



**Convention on the Rights  
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

**Initial Report under the Convention on the Rights of  
Persons with Disabilities**

**Ireland**

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## I Introduction

1. Ireland ratified the Convention on the Rights of Persons with Disabilities on the 20<sup>th</sup> of March 2018. This marked an important milestone in a process to strengthen the rights of people with disabilities in Ireland that has gathered momentum since Ireland became a signatory to the Convention in 2007.
2. This, Ireland's Initial State Report under Article 35 of the Convention, sets out the current position with respect to each article of the Convention. It notes significant recent developments in public policy and legislation that contribute to the achievement of the objectives of the Convention.
3. Ireland has in recent years put in place two new policy frameworks for promoting the rights and inclusion of people with disabilities. The Comprehensive Employment Strategy for People with Disabilities 2015-2024 sets a whole-of-government agenda for increasing access to employment for people with disabilities. The National Disability Inclusion Strategy 2017-2021 addresses broader equality and inclusion issues such as the need for joined up public services to meet the needs of people with disabilities. Both these policy frameworks were developed in consultation with disability stakeholder groups and wider civil society. The monitoring mechanisms for both strategies also include disability stakeholders.
4. Ireland has also put in place new laws to protect the rights of people with disabilities. The Assisted Decision Making Act 2015 provides for a new decision support service to support the rights and interests of people who may need support with decision making. The Irish Sign Language Act 2017 conferred official language status on Irish Sign Language. Since 2014, all public authorities in Ireland have been bound by a positive legal duty to protect human rights, promote equality and eliminate discrimination against certain protected groups and this includes people with disabilities. Further information on these reforms is provided in subsequent sections of this report.
5. This report has been prepared by the Department of Children, Equality, Disability, Integration and Youth, which is responsible for co-ordinating disability policy across government, and acts as National Focal Point for the Convention. In preparing the report, we consulted with other government departments and agencies, and also with civil society organisations and the wider public. This work has been supported by the National Disability Authority, which is an independent statutory body that provides information and advice to government on policy and practice relevant to the lives of persons with disabilities.
6. To support the involvement of people with disabilities in the reporting process under the Convention, we provided government funding to establish a new Disability Participation and Consultation Network in 2020. This Network is comprised primarily of Disabled Persons Organisations. At time of writing, it is just getting underway. The intention is that it will link organisations and individuals in all regions and provide opportunities for people with disabilities to participate in the development of public policy and programmes.
7. Ireland has adopted an approach of progressive realisation with the respect to the Convention. In this initial report therefore, we provide information both on the current implementation status and on planned initiatives to be undertaken in the short and medium term future.

## II General Provisions of the Convention

### Articles 1-4

8. The Irish Government is committed to the principles of the Convention and to its purpose to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.
9. Ireland has a dualist system under which international agreements to which Ireland becomes a party do not become part of domestic law unless so determined by the Oireachtas (Ireland's Parliament) through legislation. The Convention is given effect in Ireland through a range of legislation, policies and strategies aimed at progressing the rights of people with a disability.
10. The Government attaches great importance to the protection and promotion of human rights in framing legislation. All draft legislation in Ireland is examined by the Office of the Attorney General to ensure that it is, inter alia, compliant with the human rights provisions of the Constitution and international human rights obligations, including the Convention on the Rights of Persons with Disabilities (CRPD).

### 1. Implementation of the Convention

11. Ireland has a whole of Government strategy, the National Disability Inclusion Strategy 2017 – 2021 (NDIS)<sup>1</sup> which, alongside the Comprehensive Employment Strategy for People with Disabilities 2015-2024 (CES), is the key framework for policy and action to address the needs of persons with disabilities. Through 123 actions, the NDIS supports effective progress in delivering on the obligations set out in the Convention. A number of NDIS actions specifically identify and seek to address the remaining legislative measures to be taken to give full effect to the Convention.
12. Following a mid-term review of the NDIS it was agreed that Ireland will develop a CRPD implementation plan. Government departments and agencies will be requested to develop their own plans for implementation that will link with the national plan.<sup>2</sup>
13. The NDIS Steering Group (NDISSG) is chaired by the Minister of State with responsibility for Disability and includes representatives of several Government Departments and Agencies and the Disability Stakeholder Group (DSG).
14. The DSG is appointed by the Minister of State. Membership includes both members of disability organisations and individuals with a lived experience of disability. It has an independent Chair. The DSG plays an important role in the review and implementation of the NDIS. The DSG is currently in its fifth iteration as it renews with each NDIS.
15. Implementation of the NDIS is monitored in regular NDISSG meetings through a reporting system which requires Government Departments and Agencies to detail their progress biannually. The group is supported by independent analysis and advice from the National Disability Authority (NDA) and by periodic review and oversight by the Cabinet Committee on Social Policy and Equality.
16. The NDA is the independent statutory advisory body that provides information and advice to the Government on policy and practice relevant to the lives of persons with disabilities. The NDA conducts an annual independent assessment of progress on NDIS actions and periodically reviews a suite of NDIS indicators to provide an overall measure of progress in improving the lives of persons with disabilities.
17. Several Departments have established their own Departmental Consultative Committees (DCC) which meet in advance of each NDISSG meeting. DCCs consist of the relevant Department officials and representatives of the NDA, the DSG and disability organisations. DCCs have a mandate to monitor implementation by departments of NDIS actions.

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<sup>1</sup> <https://assets.gov.ie/18901/26182a87ecf84ddd8d60c215c0ce2520.pdf>

<sup>2</sup> [http://www.justice.ie/en/JELR/Midterm-Review-of-the-National-Disability-Inclusion-Strategy-2017-2021\[1\].pdf/Files/Midterm-Review-of-the-National-Disability-Inclusion-Strategy-2017-2021\[1\].pdf](http://www.justice.ie/en/JELR/Midterm-Review-of-the-National-Disability-Inclusion-Strategy-2017-2021[1].pdf/Files/Midterm-Review-of-the-National-Disability-Inclusion-Strategy-2017-2021[1].pdf)

## **2. Number of persons with disabilities in Ireland**

18. The latest census took place in 2016 and reported that there were 643,131 people, or 13.5% of the population, who indicated that they had a disability.

## **3. Definitions of disability in Ireland**

19. The Disability Act 2005 defines “disability”, in relation to a person, 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.

20. The Equal Status Acts 2000-2018 and the Employment Equality Acts 2000-2015 (The Equality Acts) define disability as:

- (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.

21. In Census 2016<sup>3</sup>, a disabled person was classified as someone who responded 'yes' when asked if they had any of the following long-lasting conditions or difficulties:

- a. Blindness or a serious vision impairment;
- b. Deafness or a serious hearing impairment;
- c. A difficulty with basic physical activities such as walking, climbing stairs, reaching, lifting or carrying;
- d. An intellectual disability;
- e. A difficulty with learning, remembering or concentrating;
- f. A psychological or emotional condition;
- g. A difficulty with pain, breathing or any chronic illness or condition.

Or who responded ‘yes’ when asked if they had any difficulty in doing any of the following:

- (a) Dressing, bathing or getting around inside the home;
- (b) Going outside the home alone to shop or visit a doctor’s surgery;
- (c) Working at a job or business or attending school or college;
- (d) Participation in other activities, for example leisure or using transport.

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<sup>3</sup> The published reports of Census 2016 can be found here: <https://www.cso.ie/en/census/census2016reports/>

### III Specific rights

#### Article 5 – Equality and non-discrimination

##### 1. Anti-discrimination legislation

22. Ireland has robust equality legislation and a significant legal framework to protect human rights. These are detailed in Ireland’s Common Core Document.
23. Persons with disabilities are equal citizens in Irish law. Discrimination on the grounds of disability is prohibited under the Equality Acts. The areas covered by the Acts include employment, education and the provision of goods and services. The Equality (Miscellaneous Provisions) Act, 2015, introduced “housing assistance” as a new discriminatory ground. It provides that discrimination is prohibited in the provision of accommodation, or related service and amenities against people in receipt of rent supplement, housing assistance payments, or other social welfare payments.
24. The Workplace Relations Commission (WRC) deals with all complaints of discrimination - not just workplace complaints - made under the Equality Acts. Decisions of the WRC can be appealed, to the Labour Court.
25. In 2019, the WRC received 439 referrals under the Equal Status Acts, of which 73 referenced disability grounds and 1288 referrals under the Employment Equality Acts, of which 329 referenced disability grounds.<sup>4</sup>
26. Discriminatory advertising is also prohibited. It is prohibited to publish, display or cause to be published or displayed, an advertisement, which indicates an intention to discriminate, harass or sexually harass or might reasonably be understood as indicating such an intention.
27. Section 42 of The Irish Human Rights and Equality Commission Act, 2014 established a Public Sector Equality and Human Rights Duty. This places a statutory obligation on public bodies to eliminate discrimination, promote equality of opportunity and protect the human rights of those to whom they provide services and of staff when carrying out their work. It requires public bodies to implement the Duty through a three-step process, in the context of strategic planning and reporting: to carry out an assessment of the equality and human rights issues relevant to their function and purpose; develop policies, plans and actions to address these issues; and to report annually on progress and achievements. This provides a framework systematically to consider and reflect the particular needs of staff and service users at risk of inequality, discrimination or disproportionate impact, and to mitigate and avoid unintended consequences. The Irish Human Rights and Equality Commission (IHREC) has a role in holding public bodies accountable under Section 42.
28. In the 2014 Equality and Discrimination module of the Quarterly National Household (QNHS) survey, 16% of persons with a disability said that they had experienced discrimination in the previous two years, compared to 11% of persons without a disability. In the 2019 Equality and Discrimination Survey, this gap had increased, with 24.1% of adults with a disability reporting that they had experienced discrimination compared to 16.7% of those without a disability. It is not known if this is due to increased awareness of discrimination, and thus higher levels of reporting, or to increased levels of discrimination experienced by persons with disabilities.<sup>5</sup>
29. The 2019 survey also explored specific forms of discrimination in relation to services and the workforce. Findings indicated that 18.3% of persons with a disability reported they had experienced discrimination

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<sup>4</sup> Work Place Relations Commission 2019 Annual Report p 26 and 27:

[https://www.workplacerelations.ie/en/publications\\_forms/corporate\\_matters/annual\\_reports\\_reviews/annual-report-2019.pdf](https://www.workplacerelations.ie/en/publications_forms/corporate_matters/annual_reports_reviews/annual-report-2019.pdf)

<sup>5</sup> 2014 survey data: <https://www.cso.ie/en/releasesandpublications/er/q-eq/qnhsequalitymodulequarter32014/>  
2019 survey data: <https://www.cso.ie/en/releasesandpublications/er/ed/equalityanddiscrimination2019/>

accessing services compared to 10.9% of persons without a disability. This gap was narrower for workplace discrimination, with 12.3% of adults with a disability experiencing discrimination in the workplace and/or while looking for work compared to 9.0% of those without a disability.

## **2. Reasonable Accommodation and Special Measures**

30. The Equality Acts, when originally enacted, provided that reasonable accommodations should not give rise to more than a “nominal cost”, so to comply with the obligations of the Irish Constitution on private property rights but were amended, in compliance with the EU Framework Equality Directive, to impose a higher standard on employers. They are required to provide reasonable accommodations to employees and employment candidates with disabilities, except where to do so would impose a disproportionate burden on them.
31. Legislation is planned which proposes to extend the “not exceeding a disproportionate burden” standard to public services, where private property protections do not arise, and to commercial bodies whose activities are regulated for quality of service. The constitutional limitation which has confined the requirement in respect of reasonable accommodation under national law to a threshold of nominal cost continues to apply in the case of the remaining private sector providers covered by the Equal Status Act.
32. The Disability Act is a positive action measure designed to advance and underpin the participation of persons with disabilities in everyday life. It establishes a statutory basis for:
  - (a) An independent assessment of individual health needs and educational services for persons with disabilities over age 18 years;
  - (b) Access to mainstream public services and actions to support access to public buildings, services and information;
  - (c) Sectoral plans on positive measures;
  - (d) Obligations on public bodies to be proactive in employing people with disabilities and the monitoring of compliance with those obligations;
  - (e) The establishment of a Centre for Excellence in Universal Design (NDA/CEUD) in the NDA. The NDA/CEUD was established in the NDA in early 2007 under Part 6 of the Act.
33. The NDA produced a Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies.<sup>6</sup> This expands on the obligations of public sector organisations in the provision of accessible services. It is designed to guide public bodies in meeting their statutory obligations by providing practical advice and examples. It is a statutory instrument and has legal effect.
34. Equality and Choice is one of the major themes of the NDIS and actions are included to ensure that:
  - (a) persons with disabilities are recognised and treated equally before the law and have the same rights and responsibilities as other citizens;
  - (b) persons with disabilities make their own choices and decisions, are treated with dignity and respect and are free from all forms of abuse;
  - (c) public sector information is available in accessible formats that are easy to understand;

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<sup>6</sup> <http://nda.ie/Good-practice/Codes-of-Practice/Code-of-Practice-on-Accessibility-of-Public-Services-and-Information-Provided-by-Public-Bodies-/>

- (d) public services are universally designed and accessible to all citizens and that the participation of persons with disabilities in political and public life is improved.
35. Reasonable accommodations and positive actions to support persons with a disability are also provided for in other legislation and specific measures, including in the areas of employment, infrastructure and education, and in relevant European Union (EU) policy and legislation. These are referenced in the relevant sections of this report.

## **Article 6 – Women with disabilities**

36. The 2016 Census reported that there were 331,551 females in Ireland with a disability, representing 51.6% of all those who reported having a disability.
37. Women and girls with disabilities in Ireland share the same rights, on an equal basis, with other persons. Equality legislation provides protection from discrimination on the grounds of gender and disability. However, the Government recognises that women and girls with a disability face multiple barriers to the realisation of their rights and have taken specific measures to reduce these barriers.
38. The National Strategy for Women and Girls 2017-2020 is the policy framework through which the Government identifies and acts to advance the rights of women and girls and to enable their full participation in society. It recognises that women with disabilities experience particular disadvantages and outlines actions specifically related to women with disabilities, such as the development of research to guide maternity services and supports for women with disabilities.<sup>7</sup>
39. Ireland ratified the Council of Europe Istanbul Convention in 2019, a key international instrument to tackle violence against women. IHREC as the National Human Rights Institution will monitor the implementation of the Istanbul Convention in Ireland and will independently report to the Council's expert body (GREVIO) on State progress. IHREC has identified the need for a focus on combatting violence against women with disabilities and on intersectionality.
40. Under the Child and Family Agency Act, 2013, Tusla, the Child and Family Agency (Tusla), has statutory responsibility for the care and protection of victims of domestic, sexual, or gender based violence.
41. Ireland signed and ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) in 1985 and was last examined by the CEDAW Committee in 2017. The Committee recommended that Ireland take measures to collect data which should be disaggregated by disability, amongst other criteria.
42. In 1995, Ireland adopted the Beijing Declaration and Platform for Action. A national report was submitted to the UN in 2019. A consultation report was also prepared.
43. The Government announced a pilot initiative for Equality Budgeting as part of Budget 2018. Following the pilot, Equality Budgeting has been expanded across Government to broaden the scope to other dimensions of equality, including disability. An Expert Advisory Group has been set up to guide this process. The group membership includes key Government Departments and independent experts, including the NDA and the National Women's Council of Ireland. The Group has committed to focusing on disability for its work in 2019 and 2020.

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<sup>7</sup> [http://justice.ie/en/JELR/National\\_Strategy\\_for\\_Women\\_and\\_Girls\\_2017\\_-\\_2020.pdf/Files/National\\_Strategy\\_for\\_Women\\_and\\_Girls\\_2017\\_-\\_2020.pdf](http://justice.ie/en/JELR/National_Strategy_for_Women_and_Girls_2017_-_2020.pdf/Files/National_Strategy_for_Women_and_Girls_2017_-_2020.pdf)



44. The Women's Health Taskforce was established to improve women's health outcomes and experiences of healthcare.<sup>8</sup> It met for the first time in 2019. In one of its earliest meetings, the group focused on the health of women with disabilities and featured a presentation from the NDA.

## **Article 7 – Children with disabilities**

45. In 2016, the Census of Population recorded 75,963 children with disabilities. This represented 6.4% of the total child population in Ireland.

### **1. Major policy initiatives**

46. Better Outcomes, Brighter Futures (2014 -2020) is the first overarching national policy framework for children and young people (aged 0-24 years).<sup>9</sup> The purpose of this framework is to coordinate policy across Government to achieve better outcomes.
47. In 2018, the Government launched a ten year, cross-government strategy called First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families (First 5).<sup>10</sup> The strategy includes specific objectives aimed at ensuring that therapeutic and medical provision is available to babies and young children on a consistent, equitable and timely basis, and that babies, young children and their families enjoy positive mental health.
48. Progressing Disability Services for Children and Young People is a national programme, the objective of which is to address inequity in therapeutic / multi-disciplinary services and to achieve a national, unified approach to disability health services. The model provides a clear referral pathway for all children, with an integrated care model that will allow children with a disability to be seen close to their home or school.<sup>11</sup>
49. Since 2017, all children who qualify for the Domiciliary Care Allowance (DCA) are eligible for a medical card without having to undergo a means test. A medical card entitles a person to free access to health services. As of 1<sup>st</sup> June 2020, 39,406 children have obtained eligibility for a medical card without requiring a means test.
50. The Access and Inclusion Model (AIM) is a model of supports designed to ensure that children with disabilities can access the Early Childhood Care and Education Programme (ECCE), together with their non-disabled supports. Further details are outlined under Article 24.
51. A 2017 joint Protocol for Inter-Agency collaboration between the Health Service Executive (HSE) and Tusla, promotes the best interests of children and families. The objective is to specify a pathway and responsibilities for children and families whose needs cross between health services divisions and Tusla. It provides for joint working between Tusla, responsible for children in State care, for child protection or welfare needs, and the HSE, responsible for the clinical needs of all children, to provide services for children in care with complex needs, particularly those with moderate and profound disabilities requiring specialist services and expertise. It encompasses young people with lifelong health care support needs that require specialist services when they leave Tusla's care. The implementation of the protocol is supported by the Joint National Oversight Group who monitor, assess and recommend revisions as necessary based on analysis and local level experience.

### **2. Best Interests**

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<sup>8</sup> More information on the Taskforce see: <https://www.gov.ie/en/campaigns/-womens-health/>

<sup>9</sup> <https://assets.gov.ie/23796/961bbf5d975f4c88adc01a6fc5b4a7c4.pdf>

<sup>10</sup> More information here: <https://first5.gov.ie/>

<sup>11</sup> More information here: <https://www.hse.ie/progressingdisabilityservices/>

52. Following a 2012 Referendum, the Constitution was amended by inserting clauses relating to children's rights and the State's duties in upholding these rights. Article 42A.4.1 states that provision shall be made by law for the best interests of the child to be 'the paramount consideration', in child protection and care proceedings brought by the State, and to judicial proceedings concerning adoption, guardianship or custody of, or access to any child.
53. The Children and Family Relationships Act 2015 provides that the child's best interests are to be the paramount consideration for the courts in relation to guardianship, custody, maintenance or access.<sup>12</sup>
54. Under the Adoption Act 2010, the best interests of the child are recognised as the most important consideration in any adoption application.<sup>13</sup>
55. Under the Child and Family Agency Act, Tusla must ensure that the best interests of the child guide all decisions affecting individual children.
56. The Education for Persons with Special Educational Needs Act 2004 contains a "best interests principle" with regard to the placement of children with special educational needs (SEN) in inclusive environments. Further detail are provided under Article 24.

### **3. Representing the views of children with disabilities**

57. The first National Strategy on Children and Young People's Participation in Decision-Making 2015-2020 seeks to ensure that children and young people have a voice in their individual and collective everyday lives.<sup>14</sup> It contains a commitment to children with disabilities that the HSE will develop a framework on how children's voices will inform the design, implementation and evaluation of disability services. Planning for the Strategy's successor is ongoing.
58. In 2015, the Department of Children and Youth Affairs (DCYA) and Barnardos (a children's charity) published a practical guide to include seldom-heard children and young people in decision-making. It aims to support organisations to enable the participation of seldom-heard children and young people in decision-making, including children with mental health issues and disabilities.
59. Tusla has developed a Child and Youth Participation Strategy 2019-2023, which sets out how it plans to support, nurture and celebrate a culture of participatory practice in Tusla and Tusla-funded services.<sup>15</sup>
60. Someone Like Me is an annual primary schools' art competition funded by the NDA as a way of developing children's awareness and understanding of disabilities.

