

Call for evidence response on the proposed British Sign Language (Scotland) Bill

Response by Children in Scotland

Children in Scotland welcomes the opportunity to respond to the proposed British Sign Language (Scotland) Bill. Our vision is that Scotland will become a world leader in securing the wellbeing of every child and improving the quality of every childhood and we believe that this Bill will contribute to this goal.

Children in Scotland hosts Enquire, the national advice service for additional support for learning, and will use relevant enquiries to the Enquire service to inform this response.

General approach

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?

Yes, we believe that legislation that is specific to and focussed entirely on BSL is critical. We do not think that a voluntary code or adapting existing legislation will go far enough to achieve the aspirations of this proposed legislation. We need to do better for people using BSL as their primary

language. Our focus is on children, young people and their families and for young BSL users improved services are needed.

There is already a duty on education authorities to secure that education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential¹. This duty used the language from article 29(a) of the United Nations Conventions on the Rights of the Child. We believe that this Bill would enhance this duty by contributing to an improvement of education delivered through the medium of BSL and to greater awareness of the language and the needs of its users.

Although the Equality Act 2010 is a very significant piece of legislation for minority groups, including deaf people, its premise is that we require legislation to protect individuals and groups from discrimination. Deaf BSL users need the support of legislation that ensures specific BSL linguistic considerations and improves general awareness of the language. Children who use BSL are generally profoundly deaf and able to access a visual gestural language such as BSL with much greater ease than a spoken language, for many there is not a choice. This puts them in a unique position that requires a unique response. Different considerations are needed for spoken languages. Children and young people who use BSL may not wish to identify themselves as disabled in order to benefit from equalities legislation and we believe that we should aspire to the integration of BSL into our culture. BSL was recognised as an official language in Scotland by the Scottish Government in 2011 and as such action is needed to improve its status.

We believe that in terms of wellbeing, children and young people who use BSL have a right to be part of a society that embraces their language and

¹ Standards in Scotland's Schools etc. Act 2000, section 2(1).

we hope that steps to do this will contribute to the reduction of the feelings of stigma and experience of bullying (as found in recent research such as the Centre for Research in Education Inclusion and Diversity (CREID) study into post school transitions for deaf and hard of hearing people)². The contribution that BSL makes and has the potential to make to communities is not recognised or appreciated. If BSL was available as a subject in schools we believe it would make our schools and communities more inclusive places. This has recently happened in Highland Council where a primary school has introduced BSL and Makaton as part of the language curriculum. We endorse this move and hope that other areas will follow suit.

We wholeheartedly support the policy objective of the Bill: to heighten the profile of the language and to increase its use in the delivery of services.

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?

If we want to achieve better outcomes for children and young people who use BSL then we must support this aim and believe it is achievable. If public authorities increase the use they make of BSL the effect will be to increase knowledge of the language and the needs of its users. There will be greater understanding, for example, of the qualifications required to be a BSL interpreter and the language proficiency needed to translate between BSL and English. Children in schools often have to accept lower standards of language skills in BSL for teachers than would ever be

² Post School Transitions for Deaf and Hard of Hearing People, CREID 2013

deemed acceptable in spoken languages. In a society where we have a Government focus on raising attainment for all and addressing education inequalities we believe that this Bill will make a valuable contribution.

It is important to see this Bill in the context the other legislation and guidance that is in place to support both deaf people and, given our particular focus, all children and young people. Critical policy and guidance to note includes the stretch aims of the Early Years Collaborative; the Getting it Right for Every Child framework; and the See Hear Strategy³. It is also critical to consider this Bill in the light of the recent report by the Commission for Developing Scotland's Young Workforce and we believe that an increased profile of BSL and increase in its use in the delivery of services will improve opportunities for young deaf people in the workplace and employer awareness of working with a BSL user.

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?

We believe that legislation is required solely about the use of BSL. Examples that have come to Enquire in relation to children and young people, and which we believe are important to consider in the context of this Bill, include:

- Parental enquiry about a pupil with a communication support worker who uses sign supported English and BSL Level 2, the parent expressed concern this is insufficient to allow their child to progress educationally.

³ See Hear, a strategic framework for meeting the needs of people with a sensory impairment in Scotland.

