

WRITTEN EVIDENCE

Scottish Council on Deafness

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The Scottish Council on Deafness (SCoD) is the Deaf Sector umbrella organisation and represents members in the Third, Public and Private Sectors. Our full members work with and on behalf of Deaf sign language users, Deafblind, Deafened (Acquired Hearing Loss) and Hard of Hearing people in Scotland. Our associate members are individuals who have an interest in deaf issues or are deaf themselves.

General Comments

SCoD's position

SCoD welcomes the British Sign Language (Scotland) Bill and fully supports its principles as a promoting and enabling catalyst. For Deaf British Sign Language (BSL) users in Scotland, it is essential that their language is given the same recognition and importance as English is. The majority of our members support the Bill in principle, with the possibility of some amendments being made to make sure Deaf and Deafblind BSL users, their families, carers, supporters and the organisations that work with and support them are more involved. For example, it is not stated in the Bill that the National and Authority Plans should be translated into BSL. This is an omission that SCoD would like to see included as an amendment over and above any other.

SCoD realises that this Bill is the start of an improvement process not the end result. Should the Bill become enacted, then it will allow serious and sustained planning to take place to ensure that BSL users can become more active citizens in a much more inclusive Scotland. We know that it will take time for this to happen, but Scotland has to start somewhere and this is a positive step on what is a long-term journey.

Language not Disability

At the current time, Deaf BSL users are the only group of people in Scotland who have to use disability legislation to access information

in their own language so that they can make informed choices, give informed consent or enjoy being active citizens. No other group of people have to do this.

For example, if someone is Deafened and Spanish is their first language, they can use the Equality Act and the protected characteristic of “race” to access the necessary information and language support to make informed choices and give informed consent and to help them in their active citizenship.

For a Deaf or Deafblind person whose first language is BSL, the only option they have is to ask for reasonable adjustment under the protected characteristic of disability – their deafness – rather than it being recognised by the lawmakers and Scottish society that they have their own language in the same way that people who have a spoken language do. Scotland regularly promotes itself as an equal society that values all its citizens and wants them to play an active part in this society. Deaf BSL users cannot do that when it is only their deafness that is recognised, not their language, culture and history.

A good example which is similar to Scotland in population is New Zealand. English is their collective language, but in 1987, the New Zealand Government passed the Māori Language Act and then in 2006, the New Zealand Sign Language Act in recognition that these other two languages are as important as English as first languages.

In 2007, the Ministry of Education included New Zealand Sign Language (NZSL) in the National Curriculum.

“Te reo Māori and New Zealand Sign Language (NZSL) are official languages of New Zealand. English, the medium for teaching and learning in most schools, is a de facto official language by virtue of its widespread use. For these reasons, these three languages have special mention in The New Zealand Curriculum.

All three may be studied as first or additional languages. They may also be the medium of instruction across all learning areas...

For many deaf people, NZSL is essential for effective daily communication and interactions. New Zealand needs more people who are fluent users of the language and who have an

appreciation of deaf culture. By learning NZSL, hearing students are able to communicate with their deaf peers and participate in the deaf community. Skilled communicators may find career opportunities that involve working with Deaf people. As deaf people come to have a wider circle to converse with, our society becomes more inclusive.

Learning NZSL can be a positive and enriching experience for both deaf and hearing people of any age. By learning NZSL, deaf children and hearing children of deaf parents gain a sense of belonging in the deaf community.”

<http://nzcurriculum.tki.org.nz/The-New-Zealand-Curriculum/Official-languages>

When NZSL is taught to deaf and hearing pupils in schools, they not only learn the language, but also about Deaf culture, history, working with interpreters and general deaf awareness too. There is an online resource - <http://nzsl.tki.org.nz/> - which gives all the information/lessons that are taught in schools.

