EDUCATION AND CULTURE COMMITTEE

AGENDA

4th Meeting, 2015 (Session 4)

Tuesday 24 February 2015

The Committee will meet at 9.30 am in the Mary Fairfax Somerville Room (CR2).

1. **British Sign Language (Scotland) Bill**: The Committee will take evidence on the Bill at Stage 1 from—

   - Alan Drew, Deaf BSL user and Member of Scottish Deaf Youth Association;
   - Heather Gray, Director, National Deaf Children's Society;
   - Avril Hepner, Community Advocacy and Development Officer, Central and Southern Scotland, British Deaf Association;
   - Frankie McLean, Social Care Manager, Deaf Action;
   - Nicola Mitchell, Deaf BSL User and BSL Tutor;

   and then from—

   - Pauline Craig, Head of Equality, NHS Health Scotland;
   - Nigel Firth, Equality and Diversity Manager, NHS Grampian;
   - Lorraine Vallance, Disability Adviser at Heriot Watt University and Member of Scottish Universities' Disability Services Group;
   - Robert Nicol, Chief Officer, Education, Children and Young People, and Maria Dick, Sensory Services Team Manager, Forth Valley Sensory Centre, COSLA;

   and then from—

   - Carly Brownlie, Development Manager, Scottish Association of Sign Language Interpreters;
Clark Denmark, BSL Broadcaster;

Professor Rob Dunbar, Chair of Celtic Languages, Literature, History and Antiquities, University of Edinburgh;

Professor Graham H Turner, Chair of Translation and Interpreting Studies, Heriot Watt University.

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The papers for this meeting are as follows—

**Agenda item 1**

Summary of evidence

Written submissions

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SPICe Summary of submissions

Introduction

Ninety-five written submissions and 65 videos were received by the Education and Culture Committee in response to its call for evidence on the British Sign Language (Scotland) Bill

Legislating on British Sign Language

The majority of respondents were supportive of need for legislation on British Sign Language (BSL).

Supporters focused on the need to increase recognition of BSL as an indigenous language to Scotland, similar to Gaelic. Some noted that BSL is a language with its own syntax and grammatical structure. Others noted the need to support a language that is under threat, recognising that increased awareness of BSL could lead to more people learning it, and greater understanding of BSL as a language. This view was focused not on Deaf people needing communication support, but on the promotion of a language used by a small but significant proportion of the Scottish population; with more needing to be done to ensure the language continues to be used.

Other supporters considered the Bill offered an opportunity to improve understanding of Deaf culture. There was also a rejection of the need to self-identify as “disabled” and concern that doing so does not necessary lead to greater use of BSL:

“They currently language rights for BSL are only offered under the aegis of disability legislation, however speakers of other indigenous spoken languages are not required to self-identify as disabled to access their language rights. The Equality Act (2010) does not make specific reference to BSL and it is therefore the subject of case law and legal interpretation as to what constitutes a “reasonable adjustment”... The Equality Act (2010) does not therefore focus on the value and integrity of BSL and Deaf culture. It accords rights to individuals to protect them from discrimination but it does not protect or promote BSL as a language.” (Deaf Association, Scotland)

Only a small minority considered the Bill was not required. The most significant reason put forward was that there were already legislative measures in place that either could be amended or better implemented to meet the needs of BSL users. The most commonly cited was the Equality Act 2010:

“The Equality Act should cover adequately all individuals with any protected characteristics and the adjustments required to support them in the achievement of their goals.” (South Lanarkshire College)

These respondents highlighted that BSL is an issue about deaf people needing communication support to access services. This approach centres on seeing equality

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1 http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/83906.aspx
legislation – focusing on promoting equality for disabled people – as an appropriate mechanism to enable deaf people to gain access to public services.

**General approach of the Bill**

Among those supportive of the Bill was a view that it is an important “first step” toward greater promotion and recognition of BSL as a minority language. Some also noted that the Bill is “aspirational” in its intentions.

Many of the BSL users who supported the Bill’s focus on promoting BSL as a language believed greater recognition would break down barriers to communication, reduce isolation among BSL users and so improve integration.