### **Article 8 – Awareness raising**

61. The Government is committed to awareness raising as a key factor in achieving equality for persons with a disability.
62. Ireland has a dedicated Minister of State with responsibility for Disability who promotes disability issues and the rights of persons with a disability.
63. The NDIS includes a number of specific awareness raising measures, including:
  - (a) Disability awareness training for all staff of Government Departments and Public Bodies;

<sup>12</sup> <http://www.irishstatutebook.ie/eli/2015/act/9/enacted/en/print>

<sup>13</sup> <https://revisedacts.lawreform.ie/eli/2010/act/21/front/revised/en/html>

<sup>14</sup> <https://assets.gov.ie/24462/48a6f98a921446ad85829585389e57de.pdf>

<sup>15</sup> [https://www.tusla.ie/uploads/content/tusla\\_child\\_and\\_youth\\_participation\\_strategy-2019-2023.pdf](https://www.tusla.ie/uploads/content/tusla_child_and_youth_participation_strategy-2019-2023.pdf)

- (b) Awareness raising of the EU Web Accessibility Directive (WAD);
  - (c) Raising awareness amongst persons with disabilities that further education and employment, post school leaving, are viable and potential alternatives;
  - (d) Further developing the capacity of mainstream HSE funded services to provide accessible services and information to persons with disabilities;
  - (e) Fostering disability awareness and competence in voluntary, sporting, cultural and other organisations.
64. The consultation process which took place as part of the NDIS's mid-term review pointed to the need for a renewed focus on awareness raising. In response, one of its strands for 2020-2021 is to raise awareness of the lived experience of persons with disabilities.
65. The CES includes specific actions to:
- (a) Raise awareness of training and employment options;
  - (b) Develop awareness and training packages for service providers when carrying out Person Centred Planning to discuss training and employment services with disability service users;
  - (c) Raise awareness among employers of the benefits of employing and retaining, persons with disabilities and of employer supports available.
66. The NDA is responsible for disbursing a disability awareness raising fund. Some of this money has been used to fund a consortium of disability organisations to develop disability awareness training for employers. The development phase of the eLearning module was completed in 2020 and will be available to employers to use. The NDA also hosts a general disability awareness e-learning module for public service on its website, which has been undertaken by over 11,000 people since 2011.
67. The NDA runs a Research Promotion Scheme, the purpose of which is to build capacity for disability research and to fund disability research on specific themes. Previous themes have included persons with disabilities experiencing homelessness; community integration of persons with disabilities; and progressing lifetime communities through Universal Design.<sup>16</sup>
68. As part of NDA's strategic commitment to raising awareness and promoting positive attitudes to disability, it commissions a National Survey of Public Attitudes to Disability in Ireland every five years with the last survey conducted in 2017.<sup>17</sup> The survey covers topics including knowledge of disability and attitudes to disability. The survey analyses factors influencing the findings which adds a richness to the data. It also includes a comparison of people with and without disability in terms of social wellbeing and participation in social activities.
69. See Change is an organisation dedicated to ending mental health stigma. It has developed a six step Workplace Pledge programme to help workplaces to create an open culture around mental health and challenge mental health stigma. 48 organisations (public, private and educational) have taken the Pledge. Funding is provided by Government. See Change also runs a month-long Green Ribbon campaign to encourage people to end mental health stigma. In 2018, the Green Ribbon campaign reached almost 80,000 people in a Twitter pre-campaign and 94,000 on Facebook. Forty-two buildings in 15 counties lit up green in support of Green Ribbon 2018. In an evaluation, See Change found that almost 8 in 10 people felt more comfortable in having a conversation about mental health with someone they know because of

<sup>16</sup> More information here: <http://nda.ie/Policy-and-research/Research/Research-Promotion-Scheme/>

<sup>17</sup> More information here: <http://nda.ie/publications/attitudes/public-attitudes-to-disability-in-ireland-surveys/public-attitudes-to-disability-in-ireland-survey-2017.html>

the campaign. In addition, 71% of people asked said they had heard more family and friends talking about mental health and 68% had heard more colleagues in work talking about mental health since the campaign.

70. Dublin Bus, a public transport provider, held an advertising campaign called Freedom of the City beginning in 2019 promoting the equality of persons with disabilities.
71. The Department of Social Protection's (DSP) 'Jobsweek' was held in March 2020 and over 19,000 people are estimated to have participated. 135 events were held throughout the country. 20 of these events were held for people with disabilities an increase of 12 events on 2019. There was a combined attendance of 1,777 at these events, with employers and other organisations in attendance. At these events DSP focused on promoting the supports available for both people with disabilities and employers.
72. In 2020 an online event 'Business Start-Up for People with Disabilities' was held. This was the first in a series of webinars for persons with disabilities who are considering self-employment as a career option. Each webinar will have a theme and the first webinar featured entrepreneurs with disabilities who spoke about their experiences in starting their own business and the lessons that others might learn from them. The ambition for these events is to increase the awareness of self-employment as a career option and to highlight the pathways available to self-employment.
73. The HSE National Service Plan 2020 commits to an awareness campaign to create awareness of the challenges, needs and experiences of people with autism spectrum disorder and to provide more information on the supports available.

## **Article 9 – Accessibility**

74. The Irish Government is committed to ensuring that persons with disabilities can access information, services and buildings and implements this commitment through anti-discrimination law, specific legislative requirements and NDIS actions.
75. The Disability Act provides a statutory basis for making public services accessible, placing obligations on public bodies to make their public buildings, services and information accessible to persons with disabilities. Public bodies are also obliged to include accessibility as a mandatory requirement under the EU Public Procurement Directives.
76. Universal design is central to the Government's approach to improving accessibility for persons with a disability Under the Disability Act, the NDA/CEUD was established - on a statutory basis - as part of the NDA in 2007. The NDA/CEUD is dedicated to the principle of universal access and its work is centred on the development of standards, education and professional development in Universal Design and the promotion and awareness raising of Universal Design issues.
77. The Disability Act defines Universal Design as:
  - (a) The design and composition of an environment so that it may be accessed, understood and used:
    - i. To the greatest possible extent;
    - ii. In the most independent and natural manner possible;
    - iii. In the widest possible range of situations; and
    - iv. Without the need for adaptation, modification, assistive devices or specialised solutions, by any persons of any age or size or having any particular physical, sensory, mental health or intellectual ability or disability; and

- (b) Means, in relation to electronic systems, any electronics-based process of creating products, services or systems so that they may be used by any person.

78. The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) coordinates Government action on transposition of the European Accessibility Act. Ireland is participating in informal meetings organised by the European Commission, which are currently examining the Directive from a sectoral point of view.

#### **1. Accessible buildings, services and public spaces**

79. The Disability Act requires public services to appoint Access Officers to provide, arrange for and co-ordinate the provision of assistance and guidance to persons with disabilities in accessing their services, ensuring that services procured are accessible and that information is provided in accessible formats.

80. The Office of Public Works (OPW) is engaged in a Universal Access Programme to upgrade buildings for public access to services and information in accordance with the deadline of 1 January 2022 set under the Disability Act.

81. The NDA statutory Code of Practice on Accessibility of Public Services and Information provided by Public Bodies guides public bodies on meeting their obligations under the Disability Act. The NDA has a statutory function to monitor the implementation of standards and Code(s) of Practice in programmes and services provided to persons with disabilities. The NDA is developing indicators and a monitoring mechanism to evaluate and report on the level of conformance with the Code. The mechanism involves collecting feedback from persons with disabilities on their experience of the service and evidence from public bodies. It is intended to launch a pilot to test the monitoring mechanisms and indicators in 2020/21.

82. Part M (Access and Use) of Ireland's Building Regulations sets out the minimum statutory requirements for building accessibility, requiring adequate provision to be made for people to access and use a building, its facilities and environs. An accompanying Technical Guidance Document provides guidance on implementing Part M requirements.

83. Regulations require in the case of commercial buildings and apartment blocks that a Disability Access Certificate be obtained from the local building control authority confirming compliance with Part M requirements. It is an offence to occupy or use a building without having a valid Certificate in place as required. Since the Building Regulations came into force in 1992, building and works have been subject to a Part M requirement.<sup>18</sup>

84. The OPW intends to collaborate with NDA/CEUD on a pilot to trial the implementation of the new European Standard ISEN 17161 (Design for All - Accessibility Following a Design for All Approach in Products, Goods and Services - Extending the Range of Users) in the design of its new office accommodation. It intends to use this trial to identify the needs of users to inform the design of a suite of wayfinding and building utilisation tools to help navigate the building and user experience.

85. The NDA/CEUD supports the Royal Institute of the Architects of Ireland to feature a Universal Design category as part of their annual architecture awards. The aim of the award is to promote excellence in Universal Design among the architectural profession in Ireland.

86. A Customer Communications Toolkit for the Public Service - A Universal Design Approach, has been published. It has guidance to inform the design and procurement of customer communications across the Public Service.<sup>19</sup> The audit tools continue to be revised in consultation with agencies.

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<sup>18</sup> <https://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/BuildingStandards/FileDownload%2C24773%2Cen.pdf>

<sup>19</sup> More information here: <http://universaldesign.ie/Products-Services/Custom-Communications-Toolkit-for-the-Public-Service-A-Universal-Design-Approach/>

87. Age Friendly Ireland (a shared service function of the local government sector) and the NDA/CEUD published a report on the results of “Walkability Audits” carried out in 2014. The walkability audits in eight Irish towns and urban centres, audit the degree to which a person can get around with ease.
88. The Community Services Programme (CSP) provides supports to over 400 community organisations to provide local services through a social enterprise model.<sup>20</sup> Community services delivered include home insulation, repair and maintenance for the homes of older people and persons with disabilities, transport for persons with disabilities, and meals-on-wheels.

## **2. Accessible Transport**

- ~~89.~~ Ireland’s policy for accessible public transport is embodied in the concept of ‘Transport Access for All’ and is based on the principle of universal access to public transport.
90. The National Transport Authority (NTA) has statutory responsibility for promoting the development of an integrated, accessible public transport network. It has a Public Transport Accessibility Manager whose role includes establishing a formal engagement process with key disability representative groups to ensure that the needs of those with a disability are considered in all major public transport improvement plans.
91. Directors with personal experience of disability have been appointed to the Boards of the NTA, and the major public transport providers as well as to the Taxi Advisory Committee and the Railway Safety Advisory Council.
92. The National Development Plan (NDP) 2018-2027 sets out the vision for delivery of key infrastructure.<sup>21</sup> Investment will be accelerated under the NDP to support development of an integrated and sustainable national public transport system. Major public transport projects are proposed for delivery under the NDP in the period which will be fully accessible.
93. The Department of Transport has pursued a number of initiatives to support improvements in maritime passenger transport accessibility. These initiatives include the provision of disability awareness training for passenger vessel owners and operators and the development, with the NDA, of Guidelines for Accessible Maritime Passenger Transport.<sup>22</sup>
94. The Commission for Aviation Regulation (CAR) is the National Enforcement Body for Regulation EC 1107/2006 which concerns the rights of disabled persons and persons with reduced mobility when travelling by air. In 2019 volunteer service users, including from the Passenger Advisory Group (PAG), assisted the CAR in their inspections of airport facilities as required under the Regulation. The CAR plans to continue, and expand on, this improved inspection process into the future. The PAG includes representatives of different disability groups and passengers of reduced mobility.

## **3. Accessible Transport infrastructure**

95. Accessibility features are built into all new public transport infrastructure projects and vehicles from the design stage. Newer systems such as Luas (a light rail system in Dublin) are fully accessible. Under the Disability Act, public bodies which provide public transport are required to ensure the accessibility of information such as public transport websites and mobile apps, to have clear complaints procedures and to include accessibility as a criterion in their procurement processes.

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<sup>20</sup> More information here: <https://www.gov.ie/en/policy-information/487d0f-the-community-services-programme/>

<sup>21</sup> <https://assets.gov.ie/19240/62af938dce404ed68380e268d7e9a5bb.pdf>

<sup>22</sup> <http://nda.ie/nda-files/Guidelines-for-Accessible-Maritime-Passenger-Transport.pdf>

96. The NDA is piloting a system to monitor the accessibility of public transport services.
97. All new bus and coach fleets purchased by the NTA are accessible, with wheelchair spaces and audio and visual announcements
98. The urban bus fleet is wheelchair accessible and has audio/visual aids. Approximately 89% of Bus Éireann's (a State owned company that provides bus services nationwide) coach fleet is wheelchair accessible. That percentage will increase as older vehicles are replaced.
99. A new type of low floor bus, for State-subsidised regional commuter routes, allows wheelchair users to board with normal ramp access and has a dedicated wheelchair space. In 2019, the NTA acquired 52 new buses and a further 40 buses are due for delivery in 2020.
100. Since 2019, vehicles contracted for Local Link, a service which provides scheduled and demand responsive bus services in rural areas, must be wheelchair accessible. Approximately 90% of Local Link service trips are currently defined as either fully or partially accessible.
101. Funding is available for the upgrading of older transport infrastructure under an Accessibility Retro-fit Programme. Ireland's 2018 Budget included a multi-annual allocation of almost €28m for the Programme for 2018-2021. Under the Programme, the NTA funds projects to install accessible bus stops in rural and regional areas, upgrade bus stops and stations, upgrade rail stations to improve access for wheelchair users and provide grant support to increase the number of wheelchair accessible taxis. Under the NDP 2018-2027 there will be continued funding for retro-fitting older public transport infrastructure.
102. Bus stops in urban areas are wheelchair accessible. The NTA aims to provide one accessible bus stop in each direction in 43 rural towns with a population over 5,000 by 2021, to enable passengers in wheelchairs to board long distance high floor coaches.
103. Bus Éireann is undertaking Accessibility Audits on 12 of its bus stations
104. Bus Connects Dublin is a major investment programme to overhaul the current bus system in Dublin through a 10 year programme to deliver a more efficient, reliable and better bus system. There have been public consultations with sign language interpreters and a quiet room available and specific meetings with disability focused NGOs and groups as part of the process. A series of public information events were also initiated in accessible formats.
105. Since 2007, all 17 new rail stations have been built to accessibility standards. 118 of the 144 rail stations on the network have all platforms accessible and in the remaining 26 stations one platform is accessible. The rail fleet is accessible internally. In 2019, Irish Rail, a State owned company, announced the initiation of a tender process for 600 electric / battery-electric powered carriages. The tender scoring for the new fleet will award higher scores to carriage builders who provide the best platform train interface solution for accessibility. It is expected that the contract will be awarded in 2021, with delivery of vehicles from 2024 onwards.
106. Initiatives are underway to reduce and eliminate the requirement for some users with a disability to provide advance notice of travel by rail. The main issue for wheelchair users is the platform train interface (gap) at stations. Following a successful pilot on the DART (an urban rail service in the Dublin area), the advance notice period reduced from 24 hours to 4 hours on the DART and other commuter services. Irish Rail is rolling out Customer Service Officers (CSOs) on all Inter-city routes to eliminate advance notice requirements for persons with disabilities. Many of the CSOs are in place with the remainder expected to be recruited by end 2020. A project will commence in 2021 to investigate a platform train interface to determine if there is a method to bridge both the vertical and horizontal gap between the platform and the train. While the aim is to reduce advance notice times further, it remains the case that advance notice is required for some journeys / transport modes.

107. Audio/visual announcements are available on all intercity and commuter rail services. The Passenger Information System (audio/visual) on the DART fleet is in need of upgrade and the NTA has approved funding for its replacement. Irish Rail intends to award the contract in 2020 with a view to completing the project in 2022.
108. A €16.2m lift refurbishment/replacement programme for train stations is planned for 2020-2024. €3.3 million is ring-fenced in 2020 for renewing and replacing life-expired lifts and lifts in poor condition, to ensure the reliability and availability of lift access. Similar funding is envisioned for 2021.
109. In 2019, the NTA initiated a public consultation on proposals for accessibility requirements for commercial licenced bus services. Accessibility licence conditions for new licences and on renewal of existing licences will be determined following the outcome of the consultation.
110. Since 2010 the taxi regulatory framework requires that new taxi or hackney licences may only be granted for wheelchair accessible vehicles (WAVs). The WAV Grant Scheme, operating since 2014, provides grants for the acquisition, or conversion of suitable vehicles to operate as WAVs. The number of WAVs in the taxi fleet has increased from 4% in 2014 to over 15% currently. The NTA has published a register of wheelchair accessible vehicles in every county with the driver's phone number and email address on the Transport for Ireland's (TFI) website.
111. The Department of Foreign Affairs' Passport Service has introduced online passport services and provided supporting technologies with a particular focus on the needs of persons with disabilities. Focus groups and targeted UX testing were used to ensure the website was accessible and usable to the widest audience, particularly persons with disabilities and users of assistive technologies.

#### **4. Accessible Transport Supports**

112. The Government operates a Free Travel Scheme, which facilitates free travel on all publicly, and some privately, owned transport services for eligible persons. Some persons with disabilities can access the Scheme and in certain cases, a companion travel pass is provided - which allows another person to travel for free with the holder. Where a person with a disability enters or returns to employment, they retain their free travel pass for five years.
113. Dublin Bus manages a free Travel Assistance Scheme for customers over 18 with a disability. It provides assistance for customers who would like help in using and understanding the Dublin area public transport network so that they can travel independently with confidence.
114. State-subsidised public transport providers have signed up to the Just a Minute (JAM) Card scheme and work to promote and train staff on its use. The JAM Card allows users to relay to others that they may need a little extra time in a simple, effective non-verbal manner and is intended for those with a learning difficulty, autism, or any condition where there can be a communication barrier. The NTA has included JAM details in the training module for new taxi drivers.
115. TFI was developed to promote and coordinate the provision of public transport in Ireland. The TFI website provides detailed information to customers about accessible travel across Ireland, including a detailed 'door-to-door route planning service, and shows the step free access options available.
116. The main State-subsidised public transport operators each have a Disability Access Officer and Disability User Group.

#### **5. Accessible Information**

117. The Government has committed in the NDIS to design public sector websites in accordance with universal design principles and in line with Ireland's obligations under the WAD and to promote



accessibility and universal design principles in the Public Service ICT Strategy. Progress by Departments and Agencies is tracked via the NDIS monitoring process previously described.

118. Government Department websites have migrated to a new central portal, Gov.ie. It is designed in accordance with universal design principles and any uploaded content must satisfy accessibility standards. Many Departments have already migrated and work is underway to migrate remaining Departments. A commitment is made to achieving a minimum of conformance level Double-A with the Web Accessibility Initiative (WAI), Web Content Accessibility Guidelines (WCAG) and to complying with the Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies.

119. The HSE has appointed a National Specialist in Accessibility whose role is to provide guidance, advice and strategic support in promoting access to mainstream health services for persons with disabilities. Over 200 HSE disability access officers have been trained.

120. The Public Libraries website provides an eLibrary service with a wide range of free online services including eBooks, audiobooks, eMagazines, online courses and online newspapers. Libraries Ireland has been designed to meet accessibility standards and is WCAG A Level compliant.

## **6. Training and promotion on accessibility issues**

121. The NDA/CEUD has responsibility for promoting the development of Universal Design courses, in liaison with academic, certifying and professional bodies. It supports and promotes the introduction and integration of the principles of Universal Design in educational and training courses, including in examinations recognised by professional bodies. Universal Design in education is about both content and process. NDA/CEUD Universal Design education materials use a Universal Design for Learning approach. The materials are based on best practice for Design Thinking and Design Project/Problem Solving with a Creativity and STEM focus. Separate materials have been prepared, and are being promoted, for CPD, 3<sup>rd</sup> Level, 2<sup>nd</sup> Level / Further Education and at Primary level.

122. The NDA/CEUD runs the Universal Design Grand Challenge, which awards excellence in student projects in higher education that seek to research and develop ideas for universally designed technology, product, services and buildings.<sup>23</sup> It also partners with the Institute of Designers in Ireland on their annual professional and graduate design competitions, assessing entries for their alignment with Universal Design principles.

## **Article 10 – Right to life**

123. The Irish Constitution guarantees certain fundamental rights. Among these is the right to life (Article 40.3). This right applies equally to all people.

124. Article 2 of The European Convention on Human Rights (ECHR) Act 2003, of which Ireland is a signatory, obliges States to protect by law the right to life.

## **Article 11 – Situations of risk and humanitarian emergencies**

### **1. Domestic**

125. The Office of Emergency Planning (OEP) supports the Minister for Defence, Chairman of the Government Task Force (GTF) on Emergency Planning. The OEP works with departments and other key public authorities to ensure the best possible use of resources and compatibility across different emergency planning requirements.

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<sup>23</sup> More information here: <http://universaldesign.ie/Awards/Student-Awards/>

126. The Broadcasting Authority of Ireland (BAI) Codes & Standards require that, at times of emergency, broadcasters ensure that key information provided by Government on-air is subtitled and spoken and must leave sufficient time for the audience to take note.<sup>24</sup> The Standards also state that, unless impracticable, the information should be provided via Irish Sign Language (ISL) and that broadcasters ensure that, in coverage of Government announcements related to a national emergency, ISL interpreters shall be clearly visible and understandable to audiences throughout.

## **2. COVID-19 Pandemic Response**

127. At the time of drafting, Ireland is responding to the COVID-19 pandemic. Specific measures are being taken to ensure that the needs of persons with disabilities are being considered and addressed during the public health emergency. This includes the provision of accessible clear communication initiatives and infection and prevention supports and controls in residential services for persons with a disability.

