14 July 2023

# Subject: Public consultations on the Third National Strategy on Domestic, Sexual and Gender-based violence

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 worked closely with Cosc in the Department of Justice in developing the previous Strategies and reviews of same, and sat on the Monitoring Committee for the Second National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021. We look forward to seeing the review and evaluation of the Second Strategy and we welcome this opportunity to share our thoughts for the Third National Strategy.

The comments and advice below address issues related to a successor Strategy, 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 and is due to submit its initial State Report to the Committee on the Rights of Persons with Disabilities in Q3 2021. The UNCRPD provides the framework to promote, protect and ensure the rights of all persons with disabilities and promotes equal rights in all areas of life. Article 16 of the UNCRPD focuses on freedom from exploitation, violence and abuse and obliges States Parties to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognise and report instances of exploitation, violence and abuse.

Under the Convention, States Parties should also:

* Ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities, so as to prevent exploitation, violence and abuse
* Promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse
* Put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

While noting that domestic, sexual and gender-based violence can be carried out against men, the NDA recognises that the majority of victims of such crimes are women. In this case, Article 6 of the UNCRPD also applies.

Article 6 seeks to ensure the protection and promotion of rights of women with disabilities, and obliges States Parties to ensure the development, advancement and empowerment of women. The Convention also recognises the intersectional experiences of women, and that they may suffer multiple discriminations by virtue of their gender and disability, as well as other identities they may have.

It is important that the Third National Strategy on Domestic, Sexual and Gender-based Violence Strategy has due regard to other existing Strategies and Conventions, in order to promote the streamlining of similar obligations and objectives. The NDA advises that the drafting of the Strategy is progressed in the context of the UNCRPD, in order to consider the relevant obligations of the various stakeholders/audiences, and to emphasise the importance of these obligations in the final Strategy.

## Istanbul Convention on preventing and combating violence against women and domestic violence

The Istanbul Convention on preventing and combating violence against women and domestic violence, ratified by Ireland in 2019, has due regard to the UNCRPD. It states that the implementation of the provisions of this Convention, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as disability.

## Statistics relating to Violence against Persons with Disabilities

There is a considerable body of evidence that shows that violence and abuse are serious problems for persons with disabilities, and that they are at greater risk than non-disabled persons. In the case of domestic violence or abuse by an intimate partner, data from the NDA showed that adults with certain disabilities were 2.9 times more likely to have experienced such abuse than other adults.[[1]](#footnote-1) Twice as many adults with disabilities had experienced severe abuse compared with other adults. People with disabilities living in residential services may be exposed to higher risks in the absence of appropriate safeguards.

In 2019, 6% (n=67) of survivors attending Rape Crisis Centres (RCCs) in Ireland for counselling and support had a disability of some kind.[[2]](#footnote-2) Of these, chronic illness was the most commonly disclosed disability (33%), followed by a learning disability (19%), an intellectual disability (15%), a physical disability (15%), hard of hearing/deaf (10%), visually impaired/blind (10%), and wheelchair users (8%). Rape Crisis Network Ireland reported some key points about this group (albeit with a caveat that the numbers are small):

* The majority of survivors with disabilities attending RCCs were female
* There was a spread of age groups, with the highest number being in the 20-29 age group
* The majority were living with parents or living in public rented/supplemented homes
* Perpetrators of sexual violence against people with a disability were most commonly within their circle of trust
* The sexual violence was usually perpetrated within the survivor’s or perpetrator’s homes
* The majority were subjected to one incident of sexual violence
* There was a fairly even mix disclosing child sexual violence and adult sexual violence

In previous research funded by the NDA (Sexual Violence Against People with Disabilities: Data collection and barriers to disclosure, 2011), 197 persons with disabilities attended RCCs between 2008 and 2010. While there were similarities between the details of the sexual violence reported by those with disabilities and by others contacting RCCs for counselling and support, several clear differences were highlighted:

* Survivors with disabilities were more likely to disclose having been abused solely as adults, and less likely to report having been solely abused as children, than others
* Women with disabilities were more vulnerable to sexual violence as they got older, in contrast to other survivors
* Survivors with disabilities were more likely than others to have experienced multiple incidents of sexual violence

The top barriers to disclosure were fear of being blamed; fear of not being believed; or fear of the legal process. About a quarter of respondents with disabilities mentioned fear of losing support as a factor in not disclosing abuse.

