Report on the Operation of the Irish Sign Language Act 2017:

**Executive Summary**

December 2021



# Executive Summary

The Irish Sign Language Act 2017 (the Act) was enacted on 24th December 2017 and commenced on 23rd December 2020. The Act recognises the right of ISL users to use ISL as their native language, and to develop and preserve it. This Act places a statutory duty on all public bodies to provide ISL users with free interpretation when availing of or seeking to access statutory entitlements and services provided by or under statute. In addition, the Act provides for specific obligations in the areas of legal proceedings, educational provision and broadcasting.

The Act was designed to address the ‘extreme marginalisation’ of ISL users that was noted by the Joint Committee on Justice and Equality in 2016, when it recommended that ISL legislation be enacted as soon as possible.[[1]](#footnote-2) ISL is the first or preferred language of an estimated 5,000 deaf people in Ireland, with an additional 40,000 people estimated to communicate in ISL such as family members, friends, and co-workers of deaf ISL users.[[2]](#footnote-3)

Overall, the ISL Act is not yet operating as intended, with significant gaps in knowledge and understanding of the responsibilities of public bodies under the Act. Implementation was noted to be poor across most sections of the Act, with many public bodies appearing unprepared for the activities needed to achieve compliance. Considerable effort is required to achieve the level of ISL access envisioned when the Act was created, and needed by the ISL community. In light of the three years’ notice of the enforcement date of the Act (Section 11(2)), further focus to address the gaps in implementation at the earliest opportunity is required.

## Summary of the ISL Act

The ISL Act has a number of distinct sections relating to service provision:

* Section 6 places a duty on public bodies to provide access to public services or statutory entitlements through ISL when requested through the provision of free ISL interpretation by accredited interpreters. Section 7 of the Act requires that an accreditation scheme which verifies the competence of ISL interpreters is established.
* Section 4 is explicit in stating that a person may use ISL in any court. There is a duty on the court service to make sure that the person will not be placed at any disadvantage in being heard in ISL.
* Section 5 outlines education supports for deaf children. These include the provision of ISL classes to parents/guardians, siblings and grandparents of a child who is deaf. There is also a stipulation to establish a scheme to provide ISL support for children attending school whose primary language is ISL. In addition, Section 5 establishes the need for both availability of ISL training in higher education and minimum qualifications for teachers of children who are deaf or hard of hearing.
* Section 8 is about adhering to principles of equality, dignity and respect in terms of promotion and broadcasting programmes with ISL.
* Section 9 allows for, funds to be provided to facilitate ISL users to access social, educational and cultural events and services (including medical) and other activities.

## Overview of the Reporting Process

The National Disability Authority (NDA) is the independent statutory body whose remit includes a duty to provide information and evidence-informed advice to Government on disability matters, and to promote Universal Design. The NDA was asked by the Minister for Children, Equality, Disability, Integration and Youth to prepare a report on the operation of the Act as outlined in Section 10 of the Act. Section 10(1) states that ‘The Minister shall, not later than 3 years after the date on which this Act is enacted and every 5 years thereafter require a report to be prepared on the operation of this Act.’ Section 10 also requires this report to specifically address:

* whether any amendments to the scope and contents of the Act are necessary or desirable
* whether additional provision need to be made in relation to supports for a child within the schools system whose primary language is ISL and
* the qualifications for the minimum level of ISL competency for persons who are teaching a child whose primary language is ISL

The NDA gathered information on the current operation of the Act from members of the public and ISL users through online public meetings, surveys of the ISL community and invitations for submissions. Information on the operation of the Act from public bodies was gathered through a public body survey and targeted meetings related to specific responsibilities under the Act. A draft report was submitted to the Minister in July 2021 and the Department of Children, Equality, Disability Integration and Youth (CEDIY) subsequently sought observations on the report from all Government departments. Some departments in turn sought observations from the public bodies under their ageis. The report content has been updated where relevant and appropriate, such as where there were errors of fact, on the basis of feedback from departments and public bodies in relation to the situation at the time of the reporting period (March-June 2021).