128. A National Public Health Emergency Team (NPHE) for COVID-19 was established in January 2020. NPHE coordinates the health sector response to significant public health emergencies. In line with World Health Organization advice, NPHE provides a forum for agreement on strategic approaches to public health emergencies. NPHE established a Vulnerable Persons Subgroup to provide guidance on the specific preparedness, measures and actions needing to be taken to protect vulnerable groups and individuals. The Vulnerable Persons Subgroup included representatives of organisations for persons with disability and mental health service users.

129. The Department of Education (DES) developed a series of guidance notes, in response to the pandemic and resulting school closure, to support schools, parents and students, all of which are available online. This includes separate guidance focussing on SEN learners, advising schools and teachers how they can support continuity in the learning of pupils with SEN.

130. A significantly expanded Summer Programme 2020 was announced in June 2020, incorporating aspects of the July Provision of previous years, which provides an extended school year to children with certain disabilities. The programme included a number of strands and options from which parents could choose, involving either in-school, or home-based supports by teachers and special needs assistants (SNAs) to help to prevent regression among children with SEN. Guidance and FAQs for parents, teachers and SNAs were published. The programme aim was to support the child to reintegrate / transition into their planned education setting for the next school year with their peers.

131. In addition, a 2020 summer programme for children with additional needs was provided by the education and specialist disability sector, including a bespoke Health Service Executive (HSE)-led summer programme for children with complex needs. HSE Children's Disability Services worked with SNAs to deliver these supports in 60 locations, including 31 homes, across the country. Activities included home support, respite, summer camps and yoga and surfing for children with ASD.

132. In preparing for and responding to COVID-19 and to align with Public Health guidance, the HSE and its partner service providers put in place a range of measures in order to prioritise essential public health services and to ensure continued delivery of vital residential and home supports. Measures included prioritising vital residential and home support services whilst curtailing or closing certain services such as day services, respite services, and certain clinical supports.

133. Emergency co-ordination arrangements involving National Disability Representative Bodies were instituted to support the sectorial response. In the absence of regular access to some services, the health service tried to maintain services that could be delivered safely, providing outreach and telecare solutions, using digital / assistive technology (AT) where possible, and using creative and innovative models of care to support adult and children service users.

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<sup>24</sup> <https://www.bai.ie/en/codes-standards/>

134. The HSE continues to plan the re-establishment of vital non-COVID supports and services. Plans must comply with guidance set out by NPHET and by public health specialists. In addition, the disability sector is re-establishing a number of structures including the National Consultative Forum to co-ordinate and support the sector during the pandemic and in line with public health guidance.

135. In March 2020, the Department of Health (DoH) published the 'Ethical framework for decision making in a pandemic'. It includes a number of substantive ethical principles and procedural values that can be applied and employed during the decision-making process in a pandemic. Ethical principles apply to the decisions that are made, whereas procedural values relate to the manner in which those decisions are made. This high-level framework is intended for policymakers and healthcare planners and providers in acute and community settings. It is also designed to assist clinicians in implementing the ethical principles in their clinical practice. It is not designed to guide individual clinical decisions but to assist healthcare workers in thinking through the difficult decisions that will need to be made.

136. The Department of Housing, Local Government and Heritage is the lead Department for the High Level Framework for Community Support put in place to respond at local level to the needs of vulnerable people during the pandemic. Its key objective is to establish local Fora, chaired by local authority Chief Executives, to coordinate the work of local state, public and community and voluntary organisations to identify and provide supports to vulnerable groups, including persons with disabilities.

137. Measures to assist persons with disabilities using public transport include:

- (a) The wheelchair spaces on rail, urban bus, and town services are kept free and not restricted;
- (b) The drivers on State-subsidised bus services direct people to the priority seat if asked. Luas has Customer Assurance Officers on the platforms and trams to assist all passengers;
- (c) Floor decal stickers on buses and coaches highlight that the priority seats are for those people who need them. COVID-19 messages are displayed on buses asking passengers to keep the seats free downstairs for passengers who need them;
- (d) Trains with on-board staff will assist where seats are utilised to near capacity;
- (e) In rural areas, all Demand Responsive (DRT) day time Local Link services continued to run but many were redeployed for 'collect and deliver' services, delivering critical medical, food and other supplies from pharmacies and local shops to vulnerable members of the community unable to travel. A pilot Community Transport Services scheme was also repurposed as a 'collect and deliver' service.

138. Government introduced a range of income support measures in response to the COVID-19 pandemic including:

- (a) The Pandemic Unemployment Payment, a short-term payment in response to the shock posed to the labour market, is available to employees and the self-employed (including persons in receipt of Partial Capacity Benefit and employees availing of Disability Allowance (DA) and Blind Pension who have lost their job due to the pandemic.
- (b) The COVID - Illness Benefit: This enhanced rate of Illness Benefit was introduced as a short-term public health measure. It is payable for two weeks where a person is isolating as a probable source of infection of COVID-19 and up to 10 weeks where a person has been diagnosed. The rate of payment (€350 per week) is higher than the normal maximum personal rate so to ensure that where a person is diagnosed with, or identified as a probable source of COVID-19 infection, the person can comply with medical advice to isolate.

- (c) Standard Illness Benefit payment may be payable for an extended period to a person with a serious health condition who is considered at high risk in the event of contracting the virus, subject to normal certification and eligibility criteria.
- (d) The COVID-19 Temporary Wage Subsidy allows employers who meet the criteria (except for the public service and non-commercial semi-state sector) to continue to pay their employees, and aims to keep employees registered with their employers, so they will be able to get back to work quickly when possible. As of July, more than 400,000 persons, including persons with disabilities, were receiving support through the Scheme.

### **3. International**

139. Ireland's response to COVID-19, and the associated economic and social crises, highlighted the importance of a focus on women and girls. As gender equality is a key priority within the development programme, our interventions seek to mitigate the specific impacts experienced by women and girls and particularly consider the needs of women and girls with disabilities.
140. Ireland is supporting Community Based Rehabilitation Services and Hospitals which are currently working to ensure continuation of disability services throughout the crises.

#### **Article 12 – Equal recognition before the law**

141. Article 40.1 of the Irish Constitution sets out the Right to Equality Before the Law for all persons, including those living with a disability. The Government fully supports the right of persons with a disability to equal recognition before the law and their right to exercise legal capacity. Ireland is putting in place the required legislation that will give full effect to its obligations under Article 12.
142. In a declaration made in respect of Article 12, Ireland has declared its understanding that the Convention permits supported and substituted decision-making arrangements which provide for decisions to be made on behalf of a person, where such arrangements are necessary, in accordance with the law, and subject to appropriate and effective safeguards. To the extent Article 12 may be interpreted as requiring the elimination of all substitute decision-making arrangements, Ireland reserves the right to permit such arrangements in appropriate circumstances and subject to appropriate and effective safeguards.
143. Ireland recognises that all persons with disabilities enjoy the right to liberty and security of person, and a right to respect for physical and mental integrity on an equal basis with others. Ireland declares its understanding that the Convention allows for compulsory care or treatment of persons, including measures to treat mental disorders, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards.
144. Work is continuing on the commencement of the Assisted Decision-Making (Capacity) Act, 2015 (ADMC) and the establishment of the Decision Support Service (DSS). Both are key to providing the appropriate legal measures to ensure access by persons with decision-making capacity difficulties to the support they may require in exercising their decision-making capacity. The Service will come into operation in 2022.
145. The ADCM provides for the appointment of legally recognised decision-making supporters to support a person with capacity issues in maximising their decision-making powers. These are a decision-making assistant (to support him or her to access information or to understand, make and express decisions), a co-decision-maker (to make decisions jointly with him or her under a co-decision-making agreement) and a decision-making representative (appointed by the Circuit Court to make particular decisions on behalf of the person but reflecting the person's will and preferences where possible). Compliance with the Act by decision-making supporters in the performance of their functions will be supervised by the Director of the Decision Support Service.

146. The ADMC provides for the presumption of capacity and the protection and promotion of a person's will and preferences and for the individual's right of autonomy and self-determination to be respected through an Enduring Power of Attorney and an Advance Healthcare Directive, made when the person has capacity and designed to come into effect when they lack such decision-making capacity. It provides for legally recognised decision-making supporters to support a person with capacity difficulties. It introduces a functional assessment of capacity, thereby moving away from a status-based approach. The new definition takes an issue-specific and time-specific approach, focusing on the particular time when a decision has to be made and on the particular matter to which the decision relates. This allows for situations where the loss of capacity is temporary or partial and where there may be fluctuations in capacity.
147. Part 6 of the ADMC provides for the abolition of wardship and for the phased transition from adult wardship to the new decision-making support arrangements that will be available under the ADMC. It provides for the review by the wardship court of the capacity of all current adult wards of court within three years of the commencement of Part 6. In each case, the ward shall be discharged from wardship and the court shall order that the property of the former ward be returned to him or her. The safeguards and procedures of the ADMC will apply to a former ward who transitions to any of the new arrangements.
148. The DSS is being established with clearly defined functions which, when fully operational, will include the promotion of public awareness relating to the exercise of decision-capacity by persons who may require assistance in exercising their capacity.
149. The ADMC provides for the investigation of complaints about decision-making supporters under the Act. Complaints can be made to the Director of the DSS under a number of grounds, including the suitability of the decision-making supporter, fraud and decisions not being in accordance with the will and preferences of the person. The Director of the DSS may also on his or her own initiative carry out an investigation and make an application to the court for a determination in regard to grounds laid out in the Act.
150. A National Office for Human Rights and Equality Policy is established within the HSE, providing advice and guidance on the ADMC to staff and management. Since 2016, it has delivered information and briefing sessions on the ADMC to staff across services, with over 10,000 staff attending. The office has developed an Explainer video to raise awareness of the Act. Three demonstration sites have been identified, looking at the implementation of the Act in their services.
151. Draft statutory Codes of Practice have been transferred to the Director of the DSS; 4 healthcare Codes of Practice, prepared by a HSE Working Group, and 11 non-healthcare Codes of Practice prepared by a NDA Working Group. The Codes will facilitate and support implementation of the Act once fully commenced. A number of provisions of the ADMC were commenced in October 2016 to advance the establishment of the DSS and the recruitment of its Director.

## **1. Property**

152. Ireland's equality legislation prohibits, with certain exceptions, discrimination across the nine grounds, including disability, in relation to selling a property, making or ending a tenancy agreement, providing accommodation or any related service or amenity, or ending the provision of accommodation.
153. In relation to the property rights of persons who have decision-making capacity difficulties, the ADMC provides a definition of "Property and Affairs" which includes custody, control and management of some or all of the relevant person's property or property rights; the sale, exchange, mortgaging, charging, gift or other disposition of the relevant person's property and the acquisition of property by the relevant person, or on his or her behalf. Under the ADMC, a person will be presumed to have the capacity to make property decisions. However, if they have decision-making capacity difficulties, the appropriate level of supports will be provided to enable the person, as far as possible, to make decisions in relation to their property.

## **2. Finance**

154. Ireland's equality legislation prohibits discrimination on the grounds of disability in the provision of goods and services and this includes banking, insurance, grants, loans, credit or financing services. Part 4 of the Disability Act outlaws use of genetic information for insurance, pensions or mortgages.

155. The Central Bank of Ireland has a Code of Practice applying to the regulated activities of regulated financial services providing entities aimed at ensuring that vulnerable people can gain access to mainstream financial services. The Central Bank is currently revising its Consumer Protection Code, which will reflect the ADMC provisions.<sup>25</sup>

156. Banking and Payments Federation Ireland, in collaboration with Safeguarding Ireland, launched a campaign to highlight the need for greater awareness of the real risks of financial abuse and calling on adults to plan ahead to safeguard their finances.<sup>26</sup>

## **Article 13 – Access to justice**

157. The Irish Government is working to ensure the right of persons with disabilities to have effective access to justice on an equal basis to others, without being excluded from legal proceedings.

### **1. Legal aid**

158. The Legal Aid Board (LAB) in Ireland provides Civil and Criminal Legal Aid to eligible persons in Ireland. Persons with disabilities have equal access to legal aid. The LAB has appointed an Access Officer in accordance with the Disability Act.

### **2. Courts**

159. The Courts Service has taken measures to improve the accessibility of the courts system for persons with disabilities. Hearing aids can be adapted to make use of induction loops which form part of the Service's public address system in the courtrooms of refurbished buildings. Refurbished courthouses have signage and directions at doorways and entrances and exits. Signage and contact details for court offices are in Braille. Wheelchair ramps are provided in many courthouses and wheelchair users can give evidence in many courthouses at the front of the court beside the witness box.

160. A large scale construction and refurbishment project of regional courthouses took place as part of the Government's Infrastructure and Capital Investment Plan 2016-2021. Completed courthouses are fully accessible and include additional facilities for vulnerable witnesses and victims of crime.

161. The Courts Service has an access officer to ensure that the organisation complies with all legislation in providing facilities to staff with disabilities and users. The Service is engaging in a major programme of improvements and enhancements of facilities, publications and website.

162. Every citizen aged 18 years or upwards whose name is on the electoral register in Ireland can be called for jury service. However, there are exceptions relating to persons who have certain disabilities and persons who are unable to read or have a long-term impairment.

163. Under the Irish Sign Language Act 2017, courts have a "duty to do all that is reasonable to ensure that any person competent in ISL and who cannot hear or understand English or Irish appearing in or giving evidence before it may be heard in that language". The Act will come into operation at the end of 2020.

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<sup>25</sup> More information here: <https://www.centralbank.ie/regulation/consumer-protection/consumer-protection-codes-regulations>

<sup>26</sup> More information here: <https://www.bpfi.ie/key-topics/safeguard-your-money/>

In 2020, the first deaf juror sat on a jury and took part in deliberations. She was assisted in her task by a number of ISL interpreters

164. Legislation is planned that will amend the Juries Act to provide that deaf persons who need the services of a sign language interpreter and persons with mental illness, subject to a functional capacity test, will be able to undertake jury duty.

165. Ahead of the ADMC's commencement, draft rules of court to facilitate the operation of the new capacity regime have been prepared by the Courts Service which is continuing to consult with the DSS Director and relevant court offices on the matter.

166. A Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences was published in 2020. It made recommendations to improve the experience of victims and vulnerable witnesses, including those with disabilities, who interact with the criminal justice system. The review is an expert examination of the criminal justice process around sexual offences, as it is encountered by victims and other vulnerable witnesses, at each point from initial reporting of an offence through to the end of any court proceedings. Implementing the recommendations outlined in the Report is a priority for the Government and an implementation plan was published by the Minister for Justice.

Actions in that implementation plan include:

- a) Providing all serving members of An Garda Síochána engaged in front line policing with specialist training for engaging with victims of sexual crime and vulnerable witnesses.
- b) Ensuring that consent is covered in ongoing sex and relationships education and support for disability service users.
- c) Further amendment of legislation to provide legal advice, in appropriate circumstances, to a parent, guardian or other responsible adult where the victim is a child or a person with a mental illness or intellectual disability.

167. The NDIS provides for a focus on the needs of persons with disabilities in enhancing access to justice. The NDA has prepared an advice paper on the use of intermediaries in respect of individuals with communication difficulties interacting with the criminal justice system.

### **3. Education and Training**

168. On appointment, Judges are provided with a bench book entitled *The Equal Treatment of Persons in Court*. This bench book contains the legal framework concerning disability and inter alia has sections on Persons with Disabilities, Children/Mental Disability, Physical Disability, Interpreters, practical arrangements to be considered in accommodating a person with disabilities etc.

169. The NDA has developed the document: *Assisting People with Autism: Guidance for Justice Professionals* in communicating with people with autism.<sup>27</sup> It provides background information about autism and aims to assist those working in the civil and criminal justice system on how to communicate with and support people who have autism.

170. An Garda Síochána (Ireland's National Police Service) launched the Garda Diversity and Integration Strategy 2019-2021.<sup>28</sup> It includes a wide range of elements including a working definition of hate crime and upskilling Gardaí to understand the needs of diverse communities and to respond to crimes perpetrated against these communities. The Strategy has a significant focus on enhancing the identification, reporting, investigation and prosecution of hate crimes. This includes the introduction of a working definition by An Garda Síochána in relation to its investigation and recording of hate crimes,

<sup>27</sup> <http://nda.ie/Publications/Justice-and-Safeguarding/Assisting-People-with-Autism-Guidance-for-Justice-Professionals/>

<sup>28</sup> <https://www.garda.ie/en/crime-prevention/community-engagement/community-engagement-offices/garda-national-diversity-integration-unit/diversity-and-integration-strategy-2019-2021-english-v1-1.pdf>

to the effect that a hate crime is “any criminal offence which is perceived by the victim or any other person to, in whole or in part, be motivated by hostility or prejudice, based on actual or perceived age, disability, race, colour, nationality, ethnicity, religion, sexual orientation or gender.”

## **Article 14 – Liberty and security of the person**

171. The ECHR Act, 2003 gives effect to the standards set out in the ECHR in national law, allowing these rights to be considered before the Irish Courts. Furthermore, Article 40.4.1 of the Constitution protects the right to liberty, stating that no citizen shall be deprived of his personal liberty save in accordance with law. No distinction is made on the grounds of disability.

172. As stated previously, Ireland has declared its understanding that the Convention allows for compulsory care or treatment of persons, including measures to treat mental disorders, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards.

173. To strengthen Ireland’s laws on liberty and security of the person, as they relate to persons with a disability, and to ensure that Ireland fully complies with Article 14, the Government has been working towards enacting specific legislation. A Bill on Protection of Liberty Safeguards is being progressed. It will provide procedural safeguards to ensure that people are not unlawfully deprived of their liberty in relevant facilities.

174. An approach has been developed to provide for situations in which an individual lacks the capacity to consent to their care arrangements (which amount to a deprivation of liberty) and will provide a legal basis for these care arrangements to be authorised by a body to be established within the health service. The authorisation will not cover any other decision to be made in relation to that individual e.g. financial decisions or consent to medical treatment. Work to refine the draft legislative proposals is ongoing.

### **1. Mental Health and Disability Settings**

175. Currently, everyone who is involuntarily admitted to an approved centre under the Mental Health Acts 2001-2018<sup>29</sup> has their case reviewed by what is known as a “mental health tribunal” within 21 days of the making of the admission or renewal order detaining the person. Tribunals are independent and the reviews are there to protect the person’s rights.

176. A comprehensive review of the Mental Health Act is underway. Draft heads of bill have been prepared, taking into account the recommendations of the Expert Group Review of the Act, the views of the Mental Health Commission (MHC) and Ireland’s obligations under the UNCRPD. It is hoped to finalise the draft bill in 2020. The review and amendment of the Act is a priority in the Programme for Government.

177. The MHC has published a Code of Practice on the use of Physical Restraint in Approved Centres under its remit.<sup>30</sup> It was most recently updated in 2010 following a review involving an extensive stakeholder consultation. The Code has accompanying information for service users, carers and advocates called: What You Need to Know About the Code of Practice on Physical Restraint.

178. The Health Information and Quality Authority (HIQA) has published Guidance for Designated Centres on the use of Restraint Procedures which apply to providers of residential services for adults and children with disabilities.<sup>31</sup> Restraints practices covered by the Guidance are physical, mechanical, chemical and environmental. The Guidance gives practice direction and states that restraints should be practice of last resort and that such procedures should only be used in strict adherence to international human rights

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<sup>29</sup> <https://revisedacts.lawreform.ie/eli/2001/act/25/revised/en/html>

<sup>30</sup> More information here:

[https://www.mhcirl.ie/for\\_H\\_Prof/codemha2001/Use\\_of\\_Physical\\_Restraint/Code\\_of\\_Practice\\_on\\_the\\_use\\_of\\_Physical\\_Restraint\\_in\\_Approved\\_Centres1.html](https://www.mhcirl.ie/for_H_Prof/codemha2001/Use_of_Physical_Restraint/Code_of_Practice_on_the_use_of_Physical_Restraint_in_Approved_Centres1.html)

<sup>31</sup> <https://www.hiqa.ie/sites/default/files/2017-01/Guidance-on-restraint-procedures.pdf>



instruments, national legislation, regulations, policy and evidence-based practice guidelines. HIQA inspections of Designated Centres review use of restraint procedures and safeguards in place in centres.

## **2. Criminal Justice**

179. The Prison Rules 2007 were developed in accordance with The Prisons Act, 2007 and regulate the operations of prisons in Ireland. They apply to all prisoners, including those with a disability. The Irish Prison Service (IPS) Healthcare Standards, 2011 guide the provision of health services to prisoners.

180. The rules state that prisoners, including those with a disability, are entitled to the provision of healthcare of a diagnostic, preventative, curative and rehabilitative nature to the same standard as that available to medical card holders. The Guidelines provide for a Health Assessment for all prisoners on reception into prison.

181. The IPS Psychology Service provides tailored assessment and intervention services for people in custody. There is a particular emphasis on mental health and personality disorder presentations, risk presentations, and trauma-informed approaches. Psychological interventions include both individual and group based approaches. In addition to working with prison operational staff, the IPS Psychology Service works closely with other multi-disciplinary team members to facilitate cohesive and streamlined care.

