

Response from Eric McQueen

SCOTTISH PARLIAMENT EDUCATION AND CULTURE COMMITTEE - CALL FOR EVIDENCE ON THE BRITISH SIGN LANGUAGE BILL

Thank you for your email of 19 November 2014 seeking my response as Chief Executive of the Scottish Court Service on questions contained in the Call for evidence on the British Sign Language Bill introduced in the Scottish Parliament on 29 October 2014 by Mark Griffin MSP.

The British Sign Language (Scotland) Bill aims to promote the use of British Sign Language (BSL), principally by requiring BSL plans to be prepared and published by the Scottish Ministers and listed public authorities. The intention is that, by placing this obligation on the Scottish Government and listed authorities, the profile of the language will be heightened and its use in the delivery of services increased.

I should first of all be clear about what aspects of the petition fall within the Scottish Court Service's competence. The Scottish Court Service (SCS) is an independent statutory body constituted in terms of the Judiciary and Courts (Scotland) Act 2008 and is responsible for the provision of administrative support for the sheriff and JP courts, the Court of Session and High Court of Justiciary, and for members of the judiciary. SCS also provides administrative support to the Office of the Public Guardian and with effect from 1 April 2015 will merge with the Scottish Tribunal Service in providing administrative support to the tribunals currently devolved to the Scottish administration. I can therefore only answer queries about that administrative function. I do not proffer any explanation or comment on the merits of judicial decisions or the means by which those decisions might be reached. I provide below my response to the specific questions raised in the Call for evidence.

General approach

1. In the Policy Memorandum, Mark Griffin MSP says he considered a number of alternative approaches to achieve his intention of promoting BSL, for example, by establishing a voluntary code or adapting existing legislation, such as the Equality Act 2010. He concluded that introducing the BSL Bill was the best approach. **Do you think we need to change the law to promote the use of BSL and, if so, why?**

The Scottish Court Service has no specific comment to make in relation to the need for the formulation of this policy. Our main operational concern relates to an individual's ability to access and understand the court process. Courts have mechanisms in place in order to secure relevant services both for this purpose, and for any other relating to access to services or information. It may be however there will be need to scrutinise the marketplace's ability to service any increase in demand, more especially in the field of interpretation and translation.

2. Mark Griffin MSP hopes that the obligations under the Bill will, in practice, "lead public authorities to increase the use they make of BSL and the extent to which they are in a position to respond to demand for services in BSL" (Financial Memorandum,

paragraph 4). **How realistic do you think this aim is and to what extent do you believe the Bill can achieve this objective?**

Please see response to question 1 above. The requirement to create a Plan will enable authorities, following the consultation process, to examine current provision and how those services might be improved or supplemented, in the interests of BSL users. The Scottish Court Service cannot comment on the impact the legislative proposals are likely to have on other public authorities.

3. The Bill is solely about the use of BSL. **Could there be unintended consequences for other languages or forms of communication used by the deaf community?**

SCS is not able to comment on any unintended consequences. It is the aim of SCS to provide consistent services to court users of all protected characteristics.

Duties on the Scottish Ministers

4. The Bill will require the Scottish Government to prepare and publish a BSL National Plan (Section 1) and a BSL Performance Review (Section 5) in each parliamentary session (that is, normally every four years). The Scottish Government will also be required to designate a Minister with lead responsibility for BSL (Section

2). **What should this Minister do?**

SCS has no specific comment to make in this regard.

5. The BSL Performance Review provides the basis for the Parliament to hold the Scottish Ministers to account, and for Ministers to hold listed authorities to account. **If listed authorities say they will do something relating to the promotion of BSL, will the Performance Review process ensure they are held to account?**

The SCS view is that such an approach would be effective : the Performance Review process will provide a structured vehicle within which an accurate reflection on progress against stated objectives may be provided.

BSL Authority Plans

6. The Bill requires listed authorities to prepare and publish BSL Authority Plans in each parliamentary session. The Bill sets out what a BSL Authority Plan should include (Sections 3(3) and 3(4)). **Do you have any comments on the proposed content of the Plans?**

SCS considers the requirements set down in the Act to be reasonable and notes that the primary guide to the requirements of the Authority Plan will be the published National Plan itself, together with the criteria detailed in section 3. SCS also notes that both sections 3(3)(d) and 3(4)(b)(v) enable Scottish Ministers to provide such further clarity as might be required.

7. The Policy Memorandum (see diagram on page 6) explains the timescales for publication of Authority Plans. **Do you have any comments on these proposed timescales?**

SCS has no specific comment on the proposed timescales.

8. In preparing its Authority Plan, a public authority must consult with those who are “likely to be directly affected by the Authority Plan or otherwise to have an interest in

that Plan” (Section 3(6)) and must take into account any comments made to it during the consultation (Section 3(5)). **What effect do you think these requirements will have on you or your organisation?**

There are likely to be some resource implications for public authorities in the conducting of the consultation exercise. However, the consultation phase should ensure that the interests of those at the heart of the Bill are considered and that the resulting objectives are relevant and balanced. We note there is a similar requirement to consult set down in the Victims and Witnesses (S) Act 2014 in relation to standards of service.

9. The Bill (Schedule 2) lists 117 public authorities that will be required to publish Authority Plans. **Would you suggest any changes to the list of public authorities?**

SCS notes that other key players in the justice process are included in the proposed list of public authorities.