This report is the first report on the operation of the Act since its enactment in December 2017 and its commencement in December 2020. The report focuses on the operation of particular sections of the Act in turn, in order of those that are most widely applicable. An additional public consultation report summarising public feedback is provided as a technical annex to this report.

## Overview of the Operation of the ISL Act

### Duty of Public Bodies (Section 6)

The most widely applicable section of the Act relates to the duty of public bodies to provide ISL interpretation in set circumstances.

Just over three quarters (77%) of public bodies responded to the public body survey.[[3]](#footnote-4) Of those that responded 31% were not aware of the ISL Act prior to the survey. An additional one in five (20%) were aware of the Act but not aware of their responsibilities under the Act. The remainder (50%), stated that they were aware of both the Act and their responsibilities.[[4]](#footnote-5) Just 36% of all public bodies that responded considered themselves to be fully in compliance with the requirements of the Act.[[5]](#footnote-6)

The lack of awareness among many public bodies of the ISL Act and their responsibilities under the Act is reflected in the findings from the survey of the public where just 5% rated access to public services through ISL as good. Public feedback on access to services through ISL focused on potential improvements in relation to healthcare, policing, culture, politics, broadcasting, education and early childhood care.

The NDA found a significant need for improvement in awareness, and understanding – in both the public and public bodies – of the scope and definitions of the ISL Act, and which public bodies the Act applies to. In some cases, further clarification is required of the meaning of specific terms in the Act. Greater awareness is needed among public body staff of the status of ISL as a full language, of the range of recipients eligible for interpretation, and of the fact that delivery of services in the absence of ISL can mean the absence of meaningful communication and therefore a substandard experience of service delivery. Further to this, ensuring adequate access to services through ISL requires clarification of approaches to statutory entitlements delivered by non-public bodies (such as hospitals, schools and nursing homes), and state-funded services that aren’t statutory entitlements (such as early childhood care).

Given widespread underperformance by public bodies in meeting the requirements of the Act, it is recommended that standard procedures for access to services through ISL be developed and published in Regulations and that ISL-accessible complaints mechanisms be established. In addition, to promote compliance, public bodies should be required to publish ISL action plans with clear timeframes for when they will be compliant.

### Access to Accredited Interpreters (Section 7)

An adequate supply of accredited ISL interpreters is a vital underpinning to the functioning of the ISL Act, as public bodies should only employ accredited interpreters in fulfilling their obligations. The establishment of a Register of Irish Sign Language Interpreters in December 2020 has provided the essential element of interpreter accreditation. The supply of accredited ISL interpreters however has remained very low since 2017 and is a serious risk to adequate access to public services through ISL. The Sign Language Interpreting Service was able to fill only 70% of requests for referral to interpreters in 2020, and this can be expected to worsen as public bodies increase demand by improving their compliance with the ISL Act. Attention is needed to increasing the number, and retention, of working accredited ISL interpreters as a matter of priority.

### Courts (Section 4)

Criminal courts largely provide ISL interpretation as needed, however improvements to the knowledge of the judiciary in directing the appointment of accredited interpreters would support more robust provision. Outside of criminal courts, civil courts showed a lack of preparation for commencement of the Act, with improvements needed in relation to published processes for ISL users to raise the need for ISL interpretation, and establishment of an ISL-accessible complaints mechanism.

### Education (Section 5)

Significant gaps in the implementation of the Act were noted in the area of Education. Urgent action is required to address these in order to ensure that children whose primary language is ISL are enabled to achieve to their full potential, in school and beyond.

The ISL Tuition scheme for parents, guardians, siblings and grandparents requires review to address a number of operational issues affecting access and quality and to ensure it meets the needs of this group. In addition the purpose of the scheme in establishing ISL proficiency requires clarification.

The scheme for ISL supports for children in recognised schools has not been established. Consultees expressed concerns about the current provision of ISL support to access the curriculum. An amendment of this clause of the Act is recommended to establish a clear purpose to the scheme in providing access to the curriculum, language development, peer communication and educational supports.