In 2010, the New Zealand Government held a review of the NZSL Act. One of the questions asked was “How well was the NZSL Act working?” Not all of the feedback received was as positive as hoped, but what did come back was that more hearing people now know about NZSL and Deaf people said that they feel more confident using NZSL and when asking for an interpreter. The review’s recommendations for action were mainly focused on the government giving NZSL the same importance as English/Maori and raising its profile as well as increasing the opportunities for Deaf children and young people to learn to sign.

www.odi.govt.nz/documents/nzsl/summary-nzsl-review.doc

While the New Zealand Sign Language Act is the not a “perfect solution”, it is a model that Scotland could aspire to for the future – where deaf and hearing children are taught together so that Deaf children and young people grow up with spoken language peers who can communicate with them in their own language as well as English.

Education and Culture Committee Questions

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?

We do need a law to promote the use of BSL as a language in its own right rather than simply a communication need of a group of people with a disability. Too many people hear “deaf BSL user” and immediately think “deaf” instead of British Sign **Language** user. The emphasis has been for too long on the word “deaf” and not on language. This is not a “communication support need “ issue but an issue of the recognition that BSL is a language in the same way that English, Polish, Spanish, Tagalog, Arabic and Gaelic are. BSL is not a spoken language, but neither is it simply a series of gestures, in the same way, spoken languages are not simply a series of words strung together.

As is stated in the Policy Memorandum that accompanies the BSL (Scotland) Bill,

“A Strategy For Scotland’s Languages” describes BSL as a real, full and living language ...It has its own vocabulary, structure and grammar, which is different from English, and like spoken languages in Scotland, has its own regional variations and dialects”

The Equality Act 2010 does not recognise BSL as a language as there is no “fit” for BSL in this Act. Although the protected characteristic of disability is based on the social model of disability, it still needs the Deaf or Deafblind BSL user to use their deafness – their medical condition/disability – to access their language. In terms of human rights, Deaf and Deafblind BSL users and their families are the only people who have their own distinct culture, history and language who in 2015, have to use disability legislation to access education, information and services in their own language. Where is the equality and parity with their spoken language peers? This Bill is about language, not disability, and necessary because trying to access their basic human right to use their own language has not worked for Deaf and Deafblind BSL users and their families up until now.

The Scottish Government’s Strategic Objectives

Healthier

For example, a Deaf woman whose first language is BSL gave this response to SCoD when asked about accessing health information:

“I tried really, really hard to learn to read English when I was at school, but I can only read children’s first books with pictures. I know BSL and can understand anything on video. Someone said I should try that Easy Read, but the pictures I don’t understand and the words are all in English. I am not stupid. I am Deaf. I have a language. It is BSL. Why not more information in BSL. My son is Deaf and he puts videos on YouTube all the time.”

In 2010, NHS Health Scotland published its “Translation, Interpreting and Communication Support (TICS) Final EQIA report” -

<http://www.healthscotland.com/uploads/documents/13997-TICS%20EQIA%20final%20report%20March%202010.pdf>

The outcomes in this strategy were:

- “Patients are better informed about options for care and health improvement.
- Better delivery of health care and better health outcomes as patients and staff have a better understanding of each other – as well as a better understanding of communications needs and preferences.
- Respect for patient rights so that people can make informed choices about their care.
- Reduction in risk and improvement in safety of patient care.”

One of the proposed actions was that

“EQIA group has emphasised the importance of staff training in their comments on the Strategy text and changes to the Strategy have been made accordingly.”

Because

“If training for staff on translation, interpreting and communication support is poor then there could be an adverse effect.”

NHS Health Scotland then published its “2010/11 Programme Delivery Plan for TICS in NHS Scotland”.

And yet in July 2011, a Deaf BSL user (a female patient) in NHS Tayside was in Ninewells Hospital for 12 days without any access to a BSL Interpreter. A complaint was submitted to the SPSO and was upheld in full. <http://www.spsso.org.uk/investigation-reports/2013/march/tayside-nhs-board-0>

Safer and Stronger

At a national level, it is important that Deaf and Deafblind BSL users receive the same access to information about the democratic process as their English-speaking peers. This leads to stronger communities that represent the whole electorate. It should be easier – with the increased use of technology – to ensure that during the run-up to the Scottish elections that BSL users have equality of access to information in order to make an informed choice.