- A deaf child with a cochlear implant had been supported at school by a communicator who used BSL but the member of staff was then reallocated to another school. The pupil now has a classroom assistant who has BSL level 1 but the parent is concerned that this is not sufficient for interpreting the technical language necessary for the child's current work.
- Pupil who is profoundly deaf and is on the autistic spectrum, the pupil uses BSL. The family is concerned about the level of support being provided in school and the fact that there is no peer group for signing.

The standard of BSL used and availability of appropriately trained staff are the main issues for families contacting Enquire in relation to children who use BSL. Dr Alasdair Allan highlighted the Requirements for Teachers (Scotland) Regulations 2005 at the 11 December Parliamentary Debate on Educational Disadvantage and Deaf Children in Scotland. This regulation states that teachers who are employed wholly or mainly to teach hearing impaired pupils must possess an appropriate qualification to teach such pupils. The problem is that the interpretation of "appropriate qualification" varies in different authorities and tends to largely come down to what is available, it is not a systematic approach to raising the standards of BSL proficiency in teachers and communication support staff. We would highlight the recommendation made in the research by the Scottish Sensory Centre and CREID⁴:

"There is a need to monitor over time the qualifications of staff working wholly or mainly with children and young people with sensory impairments, to ensure that there is no deterioration, and preferably an

⁴ The Education of Children and Young People with a Sensory Impairment in Scotland, SSC and CREID 2012

improvement, in the qualification levels of such staff. There is also a need for authorities to consider succession planning, especially in authorities where most specialist teachers are aged 45 and over. In order to ensure that the qualification levels are maintained it may also be worth examining career prospects and additional pay for the extra qualification.”

It is our belief that this legislation is necessary for deaf BSL users in Scotland. We would hope that a consequence of this legislation would be a greater general understanding of the other forms of communication used by deaf people. Organisations in Scotland such as NDCS and Call Scotland can provide the expertise to advise on what we need to improve access to information and services for all deaf young people. Similarly, we need to make sure the See Hear Strategy is being consistently applied across Scotland.

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?

This Minister should be familiar with the main issues for the Deaf Community and have a good knowledge of the particular requirements of the provision of services through a visual-gestural language. This Minister should also have a strong influencing role in Government policy to ensure successful implementation of this legislation.

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?

It is important that local authorities support this Bill and the responsibility of the Scottish Ministers to encourage this support. We would recommend that authorities share best practice and solutions in meeting the Bill's duties, and that there is support in place from central government to local authorities to enable them to fulfil their duties. We think the Performance Review process is sufficient if it is thoroughly administered.

BSL Authority Plans

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?

We fully support this proposal and would recommend that accompanying guidance would be clear about the expectations for consultation with children, young people and their families.

In addition, BSL Plans should be integrated into local planning mechanisms so they are not isolated plans but complement existing systems, and guidance must be explicit about this.

Financial implications

1. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

The FM details the expected cost of the development of plans but we do not think it goes into sufficient detail on the possible costs associated with delivering services in BSL. More detail should be given to costs associated with BSL tuition. Due to the pressure on local authority budgets we feel that transparency about some training and development costs and on-going implementation would be beneficial.

We also think consultation with children and young people on the development of local authority plans should be made more explicit in the FM.

Wider Issues

8. Do you believe that the FM reasonably captures all costs associated with the Bill? If not, which other costs might be incurred and by whom?

See previous response.

Other issues

We believe that family BSL tuition is essential if young deaf children using BSL are to achieve the same linguistic expectations we have for other children. Early language development is a key focus in every early years policy initiative and this Bill creates an opportunity to improve early years language support for young deaf children. Acknowledging BSL in the strategic approach to the early years is a critical aspect of addressing the inequalities currently experienced by deaf children and young people not least, potentially having a positive impact on reducing the attainment gap.

The NDCS run Family Sign Language classes, which have resulted in improved communication and understanding in families. There needs to be more support for this project across Scotland. In Norway families of deaf children receive 1,000 hours of free sign language tuition, are compensated for any loss of income experienced whilst receiving this tuition and their travel costs reimbursed. Although this is a very resource heavy commitment it is an investment into the language development of deaf children that contributes to better attainment and achievement for these children. We fully support NDCS's recommendations regarding BSL planning for early years provision.

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