There has, as yet, been no action to ensure a sufficient number of higher education placements for ISL training of teachers of children who are deaf or hard of hearing in the State, nor any action to set minimum qualifications for these teachers.

An additional provision in Section 5 of the Act is proposed, to provide a statutory underpinning and clear purpose to the provision of ISL tuition to all children whose primary language is ISL, in order to recognise the vital role these supports play in avoiding language deprivation, and to ensure a focus on developing proficiency in ISL.

### Broadcasting (Section 8)

Consideration of equality, dignity and respect required by the ISL Act in the broadcasting of programmes with ISL highlighted room for a number of changes to improve the provision of ISL programming and access for the ISL community. Currently programmes with ISL are predominantly broadcasted during sleeping hours. Greater clarity through review and amendment of this Section, guidance on the practical interpretation of the principles of this clause and consequently a review of the Broadcasting Authority of Ireland (BAI) Access Rules is needed to support equality, dignity and respect in ISL broadcasting.

### Support for Access to events, services and activities (Section 9)

A scheme to provide access to events, services and activities through ISL referred to as the ‘Voucher Scheme’ is expected to begin a pilot by the end of June 2021. Evaluation of this pilot is expected to inform a permanent model for the scheme. Based on the NDA’s review, the associated draft guidelines of this pilot scheme appear to meet the requirements of the Act in specifying the events, services and activities to which the scheme applies. Improving awareness among public bodies of their duties to provide interpretation for their services under Section 6 of the Act should make sure that the voucher scheme is only engaged with for its intended events, services and activities.

### Recognition of Irish Sign Language (Section 3)

The development and preservation of ISL is provided for in the ISL Act but ownership of this role should be clarified. Quality ISL interpretation in contexts such as education and broadcasting has a notable impact on the development and preservation of the language. Mechanisms such as the introduction of ISL as a subject in school and active monitoring of ISL quality in broadcasting would support the development and preservation of ISL.

### Issues not currently covered by the Act

A number of matters that are outside the scope of the Act were raised in public consultation. Access to private services through ISL can be supported by improving awareness of ISL as a reasonable accommodation under the Equal Status Acts. Access to employment through ISL should be supported by guidance and standards under the Employment Equality Act and consideration given to developing a supporting scheme. Access to services for people who use tactile or augmentative ISL requires investigation to determine improvements. Further consideration to ensure adequate ISL supports in early childhood care is also needed.

Ireland’s first state report on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), submitted in November 2021, references the ISL Act as a response to the requirements of the Convention. Actions in response to the UNCRPD to promote ISL and to recognise and promote the linguistic identity of the deaf community would support the functioning of the ISL Act.

## Conclusion and recommendations

The findings of this report, in considering the operation of each Section of the ISL Act, indicates that overall, implementation by public bodies and access to services through ISL is currently well below the expectations of the legislation.

The recommendations to improve the functioning of the ISL Act range across a wide variety of issues. The summary of recommendations and considerations should be read in conjunction with the detailed text within the body of the report. The NDA has categorised[[6]](#footnote-7) the recommendations and considerations as follows:

* High priority recommendations
* Important recommendations
* Further considerations on issues relevant to the operation of the Act
* Further considerations on relevant issues not currently covered by the Act