The Scottish Government wants the following for its citizens –

- “We live our lives safe from crime, disorder and danger
- We live in well-designed, sustainable places where we are able to access the amenities and services we need
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.”

<http://www.scotland.gov.uk/About/Performance/scotPerforms/objectives/safeAndStronger>

Well-designed, sustainable places, both urban and rural, support people’s physical and mental wellbeing. They are places in which people want to live. They provide ease of access to the workplaces and services we need by locating these conveniently with high quality housing as part of a mixed community.

Communities, providing a range of services, housing types and people, promote interaction and integration - and create positive, diverse neighbourhoods. They are places designed around people, not cars, encouraging creative activity and social interaction by providing easy access to both cultural amenities and green space. They improve safety by increasing the number of people who use local facilities and generate **a real sense of community**. And they are sustainable places - environmentally, socially, physically and economically.

<http://www.scotland.gov.uk/About/Performance/scotPerforms/outcome/susplaces>

For Deaf and Deafblind BSL users and their families, it is much harder to be active citizens who are fully involved in their local communities and potential communities of interest due to the language barriers that they face on a daily basis.

For example, as far as SCoD is aware, no Council provides planning/licensing information in BSL, so any BSL user who wants information on what is happening to their physical environment and community is immediately at a disadvantage.

The majority of Community Councils as voluntary bodies which exist within a statutory framework and which have been granted statutory rights of consultation are not accessible to Deaf and Deafblind BSL users – information is all in English and the concept is not explained in such a way that BSL users understand the importance of these in the communities they live in. There is a lack of understanding in the general population, but at least there is information available in English if they care to look for it.

People are more able to live fulfilling lives and realise their social and economic potential in **strong, resilient and supportive communities**. An inclusive and respectful society, with **communities that embrace diversity**, and where people help each other, provides a better quality of life for all citizens. It allows more people to contribute to a growing economy, lead healthier, more independent lives and live in a more sustainable way that is better for the environment. **A cohesive community is more likely to get involved in local issues**. It minimises crime, antisocial behaviour and their social and economic costs. Our communities set the wider social context in which acceptable behaviour is defined. **Communities that embrace diversity, protect the rights of others, but also set appropriate boundaries on behaviour support a culture of dignity and respect.**

<http://www.scotland.gov.uk/About/Performance/scotPerforms/outcome/communities>

Too often, Deaf and Deafblind BSL users feel left out and marginalised in their own communities by the simple fact that they are not included. For example, until very recently, information from the Scottish Government and other statutory bodies would be

produced in a written format with a list of community languages on the back and a telephone number to call; nothing about how to access information in BSL and an email address to use to ask for this. SCoD has held many meetings with deaf people throughout Scotland over many years and this is a recurrent theme -

“If I was Polish and come to Scotland to work, I can have information in Polish – health, council tax, paying bills, getting out of debt, how my child goes to school. I am Scottish. My parents are Scottish. My family is Scottish. I don’t know about these things. Why? I use BSL. My English is not good. Why am I not allowed this information?”

Deaf and Deafblind people are members of the community. It makes socio-economic sense to make sure they are included and empowered to become active citizens and to contribute their experience to the growth of more cohesive communities in Scotland.

Keeping people safe is the primary duty of government. A safe and just society is a basic requirement for a vibrant and sustainable economy. Communities and people can only flourish and reach their potential when they are protected and they feel safe. This outcome is about protecting people from crime, antisocial behaviour and from the **threat of accidents and major incidents**.

<http://www.scotland.gov.uk/About/Performance/scotPerforms/outcome/crime>

Following the shooting incident in Cumbria in June 2010, many deaf people, including Deaf and Deafblind BSL users, asked what would happen if there was a major incident where they live. There is the physical barrier that since they cannot hear, they would not hear the police when they are using megaphones and microphones to tell people not to leave their houses/workplaces. And they cannot hear instructions given on the radio. And unless there is a guarantee that there will be a BSL interpreter on the news programmes, BSL users are left in the dark and become frightened.

