*NDA will continue to review existing training and guidance materials and ascertain if further materials need to be developed.

### Legislative Amendments

* \*The NDA will prepare legislative amendments and monitor the progress of the Miscellaneous Bill to see if there are opportunities to suggest amendments.

### Research

* Public sector organisations should consider conducting an intra-organisational data audit to map common data needs (with all diversity and inclusion legislative obligations), collection tools, available information and data gaps. NDA to consider if this could be advanced as an additional aspect of the CSO’s **Equality Data Audit**
* In the context of the Part 5 process, the NDA may consider exploring employees’ experiences of remote working during the coronavirus restrictions to ascertain the benefits and challenges of such approaches
* NDA to conduct a review of differences that exist between the performance of Government Departments and semi-state public bodies (Commercial and Non-commercial) in reaching the 3% minimum
* NDA to consider a review of relevant legislation to:
* Establish the extent to which the medical model is promoted in Irish law, and to identify opportunities for its removal
* Examine if ambiguity exists in the definitions of disability in the Disability Act and the Equality Acts, in particular in relation to the obligations of public sector employers to provide reasonable accommodations.

## Actions for 2022-2023

### Guidance and Advice

* Where the technical level of data collection and analysis at an organisational level exceeds staff capacity to deliver and analyse the data, consideration should be given to outsourcing the process (where appropriate under data protection obligations) or seeking help from external providers with relevant expertise. This recommendation should be considered following changes to the legislation and/or Part 5 metrics.

### Part 5 Process

* NDA to consider the use of an organisational scorecard (possibly as an output of a maturity model or a move to cloud-based data collection tools). Future consideration given to publication of public sector organisation scores
* Where revisions are made to the Part 5 process that refocus the work of Monitoring Committees away from procedural and reporting efforts, the Monitoring Committees could take a more central role in monitoring disability inclusion work in the public bodies under their aegis, e.g. reviewing organisational action plans
* Monitoring Committees and the NDA should include all voluntary returns of levels of employment of persons with disabilities in its annual reports on Compliance with Part 5 of the Disability Act on the Employment of People with Disabilities in the Public Sector
* NDA to consider a pilot programme to monitor the employment of persons with disabilities in small organisations that puts greater emphasis on the environment and policy factors rather than employment data
* NDA to consider ways to exercise greater influence and ownership of the Part 5 process by maximising its rights under the Act to introduce Codes of Practice (with permission from the Minister) which would formalise the guidance it currently provides on e.g. methods of data collection, interpretation of the definition of disability in the Act, and advice on compliance. Such changes could be piloted from 2022.

### Communications

* \*NDA will continue to review existing training and guidance materials and ascertain if further materials need to be developed. All training and guidance materials could be publicised to public sector organisations in line with the NDA’s Communications Strategy
* NDA to consider ways to celebrate and draw attention to public sector organisations who embody good practice on the promotion of employment for persons with disabilities beyond the annual Part 5 report., e.g. through public sector excellence awards.

### Legislative Change

* NDA might recommend that a finding of non-compliance be made where an organisation does not submit accurate data or meet the timelines for reporting returns laid down in the Act
* A Part 5 legislative amendment might consider whether organisations should be required to submit an action plan for the year setting out how the body will increase the numbers of persons with disabilities in employment. Such a plan might consider the following areas:
* How new employees with disabilities will be recruited, including how to increase this pool of candidates (this pool might also consider employees for promotion)
* How the organisation will retain existing employees with disabilities
* The potential for Monitoring Committees to review organisational annual action plans that promote the employment of persons with disabilities
* The NDA may wish to consider to consider the following points regarding legislative change that affects the Monitoring Committees under Part 5:
* Government Department to demonstrate that its Monitoring Committee has the requisite membership and has achieved the required number of meetings in order for that Department to achieve compliance
* Alteration of the membership and meeting requirements specified in the Act to reflect the operational realities of some Departments and their agencies
* NDA to consider introducing mechanisms (including primary or secondary legislation) to reduce the number of public bodies that are being exempted from reporting, initially targeting the inclusion of universities and the HEA
* NDA to consider the exclusion of smaller organisations obliged to submit returns under Part 5 (e.g. organisations with less than 30 employees). This change will also have an implication for action under the Part 5 Process in 2022
* \*NDA to consider a revision of the Part 5 reporting process from a 2-year cycle to a 1-year cycle so that an organisation immediately becomes non-compliant on reporting a failure to meet the statutory minimum level of employment of persons with disabilities
* NDA to consider the removal of steps from the Part 5 process requiring the NDA to engage with a Minister of Government before requesting further information from a public body

### Research

* NDA to consider conducting a review of supports currently available to persons with disabilities seeking employment and/or promotion in the private sector, in order to identify any gaps in equivalent supports that are available to public sector employers, employees and candidates.

## Beyond 2023

* Further to implementing actions and recommendations included in this report and the roll out of new processes, the NDA should consider a future reporting and data audit mechanism that can check the validity and accuracy of data gathered and reported by public sector organisations and Monitoring Committees under any revised Part 5 process.

# References

Affonso, A. (2017) Do you know the difference between metric, performance indicator, index, unit of measure, and target? https://professorannibal.com.br/2017/10/19/do-you-know-the-difference-between-metric-performance-indicator-index-unit-of-measure-and-target/

April, K. and Blass, E. (2010) Measuring Diversity Practice and Developing Inclusion. **Dimensions, Vol. 1, No.1.** https://www.researchgate.net/profile/Kurt\_April/publication/228668437\_Measuring\_Diversity\_Practice\_and\_Developing\_Inclusion/links/0a85e534e003f59ba3000000.pdf

Bachman, C. and Gooch, B. (2018) **LGBT in Britain. Work Report**. Stonewall UK. <https://www.stonewall.org.uk/system/files/lgbt_in_britain_work_report.pdf>

Burke, T., 2002. The globalization of disability rights. Paper presented at the Annual Meeting of the American Political Science Association, Boston Marriott Copley Place, Sheraton Boston & Hynes Convention Centre, Boston, Massachusetts, 28 August 2002. p.3.

Central Statistics Office website. Equality Data Audit 2020 section. https://www.cso.ie/en/methods/methodologicalresearch/rp-eda/equalitydataaudit2020/

Department of Justice and Equality (2017) **National Disability Inclusion Strategy 2017 – 2021.**

<https://www.gov.ie/en/publication/8072c0-national-disability-inclusion-strategy-2017-2021/>

Department of Justice and Equality (2017) **Data and Research Strategy 2018 – 2020. Supporting delivery of “A safe, fair and inclusive Ireland**”.

The Department of Justice and Equality (2019) **National LGBTI+ Inclusion Strategy 2019-2021.** H:/Downloads/46699\_1823e5fb971045b3bf6919f6be02061c%20(1).pdf

Department of Justice and Equality (2019) Report of the Inter-Departmental Group on Gender Balance on State Boards Options and Recommendations for Government. H:/Downloads/49513\_9258a29e071646f1b330c6c9992803d5.pdf

Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation**. <https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf>

Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion.**

[H:/Downloads/87432\_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf](file:///H:/Downloads/87432_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf).

Department of Public Expenditure and Reform (2021) **Our Public Service 2020. Promote Equality Diversion and Inclusion**

https://www.ops.gov.ie/app/uploads/2020/07/Vision-Statement-Commitments-and-Maturity-Model-for-Public-Service-Organisations.pdf

Disability Act 2005.

http://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/pdf.

Equal Status Act 2000. http://revisedacts.lawreform.ie/eli/2000/act/8/section/2/revised/en/html.

European Commission (2018) Guidelines on improving the collection and use of equality data.