| **High priority recommendations** | **Suggested responsibility** |
| --- | --- |
| **Section 7: Interpreter supply** |  |
| 1. Review and develop an action plan to increase the supply of interpreters as a priority | Ministers for Children Equality Disability Integration and Youth (CEDIY), Social Protection, and Further and Higher Education, Research, Innovation and Science (FHERIS;); National Skills Council |
| **Section 6: Awareness** |  |
| 1. Raise awareness of the existence of the Act in public bodies and among the ISL community to include:  * Information on eligible ISL users, need for interpreter accreditation, interpretation at no cost to ISL users * Information on the status of ISL as a language and the reliance of ISL users on accredited ISL interpretation to ensure access, full communication, consent, and when in court, a fair trial * The distinctions between the ISL Act and the Disability Act in relation to access to services through ISL | Minister for CEDIY |
| **Section 5(b): Provision of ISL supports for children in schools** |  |
| 1. Establish a scheme under Section 5(b) in consultation with the ISL community and informed by a proposed amendment to Section 5(b), and previously delivered NCSE advice on Section 5(b), to provide ISL support for children attending recognised schools.  * Amend Section 5(b) to clearly state the purpose of the scheme for children in recognised schools to include: * access to ISL language development * full access to the curriculum through fluent ISL * access to peer communication * access to other educational supports that are provided to all students, such as psychological services | Minister for Education |
| **Section 5(c): Educational placements for ISL training for teachers** |  |
| 1. Determine the number of placements required in higher education institutions to sufficiently provide for ISL training to teachers of children who are deaf or hard of hearing, and ensure this number of placements are established | Minister for Education, Minister for FHERIS |
| **Section 5 (d): ISL qualifications for teachers of children whose primary language is ISL** |  |
| 1. Establish minimum qualifications for teachers of children who are deaf or hard of hearing including minimum standards of ISL competence at a level sufficient to provide children with access to the curriculum through ISL | Minister for Education |
| **Section 5(a): ISL tuition** |  |
| 1. Amend the Act to provide a statutory underpinning for ISL tuition for deaf children via a new clause in Section 5, with a view to supporting development of language proficiency and avoiding language deprivation 2. Clarify the purpose of the Section 5(a) scheme for ISL tuition for parents, guardians, grandparents and siblings in relation to the intended level of ISL proficiency it aims to facilitate, with a view to supporting the role of families in their children’s language acquisition and development, and establishment of a common family language.  * Review the ISL Tuition scheme to improve alignment with the requirements of Section 5(a) and to improve access through addressing operational issues associated with awareness of the scheme, application and reapplication process, access to tutors, tutor supply, hours provided, missed hours, payment of tutors, quality standards and curriculum. | Ministers for CEDIY and Education     Ministers for CEDIY and Education    Minister for Education |
| **Section 8: Broadcasting** |  |
| 1. Ensure broadcasting through ISL that is undertaken as part of meeting targets under the BAI Access Rules is  * Provided during popular times and ISL targets are based on an 18-hour day from 7am to 1am * Balancing the ratio of repeated and non-repeated content to provide a diversity of content equivalent to that provided to other viewers | Relevant broadcasters |
| 1. Provide guidance and clarity for broadcasters and the BAI as to the practical implementation of the principles of equality, dignity and respect in Section 8 to include:  * Reviewing and amending the wording of Section 8 to improve support for television programmes with ISL * Establishing monitoring processes that assess the quality of ISL in programming, and assess broadcaster delivery of targets based on daily provision | Ministers for CEDIY and Tourism, Culture, Arts, Gaeltacht, Sport and Media (TCAGSM)  BAI |
| **Section 6: Procedures** |  |
| 1. Establish procedures through Regulations for public bodies to provide services through ISL to include:  * The aspects of services the Act applies to e.g. information, consultation, appointments * ISL interpretation for children or for those accessing services with an ISL-using carer, guardian or parent * GDPR guidance on sharing information with interpreters * Procedural matters such as notice periods, enabling choice of interpreters, allocating an interpreter for each party in courts | Minister for CEDIY |
| 1. Make complaints mechanisms accessible to ISL users | Minister for CEDIY |
| **Section 6: Scope of the Act** |  |
| 1. Clarify the term “all that is reasonable” in Section 6(1) through either Amendments or Regulations to ensure interpretation is provided unless an interpreter is not available | Minister for CEDIY |