Many questions were asked after this incident about what would be put in place if such a thing happened in a community in Scotland, but Deaf and Deafblind BSL users have not yet had a satisfactory answer.

Contact with the Police

SCoD has much anecdotal evidence of how Deaf and Deafblind BSL users have been treated when stopped in the street by the police, or when the police have visited them at home. If the person can speak English, then there has been an issue about them “pretending not to hear” – this is a basic misunderstanding about what it means to be a Deaf BSL user.

For example, one Deaf BSL user who lives in a rural part of Scotland described his encounters as

“I had a mild stroke a few years ago and it left me with slurred speech. Because my first language is BSL, my speech wasn’t great any way, but it is much worse now. For a number of years, it seems like every new traffic cop has to practice on me. I get stopped. I get asked my name and things. I slur my words or reply too soon. So he thinks I am drunk. Then I’m breathalysed and questioned. Everybody down here thinks I am a bad person because I drink and drive...”

SCoD, the BSL and Linguistic Access Working Group and other deaf organisations have worked with the regional police forces to try to make things better for Deaf and Deafblind BSL users. There have been many pilots which have helped to bring good practice to the fore. But there is still a long way to go, and Deaf /Deafblind BSL users who have contact with the police, still do not have full access to the same information as their hearing peers. Hopefully Police Scotland will build on these “pilots” and pockets of good practice to ensure the rights of Deaf and Deafblind BSL users are given the same importance as those whose first language is a spoken one. Police Scotland are keen to be involved in the NHS 24 Pilot online interpreting service, but this is just the start of making the whole process accessible.

Solicitors

As with their spoken language peers, the majority of Deaf and Deafblind BSL users will have contact solicitors for personal or business reasons.

At the present time, there are no practicing solicitors whose first language is BSL. When it comes to arranging an appointment to see a solicitor for the first time, Deaf and Deafblind BSL users meet a problem. Who should pay for the BSL/English Interpreter? In many

cases, the solicitor expects the Deaf/Deafblind person to pay this cost, but as the solicitor is providing the service, the Deaf/Deafblind person expects the solicitor to cover the cost.

The BSL and Linguistic Access Working Group, the Scottish Council on Deafness and many other deaf organisations have been having an ongoing dialogue with the Law Society of Scotland and the Scottish Legal Aid Board on this subject. We have yet to come up with a voluntary solution.

So what happens in practice at the moment is that many Deaf/Deafblind BSL users struggle to find a solicitor who will book and pay for a BSL/English interpreter until Legal Aid is awarded – if the person is eligible. There is no information for the Deaf/Deafblind person that tells them how they access Legal Aid to pay for interpreter costs.

In the SLAB Legal Assistance Handbook, it states

“The Board will pay up to £30 per hour for interpreters. No additional sums will be paid for bookings at short notice, for work done out with normal business hours or under any other special terms and conditions not approved by us. Interpreters will be paid for the actual time engaged, rounded up to the nearest quarter hour, at £7.50 per quarter hour block. However, if the time engaged is less than one hour, we will pay a minimum charge of one hour for work done at the location of an assignment, court or tribunal; whether you are involved in one or a number of matters.”

“The hourly rate for translation and interpreting includes all travel expenses up to the first 60 miles (round trip), including out of pocket expenses e.g. petrol costs or bus fares; therefore, no travelling expenses will be paid for an interpreter for a round trip of less than 60 miles to and from the location of the assignment.

Journeys in excess of 60 miles will attract a payment for travelling time and for transport costs...”

<http://www.slab.org.uk/handbooks/archive/Civil%20handbook%2029%20oct%2014%20-%2011%20dec%2014/wwhelp/wwhimpl/js/html/wwhelp.htm#href=Part%20VI%20LA%20acs/Main%20section/VI%207%20Translating%20and%20interpreting%20guidance.html>

From the other information written in this section of the handbook, there is little recognition of the need for BSL/English Interpreters for Deaf/Deafblind BSL users and knowledge of where the majority of BSL/English Interpreters are based.