In 2020, a national survey on students’ sexual violence and harassment experiences in higher education institutions was conducted by NUI Galway’s Active\* Consent Programme in partnership with the Union of Students in Ireland (USI) (NUIG, (2021) Sexual Experiences Survey). A total of 6,026 students completed the survey between February and April of 2020. This study found that compared with students who did not have a disability, students with a disability reported consistently higher rates of negative experiences across all measures of sexual misconduct and harassment by disability.

## Scoping Study to Inform a Survey of Knowledge, Attitudes and Behaviours on Sexual Health and Wellbeing and Crisis Pregnancy among the General Population in Ireland

In 2020, the NDA participated in a scoping study commissioned by the Sexual Health and Crisis Pregnancy Programme in the HSE Health and Wellbeing, Strategic Planning and Transformation department, to inform the next national survey on sexual health, wellbeing and crisis pregnancy among the general population in Ireland. In our submission we emphasised the particular importance of measuring:

* Whether respondents had a disability,
* Gender-based violence,
* Non-consensual/coercive sex, and
* Consent and capacity to consent.

The NDA hopes the survey will encapsulate these elements, which would offer important data for the Third National Strategy on Domestic, Sexual and Gender-based violence. There will also be synergies with the national survey on the prevalence of sexual violence in Ireland by the Department of Justice and the Central Statistics Office. This survey will include a variable to identify whether a participant has a disability.

## Data and Indicators in the Third National Strategy

In light of the above, the NDA advises that the Third National Strategy on Domestic, Sexual and Gender-based violence should include a particular focus on strengthening data collection with regard to disability. The NDA notes that the Second National Strategy’s Action Plan included three actions around data collection. Actions 3.600, 3.603 and 3.604 obliged different government departments and bodies/agencies working in the area(s) of domestic and sexual violence to establish a bottom line ‘gold standard’ of data collection and analysis. The actions state datasets should be disaggregated by several factors, including by any disabilities of victim and perpetrator. The NDA would be interested to receive updates on the implementation of these actions and the result of the ‘gold standard’ data collection and analysis. This data will be critical for monitoring the implementation of the UNCRPD.

The NDA also advises that the objective and spirit of the above actions be continued in the next National Strategy. While the NDA has carried out some research in this area, and has sourced relevant research carried out by others (for example, the Rape Crisis Network of Ireland), we would like to take this opportunity to highlight the importance of departments, agencies and bodies (such as An Garda Síochána, Sexual Assault Treatment units, RCCs and the HSE) collecting and disseminating relevant data. This information can then inform and guide future decision-making and service design.

The National Statistics Board recently recommended that the 2022 Census definition of ‘disability’ be incorporated, as far as practicable, into all survey data collection, and disabled/non-disabled analyses of relevant statistics be made readily available. In light of the NDA’s role to strengthen and promote the collection of data and statistics relevant to people with disabilities, we would be happy to advise further on this matter if helpful.

## Accessibility of information and supports

The NDA advises that it will be important for the Strategy to include commitments with regard to the removal of barriers encountered by persons with disabilities, such as inaccessible disclosure and reporting mechanisms. Information should be produced in a range of accessible formats, including any information campaigns run in relation to services and supports available. Providing for the empowerment of persons with disabilities to come forward is in line with Article 16 of the UN Convention on the Rights of Persons with Disabilities, and all communications around supports for victims of domestic and sexual violence should be in accessible formats, for example Easy-to-Read or Irish Sign Language. The NDA’s Customer Communications Toolkit has guidance to inform the design and procurement of customer communications across the Public Service.[[3]](#footnote-3)

In 2020, the NDA worked with the Department of Justice on its ‘Still Here’ campaign, which sought to assure victims that services and supports were still available during the COVID-19 pandemic. The NDA advised the Department of Justice to ensure that there was specific guidance made available for persons with disabilities experiencing various forms of abuse.

Under the Disability Act 2005 and the National Disability Inclusion Strategy 2017-2021, all Departments and agencies are obliged to ensure their buildings are physically accessible to persons with disabilities. This includes Garda stations and healthcare facilities, and any other public building victims of domestic, sexual and gender-based violence may attend. While not public buildings, the NDA advises that this accessibility is also extended to refuges. The Strategy should reflect the need to remove all barriers faced by victims.