[H:/Downloads/european\_handbook\_on\_equality\_63B98CA7-CDBA-9BB3-903A6A3781B5F5E3\_43205.pdf](file:///H:/Downloads/european_handbook_on_equality_63B98CA7-CDBA-9BB3-903A6A3781B5F5E3_43205.pdf)

European Commission (2020) How to put Reasonable Accommodation into Practice. Guide of Promising Practices**.** https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8341&furtherPubs=yes.

Fuchs, M (2014) Quota Systems for Disabled Persons: Parameters, Aspects, Effectivity. European Centre for Social Welfare Policy and Research, Vienna.

https://www.euro.centre.org/downloads/detail/1459.

Government of Ireland (2015) **Comprehensive Employment Strategy for Persons with Disabilities 2015 – 2024.** <https://assets.gov.ie/18906/1120bc6ad254489db9571c74e8572f44.pdf>.

Greve, B. (2009) **The labour market situation of disabled people in European countries and implementation of employment policies: a summary of evidence from country reports and research studies.** Report prepared for the Academic Network of European Disability experts (ANED). University of Leeds.

Gupta N.D., Larsen M., and Thompsen, L.S. (2015) Do wage subsidies for disabled workers reduce their non-employment? - evidence from the Danish Flexjob scheme. [**IZA Journal of Labor Policy**](https://link.springer.com/journal/40173), Vol. 4, Article number: 10 (2015).

https://link.springer.com/article/10.1186/s40173-015-0036-7.

Higher Education Authority website, Athena Swan Charter section. https://hea.ie/policy/gender/athena-swan/.

Homan, A., Van Knippenberg, D., Van Kleef, G., and De Dreu, C. (2007) Interacting dimensions of diversity: Cross-categorization and the functioning of diverse work groups. **Group Dynamics: Theory, Research, and Practice** 11, no. 2, p 79.

International Labour Organisation (2019) **Promoting Employment Opportunities for Persons with Disabilities. Volume 1.** <https://www.ilo.org/wcmsp5/groups/public/---ed_emp/--ifp_skills/documents/publication/wcms_735531.pdf>.

International Labour Organisation (2019) **Promoting Employment Opportunities for Persons with Disabilities. Volume 2.** https://www.ilo.org/wcmsp5/groups/public/---ed\_emp/---ifp\_skills/documents/publication/wcms\_735532.pdf.

Jarvis, I. (1972) [**Victims of groupthink; a psychological study of foreign-policy decisions and fiascoes**](https://archive.org/details/victimsofgroupth0000jani)**.** Boston: Houghton, Mifflin.

Kamalnath, A. (2017) **Gender Diversity as the Antidote to 'Groupthink' on Corporate Boards.** [**Deakin Law Review,** Vol. 22, No. 1, 2017](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3097396)https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3097396.

Lalive, R., Wuellrich, J.P., and Zweimüller, J. (2013) **Do financial incentives affect firms’ demand for disabled workers?** Zurich Open Repository and Archive University of Zurich.

https://www.zora.uzh.ch/id/eprint/74787/1/disability\_paper.pdf.

Malo M.Á., and Pagán R. (2014) Hiring Workers with Disabilities When a Quota Requirement Exists: The Relevance of Firm’s Size. In: **Malo M., Sciulli D. (eds) Disadvantaged Workers. AIEL Series in Labour Economics**. Springer, Cham. https://doi.org/10.1007/978-3-319-04376-0\_4.

Moore, S. (2020) NHS Workforce Disability Equality Standard (WDES). Presentation given at closed online workshop for the HSE hosted by the NDA on 07 September 2020.

Mori, Y. and Sakamoto, N. (2014) **Economic Consequences of Employment Quota System for Disabled People: Evidence from a Regression Discontinuity Design in Japan.** http://hermes-ir.lib.hit-u.ac.jp/hermes/ir/re/26830/070econDP14-10.pdf.

National Disability Authority’s **Annual Reports on Reports on Compliance with Part 5 of the Disability Act (2005)** **from 2006 - 2020** https://nda.ie/monitoring/monitoring-2-2/employment-of-persons-with-disabilities-in-the-public-sector/part-5-compliance-reports

National Disability Authority (2019) **Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with disabilities.** <https://nda.ie/publications/reasonable-accommodations-obstacles-and-opportunities-to-the-employment-of-persons-with-a-disability>

National Disability Authority (2020) **Submission to the Oireachtas Special Committee on Covid-19 Response on the impact of COVID-19 on persons with disabilities and the disability sector**. <https://nda.ie/publications/nda-submission-to-the-oireachtas-special-committee-on-covid-19-on-the-impact-of-covid-19-on-persons-with-disabilities-and-the-disability-sector>

National Health Service England. **Workforce Disability Equality Standard**. <https://www.england.nhs.uk/about/equality/equality-hub/wdes/>

National Health Service Employers website. **Workforce Disability Equality Standard resource library.**

https://www.nhsemployers.org/retention-and-staff-experience/diversity-and-inclusion/policy-and-guidance/disability/workforce-disability-equality-standard/wdes-resources.

National Health Service England (2019) **NHS Workforce Disability Equality Standard (WDES) Annual Report 2019.**

https://www.england.nhs.uk/wp-content/uploads/2020/03/nhs-wdes-annual-report-2019.pdf

National Health Service England (2020) **Workforce Disability Equality Standard 2020 Technical Guidance.**

https://www.england.nhs.uk/wp-content/uploads/2019/03/wdes-2020-technical-guidance.pdf

**Public Sector Equality and Human Rights Duty** https://www.ihrec.ie/our-work/public-sector-duty/

Sargeant, M., Radevich-Katsaroumpa, E., and Innesti, A. (2018) **Disability quotas: Past or future policy?** Economic and Industrial Democracy, 39, pp.404-421

Shen. J., Chanda, A., D’Netto, B., Monga, M. (2009) **Managing diversity through human resource management: an international perspective and conceptual framework.** [The International Journal of Human Resource Management](https://www.tandfonline.com/toc/rijh20/current)Vol. 20, 2009 - [Issue 2](https://www.tandfonline.com/toc/rijh20/20/2).

Stonewall (2016) **Do Ask, Do Tell. Capturing data on orientation and gender identity globally.**

The Equal Representation Project Scotland website. <https://www.equalrepresentation.scot/toolkit/5-selecting-candidates/21-the-difference-between-a-target-and-a-quota/>.

Thompson, S. (2017) **Defining and measuring ‘inclusion’ within an organisation** Institute of Development Studies, UK**.** https://assets.publishing.service.gov.uk/media/5bace6fb40f0b62dd732c49f/123\_-\_Defining\_and\_measuring\_inclusion\_within\_an\_organisati.pdf

Work Research Centre (2007) **Statutory targets on employment of people with disabilities in the public sector.**

Yalcin, B (2016) **A Comparative Analysis of the Active Labour Market Policies for Disabled People in the European Union Member States. Submission for Doctoral Thesis. University of Leeds.** https://etheses.whiterose.ac.uk/17268/1/27\_04\_2017\_Betul\_Yalcin\_splby\_thesis\_final\_PhD.pdf.

# Appendix A – Part 5 Forms

## Forms for data collection (S1-S3)

## Form S1 - Staff Census Form

**To be completed by all employees (including temporary or part-time staff) employed at 31 December (insert year)**

**Staff recruited via a private agency and paid by that agency are not to be included**

This Census of all employees is to enable this organisation as a public service employer to meet its legal obligation under the Disability Act 2005 to report each year on the number and percentage of employees with disabilities. To do so, we must build an accurate record of the number of staff with disabilities, according to the legal definition given below. To ensure the returns are accurate and complete, every employee, whether or not you have any impairment or disability, is asked to complete this form and return it, in confidence, to the nominated person.