For example, “We will pay £95 per 1000 words for translating documents, which is inclusive of the proof reading. The cost is applied pro rata against the document word count.” What of translations from BSL or into BSL?

In the Law Society of Scotland Rules and Guidance, Rule 4B: Client Communication, it states (emphasis in bold is mine):

“When tendering for business or at the earliest practical opportunity upon receiving instructions to undertake any work on behalf of a client, you shall provide the following information to the client **in writing**:

- (a) an outline of the work to be carried out on behalf of the client;
- (b) save where the client is being provided with legal aid or advice and assistance, details of either-
 - (i) an estimate of the total fee to be charged for the work, including VAT and outlays which may be incurred in the course of the work; or
 - (ii) the basis upon which a fee will be charged for the work, including VAT and outlays which may be incurred in the course of the work;
- (c) if the client is being provided with advice and assistance or legal aid-
 - (i) where advice and assistance is being provided, details of the level of contribution required from the client, and
 - (ii) where civil legal aid, special urgency work or advice and assistance is being provided, an indication of the factors which may affect any contribution which may be required from the client or any payment which may be required from property recovered or preserved;

(d) the identity of the person or persons who will principally carry out the work on behalf of the client; and

(e) the identity of the person whom the client should contact if the client becomes concerned in any way with the manner in which the work is being carried out.”

<http://www.lawscot.org.uk/rules-and-guidance/section-b/rule-b4-client-communication/rules/b4-client-communication/?letter=C>

Under Electronic Communications, it states

Rule B1.9.1 provides that "You must communicate effectively with your clients and others." <http://www.lawscot.org.uk/rules-and-guidance/section-e-general-guidance/division-b-the-management-of-files,-papers-and-information/guidance/electronic-communications/>

And then there are 23 pieces of advice listed for using e-communications.

Under “Guidance related to Rule B1.5: Vulnerable Clients Guidance” it states

“Illiteracy, communication difficulties, sensory impairments, other physical issues, frailty? The solicitor's approach needs to be supportive, facilitative, well-informed and careful”
<http://www.lawscot.org.uk/rules-and-guidance/section-b/rule-b1-standards-of-conduct/guidance/b15-vulnerable-clients-guidance/?letter=All>

But the majority of Deaf/Deafblind BSL users who go to see a solicitor will not be “vulnerable clients” so this advice will not apply to them. There needs to be clear guidance that solicitors who see BSL users need to provide language support if they, the solicitor, is not a first language BSL user to ensure they know what it is their client is needing their advice and assistance with.

Smarter

A smarter Scotland is critical to delivering the Government's Purpose of achieving **sustainable economic growth**. By making Scotland smarter, we will lay the foundations for the

future wellbeing and achievement of our children and young people, increase skill levels across the population and better channel the outputs of our universities and colleges into **sustainable wealth creation, especially participation, productivity and economic growth.**

<http://www.scotland.gov.uk/About/Performance/scotPerforms/objectives/smarter>

As most deaf children are born into hearing families, more needs to be done to promote bilingualism and the use of BSL for those children starting when the child is diagnosed as deaf. The UN Convention on the Rights of the Child, the Scottish Government Early Years Framework and Getting It Right For Every Child (GIRFEC) all recognise the right of all young children to high quality relationships, environments and services which offer a holistic approach to meeting their needs. This should include being taught BSL. Families – parents, siblings, grandparents, guardians - should also have access to BSL so that they learn along with their child. Hearing pupils who are the child's peer group should also be taught BSL as this reduces the sense of difference and isolation deaf children can experience if they are the only child learning to sign.

SCoD has anecdotal evidence of young people who have been taught in mainstream schools with little contact with other Deaf people and few BSL skills developing mental health issues during their transition from school to adulthood as they do not have an identity in the hearing world as they cannot hear, but do not fit in the Deaf Community as they do not sign.

