British Sign Language (Scotland) Bill

Written Evidence – Scottish Parliament Education and Culture Committee

1. Introduction

The Scottish Charity Regulator (OSCR) is established under the Charities and Trustee Investment (Scotland) Act 2005 (‘the 2005 Act’) as a Non-Ministerial Department (NMD) forming part of the Scottish Administration. OSCR is the registrar and regulator of charities in Scotland. There are currently over 23,500 charities registered in Scotland.

OSCR is specified as a ‘listed authority’ in the British Sign Language (Scotland) Bill (the Bill) and have been invited by the Scottish Parliament Education and Culture Committee to respond to questions in a call for evidence. OSCR welcomes this opportunity to provide evidence. Our approach as regulator is to be positive, preventative and proportionate. Our strategic objectives and their link to our statutory functions are set out in our Corporate Plan. Underpinning all we do (and therefore our response to this Bill) is our overall vision of “charities you can trust and that provide public benefit”.

The purpose of the Bill is to promote the use of British Sign Language (BSL) and this includes requiring the Scottish Ministers and specified public authorities (including OSCR) to prepare and publish BSL plans. The Committee’s role at this stage is to report on the Bill’s overall purpose and they have outlined a series of questions to answer. OSCR has worked through each of these, and responded where appropriate below. If you have any questions about our response please contact Nicola McBain (Engagement Manager, Policy and Partnerships) at Nicola.McBain@oscr.org.uk.

2. General approach

2.1 OSCR’s Equality duties

OSCR’s equality duties arise from two main sources.

1. The 2005 Act states in section 1(8) that OSCR must perform its functions in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirement.

2. The Equality Act 2010 states further general duties as a public body.

Advancing the equal opportunities agenda is important to OSCR and we have always been committed to carrying out our work in a way that encourages equal opportunities, aims to eliminate unlawful discrimination, and foster good relations among all people. Our approach is outlined in our Equality Strategy 2012-2015. This outlines how we will meet our duties through four areas of our work:
1. Regulatory functions
2. Service delivery
3. Policy development
4. As an employer

In respect to the promotion and use of BSL in the delivery of our services, we feel this is already captured under our existing duties and our approach outlined in our Equality Strategy and its accompanying action plan. Although the use of BSL is not specifically mentioned in the strategy, its possible use and promotion is captured under the general terms of the strategy.

2.2 Examples of practice

OSCR has a wide range of stakeholders and we put a lot of effort into ensuring that the services and information we provide are accessible. Using BSL when appropriate forms part of this. For example, if a service user requested a meeting with a BSL interpreter present we would deal with this positively as we would a request for a language interpreter in any of the other languages used by our stakeholders. Furthermore, as part of the booking administration for our events we ask participants to note down any specific requirements they have. If the use of BSL was noted, we would consider this. Finally, we conduct Equality Impact Assessments when any policy/service is designed or reviewed, and the use of BSL would be considered as part of these assessments. We would note however we have no record of use of BSL being requested or highlighted as part of any consultative process.

Rather than legislation, our view is that what would prove helpful is the development of a voluntary code that highlights best practice and specific issues to consider. This would most likely prove a useful toolkit for listed authorities in understanding how best to promote BSL’s use.

2.3 Unintended consequences

While OSCR appreciates the importance of BSL and that it has a strong and distinct cultural identity, having specific legislation dealing with BSL could also have unintended consequences for other languages or other forms of language used by the deaf community. A consistent approach across all strands of equality helps ensure we take proportionate and targeted action where needed, and many of the bodies stated as listed authorities will already have polices and procedures for dealing with the use of BSL and other languages. Having specific legalisation focusing on BSL may have the unintended consequence of prioritising this language above others.

3. BSL Authority Plans

3.1 BSL Plan content

Section 3(3) and 3(4) sets out what a BSL Authority Plan should include and these requirements appear sensible and align with the format already used for OSCR’s Equality Strategy and Action Plan. As noted above, OSCR believes BSL provision is
already captured in this approach and therefore although we agree with the general format as outlined in the Bill, the production of the plan could see this work duplicated. The development of a plan will incur cost, when public authorities are already working within constrained budgets.

It also makes sense for any Authority Plan to have regard to the National Plan for consistency purposes; however the functions of the listed authorities will vary so it is also important that authorities can develop a plan with measures that are most appropriate and proportionate for them.

3.2 BSL Plan publication

The timescales for publication of Authority Plans appear quite complex and it may possibly become more of a bureaucratic burden for listed authorities rather than a vehicle for promoting BSL services. Although bodies are given nine months to produce a plan following the publication of the National Plan, the first performance review comes less than year following publication and we would question whether this is this enough time for bodies to effectively meet their stated objectives. Although we understand the rationale is to ensure the government reviews its own National Plan, the complexity of the timescale and push for bodies to produce authority plans may result in ineffective plans that cannot be delivered.

Furthermore the stated six months for the publication of subsequent plans following the first plan may also be quite tight considering the requirement to consult (section 4(5) of the Bill). Best practice would suggest a 12 week consultation period (3 months), and therefore to allow for an effective/robust plan development and consultation, nine months is perhaps a more realistic manageable timescale for authorities. We would note the requirement to consult. We are in agreement with this, and would do this as part of the development of such a plan whether or not it was a requirement of the Bill. User involvement and engagement is vital for such plans to ensure they are appropriate and consider the issues most pertinent to our service users.

3.3 Listed Bodies

Finally OSCR notes that the factors considered for bodies selected for listing on Schedule 2 were their customer facing role and size. While OSCR has no specific issue with being listed, we would note that we have been excluded from the specific public body duties under the Equality Act 2010. The principles of proportionality and size were the main reasons for this. Furthermore we have never been required by the Bord na Gaidhlig to produce a Gaelic Language Plan.