**Nominated Person: (insert name)**

The Disability Act 2005 defines disability as follows:

“Disability, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.”

**Disability status**

* Do you have any long-term (including episodic) condition:
* A physical impairment
* A sight, hearing or speech impairment
* An intellectual disability
* A mental health condition

which causes you substantial difficulties in any area of everyday life such as work or social life or leisure or cultural activities?

**Answer yes or no**

**Notes:**

* An episodic condition is a permanent condition which may flare up from time to time
* Social life, leisure or cultural activities would include watching TV, reading, listening to music, using a car or public transport, going to the cinema, to a match or other types of socialising.
* The information you provide will be kept confidential and stored securely. Only nominated staff, authorised for this purpose, will be allowed to access this information. It will only be used for statistical purposes, without names, to report on how many people with disabilities are employed here. It will not be part of your main personnel file. This information will be kept until you leave this employment, or you let your employer know there is a change in your disability status. You can ask to change the information on this form at any time if you believe it is no longer accurate.

**I understand the purpose for which this information will be used**

**Answer yes or no**

**Name:**

**Date:**

## Form S2 - Form for New Staff

**To be completed by ALL new employees (including temporary or part-time staff)**

**Staff recruited via a private agency and paid by that agency are not to be included**

This form is to enable this organisation as a public service employer to meet its legal obligation under the Disability Act 2005 to report each year on the number and percentage of employees with disabilities. To do so, we must build an accurate record of the number of staff with disabilities, according to the legal definition given below. To ensure the returns are accurate and complete, every new employee, whether or not you have any impairment or disability, is asked to complete this form and return it, in confidence, to the nominated person (please insert name below).

**Nominated person: (insert name)**

The Disability Act 2005 defines disability as follows:

“Disability, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.”

**Disability Status**

Do you have any long-term (including episodic) condition:

* A physical impairment
* A sight, hearing or speech impairment
* An intellectual disability
* A mental health condition

which causes you substantial difficulties in any area of everyday life such as work or social life or leisure or cultural activities?

**Answer yes or no**

**Notes:**

* An episodic condition is a permanent condition which may flare up from time to time
* Social life, leisure or cultural activities would include watching TV, reading, listening to music, using a car or public transport, going to the cinema, to a match or other types of socialising.

The information you provide will be kept confidential and stored securely. Only nominated staff, authorised for this purpose, will be allowed to access this information. It will only be used for statistical purposes, without names, to report on how many people with disabilities are employed here. It will not be part of your main personnel file. This information will be kept until you leave this employment, or you let your employer know there is a change in your disability status. You can ask to change the information on this form at any time if you believe it is no longer accurate.

**I understand the purpose for which this information will be used**

**Answer yes or no**

**Name:**

**Date:**

## Form S3 - Staff Update Form

**To be completed by employees (including temporary or part-time staff) whose disability status may have changed**

**Staff recruited via a private agency and paid by that agency are not to be included**

This form is to enable this organisation as a public service employer to meet its legal obligation under the Disability Act 2005 to report each year on the number and percentage of employees with disabilities. To do so, we must build an accurate record of the number of staff with disabilities, according to the legal definition given below. To ensure the returns are accurate and complete, employees whose disability status may have changed since first recorded are asked to complete this form and return it, in confidence, to the nominated person.

**Nominated person: (insert name)**

The Disability Act 2005 defines disability as follows:

“Disability, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.”

**Disability status**

Do you have any long-term (including episodic) condition:

* A physical impairment
* A sight, hearing or speech impairment
* An intellectual disability
* A mental health condition

which causes you substantial difficulties in any area of everyday life such as work or social life or leisure or cultural activities?

**Answer yes or no**

Notes:

* An episodic condition is a permanent condition which may flare up from time to time
* Social life, leisure or cultural activities would include watching TV, reading, listening to music, using a car or public transport, going to the cinema, to a match or other types of socialising.

The information you provide will be kept confidential and stored securely. Only nominated staff, authorised for this purpose, will be allowed to access this information. It will only be used for statistical purposes, without names, to report on how many people with disabilities are employed here. It will not be part of your main personnel file. This information will be kept until you leave this employment, or you let your employer know there is a change in your disability status. You can ask to change the information on this form at any time if you believe it is no longer accurate.

**I understand the purpose for which this information will be used**

**Answer yes or no**

Name:

Date:

## Forms for Data Reporting (PBI form, MCI form and Excel Spreadsheets)

## Form PB1 - Statutory Report

**Public Body to Monitoring Committee**

Part 5 of the Disability Act 2005 provides for a statutory report on employment of people with disabilities in the public sector. This statutory report is in two parts. Part A is a narrative statement. Part B is a tabular statement, to be supplied in Excel.

Note: **The definition of disability to be used in relation to the statutory minimum target is that set out in the Disability Act 2005:**

“Disability in relation to a person, means a substantial restriction in the capability of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment”

**Name of public body:**

**Note for Government Departments**

If public bodies under your Department are staffed entirely by civil servants or by a majority of civil servants, these bodies should report as separate entities to the Monitoring Committee of the Department of Finance and not be merged with your Department’s return. Public bodies where a majority of the staff are not civil servants should report to your Department’s Monitoring Committee

**Monitoring Committee to which it reports:**

**Calendar year to which report refers:**

**Part A – Narrative Statement**

1. Section 47(1)(a) of the Disability Act 2005 reads as follows: A public body shall, in so far as practicable take all reasonable measures to promote and support the employment by it of persons with disabilities.
2. What measures are you taking to comply with this provision? Please detail these:
3. Which of these measures have proved particularly successful or useful?
4. How you compiled the data on staff with disabilities

If your figures on the number of employees with a disability are not based on a Staff Census, or are not exclusively based on such a Staff Census, please state how you compiled your figures

1. If your organisation did not reach the statutory minimum target please set out the reasons why below.
2. Reasons outside your organisation’s immediate control.
3. Factors that are open to remedial action by your organisation.
4. What steps are being taken, or planned, to reach the statutory minimum target?
5. Have you engaged with the Monitoring Committee in your parent Department in the last calendar year about actions to achieve compliance with Part 5 of the Disability Act 2005?

## Public Body Quantitative Data Form

Screenshot of form with headings

**This form is an Excel spreadsheet. For ease, the data requested in listed below.**

Year

Department

1.1 Name of Public Body

1.2 Type of Public Body

2.1 Total Number of Employees

2.2 Number of employees with a disability under the definition in the Disability Act 2005

2.3 Percentage of employees with a disability under the definition in the Disability Act 2005

2.4 Did you conduct a Staff Census of employees as of 31 December 2019?

2.5 If 'Yes' what number of employees responded to the Staff Census?

2.6 Percentage of employees who responded to the Staff Census

3.1 Number employees recruited in 2019

3.2 Number of vacancies at end of 2019

4.1 Does the body recruit all or most of own employees?

5.1 Number of people on work experience with a disability

6.1 Does the body have a written action plan or policy for the employment of people with disabilities?

7.1 Is the body subject to a Code of Practice on the employment of people with disabilities?

7.2 If so, name the Code of Practice

8.1 Has the body had an Access Audit conducted of premises and/or sites?

Additional Comments

## Form MC1 - Statutory Report

**Monitoring Committee to Minister and the National Disability Authority**

**Calendar year to which report refers:**

**Monitoring Committee for Department of:**

This statutory report is in three parts. Part A lists public bodies under your aegis, with details of their reporting status under Part 5 of the Disability Act 2005. Part B is a narrative statement. Part C is a tabular statement, to be supplied in Excel.

