

SQA: Response to the Call for Evidence re the British Sign Language (Scotland) Bill

Thank you for your email of 19 November 2014 seeking my response as Chief Executive of the SQA to the questions in the Call for Evidence on the proposed British Sign Language Bill.

As a public body, SQA is committed to equality and has duties to eliminate discrimination, advance equality of opportunity and foster good relations between those who are Deaf and use BSL and those who are not. SQA takes these duties very seriously.

In impact assessing its policies and practices, by offering high quality qualifications in BSL, by providing Deaf BSL learners the option of bilingual assessment (BSL/English), by improving access for Deaf BSL users through its Sign Video Interpreting Service, by developing guidance and procedures for BSL to be used in assessments and by undertaking research into improving access to assessments for candidates who are BSL users, SQA promotes the use and understanding of BSL and plays an important role in securing the future of the language.

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?

- While appreciating the linguistic and cultural arguments presented for the introduction of new legislation, there is undoubtedly an overlap with existing legislation. Listed authorities' plans will be intrinsically linked to service provision. There is already a strong legislative driver in both the disability provisions and in the Public Sector Equality Duties of the Equality Act 2010 for the production of information in BSL and for enhancing access to services for users of BSL. The Equality Act (2010) therefore provides an effective platform for Deaf people to challenge public authorities on the provision of services in BSL.

Proponents of the Bill see this as a language rather than a disability issue (to promote and preserve BSL) and that specific action is therefore needed. However, it is the case that the need for BSL provision differs from the need for other language provision because, as is clear in the rationale for the proposed Bill, some deaf people are unable, because they are Deaf, to learn another spoken language.

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?

- The Bill may not deal with the lack of service provision as this will be dependent on listed authorities' priorities and available resources. It is difficult to see how the Bill would lead SQA to increase the use it makes of BSL or in meeting demands for services in BSL. The Bill requires the production and publication of a plan and in SQA's view this would duplicate our equality plan.

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. As this legislation only applies to a small percentage of deaf or hard of hearing people (the majority of deaf people do not use BSL), SQA would be concerned that the proposed Bill could direct attention and resources away from the promotion of other forms of alternative and augmentative communication. There may be an equally pressing need to promote and raise awareness of other means of linguistic access/inclusive communication for Deaf people. For example, the wide range of different communication methods that deaf and deaf blind people use such as deafblind manual, Bliss, Makaton, lip-reading and technology.

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?**

- It would be important for the Minister to have a thorough understanding of Deaf issues.

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?**

- As there is little information available on the structure of the BSL Performance Review process (how National and Authority plans will be implemented, monitored and evaluated. It is difficult to determine how listed authorities will be held to account.

As there are no sanctions for non-compliance, there is a risk that not all of the 117 (very different) listed authorities would be held to account. However, it will provide for some degree of scrutiny.

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 is intended that, through the development of actions plans, the Bill will increase awareness of BSL. SQA's plan would set out the measures SQA would take in relation to the use of BSL, in connection with the services it provides. As stated above the proposed content of the Plans is straightforward and clear. It is similar to plans required by the Equality Act for mainstreaming equality.

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?

- The timescales do seem very tight. There could also be delay to these timescales as demand on individual BSL users and organisations to be consulted and to review all listed authority plans might not be met.

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?

- SQA is committed to the needs of BSL users and offers BSL interpretation where deaf people are present in any relevant meetings or if requested. However consideration needs to be given to the fact that consulting with Deaf BSL users requires appropriate interpreting and translation services and that there will be associated costs. In addition, there could also be resource implications, as outlined above, associated with the ability of individual BSL users and organisations to meet the demand to review all 117 listed authorities’ plans.

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?**

- This is difficult to determine at this stage.