Sustainable wealth creation, especially participation, productivity and economic growth

For the people of Scotland, lifelong learning plays a huge part in increasing participation, productivity and economic growth. In order for Deaf and Deafblind BSL users to participate in this growth process, much more has to be done to support them in the learning process.

In further education colleges and universities, Communication Support Workers and BSL/English Interpreters are provided for students whose first language is BSL. While this covers the person's language needs in class, it does not necessarily help with their understanding of the subject being studied. Students do not only learn through the formal process in the classroom, but also through

interaction with each other and through reading materials. If this is all carried out in a spoken language and in English, then the Deaf/Deafblind student is experiencing a lesser learning process than their spoken language peers.

SCoD is working with a small number of training providers to help them increase their capacity to include BSL users in their learning opportunities. This is not simply a case of providing BSL/English Interpreters, but also translating their learning materials into BSL in a way that explains concepts as well as workbooks in a way that the BSL user will understand. The majority of learning is designed in English and then translated straight into BSL; too often this means that the BSL user misses out on important information as it is taken for granted that the person will have the same level of understanding as the English speaker. This is not necessarily the case.

In-house training in many workplaces is a barrier for learning for many Deaf and Deafblind BSL users for the reasons mentioned above.

Wealthier and Fairer

The Scottish Government's aims to "to deliver a Wealthier and Fairer Scotland through all 16 national outcomes, with a focus on the following:

- We live in a Scotland that is the most attractive place for doing business in Europe
- We realise our full economic potential with more and better employment opportunities for our people
- We take pride in a strong, fair and inclusive national identity
- Our public services are high quality, continually improving, efficient and responsive to local people's needs."

<http://www.scotland.gov.uk/About/Performance/scotPerform/objectives/wealthierAndFairer>"

Deaf and Deafblind BSL users and their families have friends and acquaintances who may want to link into businesses in Scotland or who may want come to Scotland to do business. If they use sign language, then are they welcome? Is Scotland the most attractive place for doing business in Europe?

“I have my own business. My wife’s family are all Spanish speakers and come to Scotland to buy shellfish. When there is money to be discussed, they get a Spanish interpreter. It is easy. The people they do business with understand the need to get it right so nobody loses money. My language is BSL. I wish my business colleagues understood as much as my in-laws’ colleagues do.”

The lack of access to solicitors (see above) can affect the Deaf BSL user’s ability to “realise their full economic potential”. Many Deaf BSL users struggle to access full time employment out with the Deaf Sector, so want to set up businesses themselves. Their potential is further hampered by the lack of accessible business advice. For example, the Business Gateway has lots of good advice on its website including case studies on YouTube, but nothing for someone whose first language is BSL. <http://www.bgateway.com/> and <https://www.youtube.com/watch?v=IMXArIjCu3Y>

Too often, employers misquote H& S legislation and guidance as an excuse not to employ Deaf and Deafblind BSL users, and simply see the word “Deaf” on the application form. So Deaf and Deafblind BSL users have limited and poorer employment opportunities compared to those who use a spoken language. Scottish Enterprise and Skills Development Scotland should be included in the listed authorities.

We cannot “take pride in a strong, fair and inclusive national identity” when a group of Scottish citizens are excluded simply because the majority of the population do not understand their language, history and culture. For the majority of the Scottish population, the only time they see someone using BSL is when they see the BSL interpretation on the TV late at night. This is only one facet of the language and there is little in the media that promotes the language, history and culture. Now that we have BBC Alba, maybe it is time to have BBC Scotland BSL so that Deaf history, culture and language can be seen and be celebrated in the same way that the Gaelic and other cultures are.

Public services need to be thought of in their broadest sense, for example, Visit Scotland, Historic Scotland and Creative Scotland are not included in the list of authorities that will have to produce language plans. These are bodies that promote culture, creativity, the arts, tourism – and provide a public service – to people who live in Scotland and for visitors. Deaf BSL users, their families and

friends and Deaf visitors use these services too. If Scotland is to have a stronger, fairer and more inclusive national identity, then public bodies such as these should be included.