Combine the Excel spreadsheets from individual public bodies into a single spreadsheet to be supplied to your Minister and the National Disability Authority.

Please report on all public bodies as separate entities. For example, individual public bodies staffed wholly or mainly by civil servants should be shown individually, not merged with their parent Department.

Note: The definition of disability to be used in relation to the statutory minimum target is that set out in the Disability Act 2005:

“Disability in relation to a person, means a substantial restriction in the capability of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment”

**Part A – List of public bodies for which return is made**

**Public bodies under the remit of your Department that made a return to your Monitoring Committee on compliance with Part 5 of the Disability Act 2005 in respect of calendar year:**

Please list these by the percentage of employees with a disability[[105]](#footnote-105) that they reported for the last calendar year

|  |  |
| --- | --- |
| Name of public body | % (Highest to lowest) |
|  |  |
|  |  |
|  |  |

**Part B - Narrative Statement**

1. Section 47(1)(a) of the Disability Act 2005 reads as follows: A public body shall, in so far as practicable take all reasonable measures to promote and support the employment by it of persons with disabilities
2. Which public bodies in the opinion of the Monitoring Committee are taking actions to comply with this provision? Please detail these:

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Measures taken by that public body to comply |
|  |  |
|  |  |

1. In the opinion of the Monitoring Committee which of these measures have proved particularly successful or useful?

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Successful or useful measures taken |
|  |  |
|  |  |

1. How public bodies compiled data on staff with disabilities (where the data is not exclusively from a Staff Census)

For each public body whose figures of the number of employees with a disability are not based (or not exclusively based) on a Staff Census, please set out how they compiled their figures

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Method used to compile data (including any combination of Staff Census with other data) |
|  |  |

1. For those public bodies that did not reach the statutory minimum target please set out the reasons why below.
2. Reasons the Monitoring Committee considers being outside the public body’s immediate control.

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Reasons |
|  |  |
|  |  |

1. Factors that the Monitoring Committee considers are open to remedial action by the public body

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Factors |
|  |  |

1. What steps are being taken, or planned, by public bodies which are currently below the statutory minimum target to reach the target?

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Steps taken or planned |
|  |  |

1. In the last calendar year what contacts have been made by the Monitoring Committee with public bodies about actions to achieve compliance with Part 5 of the Disability Act 2005?

|  |  |
| --- | --- |
| Name of public body (in alphabetical order) | Detail of contact |
|  |  |
|  |  |

1. Any recommendations the Monitoring Committee wishes to make in respect of any individual public body
2. Any general recommendations the Monitoring Committee wishes to make

**NDA may, where it deems necessary, request the individual report(s) received from the public body/bodies under your Department’s remit.**

## Monitoring Committee Quantitative Data Form

Screenshot of form with headings etc.

**This form is an Excel spreadsheet. For ease, the data requested in listed below.**

Year

Department

1.1 Name of Public Body

1.2 Type of Public Body

2.1 Total Number of Employees

2.2 Number of employees with a disability under the definition in the Disability Act 2005

2.3 Percentage of employees with a disability under the definition in the Disability Act 2005

2.4 Did you conduct a Staff Census of employees as of 31 December 2019?

2.5 If 'Yes' what number of employees responded to the Staff Census?

2.6 Percentage of employees who responded to the Staff Census

3.1 Number employees recruited in 2019

3.2 Number of vacancies at end of 2019

4.1 Does the body recruit all or most of own employees?

5.1 Number of people on work experience with a disability

6.1 Does the body have a written action plan or policy for the employment of people with disabilities?

7.1 Is the body subject to a Code of Practice on the employment of people with disabilities?

7.2 If so, name the Code of Practice

8.1 Has the body had an Access Audit conducted of premises and/or sites?

Additional Comments

# Appendix B – Part 5 Process Flowchart

There is a flow chart on this page and the next page that shows a visual mapping of the Part 5 process that is described in Section 1.1 of this report that is called Overview of the Part 5 process. This section is on pages 18-20 of the main report.









# Appendix C – Gannt Chart of Proposed Actions

| Key |  |
| --- | --- |
| NDA Guidance and Advice | **(GA)** |
| Revisions to the Part 5 Process | **(RP5)** |
| Communications with public bodies | **(C)** |
| Legislative change | **(LC)** |
| Further research | **(R)** |

The symbol\* is for recommendations the NDA has implemented since 2021.

