11 June 2021

# Subject: NDA Submission to the Policing Authority’s ‘Policing Priorities’ consultation

Dear Emma,

Many thanks for accepting this letter outlining the NDA’s thoughts in respect of the Policing Authority’s Policing Priorities public consultation. The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and advice to the Government on policy and practice relevant to the lives of persons with disabilities, and to promote Universal Design.

The NDA has also been a member of An Garda Síochána’s Strategic Human Rights Advisory Committee since 2019. The NDA was very pleased to be asked to sit on the re-established Strategic Human Rights Advisory Committee (SHRAC), which seeks to embed a human rights approach in the foundation of all the work carried out by An Garda Síochána. The NDA remains impressed by the ambitions and approaches of the SHRAC, as well as by its openness to hearing about the diverse needs of people engaging with Gardaí. The NDA was pleased to host an Annual Conference in 2020, which focussed on the topic of access to justice for persons with disabilities, and which featured speakers from An Garda Síochána and several other relevant stakeholders.

The comments and advice below address issues related to policing in Ireland which fall within the NDA’s competencies and expertise.

## UN Convention on the Rights of Persons with Disabilities

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

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

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

The NDA recommends that the Policing Authority articulates its commitment to realising Article 13 in its Policing Priorities, and that it supports An Garda Síochána in respect of same. We also advise that this commitment and support be adequately resourced.

## National Disability Inclusion Strategy

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

The NDA recommends that the Policing Authority articulates its commitment to the NDIS in its Policing Priorities, and that it supports An Garda Síochána in respect of same, as doing so will ensure disability is embedded in the corporate strategies from the outset.

We recommend that the Policing Authority supports An Garda Síochána to put in place a monitoring or measurement framework for relevant actions, so that progress can be tracked, and barriers or obstacles quickly identified. We would also recommend that such a monitoring approach be outcomes focused, so that the progress is measured in terms of the difference to the lives of persons with disabilities rather than simply recording the outputs or activities by An Garda Síochána.

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

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

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

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

The NDA advises a collaborative approach between An Garda Síochána, the Policing Authority and the Department of Justice, that will lead to the effective implementation of this action and regular updates to the NDIS Steering Group. This action could include initiatives to ensure communications are available in different formats (for example, Plain English and Easy to Read), that websites meet the accessibility requirements under the Web Accessibility Directive, that persons with disabilities can physically access Garda stations and that members of An Garda Síochána receive appropriate disability awareness training.

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

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

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

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

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

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

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

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

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

### Action 20: Disability Awareness training

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

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

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

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

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

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

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

The pilot is in line with new obligations under the recently commenced Irish Sign Language Act 2017, which sets out requirements and obligations on public bodies for the provision of ISL services.

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

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

The NDA recognises that the Policing Authority has previously given consideration to how the An Garda Síochána could be more reflective of the diverse society it serves, and we advise that employment of persons with disabilities in relevant and appropriate positions would be one part of achieving this.

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

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

## Other relevant points

### Collaboration

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

### Continued developments in data collection and dissemination

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

The NDA would like to take this opportunity to highlight the importance of all departments, agencies and bodies collecting and disseminating relevant data. This information can then inform and guide future decision-making. We have very little data on persons with disabilities in the criminal justice system. In 2000, a survey was undertaken by the Department of Justice, Equality and Law Reform entitled **A Survey of the Level of Learning Disability among the Prison Population in Ireland**. This survey has proven to be a rich source of data for the NDA, however, it is quite outdated. We do know that persons with disabilities continue to be over-represented in the criminal justice system. In order to support our work, and in turn effect change for persons with disabilities, we need departments and agencies to carry out similar data-collection exercises.

We understand revisions were being made to the Pulse system to capture data regarding disability status and we would welcome update on same, and roll-out of further work to enhance data collection across the system

The NDA would be happy to meet with officials in the Policing Authority to discuss any of the recommendations in this paper in further detail.

Yours sincerely,



**Dr Aideen Hartney**

Director

1. <http://nda.ie/Resources/eLearning/> [↑](#footnote-ref-1)