Of those not supportive of the Bill, there was much concern that its enactment could lead to significant increased demand for interpreting services, without corresponding interpreters to deliver on this demand. Few of the public authorities that responded (including health boards and local authorities) reflected on how to promote BSL as a minority language. For example, the Scottish Funding Council, submission stated:

“The SFC provides specific places for teaching of BSL to Heriot Watt University... We believe this provision is an important contribution to securing the future of BSL. Beyond that we do not feel that we have expertise in relation to the questions posed in your call for evidence and therefore have not commented on these matters.”

This illustrates recognition of the funding role played by the SFC, but not what the provisions in the Bill may mean for the SFC itself e.g. promoting a bi/multi-lingual culture within its own organisation with opportunities for SFC staff to learn and use BSL.

The Bill focuses on promoting BSL with the aim that this will lead to greater use of BSL in the delivery of services. This is seen as problematic:

“BSL, as a sign language, is treated as an ‘access tool’ in order that deaf people can access mainstream goods and services. In this respect the proposed Bill will go some way to promote BSL, but this approach... perpetuates the use of BSL as a ‘tool’ rather than a language with its own uses and values.” (Deaf ex-mainstreamers group)

**Unintended consequences**

There were a number of possible unintended consequences emerging from the Bill. Most focused on the resource implications for other groups, for example:

- Limited resources could lead to other communication aids or translation / interpreting services being reduced.
- The process of producing Authority Plans could be an expensive, bureaucratic exercise, with limited resources diverted to this activity at the expense of other work.
- Concern that public authorities will think all deaf people are BSL users, so not recognise other ways of communicating with deaf people.
Some concern that demand for BSL interpreting is variable throughout Scotland, and within particular services, resulting in disproportionate resource input relative to demand.

Given that there is currently no baseline information on demand for BSL, it is difficult to know what needs to be done to promote BSL in public services.

Duties on Scottish Ministers

Many of the responses focused on the role that the Minister should play, rather than which Minister should be the designated lead on BSL. A few respondents suggested the Minister for Learning, Science and Scottish Languages was best placed to play the leadership role required. Others suggested that this activity should sit within a portfolio focusing on equality, disability or communication support. There was some recognition of the importance of all Scottish Ministers maintaining a collective responsibility for promoting BSL, even where there was a lead Minister in place.

Many considered the lead Minister should maintain regular engagement with the Deaf community, both to inform the National Plan and to maintain an understanding of the issues affecting Deaf people:

“The BSL community is the repository of a rich cultural and linguistic heritage, and this should be used to the full.” (Deaf Action)

There was also a view the lead Minister should be able to sign; be learning BSL; be deaf aware; and/ or have a clear understanding of the issues facing deaf BSL users.

Some respondents highlighted the relationship that should exist between the Minister, National Advisory Group and the Deaf community. Any advisory group established through this legislation should be fully represented by the Deaf community or Deaf-led organisations that represent the views of BSL users, rather than organisations for deaf people or public bodies. The lead Minister should play a role both in advocating for BSL across Scotland, while working closely with the advisory group to ensure the delivery of the National Plan and Authority Plans as well as in holding public authorities to account in delivering against Authority Plans.

Finally, there were calls for the Minister (or Ministers) to produce “robust guidelines for BSL usage in Scotland” (NHS Western Isles); for the provision of “early and clear guidance to authorities on developing and reviewing Authority Plans” (Stirling Council); and for any guidance to be informed by the views of the BSL community.

BSL Plans

By far the most significant comment regarding the production of a National Plan and Authority Plans was that these should be made available in BSL. The cost of interpreting BSL plans and Performance Review paperwork into BSL has not been considered in current costings, which is seen as needing to be addressed.