| Action | 2020-2021 | 2021-2022 | 2022-2023 |
| --- | --- | --- | --- |
| NDA to frame Part 5 within this wider legislative and policy context in their communications and guidance by producing infographics on:   1. diversity and inclusion policy landscape 2. explanation of the difference in the definitions of disability used by the various policies and legislation. **(GA)** | **(GA)** |  |  |
| \*NDA to produce clear, easy-to-understand information on all data collection tools being presented to employees to support employees to disclose their disability status and allay fears **(GA)** | **(GA)** |  |  |
| \*NDA to discourage public bodies from maintaining the use of registers of employees with a disability for the purposes of making Part 5 returns. **(GA)** | **(GA)** |  |  |
| \*NDA to highlight and advise on the implementation of confined competitions for persons with disabilities under the Comprehensive Employment Strategy for People with Disabilities 2015 - 2024. **(GA)** | **(GA)** |  |  |
| \*NDA and the Centre for Excellence in Universal Design to continue the promotion of Universal Design to ensure that public bodies focus on creating accessible and inclusive work environments. **(GA)** | **(GA)** | **(GA)** | **(GA)** |
| \*NDA to advise public sector bodies to gather employee data under Part 5 anonymously. **(RP5)** | **(RP5)** |  |  |
| NDA to consider and include standard caveats and clarifications to the Part 5 Annual Report, e.g. where organisational non-compliance is being reported but the non-compliance is historical. **(RP5)** | **(RP5)** |  |  |
| \*NDA to consider the language used in communications around the use of the word ‘target’ of 3%. The language should emphasise that this is a **minimum** compliance target rather than an end goal. **(C)** | **(C)** |  |  |
| NDA will review existing training and guidance materials and ascertain if further materials need to be developed. **(C)** | **(C)** | **(C)** | **(C)** |
| \*NDA continues framing the Part 5 in the wider policy landscape to ensure organisations understand the value of reporting in meeting their overlapping diversity and inclusion obligations, e.g. the **Public Sector Equality and Human Rights Duty.** **(GA)** |  | **(GA)** |  |
| NDA to collaborate with IHREC to identify communications and reporting mechanisms that complement both Part 5 and the **Public Sector Equality and Human Rights Duty**. **(GA)** |  | **(GA)** |  |
| NDA to engage with DPER (OneLearning) and recommend civil and public service training providers ensure sufficient competence in disability awareness and practices that promote the employment of persons with disabilities. **(GA)** |  | **(GA)** |  |
| Disability and diversity awareness training for civil/public sector staff should be included as an objective under future relevant strategies. **(GA)** |  | **(GA)** |  |
| NDA to recommend a sustained promotional campaign in the public service on disability inclusion, highlighting the benefits of employing persons with disabilities. **(GA)** |  | **(GA)** |  |
| NDA to advise the Minister on the establishment of a public service-wide disability forum to enhance understanding of issues across both the civil and wider public service. **(GA)** |  | **(GA)** |  |
| NDA to consider providing online training modules and webinars, to create information and guidance for public sector employers on specific issues such as reasonable accommodations, or autism. **(GA)** |  | **(GA)** |  |
| Government Departments and public bodies should consider providing accredited training, relevant to the areas of disability and inclusion, to all Disability Liaison Officers and Monitoring Committee members. **(GA)** |  | **(GA)** |  |
| \*NDA to recommend merging the two Codes of Practice on appointments in the civil and public service and updating to reflect current equality, diversity and inclusion policies and strategies, include guidance on confined competitions, alternative recruitment routes and accessible job specifications. **(GA)** |  | **(GA)** |  |
| NDA to request DPER to introduce a means for public bodies, independent of (or in addition to) normal voted budgets, to provide accommodations equivalent to the mechanisms available to private bodies from the State. **(GA)** |  | **(GA)** |  |
| NDA to consider requesting Government Departments to report on compliance with Part 5 in their annual reports, similar to their **Public Sector Equality and Human Rights Duty**. **(RP5)** |  | **(RP5)** |  |
| NDA to redevelop (anonymous) employee census in four phases:  1) Include metrics on employee rank, pay, retention, when the employee’s disability was acquired, the type of disability, factors that influenced employees to share their disability status, other employee demographic information, and the provision of reasonable accommodations.  2) Explore options for ‘felt sense’ metrics and other qualitative metrics to include feelings of acceptance and belonging in the organisation, experiences of bullying/harassment, and perceptions of leaders’ visibility and commitment to diversity and inclusion in the organisation.  3) NDA to pilot and review redeveloped form before rolling out to all Part 5 organisations in 2022.  4) Examine how commitments to diversity and inclusion are reflected in organisations’ performance management and promotion processes so that employees feel comfortable sharing information such sexual orientation, disability status, and other personal information such as being a single parent etc. **(RP5)** |  | **(RP5)** | **(RP5)** |
| NDA to consider benefits of including an additional question on disability status on data collection with due regard to the different definitions of disability, for example that used by the CSO or WG-SS. **(RP5)** |  | **(RP5)** |  |
| \*NDA to consider asking public sector organisations to include details of training provided to Disability Liaison Officers, Monitoring Committee members and others involved in disability awareness and the promotion of the employment of persons with disabilities in their annual Part 5 returns. **(RP5)** |  | **(RP5)** |  |
| NDA to consider adapting a diversity and inclusion model (such as the **OPS 2020** Maturity Model) to provide public sector organisations with a tool to implement cultural change. **(RP5)** |  | **(RP5)** |  |
| NDA to consider a movement towards cloud-based diversity data collection tools. **(RP5)** |  | **(RP5)** |  |
| NDA and the HSE to consider piloting Part 5 data collection and reporting by a Community Health Organisation (CHO). **(RP5)** |  | **(RP5)** |  |
| NDA to consider changes to the analysis and presentation of the qualitative data gathered under Part 5 in order to show trends and key themes within the public sector. **(RP5)** |  | **(RP5)** |  |
| \*NDA to request clarification from Ministers regarding the operation of Monitoring Committees under their aegis with respect to the requirements in the Disability Act (Sections 48[4] and 48[5]). **(RP5)** |  | **(RP5)** |  |
| NDA and Monitoring Committees to examine public bodies that have achieved the minimum 3% target to identify the type of supports that will help them to increasing their sense of ownership regarding meeting their obligations under Part 5, and organisations’ progress in this regard. **(RP5)** |  | **(RP5)** |  |
| NDA to request an extension of the role of the Disability Liaison Officer across all public sector organisations. **(RP5)** |  | **(RP5)** |  |
| \*NDA to request Government Departments to report and maintain a list of public bodies under their aegis to identify those bodies not subject to Part 5. **(RP5)** |  | **(RP5)** |  |
| NDA to further develop supports for staff in public sector organisations that are reporting on the Part 5 process, e.g. a dedicated webpage to include guidance documents, document templates, and links to best practice literature and tools, producing and hosting online training modules. **(C)** |  | **(C)** |  |
| \*NDA to consider changing the language regarding data collection from ‘disclosure’ to ‘sharing’ disability status. **(C)** |  | **(C)** |  |
| \*he NDA will prepare legislative amendments and monitor the progress of the Miscellaneous Bill to see if there are opportunities to suggest amendments. **(LC)** |  | **(LC)** |  |
| Public sector organisations should consider conducting an intra-organisational data audit to map common data needs (with all diversity and inclusion legislative obligations), collection tools, available information and data gaps. NDA to consider advancing this as an additional aspect of the CSOs Equality Data Audit. **(R)** |  | **(R)** |  |
| In the context of the Part 5 process, the NDA may consider exploring employees’ experiences of remote working during the coronavirus restrictions to ascertain the benefits and challenges of such approaches. **(R)** |  | **(R)** |  |
| NDA to conduct a review of differences that exist between the performance of Government Departments and semi-state public bodies (commercial and non-commercial) in reaching the 3% minimum. **(R)** |  | **(R)** |  |
| NDA to consider a review of relevant legislation to:   1. establish the extent to which the medical model is promoted in Irish law, and to identify opportunities for its removal 2. examine if ambiguity exists in the definitions of disability in the Disability Act and the Equality Acts, in particular in relation to the obligations of public sector employers to provide reasonable accommodation. **(R)** |  | **(R)** |  |
| Where the technical level of data collection and analysis at an organisational level exceeds staff capacity to deliver and analyse the data, consideration should be given to outsourcing the process (where appropriate under data protection obligations) or seeking help from external providers with relevant expertise. This recommendation to be considered following changes to the legislation and/or Part 5 metrics. **(GA)** |  |  | **(GA)** |
| NDA to consider the use of an organisational scorecard and consideration given to publication of these scores. **(RP5)** |  |  | **(RP5)** |
| Where revisions are made to the Part 5 process that refocus the work of Monitoring Committees away from procedural and reporting efforts, the Monitoring Committees could take a more central role in monitoring disability inclusion work in the public bodies under their aegis. **(RP5)** |  |  | **(RP5)** |
| Monitoring Committees and the NDA should include all voluntary returns of levels of employment of persons with disabilities in its annual reports on Compliance. **(RP5)** |  |  | **(RP5)** |
| NDA to consider a pilot monitoring programme to monitor the employment of persons with disabilities in small organisations that puts greater emphasis on the environment and policy factors rather than employment data. **(RP5)** |  |  | **(RP5)** |
| NDA to consider ways to exercise greater influence and ownership of the Part 5 process by maximising its rights under the Act to introduce Codes of Practice (with permission from the Minister) which would formalise the guidance it currently provides on e.g. methods of data collection, interpretation of the definition of disability in the Act, and advice on compliance. Such changes to be piloted from 2022. **(RP5)** |  |  | **(RP5)** |
| NDA to consider ways to celebrate and draw attention to public sector organisations who embody good practice on the promotion of employment for persons with disabilities beyond the annual Part 5 report., e.g. through public sector excellence awards. **(C)** |  |  | **(C)** |
| NDA might recommend that a finding of non-compliance be made where an organisation does not submit accurate data or meet the timelines. **(LC)** |  |  | **(LC)** |
| A Part 5 legislative amendment might consider whether organisations should be required to submit an action plan for the year setting out how the body will increase the numbers of persons with disabilities in employment. Such a plan might consider the following areas:   1. How new employees with disabilities will be recruited and promoted, 2. How the organisation will retain existing employees with disabilities 3. The potential for Monitoring Committees to review organisational annual action plans that promote the employment of persons with disabilities. **(LC)** |  |  | **(LC)** |
| Government Departments to demonstrate that their Monitoring Committees have the requisite membership and have achieved the required number of meetings in order for that Department to achieve compliance. **(LC)** |  |  | **(LC)** |
| Alteration of the membership and meeting requirements specified in the Act to reflect the operational realities of some Departments and their agencies. **(LC)** |  |  | **(LC)** |
| NDA to consider introducing mechanisms (including primary or secondary legislation) to reduce the number of public bodies that are exempted from reporting, initially targeting the inclusion of universities and the HEA. **(LC)** |  |  | **(LC)** |
| NDA to consider the exclusion of smaller organisations obliged to submit returns under Part 5 (e.g. organisations with less than 30 employees). This change will also have also an implication for action under the Part 5 Process in 2022. **(LC)** |  |  | **(LC)** |
| \*NDA to consider a revision of the Part 5 reporting process from a 2-year cycle to a 1-year cycle so that an organisation immediately becomes non-compliant on reporting a failure to meet the statutory minimum level of employment of persons with disabilities. **(LC)** |  |  | **(LC)** |
| NDA to consider the removal of steps from the Part 5 process requiring the NDA to engage with a minister of Government before requesting further information from a public body. **(LC)** |  |  | **(LC)** |
| NDA to consider conducting a review of supports currently available to persons with disabilities seeking employment and/or promotion in the private sector, in order to identify any gaps in equivalent supports that are available to public sector employers, employees and candidates. **(R)** |  |  | **(R)** |
| Further to implementing actions and recommendations included in this report and the roll out of new processes, the NDA should consider a future reporting and data audit mechanism that can check the validity and accuracy of data gathered and reported by public sector organisations and Monitoring Committees under any revised Part 5 process. **(RP5)** |  |  | **Beyond 2023** |

