MIDLOTHIAN COUNCIL RESPONSE

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?

For those who use BSL as their first language, there is usually no alternative. Ensuring through law that suitable provision is available, would seem to be entirely appropriate. A bill to promote this however, will not necessarily ensure appropriate provision. Any promotion/ awareness raising would of course be beneficial and hopefully encourage best practise. This should work in a complimentary way with the Equality Act and other related, existing legislation.

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?

Midlothian is one of the smallest Local Authorities in Scotland and so the numbers involved in terms of demand for BSL are relatively small. Work being carried out by our Education Dept at Bonnyrigg Primary School is highly regarded, providing excellent early years support for those who use BSL. Out-with that education environment however, service provision and access to it, appears to be patchy. Raising awareness through the Bill may increase demand and raise expectations which public authorities may not be in a position to meet, given limitations of available resources. It may therefore be unlikely that the objective of the Bill will be realised.

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?

As already stated, actual numbers of BSL users are relatively low, in particular within such a small area as Midlothian. Even if demand is increased through the introduction of the Bill, numbers are still unlikely to be huge. While such small numbers should quite rightly not detract from the needs of the individuals involved, or their rights to be provided for, demand for, for example lip reading provision, is greater. If the focus falls on BSL provision, the unintentional consequence could potentially be reduced resource availability for lip-reading provision, despite the greater need.
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 principle of having a lead minister can only assist with the promotion of the Bill itself and its objectives. The minister will be in a position to have an overview of all the Authority Plans and how they relate to the National Plan. This should enable identification of specific issues which most require support to facilitate consistent national provision. The Minister would then hopefully be in a position to seek targeted funding going forward, to support implementation.

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?

Through the promotion of the Bill and the creation of the Authority Plan, awareness will be raised. With this awareness, it is hoped that greater priority may be given to the issues raised and the need identified. This may increase the likelihood of financial commitment to the implementation of the plan. It is impossible however to predict how this will impact on resource allocation. Priorities will be influenced by local pressures and political will, not to mention funding restraints. Without an actual requirement to implement the Plan, priority may well not be given, the review process therefore having limited impact.

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?

Positives
- The suggested content of the Plan will force each authority to review its provision of BSL specifically in relation to the range of functions it offers as an authority, something which is likely not to have been considered previously.
- The principle of co-production is welcomed.
- Ensuring Authority Plans reflect the National one is necessary to hopefully facilitate greater equity for users regardless of their postcode.

Unhelpful
- The potential for local development of BSL in connection with the functions of the authority is significantly impacted on by the shortage of BSL interpreters, already identified as a major concern by service users. This is an area which requires national attention in terms of increasing numbers of interpreters, and or investment in alternative means of facilitating this requirement.
- Given the National Plan is to cover a normal Parliamentary session, the inclusion of timescales
within an Authority Plan may prove difficult due to many funding decisions being made locally on an annual basis.

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?

-Following the timeline suggested, it would appear there is potential for timescales to be very tight. If the maximum time were taken for the production of both the National and Authority Plans, less than a year would be available for any implementation to be undertaken, far less reviewed. The reality is however, that actual implementation is likely to already be being planned and or undertaken through local implementation of the See Hear Strategy, focussed by the BSL Bill.

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?

- Midlothian Council already has the principle of co-production embedded in the planning of services, with very active participation from both service users and carers. The creation of the Midlothian Authority Plan would therefore be achieved in the same way, ensuring a plan which reflects both National strategy and more local issues.

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?

- With the creation of Integrated Joint Boards under the Public Bodies Act, these should be listed. Through the provision of such a prescriptive list, there is potential for something to be missed. As with the Equalities Act, perhaps a more generic “all public bodies” proviso should be considered.

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