182. The National Forensic Mental Health Service (NFMHS) at the Central Mental Hospital (CMH) provides a Mental Health Prison-In Reach Service and Court Diversion Service to the IPS. This includes consultant forensic psychiatrists, non-consultant hospital doctors, community forensic psychiatric nurses and other staff. The NFMHS provides healthcare services to prisoners on the same basis of access and entitlement as in the wider community. The HSE supports the provision of extensive drug and alcohol programmes in prisons.

183. The Equal Status Acts and Public Sector Equality and Human Rights Duty apply to Irish prisons and prisoners with a disability have a right to reasonable accommodations under that legislation.

184. Oberstown Children Detention Campus provides facilities for all children detained by the Courts. The individual needs of young people are addressed through an individual placement plan. The framework to meet the young people's needs is based on the Children Act, 2001 and considers care, education, health and wellbeing, their offending behaviour and preparation for return to family and community life. Children in Oberstown have access to the Assessment, Consultation and Therapy Service (ACTS) a national service that provides clinical services to children. An in-reach psychiatric service is available and a psychiatrist and psychiatric nurse work as part of the multidisciplinary team.

185. In 2016 a major capital development project was completed on the Oberstown campus which now includes a 60 bed facility designed to meet the complex and individual needs of young people, including persons with physical and sensory disabilities. Access to, and within, buildings, toilet facilities, sensory requirements and personal space have been addressed in the new campus building development.

## **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

186. Persons with a disability, like all persons in Ireland, are protected from torture or cruel, inhuman or degrading treatment or punishment. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was given effect in Ireland by the Criminal Justice (United Nations Convention against Torture) Act 2000.

187. Ireland has ratified the Council of Europe's European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and received its latest visit from the Committee in 2019. This was the first visit to Ireland where the Committee visited residents with intellectual disabilities in social care settings.

188. A revised HSE National Consent Policy was published in 2019.<sup>32</sup> It provides one overarching policy on consent to guide staff. The need for consent, and the application of the general principles in this policy, extends to all interventions conducted by, or on behalf of, the HSE on service users in all locations. This includes social as well as healthcare interventions and applies to those receiving care and treatment in hospitals, in the community and in residential settings. Other than in exceptional circumstances, consent must be obtained before starting treatment or investigation, or providing personal or social care for a service user, or involving a service user in teaching and research. Exceptional circumstances relate primarily to emergency situations where it is necessary to intervene in the absence of consent in order to preserve the service user's life or health, or where the service user lacks capacity to give personal consent and a decision is made in his/her best interests.

189. Clinical trials are currently governed by the European Communities (Clinical Trials on Medicinal Products for Human Use) Regulations, 2004, SI No 190 of 2004. The Regulations transposed into Irish law the provisions of Council Directive 2001/20/EC. A new Clinical Trials Regulation (EU) No 536/2014 was adopted in 2014, and implementation is planned to take place in 2021. When implemented, Directive 2001/20/EC and associated laws will be repealed. The Regulation provides for Member States to maintain specific national measures to protect persons with disabilities and other vulnerable people who may be considered for participation in clinical trials.

190. Anyone who is a patient with a mental disorder in an approved centre under the Mental Health Act 2001 cannot take part in a clinical trial (section 70).

## **Article 16 – Freedom from exploitation, violence and abuse**

191. The Government has taken measures to protect persons with disabilities from all forms of exploitation, violence and abuse, including gender and child based violence and abuse. Ireland has robust legislation and policy to ensure the protection of persons with disabilities in health and social care settings as well as in the home. The NDIS sets out specific commitments to ensure the rights of persons with disabilities under Article 16.

192. In 2002, the Sexual Abuse and Violence in Ireland (SAVI) report was published. It included a chapter on the Sexual Abuse of People with Learning Disabilities. In 2019, the Government announced plans to undertake a second major national study on sexual violence in Ireland.

193. The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 prohibits the withholding of information on certain offences against children and vulnerable adults, including persons with a disability.

194. The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 provides a statutory basis for the vetting of persons carrying out relevant work with children or vulnerable persons, including persons with a disability.

195. The Law Reform Commission developed an Issues Paper on A Regulatory Framework for Adult Safeguarding.<sup>33</sup>

196. A national safeguarding policy for the health and social care sector is being developed and will apply to all public, voluntary, and private health and social care settings.

197. National Standards for Adult Safeguarding were launched in 2019.<sup>34</sup> They allow for a consistent approach to preventing and responding to harm by helping health and social care services to reduce the

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<sup>32</sup> More information here: <https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/consent/>

<sup>33</sup> More information here: <https://www.lawreform.ie/news/law-reform-commission-publishes-issues-paper-on-a-regulatory-framework-for-adult-safeguarding.874.html>

<sup>34</sup> <https://www.hiqa.ie/sites/default/files/2019-12/National-Standards-for-Adult-Safeguarding.pdf>

risk of harm, promoting people's rights, health and wellbeing, and by empowering people to protect themselves. They outline a way of working and support the development of a culture where safeguarding is embedded into practice.

198. As part of their statutory functions to monitor services, HIQA and the MHC inspect safeguarding adherence in the respective settings for which they have remit. Both publish their inspections of services on their websites and both may take enforcement actions if required.
199. The Safeguarding Vulnerable Persons at Risk of Abuse - National Policy and Procedures applies to all HSE and HSE funded social care services.<sup>35</sup> It outlines principles to promote the welfare of vulnerable people and to safeguard them from abuse. These include a requirement that all services must have a publicly declared "No Tolerance" approach to any form of abuse and must promote a culture which supports this ethos.
200. The HSE has developed a draft revised policy which envisages a major expansion in scope, so that the policy will apply across all HSE and HSE-funded healthcare services in addition to social care services.
201. The National Safeguarding Office has the core function of overseeing the implementation, monitoring, review and ongoing evaluation of the Safeguarding Policy. It also coordinates safeguarding training. Its Annual Reports provide statistics on safeguarding issues across services.
202. There are over 1,700 Designated Officers across the social care sector who have a responsibility for safeguarding in their services, supported by the development of a national adult safeguarding training programme. The 2018 Annual Report of the National Safeguarding Office recorded 17,784 attendances at safeguarding training, above the KPI target of 10,000.<sup>36</sup>
203. The HSE has appointed a confidential recipient who will receive and report concerns of abuse or neglect in complete confidence. The Confidential Recipient presents an annual report setting out numbers of calls and complaints received.
204. Safeguarding Ireland, a NGO, works to raise public understanding of safeguarding issues and has developed draft legislation in respect of establishing a regulatory framework for adult safeguarding.

## 1. Children

205. *Children First*: National Guidance for the Protection and Welfare of Children, 2017 (Children First) is a national policy document which assists people in identifying and reporting child abuse.<sup>37</sup> It sets out the steps that should be taken to ensure that the child or young person is protected from harm and the statutory responsibilities for mandated persons and organisations under the Children First Act, 2015. Children First specifically identifies the increased vulnerability of children with disabilities to abuse.
206. The HSE Children First National Office has launched a revised Child Protection and Welfare Policy that is applicable to all HSE and HSE-funded services and aligns with the requirements of the Children First Act and the principles of the Guidance. It incorporates policy for child protection and guidance for staff in safeguarding children. It requires staff to complete mandatory training in child protection and reporting obligations.<sup>38</sup>

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<sup>35</sup> <https://www.hse.ie/eng/services/publications/corporate/personsatriskofabuse.pdf>

<sup>36</sup> <https://www.hse.ie/eng/about/who/socialcare/safeguardingvulnerableadults/safeguarding%20report%202018.pdf>

<sup>37</sup> [https://www.tusla.ie/uploads/content/Children\\_First\\_National\\_Guidance\\_2017.pdf](https://www.tusla.ie/uploads/content/Children_First_National_Guidance_2017.pdf)

<sup>38</sup> More information here: <https://www.hse.ie/eng/services/list/2/primarycare/childrenfirst/hse-child-protection-and-welfare-policy/>

207. The Child Protection Procedures for Primary and Post-Primary Schools 2017 gives direction and guidance to school authorities and personnel in relation to meeting their statutory obligations under The Children First Act and Children First.<sup>39</sup> Under the Procedures all primary schools are required to fully implement the Stay Safe programme which plays a valuable role in helping children develop the skills necessary to enable them to recognise and resist abuse and potentially abusive situations.<sup>40</sup>

208. The Anti-Bullying Procedures for Primary and Post-Primary Schools set out the requirements on schools in relation to preventing and tackling school-based bullying behavior including identity based bullying.<sup>41</sup> Both the procedures and the Action Plan on Bullying specifically identify the vulnerability of pupils with a disability and were informed by the NDA submission Preventing School Bullying of Children with Special Educational Needs or Disability.<sup>42</sup>

## **Article 17 – Protecting the integrity of the person**

209. The Irish Courts have interpreted the Irish Constitution as including the right to bodily integrity and Ireland recognises the right of every person, including those with disabilities, to respect for his or her physical and mental integrity on an equal basis with others.

### **1. Medical Treatment**

210. The Medical Council of Ireland regulates medical doctors and gives direction to doctors on the capacity to consent.

211. The need for consent, and the application of the general principles in the HSE National Consent Policy, extends to all interventions conducted by or on behalf of the HSE on service users in all locations. It gives specific guidance on medical treatment where it is deemed that a lack of capacity to consent exists.

212. A separate National Consent Policy relates to consent for children and young people.

213. Both the Medical Council and HSE also provide guidance on seeking consent and situations where consent is not provided, or where it is withdrawn.

214. Currently, where a person is a Ward of Court and requires healthcare intervention for which written consent is required, the approval of the President of the High Court should be obtained. In emergency situations, the guidance is that necessary treatment may be administered in the service user's best interests.

215. The ADMC provides for a legislative framework in Ireland confirming the validity of Advance Healthcare Directives (AHD). This is based on the general legal principle that a person has a right to consent and to refuse medical treatment and this principle applies even if a person lacks decision-making capacity.

216. The HSE has developed a Person Centred Planning Framework aimed at putting people at the centre of the planning process.<sup>43</sup> This Framework has been progressed through a Demonstration project. An evaluation has been completed and a report finalised in 2020. The recommendations are being considered for implementation.

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<sup>39</sup> [https://www.education.ie/en/Schools-Colleges/Information/Child-Protection/child\\_protection\\_guidelines.pdf](https://www.education.ie/en/Schools-Colleges/Information/Child-Protection/child_protection_guidelines.pdf)

<sup>40</sup> More information here: [http://www.staysafe.ie/teachers\\_dlsen.htm](http://www.staysafe.ie/teachers_dlsen.htm)

<sup>41</sup> <https://www.education.ie/en/publications/policy-reports/anti-bullying-procedures-for-primary-and-post-primary-schools.pdf>

<sup>42</sup> <http://nda.ie/nda-files/Preventing-School-Bullying1.pdf>

<sup>43</sup> <https://www.hse.ie/eng/services/list/4/disability/newdirections/person-centred%20planning%20framework%20report.pdf>

## **2. Psychiatric Treatment**

217. For the purposes of the Mental Health Act, consent means consent in writing, obtained freely without threats or inducements, where the consultant psychiatrist certifies that a person is capable of understanding the nature, purpose and likely effects of the proposed treatment and the psychiatrist has given adequate information, in a form and a language that the person can understand, on the nature, purpose and likely effects of the proposed treatment. Under the Act, consent to treatment is required except where the consultant psychiatrist considers that the treatment is necessary to safeguard a person's life, to restore their health, to alleviate their condition or to relieve their suffering, and they are incapable of giving such consent because of their mental disorder.
218. Psycho-surgery and Electro-convulsive therapy may not be performed without a person's consent, unless they are unable to give consent. Then, in the case of psycho-surgery, a Mental Health Tribunal must authorise the treatment. No cases of psycho-surgery have taken place under the Mental Health Acts, 2001-2018. Furthermore, in the temporary amendments to the Mental Health Acts, contained in the Emergency Measures in the Public Interest (COVID-19) Act, 2020, psycho-surgery has been explicitly banned for the duration of Part 5 of the 2020 Act. In the case of electro-convulsive therapy, if a person is unable to give their consent, the proposed programme of therapy must be approved by both the consultant psychiatrist responsible for the person's care and treatment, and also approved by another consultant psychiatrist.
219. If a person has been on medication for 3 months, their consultant must ask for consent to continue. If the consultant believes that a person does not understand the decision and a second consultant psychiatrist agrees, a person can be given the medication for up to 3 months at which time another review must take place.
220. To protect rights, there is an Inspector of Mental Health Services as required by the Mental Health Act. The Office of the Inspector carries out inspections of mental health facilities. The Inspector has various powers to enter and inspect premises, to obtain records, documentation and other information from the staff and to take evidence, relating to the inspection, under oath. The Inspector may be requested by the MHC to carry out an inquiry into any approved centre or any premises where mental health services are provided and the care and treatment provided to a specified person.

## **3. Sterilisation and forced abortion**

221. Ireland is required to legislate for forced abortion under Article 39 (a) of the Istanbul Convention. Ireland is compliant with the requirements of Article 39 as forced abortion is prohibited in this country under statute and the Constitution, which sets out rights to autonomy and bodily integrity. The Health (Regulation of Termination of Pregnancy) Act 2018 prohibits termination of pregnancy except where it is carried out in line with the requirements set out in the Act.

## **Article 18 – Liberty of movement and nationality**

222. Persons with disabilities in Ireland have the same right to Irish nationality as other persons. The law governing citizenship is set out in the Irish Nationality and Citizenship Act, 1956 as amended and other relevant Regulations.
223. Persons with disabilities are free to apply for and obtain a passport. There are special provisions where there are difficulties in getting a photograph of the person due to their disability.
224. All Irish persons, including those with a disability, have the right to freedom of movement, which can only be constrained in accordance with the law.
225. Irish immigration policy does not discriminate on the basis of disability and persons with disabilities can apply for the right to enter or remain in Ireland in the same ways as all other persons. An immigration

officer may refuse entry to a person for a number of reasons, which include if a person suffers from certain specified conditions, including profound mental disturbance, defined as “manifest conditions of psychotic disturbance with agitation, delirium, hallucinations or confusion”. Any person refused entry to Ireland must be provided a reason in writing.

226. It is the law in Ireland that all births, including those of children with a disability, must be registered within three months of birth. All children must be registered with their name.

## **Article 19 – Living independently and being included in the community**

227. Ireland recognises the equal right of all persons with disabilities to live in the community. Disability strategy and policy in Ireland has a strong focus on the independence and inclusion of persons with a disability in their community, including in the choices that they have in respect of independent living. A significant number of actions committed to under the NDIS address the provisions of Article 19.

### **1. Enabling Independent Living**

228. In 2011 the Time to Move on from Congregated Settings – a Strategy for Community Inclusion was published.<sup>44</sup> It sets out a vision for community living for all persons with a disability. Under the Strategy, people are being enabled to move from congregated settings to their own homes in the community with the support they need. The Strategy is focused on enabling people to ‘live ordinary lives in ordinary places’ and that all housing arrangements for people moving from congregated settings should be in ordinary neighbourhoods in the community, with individualised supports designed to meet individual needs and wishes.

229. Challenges exist in the implementation of Time to Move On, including delays in the process, sourcing additional funding schemes and the increasing costs of properties. Despite these challenges, in 2019, 118 (out of a target of 160) persons were facilitated to move into the community. The number of people in congregated settings has reduced by 2146 since the strategy was introduced. Progress on decongregation is tracked in HSE Annual Progress Reports.

230. The NDA has evaluated the outcomes and costs of new or emerging models of service in the disability sector in its Moving In, Moving On study. The study consisted of 517 interviews with persons with disabilities. Interviews in Phase 1 were conducted with 91 participants, pre and post transition from congregated settings to the community. 280 participants were recruited in Phase 2 of the study. These were persons with a disability who lived in the community and were in receipt of a range of disability services. Findings included that: residential care is associated with lower quality of life scores. This was especially true if the person is in a congregated setting. Smaller settings lead to better quality of life scores.

231. Establishing the costs of different models of service was challenging as there is not a standardised costing methodology or common accounting framework. However there was a finding that older models of service are not necessarily cheaper than newer models.

232. The HSE Disability Capital Programme provides an allocation of €100 million spread over a number of years for the provision of housing to support people transitioning from the congregated settings.

233. The Government also published The National Housing Strategy for People with a Disability 2011 – 2016 (NHSPWD) and a National Implementation Framework.<sup>45</sup> These set out the framework for the delivery of housing for persons with a disability through mainstream housing options and were developed in

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<sup>44</sup> <https://www.hse.ie/eng/services/list/4/disability/congregatedsettings/time-to-move-on-from-congregated-settings-%E2%80%93-a-strategy-for-community-inclusion.pdf>

<sup>45</sup> <https://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Housing/FileDownload%2C30737%2Cen.pdf>

conjunction with Time to Move On. The timeline for the strategy was extended in order to allow further opportunity for its outcomes to be delivered. A post 2020 strategy is currently being developed.

234. Housing and Disability Steering Groups, a key NHSPWD measure, have been established in all local authority areas. Their aim is to achieve a coordinated and integrated approach to meeting the housing needs of persons with a disability. Groups prepare a Strategic Plan for their areas to develop specific local strategies to meet identified and emerging need. These Plans, along with the annual Summary of Social Housing Assessments, will allow local authorities to plan more strategically for the housing needs of persons with disabilities and will support the delivery of accommodation using all appropriate housing supply mechanisms.
235. Resources have been developed to support persons with a disability successfully to move into the community, namely:
- (a) The Community Living Transition Planning Toolkit guides service providers through the process of supporting people to develop their plan to move into the community. It equips service providers with an understanding of what is required to support people to plan their transition;
  - (b) Supporting People with Disabilities to Access Appropriate Housing in the Community: A Guidance Document provides information for service providers on the mechanisms and funding options available to secure homes for people. It provides an overview of the approaches which service providers can consider to determine the most appropriate options for an individual;
  - (c) Making A Home: A Practical Guide to Creating a Home and Moving to the Community is a resource for service providers and stakeholders supporting people to move from congregated settings to homes in the community. It maps the practical steps that may need to be navigated from the time that a home is selected to the person's move into it. Resources for families and residents have also been developed, including briefing notes/videos and newsletters;
  - (d) NDA/CEUD published Universal Design Guidelines for Homes in Ireland. The Home Design Guidelines are informed by research, a literature review of national and international best practice and guidance and a consultation process with key stakeholders.
236. The Capital Assistance Scheme (CAS) provides essential funding to Approved Housing Bodies for the provision of accommodation for persons with specific categories of housing need, including persons with a disability. Government also offers financial support to Approved Housing Bodies in the form of a long term loan under the Capital Advance Leasing Facility to assist with the financing of the construction or acquisition of units that will be provided for social housing use.
237. The Housing Adaptation Grants for Older People and People with a Disability are for private home owners and are 80% funded by the exchequer, with a 20% contribution from local authorities. There are three grant types available aimed at facilitating changes needed to make homes suitable for a person with a disability, or mental health difficulty, and, to enable people to remain living independently in their own homes. A new single application form is in plain English, certified by National Adult Literacy Association, for the scheme. The 'Housing Options for our Ageing Population' policy statement and Rebuilding Ireland initiative emphasise the commitment to streamlining the application process and ensuring that grants are more accessible to applicants.
238. The NDA developed a policy advice paper on Universal Design Homes, under Action 97 of the NDIS. The paper recommends ways of achieving Universal Design solutions for new housing so that new homes can be accessed and used by all persons, irrespective of size, age, ability or disability.<sup>46</sup>
239. NDA/CEUD published guidelines on Dementia Friendly Dwellings for People with Dementia, their Families and Carers, which support the Universal Design Homes for Ireland Guidelines and will inform

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<sup>46</sup> More information here: <http://universaldesign.ie/Built-Environment/Housing/>

national policy and be used by stakeholders. Dwellings built, or adapted in line with a Universal Design dementia friendly approach, will help people to remain living at home and in their community independently and safely.<sup>47</sup>

240. Assisting People with Autism: Guidance for Local Authority Housing Officers is an NDA document that provides information about autism and assists those working in housing-related areas of local authorities to understand autism so to support people applying for housing.<sup>48</sup>

## **2. Enabling and supporting community living**

241. Persons with disabilities are entitled to avail of the full range of community care services.

242. The relevant community care services, supported by General Medical Practitioners, may include a public health nurse, home help, personal assistance, psychological services, speech and language therapy, occupational therapy, social work services and physiotherapy. The HSE provides a range of specialist disability services, including adult day services, respite, specialised seating and AT services, gait analysis, orthopaedics, adult rehabilitation consultants, feeding, eating, drinking and swallowing services.

243. The Transforming Lives programme (2014), is a national collaborative effort to build better services for persons with disabilities. A priority is to continue to deliver on the strategic aims and recommendations of the significant work and research of the Value for Money and Policy Review of Disability Services (2012). The priority objective is to address the need for a better service model for persons with disabilities where greater flexibility, choice and control from the service user perspective is central. The focus is on developing individualised person-centred supports to enable people to participate to their full potential in economic and social life in the community and to be enabled to live ordinary lives in ordinary places.

