



Submission on National Disability Authority's Draft Guidance for Justice Professionals on Communicating with Autistic People

National Disability Authority

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About the Law Society

The Law Society of Ireland (the **Law Society**) is the educational, representative and professional body of the solicitors' profession in Ireland.

The Law Society's main statutory functions in relation to the education, admission, enrolment, and discipline of the solicitors' profession are provided by the *Solicitors Acts 1954 to 2015*. These statutory functions are exercised by the Council of the Law Society or by the various committees, task forces and working groups to which the Council may delegate certain statutory functions. A separate organisation - the Legal Services Regulatory Authority - is responsible for regulating the provision of legal services by legal practitioners.

The Law Society delivers high-quality legal education and training and also places significant emphasis on civic engagement, supporting local community initiatives and driving diversity and inclusion. The Law Society is committed to participating in discussion and advocacy on the administration of justice and the effective implementation of public policy.

Background

The Law Society appreciates this opportunity to respond to a request for input from the National Disability Authority (the **NDA**) on their draft *Guidance for Justice Professionals Communicating with Autistic People* (the **draft Guidance**).

The Government's 2024 *Autism Innovation Strategy* required the NDA to revise its Guidance for justice professionals on communication with autistic people.¹

The NDA produced guidance in 2018 entitled *Assisting People with Autism: Guidance for Justice Professionals in Communicating with People with Autism*.² This was in turn developed from previous guidance produced by the National Autistic Society of Northern Ireland and the Department of Justice in Northern Ireland in 2014 entitled *Autism: A Guide for Criminal Justice Professionals*.³

Introduction

The Law Society fully supports the intention of the draft Guidance. It is important that justice professionals, including solicitors, have access to bespoke Guidance on how to best accommodate the specific needs of people with autism in the justice system. The adversarial court environment can be a highly stressful environment for many people. Cross-examination, for example, may be a very difficult and anxiety-inducing experience for many people. These negative effects might be multiplied if a person is autistic, and lead to substantially higher levels of anxiety. The trepidation experienced by autistic people might even cause them to not engage with the justice system in the first place.

¹ Action 57. Available at: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/303231/ffc8dd73-d2e9-4c11-8df2-bc2313c79242.pdf#page=null>

² Available at: <https://nda.ie/uploads/publications/guidance-for-justice-professionals-in-communicating-with-people-with-autism.pdf>

³ Available at: <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/autism-guide-may-2015.pdf>

It is important to ensure that autistic people are comfortable engaging with the justice system, that they feel that they are visible and that their specific needs are met. Solicitors care about their clients no matter their background.

The draft Guidance correctly acknowledges that there may be obligations on justice professionals, including solicitors, to reasonably accommodate the communication needs of an autistic person under the Equal Status Acts.⁴ As noted in the draft Guidance at Page 5, autism is often considered a hidden or invisible disability as the characteristics of autism are often unclear and might be inseparable from general social anxiety and in those circumstances, self-identification can prove beneficial.

The introduction of this draft Guidance and, among other initiatives such as the Just A Minute (JAM) cards, will help towards ensuring that at least some autistic people are comfortable with self-identification so that their specific needs are met by justice professionals. It is worth noting that the Courts Service is already a JAM card-friendly organisation.⁵

This being said, we recognise that autistic people should never feel the obligation to self-identify to a solicitor and should only self-identify when they are comfortable to do so.

We also appreciate that the draft Guidance was prepared with the input of autistic people. It is important in the drafting of any Guidance that respect is maintained for the equality principle contained in the *UN Convention on the Rights of Persons with Disabilities*,⁶ which requires signatory states to avoid paternalism towards people with disabilities and to respect their autonomy and decision-making, while also accommodating and appreciating their unique needs.

The remaining part of this submission is divided into two further sections as follows: (a) general high-level comments and suggestions about the draft Guidance and its overall aims, and (b) an Annex which contains specific commentary on the draft Guidance (referencing specific pages or passages).

General Comments

The Law Society has some general comments on the draft Guidance and we also wish to repeat some concerns that we have previously expressed in relation to the Irish courts system that may have a particularly disproportionate effect on people with disabilities including people with autism.

1. Supplementary Guidance

The Law Society appreciates the amount of detail set out in the initial draft Guidance by the NDA. However, it is submitted that as a “guidance” document for justice professionals, the initial draft is quite lengthy. The Law Society suggests that the NDA should consider the merits of drafting an additional shorter-form of document summarising the main aspects of the draft Guidance which is specifically addressed to solicitors (and barristers). There are several benefits to this approach as follows:

⁴ The Equal Status Acts 2000-2018 outline disability as a protected characteristic or ‘ground.’ These grounds are protected from being discriminated against in, among other areas, the provision of goods and services.

