

SPICe Briefing

British Sign Language (Scotland) Bill – Parliamentary consideration prior to stage 3

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Stage 3 proceedings on the British Sign Language (Scotland) Bill are scheduled to take place in early September 2015. This briefing summarises the main issues raised during the Education and Culture Committee's deliberations at Stage 1 and the amendments put forward at Stage 2.

A previous SPICe briefing: [British Sign Language \(Scotland\) Bill](#) (Macpherson, 2015) considered the provisions of the Bill at its introduction.



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INTRODUCTION

The British Sign Language (Scotland) Bill (“the Bill”) was introduced in the Scottish Parliament on 29 October 2014. This Member’s Bill was introduced by Mark Griffin, MSP. Its purpose was to promote the use of British Sign Language (BSL) including making provision for the preparation and publication of a BSL National Plan for Scotland and requiring listed public authorities, in the exercise of their functions, to prepare and publish individual BSL plans.

The Education and Culture Committee was assigned as the lead committee during Stage 1 deliberations and Stage 2 amendments.

PARLIAMENTARY CONSIDERATION

Table 1 outlines the timetable for parliamentary consideration of the Bill during Stage 1 and Stage 2. Stage 3 proceedings are scheduled to take place in early September 2015.

Table 1: Timetable for Parliamentary Consideration of the Bill, Stages 1 and 2

Bill introduced	29 October 2014
Scottish Government memorandum	10 December 2014
Stage 1 – general principles	
Education and Culture Committee	16 December 2014 24 February 2015 17 March 2015
Finance Committee	4 February 2015
Delegated Powers and Law Reform Committee	3 March 2015 24 March 2015
Stage 1 report published	27 April 2015
Scottish Government response to Stage 1 report	30 April 2015
Stage 1 debate	5 May 2015
Stage 2 – detailed consideration	
Education and Culture Committee	2 June 2015
Amended bill published	3 June 2015

STAGE 1 DELIBERATIONS

Scottish Government Memorandum

As Table 1 shows, the Bill was introduced on 29 October 2014. Soon after its introduction, and prior to the Education and Culture Committee starting to take oral evidence, the Scottish Government submitted a [memorandum](#) to the Education and Culture Committee responding to the provisions in the Bill (Scottish Government, 2014).

The memorandum highlighted support for the proposal for a duty on Scottish Ministers to publish a BSL National Plan: “We believe this offers an opportunity for the Scottish Government to demonstrate leadership on this issue.”

In recognition of the fact that most service delivery takes place within other public bodies than the Scottish Government, there was also support for the proposal to require a number of public authorities, listed at Schedule 2 of the Bill (“listed public authorities”), to publish an Authority Plan setting out how it would work to promote BSL. The requirement for Authority Plans to mirror the priorities in the National Plan was also supported. The view was that this approach would ensure greater consistency across public authorities, while also making it easier to review performance.

While supportive of the principles to be established through the Bill, the Scottish Government’s memorandum proposed a number of revisions to the approach taken (see Table 2). This led to the unusual position where there was discussion of substantive amendments to the Bill very soon after its introduction.

Table 2: Scottish Government memorandum: issued raised and changes proposed

Issue raised	Change proposed
The requirement on a number of public authorities to each publish a separate BSL plan was thought to risk creating “a heavy (and expensive) bureaucratic burden” of time spent producing plans, without necessarily leading to greater access to information and services in BSL.	Listed authorities to produce a shorter BSL statement setting out how it would make progress towards priorities identified in the National Plan.
The limits to the size and capacity of the BSL community were thought to make the requirements around consultation for both the National Plan and a large number of individual Authority Plans onerous.	Consultation to be conducted on a national / group basis and used by a number of public bodies. A National Advisory Group, including a significant proportion of BSL users, should be established to facilitate this activity.
There was no requirement within the Bill for plans to be published in BSL. This omission was thought to risk excluding some Deaf BSL users from taking part in consultation on the proposals set out in plans.	Listed authorities to publish plans in BSL.
While recognising the value of the performance review as “an account of the measures taken and the outcomes attained”, details on how information should be collected was not clear from the Bill documentation.	The BSL National Advisory Group could assist in gathering updates from listed authorities on progress made as well as advising the Scottish Government on the content of the performance review. This approach was suggested to offer “a degree of independence”.
The timing of the different reporting mechanisms as set out in the Bill was thought to be quite complex. There was also concern that, in some cases, time available between planning and reporting on activity was short.	The cycle for publishing BSL plans and performance review should be extended.
The provision in the Bill for a Minister to be assigned with special responsibility for exercising the functions set out in the Bill was thought not to “accord with the collective responsibility of the Scottish Ministers.”	Removal of the requirement to assign special responsibility to a lead Minister.
The listed public authorities’ subject to the provisions in the Bill was not aligned with other lists of public authorities held by the Scottish Government. Further, there was recognition that there could be opportunities for some public authorities to publish a shared plan, where appropriate.	Changes to the list of public authorities covered by the Bill, including removing a number of executive agencies from the list – instead being included in the provisions set out in the National Plan.

The Scottish Government memorandum also noted additional costs not included in the Financial Memorandum. It set out revised cost estimates, including costs associated with proposed changes, notably the publication of plans in BSL (Scottish Government, 2014).

On 21 May 2015, the Minister for Learning, Science and Scotland's Languages, Alasdair Allan MSP, wrote to the Committee formally setting out revised cost estimates based on Scottish Government proposed amendments to the Bill (Scottish Government, 2015a).