244. A major reconfiguration of existing therapy resources for children with disabilities into multi-disciplinary geographically based teams, is occurring as part of the HSE National Programme on Progressing Disability Services for Children and Young People. These teams will provide for all children with disabilities to receive services where they live or where they go to school. Evidence to date from areas where this has been rolled out shows that implementation of this programme will also have a positive impact on waiting lists both for Assessments of Need and therapy provision. 80 Disability Network Team Leads are being appointed in order to facilitate reconfiguration of services in remaining areas.

245. New Directions is the overarching Transforming Lives policy document which sets out how, in the future, “day services” should be based on individualised outcome-focused supports to allow adults using those services to live a life of their choosing in accordance with their own wishes, needs and aspirations.<sup>49</sup> Funding is available for the delivery of day services and rehabilitative training for adults with a disability, planning for over 16,000 adults accessing day services and over 2,200 attending Rehabilitative Training. The National Person-Centred Planning (PCP) Framework, developed to focus the delivery of services and supports on the person, was piloted in five provider organisations in 2019 and a workplan to inform national implementation has been developed. A Quality Outcomes Framework to underpin the quality assurance approach to the quality of services was developed. A Guidance document on the Effective Participation of People with Disabilities in Decision Making was developed to support the full participation by people and to offer guidance to support such participation.<sup>50</sup>

246. A key Government objective is to provide people with services and supports which will empower them to live independent lives and to have greater independence to choose services to support their needs. To achieve this aim, a Task Force on Personalised Budgets, which included persons with disabilities, was

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<sup>47</sup> More information here: <http://universaldesign.ie/Built-Environment/Housing/Dementia-Friendly-Dwellings/>

<sup>48</sup> More information here: <http://nda.ie/Publications/Environment-Housing/Housing-Publications/Assisting-People-with-Autism-Guidance-for-Local-Authority-Housing-Officers/>

<sup>49</sup> More information here: <https://www.hse.ie/eng/services/list/4/disability/newdirections/newdirections.html>

<sup>50</sup> <https://www.hse.ie/eng/services/publications/effective-participation-in-decision-making-final.pdf>



established. It reported in 2018, and Government committed to developing a demonstration project to test the recommendations of the report. A pilot programme initiated in 2019 and will run up to the end of 2021. The NDA will lead the independent evaluation of the project in terms of the experience of participants, learning from the administration process and the costs involved, to guide the development of a national programme.

## **Article 20 – Personal mobility**

247. Ireland is committed to providing effective measures to provide the best personal mobility options to people living with disabilities. Significant efforts have been made and are ongoing to improve personal mobility and to ensuring that the built environment is accessible.
248. The Disabled Drivers and Disabled Passengers Scheme provides a range of tax reliefs linked to the purchase and use of specially constructed or adapted vehicles by drivers and passengers with a disability.
249. Disabled Person's Parking Permits or Cards (also known as European Parking Cards or Disabled Parking Badge) are available to people living in Ireland with certain disabilities, whether they are drivers or passengers.
250. The Way2B initiative, developed by Trinity College Dublin, is advancing the roll out of a smartphone and smartwatch solution which allows carers to pre-programme set routes with turn-by-turn directions, which users can follow easily and independently.
251. The Government does not provide disability assist dogs. However, persons who are blind or visually impaired and are registered owners of a trained guide dog may avail of the Guide Dog Allowance tax relief. Case law on the Equal Status Acts establishes that persons with disabilities who use guide dogs must be reasonably accommodated by service providers.
252. Persons with disabilities may apply for VAT refunds on certain special aids and appliances. In some cases, people who pay for aids and appliances that are for the exclusive use of a person with a disability can also claim the refund. This scheme can also apply to adaptation and installation work being carried out to make a home more suitable for an older person or for a person with a disability.
253. The Health Act 1970 as amended makes provision for the HSE, or a body providing services on its behalf, to supply "medical or surgical appliances" to eligible persons, as well as provisions for ophthalmic and aural appliances and for equipment, materials or similar articles.
254. Aids and appliances are provided by the HSE to enable and support people to live at home, to facilitate hospital avoidance and to assist with early discharge from hospital. These products, which include beds, mattresses, wheelchairs, hoists, prostheses, dressings, and respiratory equipment, are prescribed by health professionals to eligible persons.
255. Assistive Technology (AT) provision for independent living and personal mobility purposes involves a combination of HSE and NGO services. Separate AT provision processes are available in the education and employment sectors. HSE community aids and appliances services are organised mainly at local level and are delivered through Occupational Therapy, Physiotherapy, Public Health Nursing, and Speech and Language Therapy services. Higher-tech AT is mainly provided by specialist NGOs. A 2015 report on Assistive Technology Usage and Unmet Need amongst People with Disabilities in Ireland found that there are high levels of usage of AT, and unmet need.<sup>51</sup>

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<sup>51</sup> More information here: <http://nda.ie/Publications/Disability-Supports/Assistive-Technology/Assistive-Technology-Usage-and-Unmet-Need-amongst-People-with-Disabilities-in-Ireland.html>

256. The HSE has established a working group on Digital and Assistive Technology to develop a strategy and framework to implement improved use of digital and AT in disability services in Ireland, addressing short, medium and longer term priorities.

257. Local authorities are involved in the Make Way Day initiative. Led by Disability Federation Ireland, an NGO, it is a campaign bringing the disability and wider community together to consider the needs of people with disabilities in public spaces.

## **Article 21 – Freedom of expression and opinion, and access to information**

258. The Irish Constitution sets out the right to freedom of expression, assembly and association (Article 40.6.1). The Government is fully committed to realising the rights of persons with a disability under Article 21. There is a commitment under the NDIS for action to support persons with disability fully to achieve active citizenship and engagement.

### **1. Accessible formats and technologies**

259. Part 3 of Disability Act places an obligation on public bodies to make their buildings and services accessible. Section 25 requires public bodies to make their public buildings accessible, as far as practicable, to persons with disabilities. Section 26 requires public bodies to integrate, where practical and appropriate, their services for persons with disabilities with those for other citizens. The Act makes provision for Access Officers within public bodies so that persons with disabilities can make requests for assistance to access services.

260. Under the Disability Act, communications by a public body to a person with a hearing or visual impairment must as far as practicable, be provided in an accessible format, following a request. Information provided electronically must, as far as practicable, be compatible with adaptive technology. Published information, relevant to persons with intellectual disabilities, must be made available in easy to read formats. Section 11 of the Freedom of Information Act 2014 provides for assistance to requesters with disabilities.

261. The WAD aims to ensure that the websites and mobile applications of public sector bodies are made more accessible, with particular regard to persons with disabilities. It places an obligation on public sector bodies to ensure that their website or mobile applications are accessible by making them perceivable, operable, understandable and robust, in line with the EN harmonised standard (EN 301 549 V2.1.2). WAD was transposed into Irish law in 2020.

### **2. Encouraging Mass Media**

262. BAI implements broadcasting codes and standards and supports Irish audiences to hold broadcasters to account. The BAI, in line with the Broadcasting Act 2009, develops Access Rules that determine the levels of subtitling, sign language and audio description that licensed broadcasters will be required to provide. The current rules run for the period 2019-2023. BAI also has a Code of Programme Standards to promote responsible broadcasting and guidelines specific to coverage of suicidal behavior, mental health and wellbeing and requires broadcasters to consult different user groups.

### **3. Recognising and promoting the use of sign languages**

263. The Irish Sign Language Act was signed into law in December 2017. ISL is now an official language of Ireland. Under the Act, public bodies will be required to prepare and implement ISL action plans, and provide free ISL interpretation to people using, or seeking access to statutory entitlements and services. The Act will come into effect in December 2020

264. The Sign Language Interpreting Service (SLIS) is the national Sign Language Interpreting Service.<sup>52</sup> The mission of SLIS is to ensure that deaf people can live as full and equal citizens and it seeks to achieve this by promoting, and advocating for the availability of quality interpretation services to deaf people and service providers in Ireland.

265. The NDIS commits to resourcing the provision of a quality assurance and registration scheme for sign language interpreters and to provide for on-going professional training and development. The SLIS is on track to deliver these commitments within the timeframe of the Strategy. Key achievements to-date include:

- a) Increased numbers of interpreters to deliver Irish Remote Interpreting Services (IRIS);
- b) Publishing a strategic framework report to investigate ways to increase the number of interpreters practicing in Ireland;
- c) Running pilot programmes with Revenue and An Garda Síochána in line with requirements to deliver on commitments under the ISL ACT Sec 6(1);
- d) Increased staffing to develop and promote the use of IRIS for the deaf community and public bodies;
- e) Development of a schedule of accredited Continuous Professional Development (CPD) for interpreters.

266. Lámh is a manual sign system to support communication that is used by children and adults with intellectual disabilities and communication needs in Ireland. The National Council for Special Education NCSE funds Lámh as an organisation to deliver training for schools and teachers in Lámh communication: The number of schools which participated in Lámh training in 2020 was 150, with 196 teachers attending.

## **Article 22 – Respect for privacy**

267. The Irish Constitution does not specifically state a right to privacy. However, the Irish courts have held that the right to privacy is one of the unenumerated rights which flows from Article 40.3 of the Constitution, which guarantees that the State will defend and vindicate the personal rights of the citizen. This applies to persons with a disability as to those without a disability. Article 8 of the ECHR also applies to all persons.

268. The Data Protection Act 2018 and the EU General Data Protection Regulation (GDPR) apply equally to all persons in Ireland.

269. Patients, including persons with disabilities, have a right to access their medical records in a number of different ways. In addition to Data Protection law, patients may request access to medical records under the Freedom of Information (FOI) Act and through discovery in the course of court proceedings. Under the FOI Act, a Freedom of Information body must give ‘reasonable assistance’ to a person with a disability, so to facilitate the exercise of their rights under the Act.

270. Doctors and medical personnel and health institutions have a duty to maintain patients' records in confidence, although there are some circumstances in which they may be obliged to give this information to third parties. In such cases, The Medical Council's Guide to Professional Conduct and Ethics for Registered Medical Practitioners sets out the ethical duty in this regard.

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<sup>52</sup> More information here: <https://slis.ie/>

271. HIQA has issued a Privacy Assessment Impact Toolkit specifically for the health and social care sector. HIQA's National Standards for Residential Services for Children and Adults with Disabilities include standards for the protection and respect of the privacy of service users. HIQA monitors adherence to privacy standards in residential disability services as part of its role in the monitoring, inspection and registration of designated centres for adults and children with a disability.

## **Article 23 – Respect for the home and the family**

272. The ECHR Act gives effect to the standards set out in the ECHR in national law. Article 8 concerns the right to respect for family life. The Irish Constitution also sets out a fundamental right to the protection of the family (Article 41).

### **1. Relationships**

273. The ADMC, once commenced, will repeal the Marriage of Lunatics Act 1811, under which any marriage entered into by a ward of court is automatically void.

274. The Criminal Law (Sexual Offences) Act 2017 repealed the previous law which made it an offence to have, or attempt to have sexual intercourse with a 'mentally impaired' person. The new law focuses on a person's capacity to make the decision to have sexual contact and less on the person's status as having a disability. The Act has removed legal barriers that existed to a person enjoying their full rights in respect of sexual relationships, the right to marry and have a family.

### **2. Family planning**

275. In the 2016 Census, 209,222 women with disabilities stated that they had children. 63.7% of disabled women are mothers, compared to 46.9% of non-disabled women. There were 118,040 single mothers with disabilities. 115,312 mothers with disabilities were married, including in same sex civil partnerships. 28,916 mothers with disabilities were separated and/or divorced and 66,318 were widowed.

276. An individual seeking to adopt a child, must first be assessed for eligibility and suitability. Any person, including persons with disabilities, who meet the required criteria can apply to be assessed for eligibility and suitability.

277. For an individual seeking to foster a child, an assessment for suitability is required. Persons with disabilities can become foster carers provided that, as part of the assessment, it is determined that their disability or medical condition does not prevent them from caring for a child.

278. The Health (Regulation of Termination of Pregnancy) Act 2018, permits termination of pregnancy to be carried out where there is a risk to the life or of serious harm to the health of the pregnant woman, in an emergency situation where such a risk is immediate, where there is a condition present which is likely to lead to the death of the foetus either before or within 28 days of birth, and without restriction up to 12 weeks of pregnancy.<sup>53</sup> The Act provides universal access to termination of pregnancy services for people who are ordinarily resident in the State. The My Options Programme provides free, non-judgmental, confidential information and counselling to people experiencing crisis pregnancy. The service is available by freephone helpline and online webchat and ISL translation are available.<sup>54</sup>

## **Supports for family and home life**

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<sup>53</sup> <http://www.irishstatutebook.ie/eli/2018/act/31/enacted/en/html>

<sup>54</sup> More information here: <https://www2.hse.ie/services/unplanned-pregnancy-support-services/my-options-freephone-line.html>

279. The National Carers' Strategy is the strategic framework for Government policy regarding carers for older people, children and adults with an illness or a disability.<sup>55</sup> The aim is to support people to live in dignity and independence in their own homes and communities for as long as possible. Since 2018, people in receipt of Carer's Allowance or Carer's Benefit (both full and part payment) are eligible to receive free GP care without the need for a financial assessment.
280. The cross-government strategy - First 5 - has an objective to ensure that babies and young children will have access to safe, high-quality, evidence-based integrated primary, preventative and specialist healthcare services. Children with a disability are specifically referenced. The strategy also commits to developing a national model of parenting services including for parenting children with additional needs.
281. Children with disabilities are entitled to the same services and family benefits as all other children. In addition, there are a number of specific supports available for families caring for a child with a disability. GPs provide free developmental examinations in the weeks following birth. Public health nurses monitor the development of babies in their first months and provide information and support. There is a range of early intervention services offering support from multidisciplinary teams for children with disabilities.
282. The Disability Act provides for the assessment of need (AON) of persons with disabilities and the drawing up of Service Statements for individuals. The purpose of the assessment is to determine the health and education needs arising from a child's disability and the services required. 100 additional posts were provided in 2019 to Children's Disability Services to address a backlog in access to these assessments. In addition, a new Standard Operating Procedure was introduced nationally in 2020 in order to streamline and improve the AON process. It is expected that the current reconfiguration of children's disability services into locally-based disability network teams will have a positive impact on waiting lists both for AON and therapy interventions.
283. A number of additional income supports are available to families caring for a child(ren) with a disability, including:
- (c) Carer's Benefit: a short-term payment to people who give up employment to care on a full-time basis for someone who requires full-time care and attention. At the end of 2019 there were over 3,177 recipients of Carer's Benefit;
  - (d) Carer's Allowance: a means-tested payment for people who are caring full-time for a person who need support because of disability or illness. At the end of 2019 there were 84,028 recipients of Carer's Allowance;
  - (e) DCA: a monthly payment for a child aged under 16 with a severe disability who requires ongoing care and attention;
  - (f) The annual Carer's Support Grant of €1,700 is available to all carers providing full-time care to an older person or a person with a disability regardless of their means or social insurance contributions. This award can be used for any purpose at the discretion of the carer and is not taxed. The grant is paid in respect of each person being cared for to take account of the additional cost of providing care and to recognise the particular challenges faced by carers. As part of Budget measures 2021 the rate of the grant will increase by €150 in June 2021.

### 3. Protections for children

284. Under the Child and Family Agency Act 2013, Tusla - the Child and Family Agency - has a statutory duty to promote the welfare of children who are not receiving adequate care and protection. When carrying out its statutory duty, Tusla must have regard to the principles that:

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<sup>55</sup> <https://assets.gov.ie/10945/d62cf66f0a8f442bb594bbe0b48ef6ad.pdf>

- (a) It is generally in the best interests of the child to be brought up in their own family;
- (b) Having regard to the rights and duties of the parents, the welfare of the child is the first and paramount consideration; and
- (c) As far as is practicable, the wishes of the child should be considered.

285. Tusla policy is to place children in a family-based setting with over 92% of children in foster care placements. One of its priorities is to provide safer, more reliable and effective services for children in care and to develop a range of placement options for children with additional needs.

## **Article 24 – Education**

286. Persons with disabilities in Ireland have equal rights of access to education. The Equality Acts prohibit discrimination against persons with a disability in the areas of admission, access, participation and expulsion and sanction. Ireland's anti-discrimination legislation protects teachers and other education staff with a disability.

287. The Education (Admission to Schools) Act, 2018 commenced in 2020.<sup>56</sup> It provides that schools must explicitly state in admission policies that they will not discriminate against an applicant on a number of grounds, including disability. The provisions of the Act also seek to ensure that 'soft barriers' do not exclude children, including by prohibiting schools from taking into account a student's academic ability, skills or aptitude in enrolment.

288. The Education Act, 1998 makes provision for the education of every person in the state, including any persons with disabilities, or other SEN, and to provide generally for primary, post primary, adult and continuing education and vocational education and training.

289. The primary piece of legislation dealing with education for persons with disabilities is the Education for Persons with Special Education Needs Act, 2004 (EPSEN).<sup>57</sup> EPSEN provides that a child with SEN should be educated in an inclusive environment with children who do not have SEN, unless it is not in the best interests of the child with SEN, or if it is inconsistent with the effective provision of education for the children with whom the child is to be educated.

290. Some EPSEN provisions remain to be implemented and the NCSE has published a number of policy advice papers which have aimed to implement some of the aspects of EPSEN on a non-statutory basis initially.

291. EPSEN defines the term 'special educational needs' as: "a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition".

292. EPSEN's provisions encompass the preparation of education plans by schools, assessment of children with SEN, the duties of schools, and the work of the NCSE.

293. The NCSE's statutory functions include the coordination of the provision of education supports to children with SEN, planning for the integration of students with SEN in mainstream education settings and allocating supports for students with disabilities in mainstream and special school settings in accordance with national policies. The NCSE is currently developing policy advice on special schools

<sup>56</sup> <http://www.irishstatutebook.ie/eli/2018/act/14/enacted/en/html>

<sup>57</sup> <http://www.irishstatutebook.ie/eli/2004/act/30/enacted/en/html>

and classes. A Progress Report, published in 2019, highlighted Ireland's obligations under Article 24.<sup>58</sup> Policy advice is to be finalised in 2020.

294. Government invests in the area of special education support and is committed to helping every child, particularly those with SEN, to fulfil their potential. In 2021, approximately €2 billion will be invested in SEN support, an increase of over 50% since 2011.

295. The Government has committed to consulting with stakeholders on how best to progress aspects of EPSSEN on a non-statutory basis. Consultations with education partners and stakeholders took place on the development of a new model for allocating special education teachers, prior to its introduction in 2017. Further consultations took place with education partners and stakeholders on a comprehensive review of the SNA scheme and will continue in relation to the implementation of recommendations in the report.

## Statistics

296. Persons with disabilities in Ireland finish school earlier than people without a disability and, as a result, have a lower level of educational attainment. However, Ireland is making progress in closing these gaps. Analysis of the Census data in 2011 and 2016 showed that the gap had narrowed by over 3%. Similarly, between 2011 and 2016 there was an increase in the number of persons with disabilities who have higher qualifications.

297. For the 2018/19 school year, 8,224 pupils, equating to approximately 0.88% of the pupil population attended special schools, while 8,384, or 0.9% of pupils, attended special classes in mainstream schools. The remaining pupils with SEN attended mainstream with additional support.

298. Mainstream schools now have discretion to provide additional teaching support to those pupils who require it from within their overall allocation for special education teaching support, based on the identified learning needs of those pupils. A formal diagnosis of a disability or SEN is not required. It is estimated that 18% of the mainstream pupil population, or 167,518 pupils received some form of additional teaching support, or additional support in mainstream schools.

299. In 2019, within the FET sector, 13,098 students self-reported as having a disability.

300. In higher education, the most recent data available relates to 2018/19 and indicates that 12,834 students with disabilities were participating in higher education in that year. The key statistics from the 2018 Progress Review of the National Plan for Equity of Access to Higher Education 2015-2021 confirm that considerable progress has been achieved on realising the National Access Plan targets in relation to access for students with disabilities.<sup>59</sup> The target of 8% set for the lifetime of the Plan had been exceeded by the Progress Review stage. Latest data (2017) show that the overall participation rate has increased to 10.5%, and targets have equally been surpassed in respect of the three categories of disability. There has been an 88% increase in participation by students with physical or mobility disabilities, while participation rates by deaf students or those hard of hearing has increased by 48%. Participation by students who are blind or have a vision impairment has increased by 53%. The progress review extended the lifetime of the plan to 2021 and set new targets where targets had been exceeded.

### 1. Early education

301. In 2010 Ireland introduced the universal, free pre-school ECCE programme. In 2018 the ECCE was expanded to two years for all children between 2 years and 8 months and 5 and a half years of age.