⁵ See <https://www.courts.ie/just-minute-jam>

⁶ Available at: <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

- a) A summarised version of the draft Guidance may be more impactful for busy practitioners. Practitioners will be more likely to engage with the Guidance if it were presented in shorter form (eg a leaflet).
- b) Some solicitors may be in a position to display a leaflet on leaflet or brochure stands (that are common in solicitor offices). This could help potential clients with autism feel that their specific needs are being fully acknowledged by legal professionals, which may make them feel more at ease when attending appointments or generally engaging with the profession.
- c) Attending an appointment with a solicitor is often the first point of engagement for many people within the justice system, and it is important that this process is welcoming and inclusive for all users. As noted in the draft Guidance, the general introduction of the Just A Minute (JAM) cards across public services is a step in the right direction as it allows autistic people to self-identify a diagnosis at their own discretion and to encourage others to treat them with patience and respect. Self-identification, including through the possible use of JAM cards, in solicitor offices (where the person is comfortable to do so) would enable a solicitor to be aware that a person has autism: at this point, the draft Guidance is especially beneficial as an aid to a solicitor attempting to accommodate that person's specific needs.

2. Court Resources

As noted in the Law Society *Submission on the 2025 Budget*,⁷ the Irish courts system suffers from a general lack of funding. Although this negatively effects all users of the courts, including solicitors, there will be circumstances where this lack of funding will have a disproportionate impact on autistic people and their experience with the justice system. For example:

- a) Many court buildings do not have appropriate facilities which meet court users needs, such as consultation rooms and break room facilities. Although break rooms are generally of benefit to all court users, the lack of a break room option could disproportionately affect autistic court users who may feel overwhelmed by the court experience.
- b) The lack of virtual hearings in many courts may disproportionately prejudice autistic people who may prefer to avoid a highly stressful court environment in-person.
- c) Overcrowded court lists (too many cases listed to be heard in one day) due to tight court resources might not allow time or preparation for autistic people to be heard in a manner that accommodates their unique needs.
- d) Finally, and speaking generally to the overall mission of the NDA to improve outcomes for people with disabilities in Irish society, the challenges in court resourcing harms the accessibility of the service for everyone but *particularly* people with disabilities including people with physical disabilities (such as wheelchair users) who might be harmed by lack of physical access or facilities accommodating their disabilities.

It is important to the Law Society that the NDA is mindful of the challenges around the adequacy of funding and the implications for access to justice. The Law Society is interested in working with the NDA to explore ways that we can work together to bring about improvements in the courts system so as to better accommodate disability. The lack of funding for the courts system in Ireland may even hamper efforts to make the courts system more inclusive.

3. Solicitor Training

⁷ Available at: <https://www.lawsociety.ie/globalassets/documents/submissions/2024-budget-25-submission.pdf>

In addition to the draft Guidance, solicitors could benefit from bespoke training that improves their awareness of the unique needs of clients with autism.

The Education Department of the Law Society conducts several Continuing Professional Development (CPD) courses aimed at educating professionals throughout their legal careers. A future CPD course that assists solicitors in interacting with clients with autism could be beneficial to both practitioners and autistic users of the justice system alike. The Law Society welcomes further cooperation with the NDA (given that they have strong experience and knowledge of the specific needs of people with autism) on a prospective CPD offering.

It may be that people with autism, could, for example, help shape the development and delivery, particularly as they may have experienced shortcomings in how the justice system addressed their unique needs. Such training, and the promotion of such training, may encourage people with autism to make professionals aware of their specific needs in the first place, and more likely to engage in the broader justice system.

4. Resources for Solicitors with Autism

Separately, the NDA might consider working with the Law Society on dedicated resources for solicitors *with* autism. As one might expect, there are solicitors with autism who lead fulfilling and successful careers and often the justice system does not adequately address the needs of solicitors with autism. The Law Society is a supporter of the *disAbility Legal Network*⁸ and as part of this it has committed to contributing to a disability-friendly legal sector, including by:

- Promoting an inclusive culture where employees feel comfortable to self-declare their disability,
- Incorporating disability awareness training,
- Making office buildings wheelchair-accessible via Universal Design,⁹ and
- Promoting the use of disability-friendly technology.

While this part of the submission has sought to provide general commentary and suggestions to the NDA, including on the draft Guidance, the Annex to the submission provides commentary on specific aspects of the draft Guidance document.

Conclusion

The Law Society appreciates the opportunity to contribute to the NDA's draft Guidance. We remain interested in providing input on any future work by the NDA. We hope that the NDA find our input to be of assistance.

