



Irish Congress of Trade Unions

Submission on on the Draft Initial State Report under the United Nations Convention on the Rights of Persons with Disabilities

April 2021

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Introduction

Congress welcomes the publication of the Draft Initial State Report under the United Nations Convention on the Rights of Persons with Disabilities¹ for consultation and the opportunity to submit some comments on the matter.

As a sustainable development goal champion organisation, we welcome the focus on the issue of the employment of disabled persons as this is set out clearly in Agenda 2030 that charts the global development agenda for the next 9 years.

Decent work sums up the aspirations of people in their working lives and involves:

- opportunities for work that is productive and delivers a fair income,
- security in the workplace and social protection for families,
- better prospects for personal development and social integration,
- freedom for people to express their concerns, organize and participate in the decisions that affect their lives and
- equality of opportunity and treatment for all women and men.

Included in Goal 8 of the sustainable development goals, target 8.5 states that:

“By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value”.

Our submission concentrates on articles 27 on Work and Employment and Article 24 on Education.

¹ <https://www.gov.ie/pdf/?file=https://assets.gov.ie/99828/857afc7b-edbc-4b3b-8475-663b4200db5d.pdf#page=null>

Article 27 – Work and Employment

General comments:

Despite 5 years of the Comprehensive Employment Strategy for people with disabilities, there is broad agreement that we still have a long road to travel in terms of providing decent work for all, including disabled persons. The number of government departments involved and the lack of clarity on roles and responsibilities creates gaps in services and supports for citizens.

Paragraph 366. “The CES is the primary disability employment policy initiative in Ireland. 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 promote job retention and re-entry to work, to provide co-ordinated and seamless supports and to engage employers.

Para 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 – 2021.⁸¹”

Despite the efforts of many in the implementation group, the level of inter-Departmental/agency and/or cross-Departmental/agency collaboration work going on around the CES is disappointing. Major themes like “transition from school to further/higher education, training, and work” and “engaging employers” which require genuine collaboration to develop joined-up services and seamless supports are still being worked on in isolation of each other. This silo mentality is one of the single biggest barriers to people with disabilities entering the workforce in the first place and without the required level of cooperation and coordination, progress will remain elusive.

The CES appears to be viewed by Government as a “disability strategy for people who want a job” rather than as an “employment strategy for people with disabilities”. There is a need

to mainstream such work into the overall Pathway to Work strategy and all other Post-Covid recovery strategies and to avoid isolation as a separate equality strategy.

We are now more than halfway through the strategy (5 years) and it still unclear how we the crucial indicator of how many more people with disabilities are in the workforce as a result of the strategy will be measured.

Para 375. “The Make Work Pay initiative was developed following an independently chaired interdepartmental group process.⁸⁵ 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”.

The Make Work Pay initiative emerged from the CES – strategic priority 3 – and was a very welcome initiative. Launched by the then Ministers for Employment Affairs (Leo Varadkar) and Health (Simon Harris) it has 24 recommendations which they promised to implement. The report was universally welcomed at the time, but unfortunately it has suffered from incomplete implementation.

Para 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”.

The part 5 monitoring is insufficient in terms of the information gathered with no classification of the type of disability recorded. . There is no breakdown by disability types, so it is conceivable that all of the 7,585 state employees who declared having a disability could have some form of mental health challenge or could all have a physical disability. There is no data to say whether all groups are represented in the civil/public service workforce to their full potential or not.

There is a level of distrust among some public and civil servants on the process and a subsequent reluctance to provide the information requested. The Irish Congress of Trade Unions and our affiliates in the public sector stand ready and willing to agree a more effective system for recording such data and to promote it among our membership.

Para 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.⁸⁸ 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”.

The Ability programme is a well-designed and well managed initiative. However, the learnings from the Ability Programme projects (as with previous initiatives of this kind) are not being fully utilised to impact policy and practice. There is also a lack of connection between the Ability Programme and the Departments of Education, Further & Higher Education, Health or HSE Social Care resulting in an ongoing loss of learning from the programme.

Para 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”.