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<sup>58</sup> <https://ncse.ie/wp-content/uploads/2019/11/Progress-Report-Policy-Advice-on-Special-Schools-Classes-website-upload.pdf>

<sup>59</sup> More information here: <https://hea.ie/policy/access-policy/progress-review-of-the-national-access-plan-and-priorities-to-2021/>

302. In 2016 the AIM was established as part of the ECCE. AIM is a model of supports designed to ensure that children with disabilities can access the ECCE. Its goal is to empower providers to deliver an inclusive pre-school experience, ensuring that every eligible child can meaningfully participate in the ECCE and avail of the benefits of quality early years care and education. Since introduction, more than 5,000 children with disabilities have received targeted AIM supports to enable them to participate in mainstream pre-school and many other children are benefitting from universal AIM supports. In an independent review, 78% of parents reported that their child had benefited and 76% of services indicated that AIM had made the culture at their preschool more inclusive.<sup>60</sup> The budget for the AIM programme has been increased under Budget 2020, from €33 million to €43 million per year.

303. A core element of AIM is the Diversity, Equality and Inclusion Charter and Guidelines for Early Childhood Care and Education, published in 2016. They aim to support and empower all those working in the early childhood care and education to explore, understand and develop practices that embrace diversity, equality and inclusion and to create an inclusive culture where all children can flourish and realise their potential.

304. First 5 contains a commitment to improving transitions for all children entering primary school. The strategy commits to providing continued funding and support for two full years of the ECCE, to undertake a review of the programme and over the lifetime of the strategy, to introduce a universal legal entitlement to pre-school.

305. The NDA/CEUD worked with the Department of Children and Youth Affairs in 2019 to produce Universal Design Guidelines for Early Learning and Care Settings. These guidelines set out the key Universal Design considerations and guidance for Early Learning and Care settings in Ireland.<sup>61</sup>

## **2. Supporting school access**

306. Education is compulsory from the ages of six to sixteen, or until students have completed three years of second-level education. Education for children with SEN may be provided in mainstream classes in mainstream schools, in special classes in mainstream schools, or in special schools.

307. A number of grants and schemes are available to support access to school for students with a disability:

- (a) The School Transport Scheme provides free school transport to children with diagnosed disabilities who meet the criteria. An application can also be made for an escort to accompany the pupil on their school transport journey if their care and safety needs require such support. If a transport service is not available, a Special Transport Grant may be awarded. In the 2019/20 school year, over 120,000 children, including over 14,200 children with SEN, were transported to primary and post-primary schools throughout the country at a cost of over €219m in 2019 - of which 50% related to children with SEN;
- (b) The Assistive Technology Grant is provided to schools towards the cost of computers and specialist equipment required for educational purposes;
- (c) Funding is provided for specially trained visiting teachers for children who are deaf/hard of hearing or blind/visually impaired. Visiting teachers can refer children for assessment of low-vision aids and train the children in their use. They help children to develop tactile and sensory skills and give advice on self-help and other skills needed for independent living. They provide support in the development of pre-Braille skills, where necessary, and give instruction in mobility where appropriate. Teachers can refer the child for further mobility instruction where required;

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<sup>60</sup> <https://aim.gov.ie/wp-content/uploads/2019/10/aim-end-of-year-one-review.pdf>

<sup>61</sup> More information here: <https://aim.gov.ie/universal-design-guidelines-for-elc-settings/>



- (d) A Typing Tuition Scheme is available to visually impaired pupils on the recommendation of the Visiting Teacher;
  - (e) The ISL scheme is made available to provide funding for a weekly tuition service whereby a tutor visits the home of a deaf/hard of hearing pre-school child or school-going pupil to provide training in ISL for the child and their family;
308. The scheme of Reasonable Accommodations at the State Examinations facilitates access to the certificate examinations by candidates who would have difficulty in accessing the examination or communicating with an examiner because of a physical, visual, hearing and/or learning difficulty.
309. The NCSE offers support for schools and parents through its network of Special Educational Needs Organisers (SENO). A SENO can advise schools and parents on the facilities, services, and resources available to assist children with SEN.
310. Pupils with SEN can be supported in school by Special Needs Assistants (SNAs). SNAs play an important role in assisting teachers to support students with SEN who have additional care needs. SNAs usually support a number of students with additional care needs in the school. There were over 16,000 SNAs supporting over 39,000 pupils in the 2019 school year. This will increase to 18,014 in 2021, an increase of 70% since 2011. A new National Training Programme for SNAs will begin in 2021. In total, there are 3,500 places available on the programme over the next four years. The need for SNA training was identified by the NCSE in its recent review of the SNA scheme.
311. Schools are required to put in place Personal Pupil Plans, including a care plan for all pupils availing of SNA support. Plans must be linked to the individualised planning in place for each student and specifically refer to their identified care needs. The plan must focus on the pro-active development of students' independence skills and set out the programmes and strategies that are being used to meet the child's needs.
312. The National Educational Psychological Service (NEPS) through the provision of school-based psychological services, supports the wellbeing, academic, social and emotional development of children in primary and post-primary schools, with particular regard to students with SEN.
313. Children with more severe levels of disability may require placement in a special school or special class attached to a mainstream primary school. Each such facility operates at a specially reduced pupil teacher ratio. In the 2019/20 school year there were 1621 special classes in mainstream school supporting approximately 8500 pupils. There are 124 special schools, with 1% of children with SEN enrolled in those schools.
314. The Education (Admission to Schools) Act provides powers to compel a school to designate a school place for a pupil with SEN, where the NCSE has identified a need for such provision.
315. A new School Inclusion Model (SIM) pilot programme was introduced to provide the right support at the right time, by personnel with relevant qualifications and skills. It will support students with additional care needs with broadened supports, better tailored to individual needs which will lead to better education and life outcomes. These supports include teaching and care supports, speech and language and occupational therapies, nursing for the children with the most complex needs, training for SNAs, and behavioural and psychological support.
316. Budget 2021 provided for an additional 990 additional SNAs for allocation to schools to support the introduction of the new frontloading of SNAs into schools, a key feature of the SIM, as well as facilitating the opening of new special classes and new places in special schools. Budget 2021 contains funding for the expansion of the SIM pilot with supports made available to more schools from September 2021.

317. All mainstream schools receive additional allocations of Special Education Teaching (SET) support based on the profiled needs of schools. The SET allocation model provides a single unified allocation for special educational support teaching needs to schools, based on a school's educational profile. It allows schools to provide additional teaching support for all pupils who require such support and to deploy resources based on each pupil's individual learning needs. It gives flexibility to schools in deploying their resources. They can take account of the actual learning needs of pupils rather than being guided primarily by a particular diagnosis of disability. The Department of Education has published guidelines for schools as to how they should deploy their resources.<sup>62</sup>

318. 13,620 Special Education Teaching posts are currently available for allocation to mainstream primary and post primary schools. Budget 2021 provided for an additional 145 special education teachers which brings the total provision to 13,765. The number of SETs available has increased by over 40% since 2011.

### **3. Teacher training**

319. Ireland is committed to training teachers who provide quality, inclusive teaching. Teachers undertake professional learning in a range of pedagogical, curricular and educational areas. CPD is provided for teachers to support the inclusion of students with SEN in mainstream classrooms. All initial teacher education in Ireland that leads to registration must have professional accreditation from the Teaching Council whose role is to promote and regulate professional standards in teaching.

320. A new ISL Bachelor of Education programme (primary school teaching) for deaf students was established in 2019.<sup>63</sup>

321. The Programme for Access to Higher Education (PATH) was made available to support initial teacher education providers to develop access programmes and routes to teacher education for currently under-represented groups in initial teacher education, including students with disabilities.

### **4. Tertiary and Further Education**

322. Ireland is committed to providing access and equity to learners with a disability in higher and further education and training.

323. The Disability Access Route to Education (DARE) is a third level alternative admissions scheme. DARE offers places under reduced criteria to school leavers who, as a result of having a disability, have experienced additional educational challenges. In 2019, 1,723 DARE applicants received a reduced criteria offer. 2019 also saw a 20% increase in the number of reduced criteria DARE offers and a 13% increase in the number of reduced criteria DARE acceptances.

324. The Fund for Students with Disabilities assists further and higher education institutions in ensuring that students with disabilities have the necessary assistance and equipment to enable them to access, fully participate in and complete their courses. It also supports students from Ireland to study on approved courses in Northern Ireland, the UK and other EU countries.

325. Ireland's National Plan for Equity of Access to Higher Education 2015-2019 set an overall target for entry into higher education by persons with disabilities and has led to increases in participation rates. The proportion of students with disabilities in higher education institutions increased from 5.7% in the 2016/17 academic year to 6.2% in the 2017/2018 academic year.

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<sup>62</sup> <https://www.education.ie/en/The-Education-System/Special-Education/Guidelines-for-Primary-Schools-Supporting-Pupils-with-Special-Educational-Needs-in-Mainstream-Schools.pdf>

<sup>63</sup> More information here: <https://www.education.ie/en/Press-Events/Press-Releases/2019-press-releases/PR19-01-24.html>

326. Within the FET sector, Specialist Training Providers deliver a range of flexible training programmes for persons with disabilities. Courses are generally one to two years in duration and lead to accreditation. Course examples include ICT and vocational multi-skills. Specialist vocational training can provide a number of enhanced services for its learners including additional training duration, adapted equipment, transport arrangements, and enhanced programme content as required. An enhanced trainer-learner ratio is available on these programmes. In 2019, 3,705 students participated in Specialist Training Provision (STP). SOLAS is currently conducting an independent evaluation of STP in order to examine the quality, effectiveness, on-going relevance and value of the vocational training that is currently delivered by specialist training providers and to propose recommendations for future practice.

## **Article 25 – Health**

327. One of the themes of the NDIS focuses government action on Health and Wellbeing for persons with disabilities, in order to ensure that they are supported to achieve and maintain the best possible physical, mental and emotional well-being.

328. Some persons with disabilities have impairments that are associated with a health condition. In addition, persons with disabilities are older on average than the rest of the population, as prevalence of impairment rises with age. These two factors are associated with increased vulnerability to ill-health. The Irish Health Survey 2015 indicated that 38% of persons with disabilities described their health as ‘very good’ or ‘good’, compared to 89% of non-disabled people in these two categories.

### **1. Improving health outcomes**

329. The HSE funds the public system of primary, specialist and hospital care provided to the general public, including persons with disabilities. It also provides a range of specialist services for persons with disabilities, including assessment, habilitation, rehabilitation and specialist multi-disciplinary therapies, community support services, respite, and residential care. These are delivered by the HSE and by non-profit and private sector bodies, funded through service arrangements.

330. The HSE established a cross-departmental Autism Assessment and Pathways Project which seeks to develop an operational model for a tiered approach to autism assessment, to identify clear and functioning pathways to services and develop training materials to support the agreed standardised assessment approach. It informs service providers and the public about the experience of people with autism. The project board has a person with autism on the board and a parent of a person with autism.

331. Sláintecare is the ten-year programme to transform health and social care services.<sup>64</sup> It is the roadmap for building a world-class health and social care service in Ireland. Its focus is on delivery of healthcare in the community, as close to the source of demand as possible. Work has begun to scope a Social Care Strategy that will address the challenges involved in supporting a growing population of persons with disabilities to live with independence and dignity.

332. Healthy Ireland – A Framework for Improved Health and Wellbeing 2013–2025 is the national framework for action to improve health and wellbeing in Ireland.<sup>65</sup> It takes a whole-of-government and whole-of-society approach to improving health, wellbeing and quality of people’s lives.

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<sup>64</sup> More information here: <https://www.gov.ie/en/campaigns/slaintecare-implementation-strategy/>

<sup>65</sup> <https://www.hse.ie/eng/services/publications/corporate/hienglish.pdf>

333. Sharing the Vision – a Mental Health Policy for Everyone 2020-2030 envisages a mental health system that addresses the needs of population through a focus on the requirements of the individual.<sup>66</sup> It is action-oriented and outcome-focussed, placing the individual at the centre of service delivery.
334. The National Sexual Health Strategy 2015–2020 aims to improve sexual health and wellbeing and reduce negative sexual health outcomes. It identifies persons with an intellectual disability as one of a number of vulnerable groups that require targeted support to improve their sexual health and wellbeing.<sup>67</sup>
335. In 2019 the Government published Smile agus Sláinte – the National Oral Health Policy.<sup>68</sup> It recognises that the current system has left gaps in oral health care, in particular for persons with disabilities. The policy takes account of the mainstreaming agenda for persons with disabilities but also their extra needs, specifically referring to people who have profound disabilities, or are non-ambulatory.
336. A Healthy Weight for Ireland is Ireland’s Obesity Policy and Action Plan for the period 2016-2025.<sup>69</sup> The Strategy notes that persons with disabilities are one of the groups most at risk of obesity. It also notes that obesity can impact on mental health.
337. HIQA has developed the Guidance on a Human Rights-based Approach in Health and Social Care Service document which provides guidance for health and social care services in Ireland on implementing a human rights-based approach to care and support for adults.<sup>70</sup>
338. The Second National Intercultural Health Strategy 2018-2023 provides a comprehensive and integrated approach to addressing the unique, health and support needs experienced by the increasing numbers of HSE service users from diverse ethnic and cultural backgrounds.<sup>71</sup> One strategic objective is to address health inequalities relevant to service users in relation to disability and mental health.
339. Ireland has a National Physical Activity Plan aimed at increasing physical activity levels across the whole population, including persons with a disability.<sup>72</sup> The plan identifies specific actions in the area of disability, including the development of guidelines, support materials and referral pathways to promote physical activity for organisations providing mental health services and disability services.

## 2. Early detection and intervention programmes

340. Public health nurses check a child’s development against a series of "norms". The checks are generally carried out at 9 months, 18 months and 2 years and are free of charge.
341. Universal screening of 2 year olds for developmental delay during Public Health Nurse visits is to be introduced. This will ensure that every child who attends for the 21-24 month contact will have their development assessed and monitored in a standardised way, as per best practice, through the introduction of a new standardized tool. This will facilitate early identification and onward referral of children who

<sup>66</sup> More information here: <https://www.gov.ie/en/publication/2e46f-sharing-the-vision-a-mental-health-policy-for-everyone/>

<sup>67</sup> More information here: <https://www.gov.ie/en/policy-information/8feae9-national-sexual-health-strategy/?referrer=http://www.health.gov.ie/healthy-ireland/national-sexual-health-strategy-2015-2020/>

<sup>68</sup> More information here: <https://www.gov.ie/en/publication/90687b-smile-agus-slainte-national-oral-health-policy/>

<sup>69</sup> More information here: <https://www.gov.ie/en/publication/c778a9-a-healthy-weight-for-ireland-obesity-policy-and-action-plan-2016-202/>

<sup>70</sup> <https://www.hiqa.ie/reports-and-publications/guide/guidance-human-rights-based-approach-health-and-social-care-services>

<sup>71</sup> <https://www.hse.ie/eng/about/who/primarycare/socialinclusion/intercultural-health/intercultural-health-strategy.pdf>

<sup>72</sup> More information here: <https://www.gov.ie/en/policy-information/b60202-national-physical-activity/>

may be at risk of developmental delay, ensuring early therapeutic intervention where indicated, which will lead to better outcomes for children.

342. The Disability Act provides for the AoN of persons with disabilities and the drawing up of Service Statements for individuals.

343. Ireland has a National Screening Service (NSS) that encompasses the national breast, cervical, bowel and diabetic retina screening programmes. The Service has a Screening Promotion Team that aims to enable the entire eligible population, including persons with a disability, to participate in these programmes. This is achieved by developing and implementing effective screening promotion strategies in collaboration with community partners and health professionals. In partnership with women with intellectual disabilities, the NSS has developed easy read and accessible information on the Breast Check service.

### **3. Preventing further harm or disability**

344. The National Positive Ageing Strategy (NPAS), first published in 2013, is a catalyst for action and innovation to promote the health, wellbeing and quality of life of people as they age by focusing attention on issues relevant to older people across the policy development and service delivery process. One of the national goals of the strategy commits to supporting people as they age to maintain, improve or manage their physical and mental health and wellbeing, with one of the objectives to prevent and reduce disability, chronic disease and premature mortality as people age.

345. The first national positive ageing indicators report was published in 2016 to monitor trends and changes in the participation levels, health, and security of older people in Ireland aligned with NPAS goals. A second positive ageing indicators report was launched in 2019 and included indicators for people ageing with intellectual disabilities.<sup>73</sup>

346. The Irish National Dementia Strategy was launched in 2014.<sup>74</sup> Underpinned by the principles of personhood and citizenship, it aims to improve service and supports so that people with dementia can live well for as long as possible in their own communities. A National Dementia Office drives the Strategy's implementation.

### **4. Accessible and equal health care**

347. Ireland's equality legislation prohibits discrimination in the provision of health services and public health services are required to comply with the Public Sector Equality and Human Rights Duty.

348. The National Guidelines on Accessible Health and Social Care Services were created to give effect to obligations under the Disability Act.<sup>75</sup> The guidelines detail statutory obligations in relation to the provision of accessible services and give practical guidance to staff on providing accessible services to patients and clients with disabilities. Over 200 health care workers have been trained across the HSE to support access to services.

349. The Government has funded the establishment of an independent Patient Advocacy Service in 2019. It offers a confidential helpline with experienced patient advocates on hand to provide information and support to patients who want to make a formal complaint about the care that they experienced in a public hospital.

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<sup>73</sup> More information here: <https://www.gov.ie/en/publication/0e84e9-positive-ageing-indicators-2018/>

<sup>74</sup> More information here: <https://www.gov.ie/en/publication/62d6a5-national-dementia-strategy/?referrer=http://www.health.gov.ie/wp-content/uploads/2014/12/30115-National-Dementia-Strategy-Eng.pdf>

<sup>75</sup> <https://www.hse.ie/eng/services/yourhealthservice/access/natguideaccessibleservices/natguideaccessibleservices.pdf>

350. Private health insurance providers must apply an Open Enrolment principle and must accept anyone who wishes to join, subject to any applicable waiting periods before cover takes effect, regardless of age, sex or health status, although restrictions on cover may apply.
351. The Health Insurance Authority is the independent statutory regulator for the private health insurance market. Complaints about private health insurance can be made to the Financial Services and Pensions Ombudsman.
352. HSE National Policy on Access to Services for Children and Young People with Disability or Developmental Delay is being rolled out under a programme to drive equity of access to health services based on each child's individual need, not on diagnosis.

## **5. Women and girls**

353. The National Strategy for Women and Girls contains a formal commitment to the development of a Women's Health Action Plan under Objective Two: Advance the Physical and Mental Health and Wellbeing of Women and Girls.
354. The National Maternity Strategy outlines the need to ensure that antenatal care is accessible to persons with disabilities and that antenatal education focuses in particular on women with disabilities.<sup>76</sup>
355. A Women's Health Taskforce was established in 2019 to improve women's health outcomes and experiences of healthcare.

## **Article 26 – Habilitation and rehabilitation**

356. Ireland is committed to putting in place structures to enable persons with a disability to attain, maintain and regain lives that are as independent as possible. Actions are being taken in the knowledge that the level and ease of access to supports lead to better outcomes and may reduce the barriers caused by a disability.

### **1. Health**

357. The National Strategy & Policy for the Provision of Neuro-Rehabilitation Services in Ireland outlines a framework for the provision of neuro-rehabilitation services.<sup>77</sup> An Implementation Framework for the Strategy, covering 2019-2021, set out the implementation process. The Strategy commits to developing accessible services based on clinically assessed need. People presenting with neurological conditions, including acquired brain injury, are included within the recommended scope for local specialist inpatient neuro-rehabilitation units.
358. A National Steering Group was established in 2017 as a governance structure to advance implementation of the Strategy and provides guidance and support to the local implementation teams developed in each health area.
359. In 2020 the National Clinical Programme for Disability was established, with a Clinical Lead and Clinical Programme Manager. The Lead is appointed on the basis of competency rather than professional background and is the first Clinical Programme in the HSE to make an appointment on this basis. The current Lead has a background in psychology. The programme is establishing its structure and functions and will have a strong rights-based ethos with participation by civil society in its primary decision making body, the Disability Advisory Group.

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<sup>76</sup> <https://assets.gov.ie/18835/ac61fd2b66164349a1547110d4b0003f.pdf>

<sup>77</sup> <https://www.hse.ie/eng/services/list/4/disability/neurorehabilitation/national-strategy-policy-for-the-provision-of-neuro-rehabilitation-services-in-ireland.pdf>

360. Construction of a new National Rehabilitation Hospital (NRH) has been undertaken and the hospital opened in 2020. Phase One of the development includes a fit for purpose ward accommodation block (120 single ensuite rooms) with integrated therapy spaces, a new Sports Hall, a Hydrotherapy Unit, a Temporary Concourse, as well as clinical and ancillary spaces. It will enhance the environment for patients and contribute towards achieving optimum outcomes from their Rehabilitation Programme. It will enable staff to deliver services in a new and innovative environment designed specifically around patients' needs.