Greener

- We value and enjoy our built and natural environment and protect it and enhance it for future generations
 - We reduce the local and global environmental impact of our consumption and production
 - We live in well-designed, sustainable places where we are able to access the amenities and services we need
- <http://www.scotland.gov.uk/About/Performance/scotPerforms/objectives/greener>

Many people whose first language is English have a difficult time understanding the concepts of climate change, global environmental impact, sustainability of resources, zero-waste society, renewable resources, low carbon emissions, biodiversity. Without access to information in BSL, how do Deaf and Deafblind BSL users understand these concepts?

Without an understanding of these, BSL users cannot be active in their participation in the strategies and community initiatives that are vital to ensuring Scotland is a greener place.

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?

The Bill should be seen as the start of a process that will lead, over time, to an increase in BSL in the provision of information and services. At the present time, Deaf and Deafblind BSL users enter a postcode lottery when they are looking for language accessible information and services that they can fully understand and use. BSL needs the legal recognition that this Bill should afford it so that long-term, sustainable planning can take place to grow the language and its use.

There are resources that the public authorities can share so that they are in a better position to respond to demand – for example, sharing the production of accessible, understandable information that is the same across the board; or by using online BSL interpreting services and cascading training. The integration of health and social care as well as GIRFEC and the Reshaping Care for Older People in Scotland should enable authorities to share resources until the time when more people are fluent in 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?

The Bill should ensure that more people gain a better understanding of the needs of deaf people in general and the language/communication support needs in particular which should benefit other people who have a hearing loss, but are not BSL users.

The Adult English for Speakers of Other Languages (ESOL) Strategy for Scotland states

“The vision of the Adult ESOL Strategy for Scotland:

That all Scottish residents for whom English is not a first language have the opportunity to access high quality English language provision so that they can acquire the language skills to enable them to participate in Scottish life: in the workplace, through further study, within the family, the local community, Scottish society and the economy. These language skills are central to giving people a democratic voice and supporting them to contribute to the society in which they live.”

<http://www.esolscotland.com/>

This is an unfortunate statement as it is much more difficult for people who cannot hear to learn English as adults, especially people who have a spoken language and then have lost their hearing. An unintended consequence of the BSL (Scotland) Bill could be for deaf people whose first language is not English is that they could be taught BSL instead of or as well as English.

Communication support needs are not solely for Deaf and Deafblind people or indeed, people with a hearing loss, although the term does include the provision of BSL/English Interpreters,

Guide/Communicators, Electronic Notetakers, Palantypists, Speech-To-Text Reporters. Anyone can have a communication support need at any time in their lives – for example, if the person has a serious accident and is in hospital and on ventilation – this person will not be able to speak and nursing staff will have to look at the person's communication support needs to communicate with them. Or someone who has aphasia after a stroke will have a communication support need, as will someone who has little speech due to a brain injury. Therefore the communication support need arises from or as a result of an illness/disability/circumstance.

In terms of **language** access, it is the person with a spoken language – English – as well as the Deaf or Deafblind BSL user who needs the BSL/English Interpreter; this is the same situation that a person who only speaks English finds themselves in if the person they want to speak to only speaks Cantonese or Spanish.

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?

Should the Bill become an Act, it should sit within the portfolio of the Cabinet Secretary for Education and Lifelong Learning and with the Minister for Learning, Science & Scotland's Languages, in the same way English and Gaelic do.

There should also be local accountability through the electorate for Councils and NHS Boards.

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?

Instead of using the Performance Review process, it would be more inclusive and representative of partnership working to use a Quality Assurance process to review progress made on the outcomes of a

National Plan and at a more local level. A similar model to that which was used for the review of Single Outcome Agreements (SOAs) in 2012

(<http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP/SOA>) 2012 may be more useful especially if the review group(s) include

“persons who use British Sign Language, and persons who represent users of British Sign Language”.