The scheme has great potential but as well as a lack of awareness there are issues in its administration that are not conducive to employers availing of the support. The recent launch of Employers for Change (to replace the Employer Disability Information Service) is a welcome development and one that hopefully will address these issues in a coordinated and strategic fashion.

The arbitrary threshold of 21 hours work per week is also problematic for some people seeking employment.

Para 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”.

Again, there is very little take up of this scheme because of lack of awareness among employers. Employers for Change can hopefully address this also.

There is also a need for quality control on the standard of training and linking with the content of the UNCRPD.

Para 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 website”.

Intreo is the mainstream gateway for persons with disabilities and others who want to explore their employment options and find employment. There is a lack of disability awareness among staff and unfortunately during the Covid pandemic training to address this was delayed as staff were redeployed to work on COVID-19 related issues.

Unfortunately, this results in the experience of people with disabilities and organisations who support them is far from ideal.

It is essential that any recovery programme must address how best Intreo staff can refer persons with disabilities directly to employment opportunities and supported employment options such as EmployAbility, or other further education and training options.

Para 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”

This is a very welcome service but is limited in that it is only appropriate for “some” jobseekers with disabilities. There is a need for a more comprehensive Supported Employment programme that is available for all jobseekers with disabilities.

Para 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”.

The IPS model is a very welcome addition but is only being implemented on a “pilot” basis. It is essential that the department develop plans that provide for long-term sustainability for such programmes.

Para 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 (listed in document):

The RAF is a welcome fund but is not very well known and employers have issues with its administration as outlined in the Employer Disability Information Service Report to DESP in 2018, including:

- Employers are unaware of the supports and funding available through the Department
- Grants are blunt instruments catering only for the needs of full-time employees. Many grants only provide assistance to new recruits instead of existing employees.
- The amount of grant assistance funding provided to employers remains unchanged since 2004, when the schemes were first devised.
- All grants are very administrative and paperwork heavy and require the filling of approximately four lengthy soft copy forms for each grant.
- Grants take a very long time to approve and put in place.
- If an individual with a disability chooses to disclose their disability late in the employment relationship, there is no support from the current grants available.

The integration of reasonable accommodations into routine recruitment and employment processes can play an important role in addressing a range of individual and structural barriers at different stages of employment including recruitment, retention and re-entering the workforce.

As 2019 NDA research confirms, there are a number of common barriers to a seamless reasonable accommodation, including issues around disclosure, lack of policies and procedures, failure to respond to requests for accommodations in a timely manner, low awareness regarding the whole area of reasonable accommodations and the type of supports currently available, and lack of follow-up regarding implemented accommodations.

For that reason we jointly launched with Ibec the reasonable accommodation passport scheme which we believe can help in tackling these barriers so that workers become comfortable disclosing their disability and requesting reasonable accommodations; and employers are enabled to follow correct procedures, provide any reasonable accommodation measures required under employment equality legislation and monitor implemented reasonable accommodations. Promotion of this initiative can add value in this context.

Article 24 – Education

General comments:

- The EPSEN Act 2004 is yet to be fully implemented.
- The attitude of “Education” in Ireland towards students with Disabilities is more about obligation rather than life outcomes – e.g., there is no Career Guidance provision in Irish Special Schools.
- There is no tracking of “post-school progression” for students with Disabilities or Special Educational Needs in terms of where they go, what they do and how many enter the workforce.
- Students with Disabilities are all treated as having “Special Educational Needs”.

Paragraph 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.”

Continued collaboration between the Department of Education and their counterparts in the Department of Health and Department of Children, Equality, Disability, Integration and Youth is imperative to enable children attending school to be provided with the therapeutic services they require, preferably on an in-school arrangement. The interdepartmental approach with collaboration between education and health departments in pioneering a demonstration model of in-school speech and language and occupational therapy, has shown great potential, but areas for improvement have also been identified. The withdrawal of therapy provision in children’s healthcare in nationwide network of community and primary care services based therapy supports creates a vacuum which schools are currently ill-equipped to fill.

Paragraphs 289 – 295 pertain to The EPSEN Act

Paragraph 290 notes that “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”.

