

Frankie McLean - Response to the BSL (Bill) Consultation

First of all, I would like to outline the auspices under which I send this submission to the Committee. This is an individual and very much personal response based on my own personal experiences as a bilingual 4th generation Deaf person whose first language is BSL, moving through life in a "hearing world" and my extensive experience as a professional working with BSL users - both as an active practitioner (predominantly social work) and a senior manager. Having personal and first-hand experience of the challenges that Deaf people face every day, this translates into a passion that all Deaf people should be full citizens in society and valued as contributors and achievers.

Please note that I have used the term 'Deaf' to describe BSL users throughout. Increasingly, some individuals prefer to describe themselves as 'BSL users', 'individual whose first language is BSL', 'visually oriented' or one from several other terms. It also does not cover hearing people who use BSL - e.g. individuals from Deaf families. I have elected to use 'Deaf', but please do not assume that it should be used as a definitive umbrella term.

Finally, I do not presume to speak for everybody nor do I claim that my views are *de facto* and exhaustive, but I would hope that the Committee is stimulated by debate and will carefully consider the points I raise amongst many. I am also aware that I have not produced this in BSL, and I make apology for this to the Deaf community, but in considering the intended audience I am convinced that the greatest impact will be in written English.

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, a change in the law is required - specifically, with the introduction of a specific Act prescribing for a specific language. If current legislation and codes were sufficient, there would not be such a tidal wave of strong opinion and horrific stories of negative experiences; some of which can be seen on the Facebook page and other experiences have been raised in the various consultation meetings. Put simply, Deaf BSL users are consistently being failed by 'the system' on a daily basis - there are several research findings and publications to support this. The then Scottish Executive's Investigation of Access to Public Services in Scotland using British Sign Language (2005) and its Community Care and Mental Health Services for Deaf Adults with Sensory Impairment in Scotland (2006) findings are notable examples, alongside others such as University of Edinburgh's Achievements of Deaf Pupils in Scotland research and NDCS' Closing the Gap report. The current state of play is that Deaf people are treated as disabled - most see themselves as a linguistic minority, disabled by a society that does not widely recognise, appreciate or use their language. There is also a lack of consistency in the application of existing legislation and codes across organisations and authorities in Scotland, most likely because they cater for a wide range of needs and are therefore "catch-all" in nature, which means that BSL is easily overlooked, misunderstood or even not understood at all. Although I appreciate that the BSL Bill proposals are not of the same extent as for Gaelic, the fact that the Gaelic model has been implemented and appears to be progressing surely means that another of Scotland's indigenous and rich languages should be legislated for. Furthermore, in some other countries (including those in the 'Third World') their national sign language is embedded in their Constitution - Scotland should follow suit as a proud, multicultural and multilingual country in incorporating BSL in its legislature.

I have been very fortunate in being able to access life opportunities that is not always afforded to many other Deaf people - e.g. an excellent standard of education, two Honours degrees, gainful full-time employment, *et cetera*. The provision of support and encouragement in my own first language, BSL, from a very early age played a great deal in this and this should always be available for others as well to allow them to succeed and receive

appropriate support when they need it. Ultimately, I should not have to say that I was 'very fortunate' to have been afforded the same rights and opportunities that many others take for granted.

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?*

Yes, this would be realistic. The National Plan would provide a "template" of sorts to the listed authorities/bodies, and allow them to implement suitable plans of their own. Authorities could work together to share good practice and pool resources to provide better quality services. There is a lack of consistency in service provision across Scotland, and some of this is down to a lack of knowledge and understanding of the needs and issues – having obligations placed on the various bodies would mean that they would have to look into BSL and try to understand it better. This can only be positive.

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?*

Yes and no. Not all deaf people, or those who become deafened after acquiring a spoken language for example, use BSL and not everyone will want to use BSL for whatever reason(s). However, for far too long it has been very much "one or the other." Research has shown that bilingualism is effective and has great benefits for cognitive development and brain function, and BSL would very much augment other languages and communication methods. Research has also disproven that BSL impairs speech – what is fundamental is a baby/toddler has a strong, well-developed base language upon which to base other languages. As most deaf children would rely more on vision, the option of developing BSL as a base language would make sense. (Going off topic slightly, it would benefit hearing children and adults as well in terms of providing bilingualism, and having a visual language to use alongside a spoken language would be useful – instead of another spoken language that is only used when people go outside the UK on occasion.)

BSL can also be presented unfavourably and poorly explained by influential professionals to families (probably due to a lack of knowledge and understanding), which will inevitably influence decision-making. There is a need to present all options fairly, accurately and effectively based on up to date research and practice by experienced practitioners. I think one real life example best illustrates how BSL can be extremely complementary to family life – a mother elected to have a cochlear implant for her son, which was effective but the mother could not communicate with her son during bath time when he had his cochlear implant off. The mother realised that utilising BSL would be extremely beneficial to support communication. However, there is a real issue with provision of BSL teaching and learning – or the lack of thereof. This will need to be tackled alongside capacity building efforts, possibly at school curriculum level (indeed, it would appear that there is strong support for this at the current time.)

