It should be noted that, given the large and diverse nature of our sector, opinions vary.

Whilst supporting the aim to promote the use of BSL and the need for significant investment in training for BSL interpreters, there are some concerns that the proposed legislative focus on BSL as a minority language may detract from our existing responsibilities to provide reasonable adjustments for students who are BSL users. We feel this has the potential to have a negative impact on their access to higher education.

We also have some concerns about the potential cost implications for higher education institutions if it becomes the case that students who are BSL users are unable to access Disabled Student Allowance. We support legislation that facilitates inclusion and access for all and recognise that identifying as a disabled student in order to access funding is a sensitive issue.

We do not feel that the proposed Bill fully addresses these issues.

**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?**

Legislation is required because there is currently a lack of provision across Scotland. BSL users do not have access to a wide range of information, services or facilities due to insufficient BSL coverage. Whilst speakers of other languages may face similar issues, they have the option to learn English, but this is not possible for many BSL users.

There is also a general lack of awareness around BSL i.e. that it is a language in its own right and many false assumptions are made e.g. that all deaf people use hearing aids and can read and write English well. This leads to poor understanding, poor communication and ultimately poor quality of information and provision.
The Bill is about promotion of BSL as a language. It is stated in the Bill documentation that the Equality Act 2010 provisions ‘do not explicitly include recognition of discrimination on the basis of language’. Also ‘The intention is to highlight that BSL users are a linguistic minority rather than disabled people in need of adjustments to mainstream services.’

Adapting the Act would be unwieldy and might dilute the intended BSL focus of the Bill and therefore the aims and resources of the proposals. There is already an anticipatory duty under the Equality Act to provide equal access and ensure the prevention of discrimination but this alone will not achieve the Bill aims; to ‘promote the use of BSL’.

A Bill would engender consultation with relevant parties to address some of the issues of BSL support such as demand, accessibility, availability of interpreters; working practices and funding.

A change in the law is needed otherwise there is the risk that any proposals within HEIs to promote BSL specifically could inevitably drop off the agenda given the very small number of stakeholders compared to other groups, be these linguistic groups and/or disability interest groups.

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?

Public bodies will be asked to consider their BSL provision; for most this will probably be the first time they have done so. This will inevitably lead to increased activity, presumably increased provision.

Universities already consult, plan and report in the Equality Mainstreaming report. If a separate plan is produced that requires authorities to promote the use of BSL then additional access to BSL services may be introduced through increased consultation and additional Government resources, the need for which would be identified in the planning process.

The extent to which authorities can respond will depend on: guidance, access to services, long term planning of BSL interpreter training and funding of additional services.
There is already a demand in Higher Education for suitably qualified and experienced BSL/English interpreters which sometimes cannot be met in a timely fashion due to low numbers of qualified interpreters and communication support workers available. The willingness and desire of HEIs to use BSL and respond to demand for services in BSL is therefore distinctly separate from making this a reality in the short- and medium-term. The finite number of qualified BSL/English interpreters and BSL tutors (to name only two groups of professionals whose services and expertise may be required by HEIs in activities to promote BSL) could result in HEIs competing with each other to secure the services of such niche practitioners.

There is the risk that HEIs would be obliged to draw on the services of less qualified people in a new legislative climate where goals set out in a BSL Plan had to be achieved and published at all costs.

The extent to which the Bill could achieve this objective is limited by these very practical considerations, however, there is scope in the HEI sector for HEIs working collaboratively and pooling resources, whilst still individually promoting BSL.

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?

If the promotion of BSL leads to more BSL users accessing services then it may be that the profile of other forms of communication is raised. However, it is also possible that the statutory requirement to promote BSL may result in finite resources being concentrated in this area rather than on other forms of communication including other sign languages.

It may reduce awareness of the needs of deaf people who do not identify as belonging to a Deaf Culture.

It may negatively impact on funding made available for communication workers for all deaf people reducing provision across the board.

It may negatively impact on the provision of technology and equipment being made widely available for all deaf people who need it.

The promotion of BSL could be perceived by some as preferential treatment of BSL users over other groups of deaf or disabled people and this could cause misunderstanding and resentment. In an HEI, for example, with 2 full-time students who are BSL users, a similar number of staff who are BSL users and many more who are deaf but do not use BSL, demands may be made for the promotion and provision of lip-reading classes, SSE (Sign Supported English) classes and greater
provision of loop systems and other assistive devices across the campus for study and work purposes.

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?

The Minister should consult with relevant parties, create forums, offer examples of plans, identify resources, offer guidelines then ask for responses, publish plans of all authorities and clarify any sanctions for non-implementation.

The Minister should be ‘deaf aware’ in the widest sense and have a thorough knowledge and understanding of relevant organisations, institutions and structures already in place with regard to BSL. (S)he should already have BSL skills or at least be learning BSL.

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?

Given that there are no specific obligations on provision, and no sanctions, there is a danger the proposals could be too weak. The threat of “naming and shaming” may be enough to spur public bodies into action but there is a risk that the public at large won’t be invested enough in the issue to care. Significant pressure will come from the Deaf community but this is a small proportion of the population. However, a stronger Bill would perhaps be less likely to pass and there is some merit in allowing Public Bodies free reign to develop and promote as they wish, rather than being too prescriptive.

The Bill will be ineffective if there isn’t accountability. It should be in the form of review and guidance rather than sanction, especially in the early days, otherwise it might result in weak initial plans being prepared with a view to possible sanctions for non-compliance with plans.
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?

It would sensible to try to achieve consistency between authority plans and the most recently published National Plan, however, there needs to be consultation on the proposed National plan before it is finalised.

The BSL Plans of HEIs would be determined by our main functions and promoting the learning of BSL and providing opportunities to learn BSL could be a feature of BSL Plans from the HE sector. HEIs already have a track record in delivering adult and continuing education in the community and there is scope for collaboration and development in this respect.

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?

[No comment.]

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?

Whilst it is always university policy to seek the views of students, there may only be 1 or 2 BSL users studying in an HEI at any one time. There are, however, significant numbers of deaf/hard of hearing students who may also identify strongly as culturally Deaf but not use BSL as a main language. Except where there is BSL specialism, in most HEIs there are generally also very small numbers of staff who use BSL.

We consult on Equality & Diversity matters already; the process would be similar.

Smaller number of those ‘likely to be affected’ for consultation purposes so attracting a wide range of respondents may be difficult.

Given that the Bill is not about BSL in the context of disability equality but as a language, staff who have not necessarily been directly involved in making BSL provision to date may be considered to be “directly involved” under the terms of the BSL Bill in term of promotional activities, for example, colleagues working in event organisation, marketing and PR & communication, language centre administrators
and tutors of other languages. These staff would also have to be consulted and it is not known to date what the level of engagement might be.

Significant staff time would need to be set aside to consult with individuals in an accessible way, fitting around their work and study schedules, as well as around the availability of qualified BSL/English interpreters whose services would be required.

The Bill refers to “persons who represent users of British Sign Language”. HEIs would need to define who these persons would be.

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?

[No comment.]