Paragraph 295 states that “the Government has committed to consulting with stakeholders on how best to progress aspects of EPSEN on a non-statutory basis...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.”

This commitment to working with all stakeholders is welcome but should be treated with a greater sense of urgency. Congress and our teacher union affiliates reiterate the need for the EPSEN Act to be fully implemented.

Paragraph 294:

“A Progress Report, published in 2019, highlighted Ireland’s obligations under Article 24. Policy advice is to be finalised in 2020.”

Perhaps this could be amended to indicate that policy advice has not yet been finalised and is expected to issue in summer 2021. We believe that the continuum of support (special schools, special classes and support for children with SEN in mainstream, school) should be retained.

Paragraph 296/297

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.

There is no “transition planning” or “post-school” tracking of where school leaver with SEN goes whether it is early school leaving or at the age of 18”.

Paragraph 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.”

An inclusive approach to education that is not fully supported through the provision of resources, therapeutic services, and professional development to meet specific needs creates significant challenges for both pupils and teachers. In order to enhance current support for children with SEN, multi-disciplinary and nursing staff should be available to all special schools as required, all schools must have appropriate accommodation including nurture, sensory and therapy rooms and class sizes must be reduced significantly to reflect the diversity of modern-day classrooms.

Such supports are essential in a school setting to ensure that “reasonable accommodation of the individual’s requirements” can be provided (as outlined in the Convention) to allow children “receive the supports required, within the general education system, to facilitate their effective education” and that “effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion” (UNCRPD Section 24).

Implementation of comprehensive supports needs to be given higher priority.

Paragraph 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.”

The development of transition protocols around the transfer of information regarding special educational needs between pre-schools, primary schools, post-primary schools and special schools is important and requires more support.

Paragraph 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.”

There should be reference to the (NEPS) Continuum of Support model which has been implemented but not sufficiently supported. This model enables schools to identify and respond to needs in a flexible way, meaning that needs can be responded to as early as possible, based on the principle that pupils with the greatest level of need have access to the greatest levels of support is of primary importance. However, increased supports are necessary to allow the aims of the model be realised. It is imperative that the number of educational psychologists within the school system is increased to meet the ever-increasing demand and address the lengthy waiting lists that schools currently face.

Paragraph 310

“Pupils with SEN can be supported in school by Special Needs Assistants (SNA). 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.”

Adequate SNA provision must be made available so that pupils in special classes can benefit from opportunities to be included in mainstream classes and to support transition processes and the ratios for SNAs in special classes and schools should be reviewed to reflect the

increasing complexity of enrolments. Professional development and training for SNAs in relation to supporting all pupils with special educational needs regardless of setting is most welcome.

Paragraph 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...there are 124 special schools, with 1% of children with SEN enrolled in those schools.”

It is important that the individual needs of each pupil be the over-riding consideration in deciding on what the appropriate school placement is for that young person. Even with full resourcing there will still be a minority of pupils for whom a Special School or Special Class setting will be the appropriate placement.

Paragraph 317

“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”.

Pupils’ emotional and mental wellbeing may not be identified under the current model. Given the increased prevalence of pupil anxiety and mental health issues, INTO calls for a commitment to provision of supports that will equip schools to deal with these challenging situations.

Sub Heading 3 Page 42

The subheading ‘Teacher Training’ may be changed to ‘Teacher Professional Development and Training’.

Paragraph 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.”

It is important to note that as Ireland seeks to fulfil its obligation under UNCRPD and support inclusion, all teachers should be afforded the opportunity to access and complete the Diploma in Special Education (through advisory NCSE) and CPD in this area. (At present these courses can be difficult to access and cost may be a barrier for some teachers).

The Department of Education has recognised that there is a clear and urgent need for guidelines for schools and teachers in relation to dealing with crisis situations, particularly emergency procedures for crisis situations arising from incidences of challenging behaviour and violent outbursts. Teachers and principal teachers are reporting serious incidences that threaten the health and safety of staff and other pupils in mainstream classes and in special schools and classes. In response, the Department are preparing guidelines, and it is crucial that such guidance be accompanied by CPD for all teachers and principals.