Education and Culture Committee: Stage 1 Report

Throughout the Education and Culture Committee's Stage 1 evidence gathering, it was clear that there was significant support for the Bill, particularly among Deaf BSL users. This support arose from the Bill identifying British Sign Language as a minority language, similar to Gaelic, rather than a disability that required "reasonable adjustment" to allow Deaf BSL users access to services. The Stage 1 report reflects this point:

"The Bill is an important step in helping to meet the linguistic needs of BSL users, in the same way as previous legislation did for Gaelic language in Scotland. This is distinct from protection offered by existing equality legislation, which identifies [Deaf] BSL users as disabled." (Scottish Parliament, 2015)

While supportive of the principles set out in the Bill, and a number of the changes proposed in the Scottish Government memorandum, the Education and Culture Committee in its Stage 1 report makes a number of observations and comments. These focus on ensuring that:

- Plans (both the National Plan and Authority Plans) deliver a higher profile for BSL and increased use of BSL in delivery of public services.
- The Scottish Government makes clear how publishing a BSL statement, rather than a BSL plan, would reduce the bureaucratic burden on public authorities.
- People have the opportunity to contribute to the development of authority plans and to comment on local service provision.
- Concerns from public authorities about implementation costs associated with taking forward the proposals in the Bill are acknowledged and addressed.
- Listed authorities are held to account for their actions in relation to BSL. This should include consultation and engagement with the BSL community at national and local level.
- Action is taken when an Authority Plan is found to be unsatisfactory.

In light of the issues raised during Stage 1 deliberations, including in the Education and Culture Committee's Stage 1 report, a number of the changes proposed by in the Scottish Government memorandum were not brought forward as amendments at Stage 2 (see Table 3 below).

STAGE 2 AMENDMENTS

There were 63 amendments lodged at Stage 2. All were agreed to, except amendment 2A, which was withdrawn and amendment 58, which was replaced by amendment 63. Table 3 sets out the main groupings of Stage 2 amendments, including points of debate. The table is intended as a summary of key points, rather than a comprehensive analysis of the discussion that took place around the groupings of amendments. A full account of the discussion that took place can be found in the Official Report for the Education and Culture Committee meeting from 2 June 2015 (Scottish Parliament, 2015b).

Table 3: Summary of Stage 2 amendments

Amendments, by grouping	Stage 1	Stage 2
Forms of British Sign Language	Throughout Stage 1 there was discussion of the need to ensure that the work to engage BSL users in the drafting of BSL plans includes engagement with deafblind BSL users who use tactile BSL.	Amendments 1 and 38 were brought forward to make explicit that deafblind tactile BSL users are included in the provisions relating to engagement of BSL users. All amendments agreed to.
National Plan for Scotland	The Scottish Government proposed widening the scope of the National Plan to include a range of other national level public bodies alongside the Scottish Government. In its Stage 1 report, the Committee supported this recommendation insofar as it does not “dilute public authorities accountability for delivering the actions included in the plan.”	Amendments 2, 4-7 and 9 were brought forward in order to reduce the number of plans by bringing specific public bodies within the scope of the national plan. These amendments also extend the cycle of reporting for the national plan to reduce the administrative burden on public authorities. All amendments agreed to.
Translation of documents	The Bill as introduced did not provide for documentation to be produced in BSL. This was noted both by the Scottish Government and the Committee as being a potential barrier to engaging BSL users in developing plans.	Amendments 3 and 26 proposed including provisions to require relevant documents associated with this Bill to be produced in BSL. All amendments agreed to.
Accessible consultation	As with the discussion on <i>Forms of British Sign Language</i> , there was recognition of the need for consultation activity to include deafblind BSL users	Amendments 8 and 18 proposed stating explicitly that consultation activity includes deafblind BSL users. Amendments agreed to.
Special Ministerial responsibility	The Scottish Government in its memorandum on the Bill had noted that it was not in keeping with the collective responsibility of the Scottish Minister to have a Minister with special responsibility for exercising the functions set out in the Bill (as required through Section 2 of the Bill).	Amendment 10 removes Section 2 of the Bill. Amendment agreed to.
BSL Plans – listed authorities	There were discussions throughout Stage 1 about the timelines for reporting, with a general view that the proposal to tie reporting to Parliamentary cycles was not realistic for reporting purposes.	Amendments 11-17, 19, 20 and 45 were brought forward to “decouple the reporting and review cycle from the Parliamentary cycle” and to change the approach to reporting on progress as set out in other amendments. All amendments agreed to.

Publication by listed authorities	In line with changes to the timetable for reporting, there were changes proposed to the publication cycle.	Amendments 21-25 and 27 were brought forward to change the timing of publication of BSL plans to ensure consistency with other amendments. All amendments agreed to.
Performance Review	At stage 1 the Scottish Government highlighted a lack of baseline data and performance indicators, which make “a performance review in the traditional sense... difficult to undertake”. There was also concern raised during Stage 1 about the “naming and shaming” of individual authorities.	Amendments 28-34 were brought forward to address these concerns. Instead of a Performance Review, a progress report is suggested to highlight good practice and where development is needed, “without identifying individual authorities.” All amendments agreed to.
Listed authorities	Written submissions received at Stage 1 recommended a number of changes to the list of authorities required to produce a BSL plan. The Scottish Government also highlighted that, as a number of those listed were executive agencies of the Scottish Government, these should be included in the coverage of the National Plan.	Amendments 39, 41-44, 47-57, 59-62 and 63 were brought forward to amend the list of public authorities required to produce an authority plan, as well as removing those that are intended to contribute to the National Plan. All amendments agreed to.

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RELATED BRIEFINGS

[SB 15-05 British Sign Language \(Scotland\) Bill \(818KB pdf\)](#)

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