Submission of Evidence **BSL (Scotland) Bill**; response by Dr Steven Emery

**Introduction – who am I?**

I am bilingual in BSL and English, deaf since the age of 4 and my preferred language is BSL. I work as an Assistant Professor at Heriot Watt University, lecturing on the MA (Hons) British Sign Language (Interpreting, Translating and Applied Language Studies) programme. I am from England but live in Edinburgh. I hold a PhD in Citizenship and the Deaf Community – my book remains the only academic publication that has been translated from English to BSL¹.

**Opening statement**

I fully support Mark Griffin’s BSL (Scotland) Bill. The key reasons are (i) it raises the status of British Sign Language in Scotland; (ii) it commits the Scottish Government to carrying out a National Plan for BSL; and (iii) it distinguishes BSL users as a language minority group.

**Following Submission**

Many BSL users have given their support to the BSL Bill by citing their experiences of poor education, the lack of use of BSL, and the rights of the deaf child to receive a sign bilingual education. This subject has been well addressed but I would like to add some brief points.

The subject of education is not only about the methods and ways of instruction, but bringing deaf children together to: (i) form a positive BSL identity and culture (something that is only possible when they are brought together, and not left isolated in mainstream schools); (ii) ensure that via their education they become fully formed citizens of society, and, (iii) protect their mental health, for mainstreaming can be detrimental to their self-esteem and wellbeing².

(a) I include deaf children who have received a cochlear implant: they need to be taught together with other deaf children. There is no harm to a child to learn and be instructed in two languages, BSL and English (be it written only, or spoken/written).

(b) I support sign bilingual education; empirical evidence that it enables effective language acquisition is evident from a peer-reviewed research paper written by some of the most esteemed and respected Deaf academics worldwide³.

I will now address specific questions the Committee has asked. I will emphasise in my submission that:

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i. BSL should be considered not just a language that individuals use but whose users form a collective cultural minority group;

ii. Very careful consideration must be given to the composition of any BSL National Advisory Group to ensure it holds legitimacy and produces an effective plan;

iii. Any National Plan must include costs that require the protection and promotion of the culture, and not be limited to public authority provision of BSL: this has become urgent given the possible impact of genetic interventions on the future of the BSL community.

What the Committee would like your views on

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?

Yes, it is extremely vital that a law to promote the use of BSL is brought into effect. I hope that Members will consider this very carefully.

British Sign Language is a bona fide language, just as is Gaelic, Welsh, Urdu, or any other minority language. There is a tendency, however, to miss that by being a linguistic minority BSL users are also a cultural minority group. The fact of the culture is one of the best measures for understanding the language hence BSL users, via BSL, create their own folklore, poetry, comedy, theatre, arts, sports, films, and have their own cultural mores that have been less researched but widely accepted in academic circles. BSL users therefore have a vibrant presence in Scotland (and indeed the world) that is regularly expressed through culture but lacks official and public recognition.

Precisely because BSL is a culture as well as a language requires an approach that existing Equality Laws give no space to actively promote. Implementing an Act that endorses the use of BSL should ultimately also promote the culture of BSL users. Those Members who are Gaelic speakers will understand the cultural angle since a language and its culture are inseparable.

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?

The Bill will go a long way towards achieving this objective, but must be seen as a starting point, and not an end in itself.

In current legislation, generally, the BSL user is identified as an individual who has ‘special communication needs’ (i.e. they are viewed as disabled and therefore in need of patronage and help). This depiction is outdated; a more accurate description is that BSL users are a collective minority group whose language is not only one that the vast majority do not use, but their minority culture is also not recognised or understood. For over a century in social policy BSL users have been considered as individuals with needs (or ‘service users’): this
perception cannot be changed over the course of a few years. Therefore the Bill is an excellent beginning, as it enables BSL users to challenge and change public authorities’, and society’s, perceptions of BSL users, because the Bill will oblige authorities to make use of BSL and in the process make it more visible in the public domain.

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?

There are deaf people who prefer to use a signed form of English. It would be a mistake to consider that the provision of BSL will have an unintended consequence on those who, for example, use an English-based sign system known as Sign Supported English. ‘British Sign Language’ has a ‘spectrum’ of users: for example, older BSL users may use fingerspelling and older forms of sign vocabulary, younger BSL users may use more English when they sign, or BSL users who went to a Deaf school may use fluent BSL. The use of ‘BSL’ covers a wide range of BSL users, of all ages, with varying levels and command of sign language, and includes those who use Sign Supported English. BSL/English Interpreters, for example, are trained to cater for the wide range of sign languages users across the UK.

**Duties on the Scottish Ministers**

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?

Public authorities are often faced with a range of organisations with different perspectives on issues relating to BSL. It concerns me that many organisations invited to be involved in an Advisory Group will in fact be organisations for deaf people, rather than led by or representative of BSL users.

*Given that the government is recommending the setting up of a BSL National Advisory Group, the make-up of such a Group is going to be of critical importance. I have undertaken a post-doctoral research project (2008-2010) that asked research participants to imagine a scenario where a public body was set up to devise a national plan for the revival and regeneration of BSL users and their culture.*

I would like to take this opportunity to highlight the importance that the government casts its net wider than ‘D/deaf organisations’ or already existing consultancy groups when considering the make-up of a BSL National Advisory Group. Firstly, it should be a majority of BSL users; secondly, only organisations/groups that genuinely represent BSL users should be considered; and thirdly, well-known and respected individual BSL users who have no organisational affiliation but extensive experience of working with services, the BSL community, and personal experience, should also be included.

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4 *I am not suggesting the Group excludes non-BSL users! Obviously government representatives and other non-signing experts (e.g. people with expertise in spoken language cultural minority group issues) may need to be involved. I am stressing the point of genuine and majority BSL representation and involvement because all too often BSL users are under-represented in (or totally excluded from) initiatives that affect them, and their exclusion is one of the most unnecessary injustices, repeated time and again throughout history.*
The BSL Scottish Bill Facebook group is a timely reminder that BSL users make up a wide range of people with a wealth of experience and a great deal of respect within the community. These people may not always be visible to public authorities, nor represented in any organisation, but they are well-respected individuals. They will offer valuable experience and give the Advisory Group legitimacy. *The Advisory Group must also consider minorities within the minority: BSL Users from the Black Minority Ethnic Community, young BSL users, for example, and it is imperative that organisations of these minorities are the ones that are at the forefront of the consultation and engagement process.*

**Financial implications**

*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?

The monies required to implement the National Plan in the BSL (Scotland) Bill would be far beyond any amount that has ever been given to a BSL Act from the public purse and is therefore pioneering in the UK. However, considering that I believe the National Plan should detail what is required to protect and promote BSL *in a way similar to Gaelic*, additional future costs are inevitable. For example, provisions to roll out sign bilingual education policies, provide a Scottish BSL television/internet channel, establish a cultural heritage centre to ensure the promotion and protection of the culture; initiatives along these lines would need to be accounted for in future plans.

The *culture* needs to be protected in a way the Equality Act 2010 does not ensure. The minority is at risk from genetic interventions, since cures for ‘deafness’ ultimately lead to a reduction, if not total elimination, of BSL users as a group. Gene therapy experiments on ‘deafness’ are already underway in the United States (at the University of Kansas Medical Centre).

These interventions add more importance to the implementation of the Bill, for a rich linguistic cultural heritage risks being lost unless there are plans to protect and promote it. Crucially, *how* that protection and promotion can be ensured can be achieved by ensuring BSL users are at the heart of a BSL National Advisory Group.

*Steven Emery, 2 February 2015.*