## **2. Employment, training and social services**

361. Ireland is committed to providing workplace rehabilitation that supports and enables injured or sick employees to remain at, or return to the workplace. The HSE Rehabilitation of employees back to work after illness or injury - Policy and Procedure, gives a commitment to all sick/injured employees and provides guidelines to managers, employees, occupational health departments, rehabilitation professionals, HR departments and employee assistance services, on conducting workplace rehabilitation that assists employees affected by both work and non-work related injuries/illnesses to recover and perform duties for which they are employed.<sup>78</sup>

362. The Department of Health has responsibility for rehabilitative training (training that is not linked to the labour force) which is provided in accredited training centres. 2,193 training programme places are funded at any one time. They provide training and education on skills that enable individuals to access further supports, services or activities, for example, independent living skills to enable a person to take up employment, education, or to access a day service place. Places are open to persons who have acquired a disability, or those who would require additional supports before moving to a day service or further education setting on leaving school. The NCSE has published a leaflet for school leavers with information on rehabilitative training options.<sup>79</sup>

## **3. Assistive Technology**

363. Under the NDIS, Ireland has committed to developing proposals to address access to, and affordability of, necessary aids, appliances or assistive technologies required for everyday living for persons with disabilities whose entry, retention or return to work could be jeopardised due to being unable to afford these items. Plans will be developed to implement the most viable proposals. A Working Group on Assistive Technology has been established as part of the NDIS.

## **Article 27 – Work and employment**

364. The Irish Courts have interpreted the Irish Constitution as including the right to seek work and earn a livelihood. This right extends to all persons, including those with a disability.

365. While Ireland accepts the provisions of Article 27, it has entered a reservation that this acceptance is subject to the understanding that none of its obligations relating to equal treatment in employment and occupation shall apply to the admission into or service in any of the Defence Forces, An Garda Síochána, the Prison Service, the Fire Brigade, the Irish Coastguard, and the Ambulance Service.

## **1. Major Policy Initiatives**

366. The CES is the primary disability employment policy initiative in Ireland.<sup>80</sup> It is a cross-government approach, bringing together actions by Government Departments and Agencies to address the barriers and challenges to employment of persons with disabilities. The CES's strategic priorities are to build skills, capacity and independence, to provide bridges and supports into work, to make work pay, to

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<sup>78</sup> <https://www.hse.ie/eng/staff/resources/hrppg/rehabilitation-policy.pdf>

<sup>79</sup> <https://ncse.ie/wp-content/uploads/2018/04/NCSE-Post-School-Options.pdf>

<sup>80</sup> <https://assets.gov.ie/18906/1120bc6ad254489db9571c74e8572f44.pdf>

promote job retention and re-entry to work, to provide co-ordinated and seamless supports and to engage employers.

367. Implementation of the Strategy is undertaken through agreed action plans and is monitored by an Implementation Group with an independent chairperson. Currently the group is monitoring the CES Phase Two Action Plan which covers the period 2019 – 2021.<sup>81</sup>

368. Future Jobs Ireland is a whole-of-government framework which seeks to create a sustainable, resilient and future-oriented economy over the years to 2025.<sup>82</sup> One of the deliverables under the framework is to improve employment outcomes for persons with disabilities. The Government's forthcoming National Economic Plan, developed in a time of economic uncertainty, will seek to address structural issues which remain a feature of the labour market, such as bringing marginalised and vulnerable groups, including people with disabilities, into the labour force. This includes addressing issues such as childcare and promoting digitally enabled new modes of work to help foster participation in the labour force.

369. The Pathways to Work 2016-2020 strategy aims to enhance employment, education and training services for jobseekers, to continue with reforms to make work pay, and to increase engagement with employers to provide greater opportunities for those seeking work.<sup>83</sup> The strategy has specific actions on activation for persons with disabilities. Work is at an advanced stage on a successor strategy covering the period 2021-2025, which seeks to ensure that employment opportunities are available to all groups in society, including people with disabilities. Strategy publication is expected in early 2021.

370. The Roadmap for Social Inclusion, 2020–2025 (RSI) aims to reduce consistent poverty in Ireland and increase social inclusion for the most disadvantaged and has a stated ambition to: “Reduce consistent poverty to 2% or less and to make Ireland one of the most socially inclusive countries in the EU”.<sup>84</sup> The RSI has been designed around seven goals, each underpinned by specific commitments. Goal 5 seeks to support persons with disabilities and to improve their social inclusion by reducing poverty rates, improving employment outcomes and delivering better services.

371. The RSI commits to increasing the employment rate (for persons with disabilities) from 22.3% to 25% (Census 2021) and then to 33% (Census 2027).

## **2. Protections**

372. Ireland's equality legislation prohibits discrimination on the grounds of disability in a wide range of employment and employment-related areas, including recruitment and promotion, equal pay, working conditions, training or experience, dismissal and harassment including sexual harassment. As outlined under Article 5, employers are required to provide reasonable accommodations to employment candidates seeking access to employment and employees. A review by the NDA of 82 WRC and Labour Court decisions found that the WRC / Labour Court found in favour of the employee in 40% of cases relating to the failure to provide reasonable accommodation.

373. The WRC is a statutory body with the power to adjudicate on discrimination complaints, including those relating to disability, in the areas of redundancy, unfair dismissal, minimum notice, minimum wage, hours of work and leave.

374. There are no barriers to a person with a disability joining a trade union in Ireland.

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<sup>81</sup>[http://www.justice.ie/en/JELR/CES\\_Action\\_Plan\\_2019\\_to\\_2021.pdf/Files/CES\\_Action\\_Plan\\_2019\\_to\\_2021.pdf](http://www.justice.ie/en/JELR/CES_Action_Plan_2019_to_2021.pdf/Files/CES_Action_Plan_2019_to_2021.pdf)

<sup>82</sup> More information here: <https://dbei.gov.ie/en/What-We-Do/Business-Sectoral-Initiatives/Future-Jobs/>

<sup>83</sup> More information here: <https://www.gov.ie/en/publication/5b410e-pathways-to-work-2016/>

<sup>84</sup><https://www.gov.ie/pdf/?file=https://assets.gov.ie/46558/5cea3d74aa934fe780cc521ddbe477a7.pdf#page=1>



### 3. Affirmative and effective action measures

375. The Make Work Pay initiative was developed following an independently chaired interdepartmental group process.<sup>85</sup> Acknowledging that the fear of losing supports can pose a barrier preventing people with disabilities from accessing employment, the groups aim was to ensure that it pays to work, and that concerns with regards to secondary benefits were addressed. Specific actions included: legislative change (removal of the requirement that work undertaken must be ‘rehabilitative’ in nature), measures introduced in Budget 2021 to increase the earnings disregards for both the Disability Allowance and Blind Pension from €120 to €140 (currently the first €120 a week of earnings is disregarded in the means test for both payments, with a taper reduction thereafter between €120 (€140 in 2021) and €350 of 50%. A person on a long-term disability payment retains their entitlement to free travel for five years after taking up work, and now retains a medical card which provides free health services for those on an income up to €427 a week. An official “Ready Reckoner” assists to people to calculate their net financial position when taking up employment is also in place.
376. Part 5 of the Disability Act relates to the employment of persons with disabilities in the public sector. It sets an obligation that at least 3% of public sector employees should be persons with a disability. The Government has made a commitment to increase the percentage to 6% by 2024. The NDA monitors compliance with Part 5 of the Disability Act and publishes an annual report. The 2018 annual report indicated that the percentage of persons with a disability was 3.3% (7585 people). The NDA issues determinations of non-compliance for public bodies which do not achieve the target for two consecutive years.
377. In 2018, the Public Appointments Service (PAS) appointed a Diversity and Inclusion Officer. The role includes responsibility for ensuring the recruitment process in the public service is accessible to persons with disabilities and for developing a Diversity and Inclusion Strategy for the public service.
378. Innovative approaches to alternative forms of recruitment (e.g. internships, placements etc.) have been trialled in the public service. For example, the Oireachtas Work Learning internship programme which places persons with disabilities in internships in the Houses of the Oireachtas (Parliament).<sup>86</sup> Six of ten graduate interns have secured permanent employment in the civil service following these internships. Similar programmes are being explored in other areas of the public service.
379. The Government funds the Willing Able Mentoring (WAM) programme, which is a work placement programme that aims to promote access to the labour market for graduates with disabilities.<sup>87</sup> The programme provides graduates with disabilities with the opportunity to undertake 6 month, paid, mentored work placements with employers in the public and private sector. WAM has placed over 490 graduates, 47% in 32 Government Departments or Agencies in the Civil Service.
380. In 2018 the Department of Employment Affairs and Social Protection (DEASP), in a joint-funding arrangement with the EU / ESF, launched the Ability Programme, a pre-activation programme for young persons with disabilities.<sup>88</sup> The programme will support over 2,600 young people with disabilities aged between 15 – 29 years of age. The 27 projects funded have been designed to assist young people in their transition from school and other settings into further education and employment. This will be undertaken using person-centred, case management approaches that support participants to achieve their desired employment goals. Funding has also been provided for an evaluation of the programme to capture the learnings as an aid to any future programme design.

381. DEASP has funding in respect of the following:

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<sup>85</sup> More information here: <https://www.gov.ie/en/service/4c7204-make-work-pay/>

<sup>86</sup> More information here: <https://www.oireachtas.ie/en/press-centre/press-releases/20190925-first-oireachtas-work-learning-owl-participants-graduate-from-life-changing-programme/>

<sup>87</sup> More information here: <https://www.ahead.ie/wam>

<sup>88</sup> More information here: <https://www.gov.ie/en/service/d38c9e-apply-for-funding-under-the-ability-programme/>

- (a) People with disabilities initiatives aimed at supporting and improving employment opportunities, including self-employment;
- (b) Carers initiatives aimed at supporting and improving employment opportunities, including self-employment. A portion of funding under this measure has been ring-fenced to support and develop young carers.

382. The NDA has published the document, *Assisting People with Autism in Employment: Guidance for Line Managers and HR Professionals*.<sup>89</sup> The purpose is to assist those who are working as line managers, or in a HR role, to better understand autism and to recruit, work with and support staff with autism effectively in the workplace.

383. In 2019, 200 persons with disabilities were employed through the Community Services Programme which supports over 400 community organisations to provide local services through a social enterprise model.<sup>90</sup>

#### **4. Private sector and self-employment**

384. The CES includes an action to undertake an employer awareness campaign to develop a multi-faceted programme to promote awareness, among employers and other key stakeholders, of the opportunities represented by employees with disabilities. This programme will include capacity building for employers and positive action measures to support the recruitment and retention of people with disabilities in employment. As part of the campaign and building on a pilot initiative, the Government is funding the establishment of a service for employers, to be launched in 2020. It will provide expert peer source of advice and information on employing staff with disabilities, with a view to enhancing the confidence and competence of individual employers to employ, manage and retain staff with disabilities.

385. The Wage Subsidy Scheme (WSS) provides financial incentives to private sector employers to employ jobseekers with disabilities. Financial supports available through this scheme are structured under three separate strands and employers can benefit under more than one strand simultaneously.

- (a) Strand I: is a general subsidy for any perceived productivity shortfall in excess of 20% for a person with a disability, in comparison to a colleague without a disability;
- (b) Strand II: is payable when an employer employs three or more persons with disabilities who are supported by a WSS Strand I payment. Strand II is intended to cover the additional supervisory, management and other work based costs relating to these employees;
- (c) Strand III: enables employers who employ 25 or more workers with a disability on the Wage Subsidy Scheme to be eligible for a grant of up to €30,000 per year towards the expense of employing an Employment Assistance Officer to support these employees.

386. The Disability Awareness Support Scheme (a grant) provides funding for private sector employers to arrange disability awareness training for staff who work with a colleague who has a disability.

387. Enterprise Ireland (EI), the government organisation responsible for the development and growth of Irish enterprises in world markets, has completed a programme of research to inform how EI delivers supports

<sup>89</sup> <http://nda.ie/Publications/Employment/Employment-Publications/Assisting-People-with-Autism-Guidance-for-Line-Managers-HR-Professionals.pdf>

<sup>90</sup> More information here: <https://www.gov.ie/en/policy-information/487d0f-the-community-services-programme/>

and programmes for persons with disabilities, which has consulted widely with persons with disabilities considering and/or involved in self-employment.

388. The National Standards Authority of Ireland (NSAI) has an Excellence Through People certification scheme.<sup>91</sup> The Scheme recognises organisations that can show that their facilities facilitate access for employees, visitors and job applicants who have physical, intellectual and/or sensory disabilities.

## **5. Employment and vocational training and supports**

389. The Department of Social Protection (DSP) manages Ireland's Public Employment Service (PES) which is delivered through its network of Intreo centres (the public employment service) and through contracted providers delivering services, such as EmployAbility and Local Employment Services (LES) on its behalf.

390. Jobseekers, including jobseekers with disabilities, who seek support from their local Intreo centre, work with a case officer to access employment supports, including assistance and advice on employment, training and personal development opportunities. It is a focused service, based on individual needs, to support a jobseeker to enter or re-enter the workforce and access job vacancies via the national [www.jobsireland.ie](http://www.jobsireland.ie) website.

391. As part of the CES, DSP is committed to developing an 'early engagement' approach for people / jobseekers with disabilities. This will see the department actively engage with people with disabilities at the earliest opportunity, on a voluntary basis, to offer supports to assist them in achieving their employment ambitions. The introduction of an early engagement approach builds on recommendations in the Make Work Pay report 2017 and will initially focus on persons with disabilities aged between 18-22 years of age.

392. EmployAbility services exist to respond to the additional difficulties faced by some jobseekers with disabilities in securing and maintaining employment in the open labour market. DSP contracts 24 companies to deliver EmployAbility services in 31 locations to 3,000 case managed jobseekers with disabilities. The key objectives of the service are to:

- a) Conduct an Employment Needs Assessment with the jobseeker;
- b) Identify the type of employment that the job seeker wishes to pursue in the open labour market;
- c) Conduct a Vocational Profile for each participant and implement an Individual Employment Plan;
- d) Match the participant with suitable employment;
- e) Provide any necessary support and coaching in the workplace;
- f) Conducting a job review for those placed in employment; and
- g) Support progression to independent employment without Job Coach support.

393. Budget 2021 included a measure to introduce a training support grant for Jobseekers availing of EmployAbility. It will seek to fund quick access to short term training or other supports for jobseekers with disabilities. The grant will be up to €1,000 and will be available in 2021.

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<sup>91</sup> More information here: <https://www.n sai.ie/certification/management-systems/excellence-through-people/>

394. DSP contracts for the provision of LES with 22 companies in 26 locations. Providers deliver a case managed employment service for all Jobseekers (including those with disabilities) who avail of the services. Jobseekers work with a LES Mediator to develop a personal progression plan in order to access the full range of employment supports. Providers also deliver a recruitment and job matching service for employers. Jobseekers either engage directly with LES providers or are referred for employment service supports. LES Mediators may refer clients to an EmployAbility provider, if it is felt that the person would benefit from this more specialised service

395. A 2018 evaluation report, Steps into Work, found that improvements could be achieved in the health and employment outcomes of people with mental health issues through enhanced cooperation between mental health services and employment support services. Individual Placement and Support (IPS), also known as ‘evidence-based supported employment’, is a model of supported employment for people with mental health issues wishing to work. IPS Employment Specialists are integrated into mental health teams to support service users to return to work and they provide individualised, time-unlimited support to both the employer and the employee.

### **Reasonable Accommodations and supports**

396. The Employment Equality Acts legally oblige employers to take reasonable steps to accommodate the needs of both employees and job applicants with disabilities, except where to do so would impose a disproportionate burden. Denial of reasonable accommodation can be a freestanding cause of action under the Employment Equality Acts and amounts to discrimination on the disability ground.

397. DSP supports both jobseekers with disabilities and employers in the private sector to take appropriate measures to help a person with a disability to obtain or sustain employment under its Reasonable Accommodation Fund (RAF). The RAF consists of the following grants:

- (a) **Workplace Equipment Adaptation Grant:** This scheme provides employers with grants towards the cost of adapting premises or equipment to provide a more accessible workplace for persons with disabilities. The grant may also include funding for specialist training for AT if required.
- (b) **Employee Retention Grant:** This scheme assists employers to retain an employee who acquires an illness, condition or impairment which impacts on their ability to carry out their job. This scheme provides funding to:
  - i. identify accommodation or training or both, to enable the employee to stay in their current position;
  - ii. retrain the employee so that they can take up another position within the company.
- (c) **Job Interview Interpreter Grant:** This scheme provides funding to jobseekers who are deaf or hard of hearing or who have a speech impairment to allow for the hiring of an interpreter to attend job interviews with the jobseeker. Funding may also be provided for the costs of an interpreter during an induction period.
- (d) **Personal Reader Grant:** An employee who is blind or visually impaired and who needs assistance with job-related reading can apply for a grant to employ a personal reader.

398. The NDA published research on barriers to the provision of reasonable accommodations, as well as good practices in this area in 2019. This will inform development of practical guidance for employers in 2020.

## **Article 28 – Adequate standard of living and social protection**

399. Ireland has ratified the International Covenant on Economic, Social and Cultural Rights, Article 11 of which recognises the right of everyone to an adequate standard of living, including persons with a disability and their families.

400. Specific disability related payments include the following:

- (a) The Disability Allowance is a means tested allowance to persons with a disability. It is paid to eligible persons between 16 and 66 years of age. As of May 2020, 150,445 persons were availing of the support;
- (b) DCA is a monthly payment for a child aged under 16 with a severe disability who requires ongoing care and attention, substantially over and above the care and attention usually required by a child of the same age. It is not means tested. As of May 2020, 43,314 persons were availing of a DCA payment in respect of 47,834 children;
- (c) The Blind Pension (BP) is a means-tested payment paid to blind and visually impaired people. Recipients may also be eligible for an additional Blind Welfare Allowance.<sup>92</sup> As of May 2020, 1,120 persons were availing of the support. People in receipt of BP may also qualify for the Household Benefits Package (HHB). In addition they may qualify for the Fuel Allowance;
- (d) Illness Benefit (IB) is a short-term payment for employees insured under Pay Related Social Insurance (PRSI) who cannot work due to illness. As of May 2020, 52,243 persons were availing of the support;
- (e) The Invalidity Pension is a weekly payment to eligible people who cannot work because of a long-term illness or disability. As of May 2020, 58,908 persons were availing of the support. People in receipt of IP may also qualify for the Household Benefits Package (HHB). In addition they may qualify for the Fuel Allowance;
- (f) Partial Capacity Benefit (PCB) is for people who are on Illness Benefit, for at least six months, or on Invalidity Pension and who have retained some capacity for work and wish to work. If awarded, PCB allows them to continue to receive, in addition to their earnings from employment, a percentage of their Illness Benefit or Invalidity Pension payment while working. The scheme is voluntary and no earnings cap or hours worked limit apply. As of May 2020, 3,501 persons were availing of the support.

401. In addition to the above, the Occupational Injuries Scheme provides:

- (a) Disablement Benefit is payable to an insured person, who suffers a loss of physical or mental faculty as a result of an occupational accident, or a prescribed occupational disease. It may be paid as a once off gratuity or in the form of a Disablement Pension. The rate of benefit depends on the degree of disablement;
- (b) Injury Benefit is payable where a person is unfit for work because of an accident at work or an occupational disease. Payment can be made for up to 26 weeks.

402. Goal 5 of the Roadmap for Social Inclusion 'Supporting People With Disabilities and income' commits to:

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<sup>92</sup> The Blind Welfare Allowance is a means-tested payment to people who are blind or visually impaired. It is paid to eligible people from 18 years of age. Since the beginning of 2020, income received as part of the Blind Welfare Allowance is no longer taken into account in the assessment of means for any social assistance payment.

- (a) Reduce the AROPE rate from 36.9% first to 28.7% (2025) and then to 22.7% (2030);
- (b) Develop and consult on a ‘strawman’ proposal for the restructuring of long term disability payments to simplify the system and take account of the concerns expressed in the Make Work Pay report;
- (c) Commission a study on the cost of disability and publish a final report with recommendations.

403. A study on the cost of disability is underway in 2020 and will address questions including:

- a) what are the conceptual underpinnings of a “cost of disability”?
- b) based on Irish data, what is a reasonable estimate of a “cost of disability” for Ireland for different circumstances? and
- c) what are the implications for public policy and service delivery?

It is expected the research, when complete, will provide a roadmap to inform policy direction in the future – from a whole-of-Government perspective – in relation to the adequate provision of support to meet the needs of persons with disabilities.

404. The NDA commissioned research from economic consultants on how much extra it costs to live when the person has a disability.<sup>93</sup>

405. The National Advocacy Service for People with Disabilities (NAS) is an independent, Government-funded service that provides information, referral and representative advocacy to persons with disabilities who need issue-based advice and support. It has a particular remit to work with those who may be isolated from their community of choice or mainstream society, who may communicate differently and have limited informal supports. NAS is funded and supported by the Citizens Information Board (CIB) which has a mandate under the Citizens Information Act 2007 and Comhairle Act 2000 to provide advocacy for persons with disabilities. In 2019, NAS provided representative advocacy support in 1,026 cases, as well as information, advice, one-off interventions and short-term advocacy in 3,456 initial enquiries. Of the 1026 cases handled by NAS, 50% related to accommodation.

406. The Government recognises the valuable contribution of carers who care for family members, relatives and friends. The Government seeks to support those who provide care through the actions outlined in the National Carers’ Strategy.