| **Important recommendations** | **Suggested responsibility** |
| --- | --- |
| **Section 6: Scope of the Act** |  |
| 1. Provide clarity on the scope of the Act regarding which public bodies and services it applies to, including delivery of statutory entitlements by non-state providers and incorporating ISL responsibilities into contracts and funding agreements  * Provide clarity on key terms in Section 6(1), being “statutory entitlement or service provided by or under statute”  1. Provide clarity on scope of eligible users ensuring that it is clear that ISL users determine when ISL is needed, and that there may be more than one party to any service experience | Minister for CEDIY  Minister for CEDIY |
| **Section 5(d): ISL qualifications for teachers of children whose primary language is ISL** |  |
| 1. Establish minimum qualifications in ISL for Visiting Teachers that work with children whose primary language is ISL, at a level sufficient to enable fluent ISL conversation with these children | Minister for Education |
| **Compliance** |  |
| 1. Establish mechanisms to define, support and encourage compliance with the Act such as a requirement for action plans from key sectors and provision of guidance | Minister for CEDIY |
| 1. Assess operation of the ISL Act through existing monitoring mechanisms, such as the monitoring of Part 3 of the Disability Act and monitoring of the UNCRPD, in advance of the next 5-year report | Minister for CEDIY |

| **Further considerations on issues relevant to the operation of the Act** | **Suggested responsibility** |
| --- | --- |
| 1. Consider clarifying the terms ‘ISL user’ and ‘community of persons using ISL’ in relation to Section 3 informed by consultation and international best practice in relation to language rights | Minister for CEDIY |
| 1. Consider establishing ISL learning as a language subject with a standard curriculum in schools | Minister for Education |
| 1. Consider providing clarity on who has responsibility for preservation of ISL as provided for in Section 3(2) | Minister for CEDIY |
| 1. Consider determining a solution to provide access to state-funded services that are not statutory entitlements | Minister for CEDIY |
| 1. Consider undertaking targeted consultation with children as part of future reporting on the operation of the ISL Act | Minister for CEDIY |

| **Further considerations on relevant issues not currently covered by the Act** | **Suggested Responsibility** |
| --- | --- |
| 1. Consider improving awareness that under the Equal Status Acts, ISL interpretation is appropriate ‘reasonable accommodation’ to be provided by private services, and provide guidance on procedures for procuring ISL interpretation | Minister for CEDIY; Irish Human Rights and Equality Commission (IHREC) |
| 1. Consider addressing guidance and standards for reasonable accommodations for ISL interpretation in future work on ‘reasonable accommodation’ under the Employment Equality Acts, including consideration of a scheme to provide ISL interpretation for employees | Ministers for Social Protection, CEDIY and Enterprise, Trade and Employment (ETE); IHREC |
| 1. Consider investigating ways to improve access to services and social inclusion for people who use tactile and augmentative ISL | Minister for CEDIY |
| 1. Consider establishing adequate and streamlined ISL supports to ensure access to early childhood care settings for children whose primary language is ISL. | Minister for CEDIY |
| 1. Consider further supporting the UNCRPD action on the promotion of sign languages by publicly promoting the use of ISL to improve public awareness, understanding and pride in ISL | Minister for CEDIY |
| 1. Consider further supporting the UNCRPD action on recognising and promoting the linguistic identity of the deaf community including reinstatement of regular television programmes in ISL by and for the deaf community | Ministers for CEDIY, and TCAGSM; Relevant broadcasters |

1. Houses of the Oireachtas, Joint Committee on Justice and Equality (2016). Report on the Formal Recognition of Irish Sign Language. <https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2016/2016-10-13_report-on-the-formal-recognition-of-irish-sign-language-october-2016_en.pdf> (Last accessed May 2021) [↑](#footnote-ref-2)
2. Irish Deaf Society, ‘ Irish Sign Language’. <https://www.irishdeafsociety.ie/irish-sign-language/> (Last accessed May 2021) [↑](#footnote-ref-3)
3. The ISL translation of this document reports that 75% of public bodies replied to the survey. After the ISL translation was completed it came to light that in fact only 292, not 299, public bodies were subject to the ISL Act, giving a response rate of 77.1%. [↑](#footnote-ref-4)
4. Totals may not add to 100% due to rounding of decimal places [↑](#footnote-ref-5)
5. Some public bodies indicated that they believed the Act did not apply to them as they do not provide public-facing services. [↑](#footnote-ref-6)
6. These categories were determined by using a matrix where relevance to the operation of the Act was appraised alongside priority level for implementation. [↑](#footnote-ref-7)