Equally, the Strategy should emphasise the importance of ensuring communications are accessible. The EU Web Accessibility Directive was transposed into Irish legislation in September 2020 (European Union (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020) and it obliges all public bodies to ensure their websites and applications are accessible to persons with disabilities.

The NDA advises that the Third National Strategy considers and promotes the accessibility of supports, services and information, in order to ensure that all persons can avail of them.

## O’Malley Sub-Groups

As mentioned above, one of the barriers facing victims of domestic, sexual and gender-based violence can be communication difficulties, and in this regard, the NDA welcomes the opportunity to sit on two of the sub-groups established under the O’Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences. We provide a disability perspective to the work to develop specialist training for professionals who interact with vulnerable victims. We also use the learning from our advice paper on intermediaries in the Irish criminal justice system (published in 2020) to inform our advice to the sub-group tasked with establishing a pilot for the use of trained, accredited intermediaries.

The NDA advises that close collaboration is maintained with the sub-groups during the drafting of the Third National Strategy, in order to provide a comprehensive overview of all ongoing work and developments.

## Education

The Second National Strategy noted that education and training are critical to changing societal attitudes towards domestic and/or sexual abuse. The NDA advises that the Third National Strategy looks more closely at this issue in the context of Relationships and Sexual Education (RSE) in schools, including for children and young people with disabilities.

The National Council for Special Education runs tailored courses for teachers regarding RSE for students with special education needs and the Professional Development Service for Teachers has compiled a list of Special Needs Resources for RSE.[[4]](#footnote-4) The National Council for Curriculum and Assessment (NCCA) drafted ‘Guidelines for Teachers of Students With General Learning Disabilities’, which contain comprehensive guidance on teaching Social, Personal and Health to students with mild general learning disabilities at primary and post-primary level, and to students with moderate, severe and profound general learning disabilities.

Due to a lack of information and data, we are not aware of the extent to which children with disabilities and/or special education needs are getting access to appropriately adapted RSE in schools. The NCCA did highlight RSE for students with special education needs as a “concern” as part of their review of the primary and post-primary curriculum. The review found RSE for children with special education needs is often only looked at from a ‘safety perspective’.[[5]](#footnote-5) One practical issue is that because all special schools in Ireland are primary schools (even though pupils can be up to 18 years old), those in special schools would not typically be exposed to the post-primary RSE.

The NDA advises that the Third National Strategy includes an action to ensure that all children and young people, in any educational setting, can access appropriate and inclusive RSE. Under Article 23 of the UNCRPD, all persons of an appropriate age may marry and found a family; therefore the safeguarding or protective bias of the training outlined above may be somewhat limiting in light of the State’s international obligations.

## Participation of persons with lived experience

Article 4(3) of the UNCRPD obliges States Parties to ensure the effective participation of persons with disabilities in the creation and implementation of policies and legislation that impact their lives. The NDA strongly encourages effective and meaningful engagement with persons with lived experience of domestic, sexual and gender-based violence- including disabled persons’ organisations, persons with disabilities and young people- throughout the process of drafting, implementing and monitoring the next National Strategy.

The NDA remains available to further discuss any of the points made in the above submission.

Yours sincerely,



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Director

1. National Disability Authority (2008) Abuse of people with disabilities: Briefing paper by the NDA [↑](#footnote-ref-1)
2. Rape Crisis Network Ireland (2020) RCNI Rape Crisis Statistics 2019 [↑](#footnote-ref-2)
3. See http://universaldesign.ie/products-services/customer-communications-toolkit-for-the-public-service-a-universal-design-approach/customer-communications-toolkit-for-the-public-services-a-universal-design-approach.pdf [↑](#footnote-ref-3)
4. See <https://www.pdst.ie/sites/default/files/RSE%20for%20students%20with%20mild%20learning%20difficulties.pdf> [↑](#footnote-ref-4)
5. <https://ncca.ie/media/4462/report-on-the-review-of-relationships-and-sexuality-education-rse-in-primary-and-post-primary-school.pdf> [↑](#footnote-ref-5)