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 identify suitable individuals or a group of individuals to provide suitable advice and representation to the Government on all matters BSL-related. The Minister should also coordinate input into an effective and ambitious yet realistic National Plan. The Minister would need to be clear that any advisors represent the BSL community and have its best interests at heart, as well as being open and respectful to other groups, such as deaf people who do not use BSL, deafblind, *et al.*

This is a very political point - and I repeat that this response is based on my own views - but I must stress that it is imperative to be guided by people truly from the Deaf/BSL community, not from individuals or groups claiming to "speak for those poor Deaf people" and who may

seek to exploit opportunities for gain, whether for themselves or for their group or organisation. Unfortunately, it is often that those who are listened to are those who can speak (literally) loudest to a society that is unable to communicate with people directly in BSL. On that note, I must applaud the Parliament and the Committee for its Facebook initiative and attempts to engage directly with the Deaf/BSL community. This was clearly much appreciated, and while I am sure the Committee will be overwhelmed by the number and range of responses, it is clear that the Deaf community has long been frustrated and repressed; that it has gratefully and powerfully seized the opportunity to speak out. Whoever is appointed as the lead Minister should continue this kind of outreach and engagement work if possible.

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?*

This is uncertain. There needs to be some mechanism to highlight examples of good practice and initiatives (to acknowledge and praise) and underachievement (“name and shame”) – this may encourage consistency and expertise sharing across bodies. Sanctioning could well be counterproductive and lead to the creation of superfluous and light targets - authorities should be allowed to be ambitious without fear of sanctions if they fail. Certainly, a Performance Review process would identify failed targets and pick up on areas for improvements, but whatever recommendations or comments are made will need to be followed up with the relevant body or bodies. It may be that the lead Minister will need to take on this responsibility of liaison.

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?*

Such Plans should be produced in conjunction with those who use BSL and suitable local organisations, and steps should be taken to try and address gaps and ensure Deaf people are able to access everyday services that others take for granted. Such areas include education, social work, housing, health, financial matters, and many more.

As per my earlier point, care needs to be exercised in that the individuals and groups engaged with are truly representative and do not have other agendas nor conflicts of interest. Discussions and work should always be two-way, with a suitable feedback loop established to allow for effective communication. ‘Consultation fatigue’ does happen, but only because communication tends to be one way and nothing meaningful comes of consultations. The need to create and publish actual working documents will provide a useful aim and goal for all involved.

Whilst excellent interpreting provision is crucial, this is not the only way to achieve access in BSL. Suitably trained professionals who are Deaf or fluent/native BSL users themselves should play a part in providing direct access to services delivered in BSL. As the spread and distribution of Deaf people across Scotland is variable, thought needs to be given as to collaborative working across public bodies and authorities, and appropriate centralised services. I appreciate that plans should always respond to local needs, but some needs are shared across Scotland and it would make sense in many respects (including financial) to have pooled resources where suitable.

Consideration does need to be given to producing the plans in BSL so that they are accessible, despite the BSL Bill not making this a requirement. Accessibility is essential, and it would be odd that an inaccessible document is produced. Translation costs can be high, but if the BSL Bill promotes the need for BSL documents then the costs would eventually reduce as demand rises and production costs per unit reduce. This would also provide potential training and employment opportunities.

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?*

I understand that the feeling surrounding the Gaelic language plan cycles is that they are far too short - the Scottish Government's response to the BSL Bill has suggested that consideration should be given to extending the cycles. However, my view is that at the moment authorities should already be prepared in some ways, BSL Bill or not, as they have duties and obligations under the Equality Act, *et cetera* (which are often overlooked, whether conveniently or otherwise).

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?*

I do not wish to make comment as this is a personal response; I am assured that my employers will address this in their response.

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.

In relation to the Financial Memorandum questions, I do not feel it is appropriate for me to answer these. However, I wish to make comment on the financial implications. After discussions with some local authorities and bodies, it became apparent to me that there was concern about costs - especially "additional costs." However, local authorities still have obligations and duties, such as those under the Equality Act; some bodies are already spending money on services and I expect such bodies to continue to do so and have their commitment reinforced. Having a BSL Act may be productive in reducing the number of bodies "ducking" their obligations by clearly identifying a language that must be supported and provided for. As mentioned earlier, there is much variation in service provision across Scotland and consistency across bodies would be helpful. I am sure examples of good practice and appropriate spending can be identified and adopted by other authorities. The National Plan, again, will be crucial in providing guidance and a basis for the Authority Plans.

Furthermore, whatever current spending there is tends to be on "reactive" services and especially with adults. This is expensive and intensive. If there was to be investment in children and families services for deaf children and families - early intervention and support, language support and exposure, appropriate high quality education, specialist practitioners fluent in BSL (social workers and nursery workers, for example) suitably skilled in working with children and families, *et al* - this could promote deaf children's development and allow them to grow into achieving, contributing adults who have less need for services. However, this is not to say that adult services should receive zero spending, as there will still be individuals who require support in their own language with practitioners who can communicate effectively and understand their circumstances, just as hearing adults have their own life problems and need support with them. Indeed, support for older people is one example of an area of acute need - two examples being that there is no residential home specifically for BSL users, and people living with dementia and other long term conditions often do not receive adequate support. Such individuals then become extremely isolated, cut off and the quality of life deteriorates sharply.

Confident, achieving Deaf citizens would contribute effectively towards a rich and diverse society, "paying their way" instead of being labelled as disabled and reliant on the goodwill of others and the welfare system.

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