Response to:
Education and Culture Committee
British Sign Language (Scotland) Bill
Call for Evidence

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?

Whilst we recognised that greater recognition of BSL is required, it is felt that legislation that promotes a holistic approach to additional support needs would be preferred. A law to solely promote the use of BSL may have unintended negative consequence for other methods of communication that are equally valid and require equal support. There are concerns that this bill is too specific in its focus.

The needs of children and young people requiring alternative means of communication are currently well met within education. The requirement to meet children and young people’s needs is addressed by existing legislation such as the Education (Additional Support for Learning) (Scotland) Acts 2004 and 2009. There is an expectation within the Acts that all additional support needs will be appropriately assessed and addressed. It is debatable whether additional, more specific legislation relating to BSL, is required for education / children’s services. Consideration should be given to how the Education (Additional Support for Learning) (Scotland) Act 2004, as amended 2009, could be extended to address lifelong needs, encompassing the full range of additional support needs and appropriate provision.

Existing legislation could be used to promote BSL as a language, as well as recognising the communication needs of people and the alternative options available, e.g. Makaton, special technology and software.

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?

Whilst we recognise a need to ensure that appropriate access to BSL is available in all local authorities as required, it would be important to ensure all forms of communication and communication aids are given equal status and are available according to need, BSL is not the answer to all people’s communication needs.
Within education, staff work closely with colleagues in specialist services to promote communication in all its forms, as authorities already have a duty to respond to assessed need. This includes a need for services in BSL.

Identified gaps in the service provided for adults should be part of wider ranging legislation. This should eventually lead to an increase in BSL services and information.

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 – caution is required so that the preferences of the deaf community and others with communication needs can be met by a range of approaches as appropriate.

There has been much debate about the relative merits of the forms of communication used by the deaf community. There could be unintended consequences for other languages or forms of communication used by them should this Bill be enacted. Other forms of communication could be devalued or may become less available if authorities are required by law to direct resources to BSL. This would be a particular issue for very small local authorities in which services may be run by one member of staff.

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 is felt that prioritising ministerial time to give consideration to an extension to the Additional Support for Learning Act to include lifelong services would ensure equality of access to support as required for all aspects of Additional Support Needs.

A minister would liaise closely with local authorities and recognise that different authorities have different needs, face different challenges and may require different financial support structures to meet duties.

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 should not be specific to Hearing Impairment and BSL but to all additional support needs.

Developments in this area should involve consultation with stakeholders. Existing Quality Assurance frameworks with a focus on partnership working and inclusion should be used.

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?

This would be a significant piece of work, particularly for small local authorities, and cannot be completed without consultation with stakeholders.

Every two or three years would be a more realistic requirement.

Plans, preferably for all additional support needs, would be based on an appropriate analysis of need. They would use an evidence based approach to implementation, with contingency and succession planning as an integral part of this. Joint working and good practice should be shared.

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?

As above.

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?

We do not have capacity within children’s services to support this. It should be acknowledged that addressing this will take significant planning, and having appropriate staff when based in an island community has significant financial and staffing implications. Government recognition of such challenges would be important. We feel that other forms of communication requiring support could be adversely affected as a result of resources being directed towards BSL.

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?

Planning should be part of wider authority planning in relation to lifelong support regardless of the nature of the additional support needs, and not solely about communication using BSL. Systems and processes for the full range of Additional Support Needs work well within children’s services and it would be helpful if there was a move to replicate this within adult services and legislation.