1. The CPSA is responsible for ensuring that appointments to publicly funded positions are fair, transparent and merit-based. The CPSA produces Codes of Practice to set out the key recruitment principles and standards for appointments. It also has an oversight role in ensuring public bodies within its remit adhere to these standards when carrying out a selection process. [↑](#footnote-ref-1)
2. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-2)
3. Disability Act 2005.

   http://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/pdf [↑](#footnote-ref-3)
4. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-4)
5. **Public Sector Equality and Human Rights Duty** https://www.ihrec.ie/our-work/public-sector-duty/ [↑](#footnote-ref-5)
6. Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation.**

   https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf [↑](#footnote-ref-6)
7. Government of Ireland (2015). **Comprehensive Employment Strategy for Persons with Disabilities 2015 – 2024.**

   https://assets.gov.ie/18906/1120bc6ad254489db9571c74e8572f44.pdf [↑](#footnote-ref-7)
8. Department of Justice and Equality (2017) **National Disability Inclusion Strategy 2017 – 2021** https://www.gov.ie/en/publication/8072c0-national-disability-inclusion-strategy-2017-2021/ [↑](#footnote-ref-8)
9. Department of Public Expenditure and Reform (2021) **Our Public Service 2020. Promote Equality Diversion and Inclusion**

   https://www.ops.gov.ie/app/uploads/2020/07/Vision-Statement-Commitments-and-Maturity-Model-for-Public-Service-Organisations.pdf [↑](#footnote-ref-9)
10. Moore, S. (2020) NHS Workforce Disability Equality Standard (WDES). Presentation given at closed online workshop for the HSE hosted by the NDA on 07 September 2020. [↑](#footnote-ref-10)
11. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-11)
12. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-12)
13. Disability Act 2005

    http://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/pdf [↑](#footnote-ref-13)
14. Equal Status Act 2000

    http://revisedacts.lawreform.ie/eli/2000/act/8/section/2/revised/en/html [↑](#footnote-ref-14)
15. Both measures are discussed in detail in Sections 2.6 and 2.7 of this report. [↑](#footnote-ref-15)
16. Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation** https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf [↑](#footnote-ref-16)
17. Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion** p.5 H:/Downloads/87432\_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf [↑](#footnote-ref-17)
18. Bachman, C. and Gooch, B. (2018) **LGBT in Britain. Work Report**. Stonewall UK. <https://www.stonewall.org.uk/system/files/lgbt_in_britain_work_report.pdf> [↑](#footnote-ref-18)
19. European Commission (2020) How to put Reasonable Accommodation into Practice. Guide of Promising Practices. https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8341&furtherPubs=yes [↑](#footnote-ref-19)
20. Homan, A., Van Knippenberg, D., Van Kleef, G., and De Dreu, C. (2007) Interacting dimensions of diversity: Cross-categorization and the functioning of diverse work groups, **Group Dynamics: Theory, Research, and Practice 11**, no. 2, p. 79. [↑](#footnote-ref-20)
21. Irish Humans Rights and Equality Commission’s website. https://www.ihrec.ie/our-work/public-sector-duty/ [↑](#footnote-ref-21)
22. Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation.** <https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf> [↑](#footnote-ref-22)
23. Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion** p.5. [H:/Downloads/87432\_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf](file:///H:/Downloads/87432_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf) [↑](#footnote-ref-23)
24. An example of this is a sub-action under Action 16 of the **OPS 2020** which states that public sector organisations should work to meet the minimum target of 6% for representation of persons with disabilities in the public sector, in line with the **Comprehensive Employment Strategy for Persons with Disabilities 2015 – 2024** and the commitment under the **Programme for Government 2020**. [↑](#footnote-ref-24)
25. European Commission (2018) Guidelines on improving the collection and use of equality data. H:/Downloads/european\_handbook\_on\_equality\_63B98CA7-CDBA-9BB3-903A6A3781B5F5E3\_43205.pdf [↑](#footnote-ref-25)
26. Central Statistics Office website. Equality Data Audit 2020 section https://www.cso.ie/en/methods/methodologicalresearch/rp-eda/equalitydataaudit2020/ [↑](#footnote-ref-26)
27. The Equal Representation Project Scotland website. https://www.equalrepresentation.scot/toolkit/5-selecting-candidates/21-the-difference-between-a-target-and-a-quota/ [↑](#footnote-ref-27)
28. International Labour Organisation (2019) **Promoting Employment Opportunities for Persons with Disabilities. Volume 1.**

    https://www.ilo.org/wcmsp5/groups/public/---ed\_emp/---ifp\_skills/documents/publication/wcms\_735531.pdf [↑](#footnote-ref-28)
29. International Labour Organisation (2019) **Promoting Employment Opportunities for Persons with Disabilities. Volume 2**.

    https://www.ilo.org/wcmsp5/groups/public/---ed\_emp/---ifp\_skills/documents/publication/wcms\_735532.pdf [↑](#footnote-ref-29)
30. Burke, T. (2002) The globalization of disability rights. Paper presented at the Annual Meeting of the American Political Science Association, Boston Marriott Copley Place, Sheraton Boston & Hynes Convention Centre, Boston, Massachusetts, 28 August 2002. p.3 [↑](#footnote-ref-30)
31. Greve, B. (2009). **The labour market situation of disabled people in European countries and implementation of employment policies: a summary of evidence from country reports and research studies.** Report prepared for the Academic Network of European Disability experts (ANED). University of Leeds. [↑](#footnote-ref-31)
32. Sargeant, M., Radevich-Katsaroumpa, E. and Innesti, A. (2018). Disability quotas: Past or future policy? **Economic and Industrial Democracy, 39**, pp.404-421. [↑](#footnote-ref-32)
33. Fuchs, M. (2014) Quota Systems for Disabled Persons: Parameters, Aspects, Effectivity. European Centre for Social Welfare Policy and Research, Vienna.https://www.euro.centre.org/downloads/detail/1459 [↑](#footnote-ref-33)
34. ibid [↑](#footnote-ref-34)
35. Yalcin, B. (2016) A Comparative Analysis of the Active Labour Market Policies for Disabled People in the European Union Member States. Submission for Doctoral Thesis. University of Leeds. https://etheses.whiterose.ac.uk/17268/1/27\_04\_2017\_Betul\_Yalcin\_splby\_thesis\_final\_PhD.pdf [↑](#footnote-ref-35)
36. Gupta N.D., Larsen M., and Thompsen, L.S. (2015) Do wage subsidies for disabled workers reduce their non-employment? - evidence from the Danish Flexjob scheme. [**IZA Journal of Labor Policy**](https://link.springer.com/journal/40173)Volume 4, Article number:10 (2015)