[http://www.scottish.parliament.uk/S4_Bills/British%20Sign%20Language%20\(Scotland\)%20Bill/b55s4-introd.pdf](http://www.scottish.parliament.uk/S4_Bills/British%20Sign%20Language%20(Scotland)%20Bill/b55s4-introd.pdf)

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?

Firstly, there is no mention of the need for listed authorities to prepare their BSL Authority Plans using the co-production model, only that they should “consult” with people who use BSL and their representatives. And secondly, there is no mention of the need to publish the BSL Authority Plans in BSL. We realise that the language used could be such since it is a legal document, but it needs to be very clear either in the Bill or guidance that the plans **must** be prepared with BSL users and their representatives and **must** be produced in BSL as well as in English.

An alternative to BSL Authority Plans – support for the Scottish Government’s position

In the Community Planning Review - Statement of Ambition, it states

“4. Public services must improve outcomes, and reduce the outcome gaps within populations and between areas. For Scotland to successfully and fully embrace an outcomes approach, all public services must play a full, active and appropriate role in Community Planning whether acting nationally, regionally or locally. Councils have a lead role in Community Planning and this Review must build their capacity, and that of other partners and of CPPs themselves,

to ensure that better outcomes for communities are delivered through a strengthened framework of Community Planning and SOAs

5. Communities have high expectations of public services and have a key role to play in helping to shape and coproduce better outcomes within their communities. If community planning partnerships are to unlock that potential, their foundations must be built on a strong understanding of their communities, and provide genuine opportunities to consult, engage and involve them. CPPs must be able to engage closely with the needs and aspirations of their communities, within the context of local and national democratic control, with strategic oversight of other specific arrangements and accountabilities for key aspects of public service delivery.”
<http://www.scotland.gov.uk/Topics/Government/local-government/CP/soa>

The Scottish Government has suggested an amendment to the Bill to

“replace the requirement for listed authorities to publish language plans with a requirement to publish a BSL statement, setting out how they will make progress towards priorities identified in the National Plan.”

This would have a better fit with how authorities especially work within the Community Planning Partnership process and with current statutory bodies such as the Access Panels and Community Councils. Also with the introduction on the Public Bodies (Joint Working) (Scotland) Act 2014 and the integration of Health and Social Care, it may make more sense for the more traditional public services to move away from developing plans to working with the co-production model with BSL users and their representative organisations to put together statements of intent with clear, achievable outcomes using a SMART focus.

Good practice should be shared.

For example,

- The NHS 24 Online Interpreting Pilot could be used as a case study to show the processes used that can develop into a more language accessible model of service delivery.
- The work that has been done in the three Ayrshire Councils with NDCS on education and transitions for young people.

- The work done in Dingwall Academy to teach BSL to both deaf and hearing pupils.

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?

Although the Bill proposes a timescale that fits with the parliamentary session between elections, the timetable proposed by the Scottish Government is more realistic and may put less pressure on the government and listed authorities to complete their “plans” and the review process enabling the focus to be on outcomes and results rather than planning.

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?

SCoD is already involved in supporting our members to support BSL users to be active citizens and to be as fully involved in local and national planning process as they can be at the present time.

Since SCoD is the intermediary body for organisations that work with and support deaf people including Deaf and Deafblind BSL users across all three sectors – Third, Public and Private – in Scotland, we are possibly uniquely placed to support the listed authorities and the Scottish Government when involving people who use BSL and their representatives. As our work becomes more focussed on the needs of our members, we will be in a better position to support partnership working and community capacity to increase the deaf voice in Scotland, including that of Deaf and Deafblind BSL users, their families, carers and supporters.

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?

We would like to see the list extended to include the following:

- Scottish Enterprise
- Skills Development Scotland

- Visit Scotland
- Historic Scotland
- Creative Scotland
- Audit Scotland
- Transport Scotland
- SEPA
- The Care Inspectorate
- General Register Office for Scotland
- The Scottish Social Services Council
- The Scottish Information Commissioner