## **Article 29 – Participation in political and public life**

407. The NDIS commits that the Government will progress the accessibility of voting and voter information and will fully support persons with disability in the achievement of active citizenship and engagement.<sup>94</sup> Significant work in achieving these commitments is ongoing.

### **1. Voting**

408. A number of measures are in place to enable people with certain disabilities to exercise their voting rights. Voters may:

- (a) Vote at an alternative polling station if a voter’s local station is inaccessible;

<sup>93</sup> More information here: <http://nda.ie/Publications/Social-Welfare/Cost-of-Living/>

<sup>94</sup> Action 1.29 and 6.77 of the NDIS 2017-2021.

- (b) Use the facility of postal voting by electors living at home who cannot go to the polling station due to a physical disability or illness;
- (c) Avail of the special voting facilities provided in hospitals, nursing homes or similar institutions for residents who cannot go the polling station due to a physical disability or illness;
- (d) Get assistance to vote at a polling station by a companion or by the presiding officer for people with a visual impairment, physical disability or literacy difficulty.

409. Since 2018 a Ballot Paper Template to enable blind and visually impaired people to mark their ballot papers without assistance if they wish to do so has also been made available.

410. Audits have been undertaken of the accessibility of polling stations. At the May 2019 Local Elections, 51 buildings servicing 103 polling stations were not accessible to wheelchair users (1.6%, based on 6,500 polling stations). At the February 2020 General Election, this had reduced to 29 buildings servicing 43 polling stations.

## **2. Participation in political and public life**

411. The Government is committed to amending the Electoral Act 1992 to repeal the prohibition on a person of ‘unsound mind’ from standing for election to the Dáil, thereby removing the disqualifications for membership of the Seanad and for election to the European Parliament.

412. The NDIS has committed to improving the structures for enabling persons with disabilities to participate in policy consultation or development processes. The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) is currently undertaking a process to form a network of organisations, including Disabled Persons Organisations, to facilitate participation, consultation and representation of persons with disabilities in the development and monitoring of policy. This process will include providing capacity building for disability organisations and individuals to participate at relevant levels.

## **Article 30 – Participation in cultural life, recreation, leisure and sport**

### **1. Access to cultural materials and activities**

413. Social Inclusion and Community Activation Programme (SICAP) 2018 to 2022 is Ireland’s primary social inclusion intervention. This is a €190m national programme that is delivered locally to help those in the greatest need. SICAP supports disadvantaged communities and individuals, including persons with disabilities. Over 4,500 individuals with a disability have been assisted on a one-to-one basis since the start of 2018. Separate to this one-to-one work, the Local Development Companies also undertake initiatives to help persons with disabilities.

414. The Arts Council of Ireland, the Government Agency supporting the arts, is the principal funder of Arts & Disability Ireland (ADI), a national development and resource organisation for arts and disability. ADI promotes engagement with the arts at all levels – as professional artists, audience members and arts workers – for people of all ages with disabilities. It also works to improve accessibility in arts programmes and venues. Its activities include:

- (g) The Realise Production Award is designed to support the production and presentation of ambitious new work by artists with disabilities;
- (h) The Access Partnership initiative comprises of theatres, arts venues, galleries, museums and festivals in Dublin City. It is a local knowledge network that will foster awareness, education and share resources to improve accessibility and inclusion for persons with disabilities to the arts in Dublin;

415. ADI was also preparing a large event ‘From Access to Inclusion’ for 2020 which has now been postponed until 2021 as a result of COVID-19. It will gather leaders and advocates in access and inclusion in arts and culture from across the globe to create a unique opportunity to exchange ideas and discover new and innovative ways to create accessible and inclusive experiences.
416. Section 29 of the Disability Act requires that, in as far as practicable, public bodies must ensure that the whole, or a part of a heritage site to which the public has access, is accessible to persons with disabilities and can be visited with ease and dignity. The Code of Practice on Accessible Heritage Sites, requires that interpretive information, where provided, should be accessible.<sup>95</sup> A number of pilot schemes are currently being developed by the OPW.<sup>96</sup>
417. The EU (Marrakesh Treaty) Regulations 2018, signed into law in 2018, provide for greater access to published works for persons who are blind, visually impaired, or otherwise print disabled. Their objective is to improve the availability and accessibility of certain works by allowing for copies of copyright protected works to be made available in accessible formats (e.g. Braille, large print, e-books or audiobook), without requiring the permission of the rights-holder.
418. The Copyright and Other Intellectual Property Law Provisions Act 2019 includes provisions expanding the copyright exceptions for persons with a disability, providing for access to a wider range of copyright works in accessible formats without infringing copyright. The Act also expanded the definition of disability to that assigned in the Disability Act.
419. The Irish Sign Language Act makes provision for the Minister for Employment Affairs and Social Protection, with the consent of the Minister for Public Expenditure and Reform to provide funds to facilitate users of ISL in relation to access to social, educational and cultural events and services. Guidelines are being developed for the administration of a scheme to facilitate access to social, educational and cultural events and services by ISL users.
420. One of the main funding criteria for the capital grant scheme for the refurbishment of existing play and recreation facilities and / or incorporating natural play elements is that all facilities and equipment funded must be accessible to all children, including those with disabilities. DCEDIY is currently a partner in a P4Play Horizon 2020 research partnership. Outcomes of the partnership will include the development of guidelines for the participation of children, including seldom-heard children, in the co-design of playgrounds.

## **2. Tourism and Sport**

421. The NDA’s Universal Design for Customer Engagement Toolkit provides best practice guidance on achieving better customer communication for the tourism sector.<sup>97</sup> It provides guidance on Business Objectives and Overview, Written Communication, Face-to-Face, Telephone & Video Communication and Electronic & Web Based Communication. In 2014, four case studies developed in partnership with Fáilte Ireland show the business benefits to tourism service providers of using the Toolkits.
422. The National Standards Authority of Ireland published the national standard ‘Universal Design for Customer Engagement in Tourism Services’ in 2013. This (voluntary) standard was published to promote the Universal Design of communications in the tourism sector. It contains requirements and guidance in the application of Universal Design to products and services for customer communications, for use by Tourism Service Providers.

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<sup>95</sup> [http://nda.ie/ndasitefiles/Heritage\\_Code\\_of\\_Practice.Pdf](http://nda.ie/ndasitefiles/Heritage_Code_of_Practice.Pdf)

<sup>96</sup> More information here: <https://heritageireland.ie/visit/accessibility/>

<sup>97</sup> <http://universaldesign.ie/Products-Services/Customer-Engagement-in-Tourism-Services/Buisness.pdf>



423. Tourism Ireland is committed to improving the accessibility of its international website, Ireland.com, to ensure that services are accessible to all. The next version of the website, due to be released in 2020, will be WCAG 2.1 Level AA compliant.
424. The Government's Tourism Action Plan 2019-2021, identified accessible tourism as a key element to the enhancement of the visitor experience. Under the plan:
- (a) Fáilte Ireland is reviewing international policy and best practice in relation to accessible tourism to inform its approach to enhancing accessible tourism in Ireland.
  - (b) A pilot study was conducted in using the *European Network for Accessible Tourism (ENAT)* accredited accessible tourism model. Learnings from this pilot accessible tourism programme are informing Fáilte Ireland's approach to supporting the tourism industry and stakeholders about Accessible Tourism;
  - (c) In 2020, Fáilte Ireland delivered an awareness & education programme for representatives of Local Authorities along the Wild Atlantic Way about Accessible Tourism and its opportunity for business sustainability.
425. The OPW Visitor Services have undertaken a number of initiatives across tourism and heritage sites. These include increasing the accessibility of the Blasket Centre and of Mellifont Abbey. Recent upgrading works at Brú na Bóinne, Newgrange provide universal access both physically in the building and through interpretation, incorporating measures for hard of hearing and including audio guides.
426. The Government has published a National Sports Policy 2018-2027 which sets out a vision for Irish sport.<sup>98</sup> It highlights the lower participation of people with a disability in sports and, recognising the importance of sports for all, includes specific commitments to maximise participation for all.
427. The Sports Capital Programme (SCP) is the primary vehicle for Government support for the development of sports and physical recreation facilities and the purchase of non-personal sports equipment.<sup>99</sup> The most recent round of the SCP funding included a major focus on persons with disabilities. 45% of maximum marks for applicants were available only to projects from disadvantaged areas or those that were focused on persons with disabilities. It is also a condition that all gym equipment funded must be accessible.
428. Sport Ireland, the authority tasked with the development of sport in Ireland, has a remit to promote participation in sport across all groups, including among persons with disabilities. Sport Ireland has published the 'Sport Ireland Policy on Participation in Sport by People with Disabilities' which is underpinned by Article 30.5.<sup>100</sup>
429. Sport Ireland currently funds and works with a range of organisations providing and promoting opportunities for persons with disabilities. These include National Governing Bodies of Sport, Local Sports Partnerships, Paralympics Ireland and CARA, a national organisation which provides a collaborative platform to enhance sport and physical activity opportunities for persons with disabilities. In 2019, investment via Sport Ireland grants totalled €5,720,000.
430. The Mixed Ability Rugby Programme is an initiative which supports the growth of clubs that enable persons with disabilities and those without disabilities to play together in mixed teams at club level. An international tournament was scheduled for June 2020, with Ireland hosting. COVID-19 caused it to be deferred.
431. Sports Ireland and CARA, in conjunction with persons with disabilities, developed a Sport Inclusion Disability Charter in 2018.<sup>101</sup> It is a key action in the National Sports Policy and is the mechanism for

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<sup>98</sup> <https://assets.gov.ie/15979/04e0f52cee5f47ee9c01003cf559e98d.pdf>

<sup>99</sup> More information here: <https://www.sportscapitalprogramme.ie/>

<sup>100</sup> <https://www.sportireland.ie/sites/default/files/2019-12/sport-ireland-policy-on-participation-in-sport-by-people-with-disabilities.pdf>

<sup>101</sup> More information here: <https://caracentre.ie/sport-inclusion-disability-charter/>

ensuring that sporting organisations adopt a set of guiding principles which are aimed at reducing the disparity in sports participation rates. Hundreds of organisations and clubs have adopted the charter.

432. A national network of Sports Inclusion Disability Officers (SIDOs) is being developed and aligned to local structures. SIDOs aim to increase the participation of persons with disabilities in sport, fitness and physical activity. This is achieved through working in partnership with statutory agencies, sports clubs, community groups, facility providers, schools, disability service providers and persons with disabilities. In 2019, the reach of the network included 24,387 persons with disabilities. Capacity building in the sector enabled education and training to be provided to 2,649 people.
433. Ireland supports high performance athletes participating in World Games and Paralympic Games through the Disability National Governing Bodies and Paralympics Ireland. In 2019, through the International Carding Scheme, Sport Ireland supported 23 para-athletes from 6 sports totalling €548,000. Investment in Paralympics Ireland was €1,714,000.
434. Ireland hosted the 2003 Special Olympics World Summer Games and the Government is a core funder of Special Olympics Ireland. Through its sports, health and leadership programmes, athletes learn to be physically, mentally and emotionally fit, learn new skills, increase confidence and experience the joy of sport and its social aspects. Currently almost 8,000 athletes from across the island of Ireland participate in 15 different sports through Special Olympics.
435. Special Olympics Young Athletes is a sport and play program for children with and without intellectual disabilities (ID), aged 2 to 7 years. It introduces basic sport skills like running, kicking and throwing and offers families, teachers, caregivers and people from the community the chance to share the joy of sports with all children. Young Athletes provides children with activities and games that meet their individual skill and ability levels, while allowing them to play together in a fun and inclusive environment.
436. The Institute of Technology, Tralee, hosts the UNESCO Chair in Inclusive Physical Education, Sport, Recreation & Fitness.<sup>102</sup> The purpose of the Chair is to promote an integrated system of research, training, information and documentation in the fields of inclusive physical education, adapted physical activity, sport, fitness and recreation for social inclusion of persons with disabilities, their families and communities. The UNESCO Chair programme is involved in a broader range of national and international activities to promote inclusion, including through implementation of the Kazan Action Plan.

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<sup>102</sup> More information here: <http://www.ittralee.ie/en/unesco/>

## IV Specific obligations

### Article 31 – Statistics and data collection

437. The National Census is an important source of periodic disability data. It takes place every five years and is carried out by the Central Statistics Office (CSO). The Census gathers information on the number of people reporting a disability and the type of impairment, along with socio-economic information. Following public consultation and pilot testing, the 2021 Census will include enhanced questions on disability. A whole Census report is devoted to disability after each census. The next National Census is scheduled for 2022.
438. Irish Census questions have been developed with the engagement of key stakeholders. The disability question in the next Census has been reformatted and will explore the extent/severity of any condition and how it hampers an individual's daily life. This builds on Washington Group model and, when combined with existing question, will provide richer detail than Washington Group format alone.
439. The CSO carried out a post-census National Disability Survey (NDS) in 2006 to produce the first ever detailed profile of persons with disabilities in Ireland. The questionnaire was based on the social model of disability. The purpose was to establish a baseline to assess the severity and impact of disability on the Irish population. 14,518 persons with a disability were surveyed. Scoping is underway about running a second NDS post the Census scheduled for 2026.
440. Ireland also gathers statistics and data on persons with disabilities through a number of other measures. The household surveys (Labour Force Survey<sup>103</sup> and the Survey of Income and Living Conditions<sup>104</sup>) conducted by the CSO gather information on people with disability. Two separate disability databases of those receiving specialist disability services are being amalgamated from 2019 into an enhanced database, the National Ability Supports System, operated by the Health Research Board. Survey instruments usually incorporate a disability variable.
441. DSP publishes information on the number of people getting payments related to illness, disability and caring.
442. Two longitudinal studies, Growing Up in Ireland<sup>105</sup> and The Irish Longitudinal Study on Ageing<sup>106</sup> also provide data on experiences of persons with a disability in Ireland.
443. IDS-TILDA is a longitudinal study researching ageing in Ireland among people with an intellectual disability aged 40 and over.<sup>107</sup> This study is the first of its kind in Europe, and the only study directly to compare the ageing of people with intellectual disability with the general ageing population.
444. The NDA, under the National Disability Authority Act, undertakes, commissions and collaborates in research projects and activities on issues relating to disability.

#### 1. Disaggregation of data and statistics

445. The NDA has statutory a role to assist in the development of statistical information appropriate for the planning, delivery and monitoring of programmes and services for persons with disabilities. The NDA works with the CSO to advise on collecting and analysing data relevant to disability, including the requirement for intersectional data.
446. Ireland's Open Data Strategy 2017-2022 is aimed at increasing the publication of high value government data in open format, making it publicly available and freely reusable and engaging with a broad

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<sup>103</sup> More information here: <https://www.cso.ie/en/statistics/labourmarket/labourforcesurveylfs/>

<sup>104</sup> More information here: <https://www.cso.ie/en/aboutus/takingpartinasurvey/surveysofhouseholdsindividuals/surveyonincomelivingconditions/>

<sup>105</sup> More information here: <https://www.growingup.ie/>

<sup>106</sup> More information here: <https://tilda.tcd.ie/>

<sup>107</sup> More information here: <https://www.idstilda.tcd.ie/>

community of stakeholders to promote its social and economic benefits and its reuse. This includes disability data to inform policy and practice.<sup>108</sup>

## 2. Safeguards and Ethical Principles

447. In the collection of this data, Ireland complies with the Data Protection Acts 1988-2018, Ireland's national laws which are in compliance with the GDPR.

448. Part 4 of the Disability Act regulates genetic testing in a number of areas, including insurance, employment and the mortgaging of property, by prohibiting the processing of genetic data in these areas. The provisions aim to ensure that people who may be affected by genetic disorders will not be subject to any unreasonable requirements from an employer or an insurance or mortgage provider.

449. The Health Research Regulations 2018 were made under the Data Protection Act, following the introduction of GDPR.<sup>109</sup> They provide suitable and specific safeguards for individuals in relation to the processing of personal data for health research. They make explicit consent the default position for processing personal data for health research purposes but provide a statutory mechanism for obtaining a consent exception in limited and specified circumstances where obtaining consent is not possible and the public interest in carrying out the research significantly outweighs the consent requirement. The independent Health Research Consent Declaration Committee was established under the Regulations to consider applications for consent exemptions. That process is the means by which the personal data of persons who lack capacity to consent may still be included in relevant research with a significant public interest subject to safeguards.

450. The DoH has published the General Scheme of the National Research Ethics Committees Bill which will provide the legislative basis for a National Research Ethics Committee framework that will also see the retention of local institutional research ethics committees. The Bill will be complemented by parallel secondary legislation relating to clinical trials of medicinal products and medical devices. The envisaged reforms will significantly upgrade the research ethics committee framework across the spectrum of health research in Ireland. The National Office for Research Ethics Committees will support the reform process operationally.

## Article 32 – International co-operation

451. A Better World, launched in 2019, is a whole of government policy for International Development that provides the framework for Ireland's expanding development cooperation programme, in line with the commitment to reaching the UN target of allocating 0.7% of Ireland's GNI to official development assistance by 2030.<sup>110</sup>

452. A Better World highlights Ireland's commitment to addressing the rights and needs of vulnerable people, including those with disabilities. It outlines a commitment to the SDGs and the central tenet of leaving no one behind. The development programme addresses the needs of persons with disabilities in various ways - through Irish NGOs, in developing partner countries and through Ireland's humanitarian response. Funding is provided to a range of civil society, bilateral and multilateral organisations engaging in health education and human rights work that specifically delivers for people living with disability.

453. Dóchas, the Irish Association of Non-Governmental Development Organisations, part funded by Irish Aid, funds a Dóchas Disability in International Development Working Group (DDIDWG), the objectives of which are to:

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<sup>108</sup> [https://data.gov.ie/sites/default/files/files/Final%20Strategy%20online%20version\(1\).pdf](https://data.gov.ie/sites/default/files/files/Final%20Strategy%20online%20version(1).pdf)

<sup>109</sup> More information here: <https://www.hrb.ie/funding/gdpr-guidance-for-researchers/health-research-regulations-2018/>

<sup>110</sup> <https://www.irishaid.ie/media/irishaid/aboutus/abetterworldirelandspolicyforinternationaldevelopment/A-Better-World-Irelands-Policy-for-International-Development.pdf>

- (i) Raise awareness among Irish development organisations of the position of persons with disabilities in low and middle income countries with the aim of getting these organisations to mainstream disability into their development and humanitarian programmes.
- (j) Share best practice and knowledge between disability organisations with a national remit and international development NGOs, with other Dóchas Working Groups and relevant national actors, to build capacity for disability inclusive development and humanitarian programming.
- (k) To influence Irish Aid and other state organisations, decision makers and policy makers to take action to integrate disability as a key issue into future development interventions and funding.

454. The DDIDWG engaged in the consultation process for A Better World and their views and inputs were considered in the drafting of the Policy.

455. Irish Aid, the Government's international development aid programme, adopts a "twin-track" approach to disability, aiming to mainstream disability in programmes and policies and to support disability-specific programmes. It has a wide range of institutional partners in the disability area and funding has been provided to a wide range of Irish-based NGOs to undertake health, education and human rights work which specifically benefits persons with disabilities.

456. Support is provided to disability partners based in Ireland's Key Partner Countries. Ireland supports the Comprehensive Community Based Rehabilitation (CCBRT) Hospital in Tanzania. In Vietnam, support is given to several CSOs who work with persons with disabilities on social inclusion, empowerment, health and early childhood detection of disabilities and activities related to risks in relation to mines.

457. Ireland supports the work of CBM Ireland in Ethiopia. The CBM project Bridge the Gap works to increase participation of persons with disabilities into community life through awareness-raising and disability training of local government officials, health workers, teachers, social workers, and wider community members, including persons with disabilities and their family members. Ireland provides funding of €960,000 from 2018-2021 (€320,000 per year) to this project.

458. In 2018, the OECD Development Assistance Committee (DAC) introduced a policy marker to track development finance in support of persons with disabilities. Ireland adopted the OECD DAC marker in 2020, signalling the commitment to integrating a disability perspective into development assistance.

459. Ireland's first Sustainable Development Goals National Implementation Plan (2018-2020) sets out how Government will implement the SDGs in Ireland and internationally. It contains specific goals and targets taking account of the rights of persons with a disability.<sup>111</sup>

### **Article 33 – National implementation and monitoring**

460. DCEDIY is designated as Ireland's Focal Point and Coordination Mechanism under the Convention.

461. The NDIS reporting structure ensures that a whole of Government strategic approach is taken to disability and that relevant actions are advanced by the Departments and the agencies responsible.

462. As stated previously, the NDIS commits Ireland to develop an implementation plan to co-ordinate implementation of the CRPD.

463. It is the State's intention to designate IHREC as Ireland's Independent Monitoring Mechanism. This designation will be provided for in legislation.

<sup>111</sup> <https://assets.gov.ie/19344/32f9bdd2aae2464caae37760edd1da04.pdf>

**Annexes**

**Report of stakeholder consultation held during preparation of report**

**Additional statistics and data relevant to the implementation of the Convention in Ireland**

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