    https://link.springer.com/article/10.1186/s40173-015-0036-7 [↑](#footnote-ref-36)
37. Verick, S. (2004) Do Financial Incentives Promote the Employment of the Disabled? **IZA Discussion Papers, No. 1256,** Institute for the Study of Labor (IZA), Bonn https://www.econstor.eu/bitstream/10419/20520/1/dp1256.pdf [↑](#footnote-ref-37)
38. Lalive, R., Wuellrich, J.P. and Zweimüller, J. (2013) Do financial incentives affect firms’ demand for disabled workers? Zurich Open Repository and Archive University of Zurich https://www.zora.uzh.ch/id/eprint/74787/1/disability\_paper.pdf [↑](#footnote-ref-38)
39. Mori, Y., and Sakamoto, N. (2014) Economic Consequences of Employment Quota System for Disabled People: Evidence from a Regression Discontinuity Design in Japan.

    http://hermes-ir.lib.hit-u.ac.jp/hermes/ir/re/26830/070econDP14-10.pdf [↑](#footnote-ref-39)
40. Lalive, R., Wuellrich, J.P. and Zweimüller, J. (2013) Do financial incentives affect firms’ demand for disabled workers? Zurich Open Repository and Archive University of Zurich https://www.zora.uzh.ch/id/eprint/74787/1/disability\_paper.pdf [↑](#footnote-ref-40)
41. Malo M.Á., and Pagán R. (2014) Hiring Workers with Disabilities When a Quota Requirement Exists: The Relevance of Firm’s Size. **Malo M., Sciulli D. (eds) Disadvantaged Workers. AIEL Series in Labour Economics. Springer, Cham.** https://doi.org/10.1007/978-3-319-04376-0\_4 [↑](#footnote-ref-41)
42. Yalcin, B. (2016) A Comparative Analysis of the Active Labour Market Policies for Disabled People in the European Union Member States. Submission for Doctoral Thesis. University of Leeds. https://etheses.whiterose.ac.uk/17268/1/27\_04\_2017\_Betul\_Yalcin\_splby\_thesis\_final\_PhD.pdf [↑](#footnote-ref-42)
43. European Commission (2018) Guidelines on improving the collection and use of equality data. H:/Downloads/european\_handbook\_on\_equality\_63B98CA7-CDBA-9BB3-903A6A3781B5F5E3\_43205.pdf [↑](#footnote-ref-43)
44. Thompson S (2017) Defining and measuring ‘inclusion’ within an organisation**.** Institute of Development Studies, UK. https://assets.publishing.service.gov.uk/media/5bace6fb40f0b62dd732c49f/123\_-\_Defining\_and\_measuring\_inclusion\_within\_an\_organisati.pdf. [↑](#footnote-ref-44)
45. Intersectional analysis refers to data on employees’ other identity attributes, e.g. gender, sexual orientation, age, ethnicity, etc. [↑](#footnote-ref-45)
46. April, K and Blass, E. (2010) Measuring Diversity Practice and Developing Inclusion. Dimensions, Vol. 1, No.1 [↑](#footnote-ref-46)
47. Moore, S. (2020) NHS Workforce Disability Equality. Presentation given at closed online workshop for the HSE hosted by the NDA on 07 September 2020. [↑](#footnote-ref-47)
48. Work Research Centre (2007) **Statutory targets on employment of people with disabilities in the public sector.** [↑](#footnote-ref-48)
49. National Health Service England website. Workforce Disability Equality Standard section. https://www.england.nhs.uk/about/equality/equality-hub/wdes/ [↑](#footnote-ref-49)
50. Agenda for Change (AfC) is the current National Health Service (NHS) grading and pay system for NHS staff, with the exception of doctors, dentists, apprentices and some senior managers. It covers more than 1 million people and harmonises their pay scales and career progression arrangements across traditionally separate pay groups. [↑](#footnote-ref-50)
51. National Health Service England (2020) Workforce Disability Equality Standard 2020 Technical Guidance**.** https://www.england.nhs.uk/wp-content/uploads/2019/03/wdes-2020-technical-guidance.pdf [↑](#footnote-ref-51)
52. Ibid. [↑](#footnote-ref-52)
53. National Health Service England (2019) **NHS Workforce Disability Equality Standard (WDES) Annual Report 2019.** https://www.england.nhs.uk/wp-content/uploads/2020/03/nhs-wdes-annual-report-2019.pdf [↑](#footnote-ref-53)
54. National Health Service Employers website. Workforce Disability Equality Standard resource library. https://www.nhsemployers.org/retention-and-staff-experience/diversity-and-inclusion/policy-and-guidance/disability/workforce-disability-equality-standard/wdes-resources [↑](#footnote-ref-54)
55. National Health Service England (2020) Workforce Disability Equality Standard 2020 Technical Guidance. https://www.england.nhs.uk/wp-content/uploads/2019/03/wdes-2020-technical-guidance.pdf [↑](#footnote-ref-55)
56. Stonewall (2016) **Do Ask, Do Tell. Capturing data on orientation**

    **and gender identity globally** [↑](#footnote-ref-56)
57. **Public Sector Equality and Human Rights Duty** https://www.ihrec.ie/our-work/public-sector-duty/ [↑](#footnote-ref-57)
58. Ibid. [↑](#footnote-ref-58)
59. Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation** <https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf> [↑](#footnote-ref-59)
60. Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation** <https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf> [↑](#footnote-ref-60)
61. Department of Public Expenditure and Reform (2017) **Our Public Service 2020. Development and Innovation**

    <https://www.ops.gov.ie/app/uploads/2019/08/Our-Public-Service-2020-WEB.pdf> [↑](#footnote-ref-61)
62. The Maturity Model for **OPS 2020** Action 16 was developed following a thorough review of best practice literature. Topics examined included the distinction between diversity and inclusion, creating inclusive environments, the role of leaders, diversity data and assessment, recruitment practices, mentoring/talent development, and flexible working and work-life balanc [↑](#footnote-ref-62)
63. Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion** p.5. H:/Downloads/86870\_49dd9cbc-0ef1-442f-ae50-73a00b1cbcdc.pdf [↑](#footnote-ref-63)
64. Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion** p.25[. H:/Downloads/87432\_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf](file:///H:/Downloads/87432_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf) [↑](#footnote-ref-64)
65. Department of Justice and Equality (2019) **Report of the Inter-Departmental Group on Gender Balance on State Boards Options and Recommendations for Government.** file:///H:/Downloads/49513\_9258a29e071646f1b330c6c9992803d5.pdf [↑](#footnote-ref-65)
66. Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion.** [H:/Downloads/87432\_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf](file:///H:/Downloads/87432_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf). [↑](#footnote-ref-66)
67. Department of Public Expenditure and Reform (2020) **Code of Practice for the Governance of State Bodies: Annex on Gender Balance, Diversity and Inclusion** p.5. <file:///H:/Downloads/87432_0fbe789a-231b-42ac-a255-5ec1b664bed7.pdf> [↑](#footnote-ref-67)
68. Groupthink is defined as “A mode of thinking that people engage in when they are deeply involved in a cohesive in-group, when the members’ striving for unanimity overrides their motivation to realistically appraise alternative courses of actions.” (Janis, 1972).

