



**Opening statement by Dr. Frank Conaty, Acting Chief Commissioner, Irish Human Rights and Equality Commission.**

**To be delivered to the Oireachtas Special Committee on Covid-19 Response – 17 July, 2020.**

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My thanks to the Chair and the members of the Committee for your invitation to appear here today with my colleague, Professor Caroline Fennell.

The establishment of this Committee was a specific recommendation of the Commission to ensure appropriate democratic oversight of decision-making during the pandemic, so it is with particular respect to this work that we address you today.

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The Irish Human Rights and Equality Commission is Ireland's independent National Human Rights Institution and National Equality Body established as a statutory body in 2014, and accountable directly to the Oireachtas.

The Commission is also the Independent Monitoring Mechanism designate for Ireland under the UN Convention on the Rights of Persons with Disabilities (the UNCRPD). We are supported in that work by a Disability Advisory Committee, composed of a diverse group of people with lived experience of disability.

In addressing you here today, we, the Commission, are conscious of our mandate to protect and promote human rights and equality in Ireland in what are truly exceptional times. And we are also conscious of your role, as legislators and as public representatives, to do the same.

The Committee will hear, from other witnesses about the direct experience of people with disabilities during the pandemic, and the impact on services, and on the users of those services.

As Ireland's Human Rights and Equality Commission, we would like to emphasise for the Committee that the impact of the Covid 19 pandemic on people with disabilities should be understood in the context of the rights of people with disabilities, and the actions taken – or not taken – to protect or realise those rights.

Under the UNCRPD – to which both Ireland and the European Union are party - the State has an obligation 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”.

This legal obligation is in addition to the fundamental principle of non-discrimination, including on the basis of disability, outlined in Article 21 of the EU Charter of Fundamental Rights, and in the EU's equal treatment directives. Article 15 of the Council of Europe's European Social Charter, to which Ireland is a party, guarantees *'the right of persons with disabilities to independence, social integration and participation in the life of the community'*. The right to

equality is also set out under Article 40.1 of our own Constitution, as well as in statute under the *Employment Equality Acts 1998-2015* and the *Equal Status Acts 2000-2018*.

Yet it is clear that Covid 19 has given rise to significant risks of discrimination and the undermining of rights for persons with disabilities, including the rights of older persons, many of whom have disabilities.

While Covid 19 is a once-in-a-generation public health crisis, its impact should be seen in the continuum of how people with disabilities have been, and continue to be, treated in the design and delivery of public policy.

The COVID response has exposed inadequacies of Ireland's public policy in relation to:

- the situation of people in congregated settings, including nursing homes;
- the disruption of supports and services for both people with disabilities and for family carers;
- the accessibility of information for people with disabilities;
- the lack of appropriate data that would allow for more responsive decision-making;
- education and employment for persons with disabilities
- and the noted absence of people with disabilities in decision-making which affects them.

These issues are detailed in our written submission, and we are happy to discuss them at more length with the Committee.

We might, however, highlight one example where it is critical that the human rights and equality implications of public policy are given sufficient consideration.

Over March, April and May this year, the Department of Health published guidance for decision-makers in the health service on how access to critical care should be prioritised during the pandemic, in the event that demand exceeds availability.

The Commission has reviewed this guidance, and is concerned that there are potentially profound implications for the human rights and equality of people with disabilities, older people, and other vulnerable people. We are concerned that those most likely to be impacted by this policy guidance have not been adequately consulted, a consultation process needs to meaningfully consider the human rights and equality obligations of the State and the individual and collective rights of all of our citizens.

As a Commission, we have communicated our concerns to the Minister for Health. It is our view that the current moment, when the threat of Covid-19 has receded, represents an opportunity to further consider and develop this important guidance for healthcare workers.

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More generally, in terms of the lived experience of people with disabilities, it is important to recognise the progress that has been made. This progress has seen Ireland moving from an old

charitable, medical model of support for people with disabilities, towards a rights-based perspective, supporting people to live inclusive, independent lives.

But it is a fact that the significant gaps and vulnerabilities in existing policy and services have resulted in a disproportionate impact of Covid 19 on people with disabilities. This disproportionate impact is at odds with the sentiment and message of collective solidarity in the face of the pandemic.

Unless the law, practice and policy which underpin the rights of people with disabilities is made more resilient, we will continue to see people with disabilities facing the same vulnerabilities in terms of their rights at times of crisis. This includes times of economic crisis.

The path to that greater resilience has already been mapped out, and includes policy and legislation already identified as needed to bring Ireland into compliance with the UNCRPD. To this end, the Commission would also add that the implementation of the Public Sector Equality and Human Rights Duty by public bodies in the exercise of their functions, would be a significant and positive step towards permanently embedding the rights of people with disabilities in service delivery.

It is imperative that we learn the lessons of this crisis and that policy makers ensure that human rights and equality considerations are a central part of the review and development of policy, the impacts of which are deeply experienced by people with disabilities.

**ENDS**