Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

GANHRI Webinar: 'Protecting and empowering persons with disabilities in the COVID-19 context: the role and experiences of national human rights institutions', 3 September 2020

Speaking notes for presentation (5 mins)

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I) Activities your NHRI has undertaken to protect and promote the rights of persons with disabilities in the COVID-19 context, considering your NHRI's mandate and functions

Thanks and Presentation Overview

- It is an honour for the Irish Human Rights and Equality Commission to be asked to contribute to this important event. Thank you.
- I will outline the mandate of the Commission, and the work that it has undertaken to protect and empower persons with disabilities in the COVID-19 context and to promote a disability-inclusive transition from the pandemic.

Mandate

- The Irish Human Rights and Equality Commission or 'IHREC' is Ireland's National Human Rights Institution and National Equality Body.
- The Chief Commissioner Ms Sinéad Gibney was recently appointed by the President of Ireland with eight new Commission members and Sinéad has asked me on behalf of the Commission to pass on her best wishes for today's meeting.
- The Commission is the designate CRPD Article 33 Independent Monitoring Mechanism for Ireland.
- The Commission has established a statutory Disability Advisory Committee to inform its monitoring activities and wider disability work. The Committee comprises a diverse group of independent disability rights experts living in Ireland, the majority of whom are persons with disabilities, with equal representation of women and men.

Disability Advisory Committee

- The Disability Advisory Committee met in April to consider the impact of the pandemic on disability rights.
- The committee highlighted the wide range of disability rights impacted including health, education, employment, independent living and access to information.
- The committee raised concerns about the public representation of persons with disability as being 'vulnerable', at risk and recipients of services rather than as rights holders with agency who were contributing to the national effort in responding to the pandemic, and who would play an active part in recovery.
- The committee expressed concerns about the lack of involvement of disabled people and Disabled Persons Organisations in the State's response to the pandemic.

The Commission has addressed the COVID-19 impact on persons with disabilities across our work

- The Commission is raising the impact of COVID-19 on persons with disabilities across its functions and activities. Here are two examples:
    - In relation to its international reporting functions, the Commission raised concerns regarding the COVID-19 impact on education for children with disabilities in its June *List of Issues Prior to Reporting Submission to the UN Committee on the Rights of the Child*.
    - The Commission published a COVID-19 Guidance Note for public bodies on the application of their obligations under Ireland's statutory Public Sector Equality and Human Rights Duty. It steered them to identify and report on the specific steps to make reasonable accommodation for people with disabilities, when special measures or changes in service delivery are introduced in response to COVID-19.[1]

[1] https://www.ihrec.ie/documents/guidance-note-covid-19-and-the-public-sector-equality-and-human-rights-duty/

Intervention on prioritisation in access to critical care

- In July 2020, the Commission published and submitted to the Minister for Health its observations on the State's *National Guidance on Prioritisation in Access to Critical Care in a Pandemic*.[2]
- It expressed concern that the guidance was ambiguous about how disability is to be treated in a critical care triage process and recommended a review to ensure that the guidance complied with human rights standards.

Submission on disability rights to parliamentary committee on COVID-19

- The Commission called for the establishment of a parliamentary oversight committee on COVID-19 and has engaged with it through submissions, correspondence, and appearing before it.
- In July, through its written and oral submissions, the Commission detailed how the pandemic has given rise to significant risks of discrimination and the undermining of rights for persons with disabilities, and recommended that an explicit human rights and equality-based approach be taken to building a disability-inclusive transition from the pandemic.

Submission on legislative framework to parliamentary committee on COVID-19

- This week, the Commission made a written submission on the legislative framework in which it observed that the pandemic has exposed human rights gaps in the State's legislative framework.[3] Notably the non-commencement of enacted legislation on capacity; delayed reform of mental health legislation; and the lack of progress on legislation to: establish IHREC as the CRPD Independent Monitoring Mechanism, ratify the CRPD Optional Protocol, and to ratify the Optional Protocol to the Convention Against Torture.

[2] See: IHREC letter to Minister for Health – 18 May 2020; Observations on National Guidance on Prioritisation in Access to Critical Care in a Pandemic.
[3] https://www.ihrec.ie/documents/submission-to-the-special-committee-on-covid-19-response-regarding-the-adequacy-of-the-states-legislative-framework-to-respond-to-covid-19-pandemic-and-potential-future-national-emergencies/

Media and Public Awareness Communications

- Commission member Dr. Frank Conaty authored an opinion piece outlining the immediate concerns regarding disability rights during the pandemic. It expressed longer terms concerns about the potential for the crisis to undermine progress towards a rights based model, and the risk of a permanent erosion of rights for persons with disabilities. The piece was published in a national Irish newspaper.[4]
- The Commission has used its social media (Twitter, Instagram and LinkedIn) to ensure disability rights perspectives were voiced across our platforms. This included a video Irish Sign Language Translation of the newspaper opinion piece.

II) What haven been/are the experiences, gaps and challenges?

- Lack of an explicit and systematic consideration of human rights and equality in the planning and implementation of the State's COVID-19 response.
- Return to a public discourse about disability based on medical and charitable approaches, which is silent on persons with disabilities' rights, agency, contribution and leadership.
- Very limited participation of persons with disabilities and Disabled Persons Organisations in the development and oversight of the State's COVID-19 response.
- Lack of publicly available, real time disaggregated data both by impairment and membership of equality groups.
- Poor provision of accessible information.
- Disruption of supports and services for both persons with disabilities and for family carers and the lack of provision of COVID-19 specific supports including PPE and social care.
- Intersectional disadvantage and discrimination, for example for Travellers, Ireland's indigenous ethnic minority.

[4] Frank Conaty, No going back to reduced rights for people with disabilities, *Irish Examiner*, 13 May 2020.

III) What are the lessons and recommendations?

- Any assessment of the human rights and equality impact of COVID-19 on people with disabilities must be against a standard of equal dignity and equal participation. The pandemic has highlighted that if such a standard is not met in 'normal' times, it can rapidly become a casualty in times of crisis.
- This is particularly relevant to the experience of people who live in congregated settings. However, it is also true of the experience of people with disabilities whose full participation in economic, social and cultural life is dependent on the availability of appropriate and accessible services, and reasonable accommodation.
- Experience in Ireland suggests that the collective living arrangements in congregated care settings make people with disabilities particularly susceptible to COVID-19. A new approach to care consistent with the highest international human rights standards is urgently needed.
- Positive measures must be taken across a range of areas to ensure that all groups of persons with disabilities transition out of the pandemic on an equal basis with each other and the rest of the population.
- The alternative risks a permanent erosion of the human rights and equality of persons with disabilities.