British Sign Language (Scotland) Bill - Call for Evidence

Response from the University of Dundee

The University of Dundee welcomes the opportunity to comment on the proposed British Sign Language (Scotland) Bill. We are committed to enabling equality of opportunity for all students, and to widening access to higher education for minority and disadvantaged communities.

The University is therefore supportive of promoting the use of British Sign Language (BSL) and increasing access to services by BSL users. A number of our students utilise BSL for their studies through the provision of in-class interpreters and remote signing services. We are therefore aware of the challenges with sourcing suitably qualified BSL interpreters, due to the limited availability of such interpreters in Scotland, and would welcome action that would enhance such provision.

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?

As listed authorities, universities have existing responsibilities under the Equality Act (2010) to promote an inclusive approach to the provision of all aspects of higher education and to identify and progress equality outcomes across a number of protected characteristics, including disability.

We acknowledge that many students who utilise BSL do not consider themselves to be disabled but rather identify as a member of the Deaf community; a cultural and linguistic minority. Our work to promote inclusion recognises the importance of supporting students’ different cultural and linguistic identities and we would support action to progress this further for BSL users. However, we do not believe that the proposed legislation is the best approach to achieve this.

In common with other universities in Scotland, all courses at the University of Dundee are taught in English and all students whose first language is not English are required to demonstrate a minimum level of English language competency prior to entry. We are therefore concerned that it may not be in Deaf students’ interests to be considered as users of a minority language in this respect rather than as disabled students, as the latter requires universities to make reasonable adjustments to enable access to all aspects of learning and teaching.
Consequently, we would support a review of listed authorities’ responsibilities under the Equality Act rather than the introduction of additional legislation to address the aims of the proposed Bill. This could include additional protection for users of minority languages and increased responsibilities on public sector authorities to promote the use of BSL. We also suggest that the Bill’s aims could be embedded within the Scottish Government’s sensory impairment strategy to align investment in a more coordinated way across the public sector, enhancing access to services for all those with sensory impairments.

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?

Universities have a duty under the Equality Act to anticipate the needs of disabled students and to make reasonable adjustments in response to individual needs, including providing services in BSL. Currently, many Deaf students in higher education are eligible to apply for the Disabled Students’ Allowance (DSA) to help meet the cost of BSL interpretation services. If students who are BSL users are unable to access DSA funding, the full cost of such services would fall to the student’s institution. This would likely amount to costs in excess of £20k annually for each BSL user which could be difficult for universities to sustain and may ultimately impact on Deaf students’ access to higher education. Should the Bill be progressed, consideration would need to be given to the provision of higher education funding to address such implementation costs to prevent disadvantage to Deaf students.

In addition, there is very limited availability of BSL interpreters in Scotland. This restricts the extent to which universities can currently provide access to BSL services. We therefore do not believe it would be possible to increase the use of BSL as the Bill intends without significant investment in training to increase the number of interpreters with the skills required for translating the complex language and terminology utilised in a university environment; typically a minimum of NVQ level 6 or an equivalent qualification is required for such environments.

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?

We feel that introducing legislation that is specific to BSL users could have unintended consequences for those in the deaf community who use other forms of communication; such as lipspeaking or sign supported English, for example. In addition, further legislation to address the needs of one group may direct attention and limited resources away from other minority groups. Existing duties under the Equality Act require public sector authorities to involve service users in deciding how resources should be directed; prioritising and responding to the needs of specific groups as appropriate. We would therefore suggest that consideration should be given to assessing the impact of the proposed Bill on users of other forms of communication, particularly those protected by the Equality Act.
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?

We would suggest that specific ministerial responsibility for the promotion of all forms of alternative communication may be more appropriate than a focus solely on BSL, to ensure other minority groups are not marginalised. For example, a Scottish Minister for Disabled People could have responsibility to ensure the promotion and implementation of the requirements of the Equality Act and the UN Convention on the Rights of Persons with Disabilities (UNCRPD); the former includes requirements relating to the provision of accessible information, and the latter makes specific reference to the rights of sign language users.

“Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture” (UNCRPD, Article 30, para. 4).

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?

Listed authorities already have similar responsibilities under the Equality Act and, as noted above, we do not believe that additional legislation and associated performance reviews are necessary. In addition, the additional bureaucracy and associated costs that are likely to be introduced by the proposed Bill may lead to a focus on minimum compliance rather than enhancement of services to BSL users as intended.

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?

See 5. above.
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?

Should the Bill be progressed, the proposed timescales for publication of Authority Plans may be reasonable if significant investment is made before then in the training of BSL interpreters, and the potential cost implications noted above are addressed. However, we believe that a review of listed authorities’ existing responsibilities under the Equality Act to emphasise requirements in relation to BSL provision and enhance protection for users of minority languages may be more relevant in the context of higher education and may ultimately be more likely to achieve the aims of the 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?

Such requirements are already necessary when identifying equality outcomes to meet our responsibilities under the Equality Act. Should the Bill be progressed, any consultation process would therefore reflect our existing procedures to encourage participation by specific groups affected, taking account of their communication needs as appropriate.

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?

Should the proposed Bill be progressed in its current form, we would suggest that higher education institutions should not be included for the reasons noted above.