For further information on any aspect of this submission, please contact the Policy Department of the Law Society of Ireland at: PolicyTeam@LawSociety.ie

⁸ See <https://www.disabilitylegalnetwork.ie/>

⁹ Namely, the design of a building or space that makes it as accessible as possible for all users regardless of age or disability.

Annex: Integrated Commentary on Draft Guidance

General Commentary

Companion Guidance

The draft Guidance would greatly benefit from a condensed companion leaflet aimed specifically at solicitors.

Anecdotal Experiences

The Law Society notes there has been a substantial effort placed into gathering the experiences of autistic court users and justice professionals (beginning on Page 6 with the anecdotal account of a Family Court judge) who have interacted with these users and interspersing them throughout the document. The Law Society acknowledges that this approach is similar to the 2014 Guidance produced by the National Autistic Society of Northern Ireland.

However, we recommend that these anecdotal experiences be set out in an appendix to the draft Guidance or alternatively instead of anecdotal examples of interactions the NDA could disperse good practice or hypothetical good practice examples throughout the document. As an example of this, please see a guidance document prepared by Neurodivergence Wales in 2020 entitled *Autism: A Guide for Practitioners with Housing and Homelessness Services*.¹⁰ This would aid the purpose of the document by helping justice professionals visualise the kind of behaviour that would make autistic people feel more individually appreciated and visible.

Specific Commentary

“What should justice professionals know about autism and autistic people” (Pages 5 – 8):

This section of the document lays out:

- What autism is and how it may be recognised,
- How autistic people get involved in the justice system,
- Why it is important that justice professionals (including solicitors) consider the possibility that a person might be autistic and;
- How can justice professionals recognise autistic people.

The Law Society appreciates the lengths that the document goes to contextualise the disability of autism, how autistic people engage with the justice system, and why autistic people might be greatly prejudiced by the justice system if justice professionals do not make positive efforts to consider the possibility that a person is autistic (even in the absence of an official diagnosis or self-identification).

The Law Society recommends adding an explicit caveat that there is no professional obligation for solicitors to diagnose autism. The Law Society agrees that solicitors should be considerate of the possibility that a client or court user might be autistic even in the absence of self-identification, and that the criteria provided in this section by the NDA that *might* indicate autism are useful as guidance in this sense.

¹⁰ Available at: https://neurodivergencewales.org/wp-content/uploads/2020/09/Autism_A-Guide-for-Practitioners-within-Housing-and-Homelessness-Services_Eng.pdf

“How can justice professionals effectively question or interview autistic people” (Pages 16 – 28):

The Law Society notes that this section has relevant application to solicitors as, during initial client meetings, a solicitor is required to question/interview a client on the details of their case so that they might assist the client with any ongoing legal issues. An initial client meeting between a solicitor and a client is in many ways similar to an interview.

The Law Society agrees that solicitors and other justice professionals should be equipped to be able to accommodate autistic people and the draft Guidance promotes this culture of acceptance and recognition. We note that there is already a growing acceptance of and recognition towards autistic clients from law firms that announce on their websites that they are comfortable accommodating autistic clients (particularly in the Family Law context).

It should be noted that self-identification by autistic people is crucial to allow solicitors to be able to prepare for interviews of autistic clients.

Page 17 notes that justice professionals should outline procedures in advance of an interview and that generally planning and preparation (including the giving of notice to the person if changes are unavoidable) are paramount. But how can a solicitor outline interviews or questions in advance to an autistic person if they are not first made aware that a client might have autism and cannot be expected to diagnose the person? The pre-interview checklist on Page 18 is useful although a solicitor cannot reasonably be expected to check off this list unless a person has flagged their disability in advance of a meeting.

An improved rate of self-identification (when autistic people are comfortable to do so) is a positive thing that allows solicitors to meet the needs of autistic clients: otherwise, solicitors may be at risk of inadvertently causing autistic individuals to be more anxious and uncomfortable when interacting with them. This self-identification may be through the wearing of a sunflower lanyard or an AsIAm autism identification card (as noted on Page 7) or via the use of a Just A Minute (JAM) card which has been utilised successfully in Ireland in a variety of contexts including public transport.

Additional Suggestions

The draft Guidance states on Page 15 that justice professionals should “allow extra time for a person to respond” and to ensure that questions should be “direct, clear and focused on one thing at a time.” The Law Society agrees with this in the solicitor context. Justice professionals should not expect an immediate response to their questions from an autistic person as they may become overwhelmed. This guidance is expressed in Page 24 and should be repeated on Page 15.

Finally, on Page 29 please consider the appropriateness of adding the word “adult” as indicated in the following paragraph. “A Responsible Adult may be present during an interview with an adult with an intellectual or mental disability or any child if a parent, guardian, adult spouse (if the adult child is married) or adult relative is not readily available or suitable.”