    A fuller discussion by Kamalnath of gender diversity on Boards as a remedy to groupthink can be found here Kamalnath, A. (2017) Gender Diversity as the Antidote to 'Groupthink' on Corporate Boards. [**Deakin Law Review,** Vol. 22, No. 1, 2017](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3097396)<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3097396>

    The study concludes that “gender diversity on corporate boards might help overcome groupthink so long as the women directors are also independent and bear ‘outsider’ status. However, other forms of diversity might offer the same benefits and thus should not be overlooked”. [↑](#footnote-ref-68)
69. The Department of Justice and Equality (2019) **National LGBTI+ Inclusion Strategy 2019-2021.** H:/Downloads/46699\_1823e5fb971045b3bf6919f6be02061c%20(1).pdf [↑](#footnote-ref-69)
70. Annual Reports on Reports on Compliance with Part 5 of the Disability Act (2005) from 2006 – 2020. https://nda.ie/publications/nda-annual-reports-on-compliance-with-part-5-of-the-disability-act [↑](#footnote-ref-70)
71. Focus group participants reported a general lack of awareness in the public sector when it came to implementing initiatives that would contribute positively to enhancing the employment of people with a disability. [↑](#footnote-ref-71)
72. Annual Reports on Reports on Compliance with Part 5 of the Disability Act (2005) from 2006 – 2020. https://nda.ie/publications/nda-annual-reports-on-compliance-with-part-5-of-the-disability-act [↑](#footnote-ref-72)
73. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-73)
74. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-74)
75. 88 survey respondents commented that data gathered without a guarantee of anonymity is unlikely to be accurate. [↑](#footnote-ref-75)
76. Moore, S. (2009) Developing staff disclosure. A guide to collecting and using

    Equality.Equality Challenge Unit, UK**.** Moore also notes that disability can be a ‘partial disclosure’. For example, a wheelchair user may identify their physical disability but choose not to disclose a mental health complaint. [↑](#footnote-ref-76)
77. It is important to note that such intersectional data may assist organisations to report under other obligations, such as the **Public Sector Equality and Human Rights Duty**. [↑](#footnote-ref-77)
78. See Appendix B showing the Part 5 process and where the qualitative analysis rests within this. [↑](#footnote-ref-78)
79. National Health Service England (2019) **NHS Workforce Disability Equality Standard (WDES) Annual Report 2019.** https://www.england.nhs.uk/wp-content/uploads/2020/03/nhs-wdes-annual-report-2019.pdf p.66. [↑](#footnote-ref-79)
80. Affonso, A. (2017) Do you know the difference between metric, performance indicator, index, unit of measure, and target? https://professorannibal.com.br/2017/10/19/do-you-know-the-difference-between-metric-performance-indicator-index-unit-of-measure-and-target/ [↑](#footnote-ref-80)
81. Data on total recruitment numbers, numbers of persons with disabilities recruited and numbers applying for posts in the public sector as a whole are not available. [↑](#footnote-ref-81)
82. In 2021, the NDA advised the Commission for Public Service Appointments (CPSA) regarding measures that could be included in a single **Code of Practice** to assist the public sector in creating (EDI) work environments using a Universal Design approach. In September 2021, the CPSA published a single **Code of Practice** – **Code of Practice for Appointment to Positions in the Civil and Public Service** and FAQs.[CPSA-Code-of-Practice-2022.pdf](https://www.cpsa.ie/codes-of-practice/what-are-the-codes/CPSA-Code-of-Practice-2022.pdf) [↑](#footnote-ref-82)
83. AHEAD runs the WAM programme. Employers collaborate with AHEAD to provide mentored paid work experience programmes for graduates with disabilities. This partnership brings graduates with disabilities and employers together so that both can benefit from each other - ensuring genuine learning opportunities for all. https://www.ahead.ie/wam [↑](#footnote-ref-83)
84. European Commission (2020) How to put Reasonable Accommodation into Practice. Guide of Promising Practices. https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8341&furtherPubs=yes [↑](#footnote-ref-84)
85. Higher Education Authority website, Athena Swan Charter section. https://hea.ie/policy/gender/athena-swan/ [↑](#footnote-ref-85)
86. The NDA has been advised that the increase to the minimum 6% target may apply for 2025, however we are waiting for confirmation regarding the change in this time frame. [↑](#footnote-ref-86)
87. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-87)
88. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-88)
89. If the NDA decides to suggest the promotion of role models to public sector organisations, it would be good to highlight that these role models should reflect the natural heterogeneity of persons with disabilities, for example, role models of different gender, ethnicity, socio-economic background, job rank or work area, and so on. [↑](#footnote-ref-89)
90. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-90)
91. In 2018 the Department of Justice and Equality published its **Data and Research Strategy 2018 – 2020. Supporting delivery of “A safe, fair and inclusive Ireland”.** This Strategy may be compatible to these aims. [↑](#footnote-ref-91)
92. It is recognised that ideally, definitions of disability would be moving from medical-model based measures (like, arguably, the WG-SS) to social models of disability (like the Part 5). The addition of any medical-model type definitions on the Part 5 must balance the need to compare data with the imperative to move in the right direction. [↑](#footnote-ref-92)
93. The symbol \* is for recommendations the NDA has implemented since 2021. [↑](#footnote-ref-93)
94. Though the NDA can provide advice on the wording of data collection tools, it should be made clear that responsibility for GDPR rests with the individual organisation handling the data. [↑](#footnote-ref-94)
95. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-95)
96. Since 2020 this Department has been called the Department of Education. [↑](#footnote-ref-96)
97. High Education Authority (2015) **Annual Reports and Accounts.** https://hea.ie/assets/uploads/2017/04/higher-education-authority-annual-report-2015.pdf. [↑](#footnote-ref-97)
98. Lalive, R., Wuellrich, J.P. and Zweimüller, J. (2013) Do financial incentives affect firms’ demand for disabled workers? Zurich Open Repository and Archive University of Zurich https://www.zora.uzh.ch/id/eprint/74787/1/disability\_paper.pdf [↑](#footnote-ref-98)
99. Mori, Y., and Sakamoto, N. (2014) Economic Consequences of Employment Quota System for Disabled People: Evidence from a Regression Discontinuity Design in Japan.

    http://hermes-ir.lib.hit-u.ac.jp/hermes/ir/re/26830/070econDP14-10.pdf. [↑](#footnote-ref-99)
100. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-100)
101. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-101)
102. In 2021, the NDA advised the Commission for Public Service Appointments (CPSA) regarding measures that could be included in a single **Code of Practice** to assist the public sector in creating (EDI) work environments using a Universal Design approach. In September 2021, the CPSA published a single **Code of Practice** – **Code of Practice for Appointment to Positions in the Civil and Public Service** and FAQs .[CPSA-Code-of-Practice-2022.pdf](https://www.cpsa.ie/codes-of-practice/what-are-the-codes/CPSA-Code-of-Practice-2022.pdf) [↑](#footnote-ref-102)
103. National Disability Authority (2019) **Reasonable Accommodations: Obstacles and Opportunities to the Employment of Persons with disabilities** https://nda.ie/publications/reasonable-accommodations-obstacles-and-opportunities-to-the-employment-of-persons-with-a-disability [↑](#footnote-ref-103)
104. The symbol \* is for recommendations that the NDA has implemented since 2021. [↑](#footnote-ref-104)
105. Use the percentage automatically calculated in the Excel spreadsheets supplied by public bodies [↑](#footnote-ref-105)