Some respondents reiterated that BSL provision is already a priority through equality legislation. For some public authorities this led to the view that there should not be a requirement to produce a separate BSL plan and performance review.
“There should be a link to the requirement to produce equality outcomes as opposed to writing a separate plan” (South Lanarkshire Council)

For other public authorities, with mechanisms for reporting already in place through equality provisions, producing BSL plans should not be difficult:

“The shape of the proposed authority plans matches the shape of the Equality Act and as such is deliverable and the infrastructure to action such a plan is already in place.” (NHS Greater Glasgow and Clyde)

Respondents generally agreed that consistency between the National Plan and Authority Plans was useful. However, some thought there should be flexibility built in to planning to allow authorities to work in a way that is both appropriate and proportionate to the specific public authority:

“Whilst each organisation will implement its own authority plan, it would be important to have a consistent approach to collecting and submission of data and information across the authorities to enable the findings to be analysed and influence future guidance relating to provision. The ways in which engagement takes place with service users may also differ depending on rural or urban settings, feedback from users would be an essential part of the development of local plans for each authority.” (NHS Forth Valley)

There was no agreed view as to whether authorities should produce a Plan or a Statement (as proposed by the Scottish Government). One respondent stated that the proposal for authorities to produce BSL statements “make more sense” (Deaf Action), while a respondent with experience of Gaelic language planning stated:

“It would certainly be preferable for authorities to publish individual plans. At the moment Gaelic language plans tend to have a number of different sections, including a range of ‘core commitments’ in key areas, as well as a statement of how their actions would help in the implementation of the National Gaelic Language Plan. If you just limit it to the latter [a statement linking to the National plan, but no authority-specific plan] it might end up being relatively cursory. It would certainly be less detailed than the Gaelic plans.” (Bilingualism Matters, University of Edinburgh)

Finally, there was some concern that the information on what should be included in a BSL plan / statement is currently “quite vague” (Inverclyde Council). There was a request for Ministers to provide more detailed guidance on the content of plans (SPCB). And there were concerns raised about the implementation of BSL plans as a result of:

- The limited number of interpreters currently available to support the use of BSL in public service delivery, so limiting potential to affect change.
- The time required to increase the availability of suitably trained and qualified interpreters to respond to increased demand.
- Potentially limited finances to train interpreters and translators.
- Potential for change to take a long time to show real improvement.

Performance Reviews
Many recognised the value of the Performance Review as a mechanism for holding public authorities to account. The proposed approach was felt by some to be most appropriate in order to encourage public authorities to make progress on promoting BSL, rather than limiting activity due to a perceived risk of sanctions. Others, believed the Bill should set out clear sanctions that would be applied if the commitments in an Authority Plan were not met.

There was a view that review activity should include feedback from BSL users to capture their views as service users on activity and progress within public authorities. Some considered there was not currently sufficient information about the focus and content of Performance Reviews, or not sufficient information on current practices across authorities in order to effectively measure progress.

COSLA had specific concern about the proposed approach to Performance Review:

“We met with Mark Griffin MSP on 27th November 2013 to discuss what was at that stage his proposed Bill. We raised concern around the tone which suggested that Scottish Government would hold local authorities to account on their performance against BSL plans. We explained that this proposal confused the accountability relationships that exist within local government… suggests a top down, command and control relationship between the Scottish Government and local authorities rather than the partnership relationship which currently exists... It is our view that any monitoring or scrutiny of local authority plans should be done at a local level and would suggest this could be done by local community planning partnerships.” (COSLA)

**Timescales**

There was no clear position on the proposed timescales for Plans and Performance Review, with some commenting that the timescale was too long (more commonly cited by individuals) and others that the timescale was too short (most commonly cited by public authorities). Several respondents said the timescales were reasonable and achievable.

The main concerns raised were:

- “There may be little progress after the first review in terms of actual change in provision for deaf people and their access to BSL, given the lead in time for staff development and training.” (North Ayrshire Council)
- The Performance Review coming only a year after the first plan is published is very short. Given this, implementation will be at a very early stage, with little time available to roll out before progress/performance reviewed.
- Recognition that the first round of plans will be much more resource intensive as authorities try to gather data, consult with relevant stakeholders and finalise BSL plans.
- Complexity of timescales could result in authorities producing plans that are not as clear or realistic as they could be, so are not as likely to be deliverable.
- Recognising that there are other reporting mechanisms that public authorities already adhere to (e.g. public sector equality duty), which do not fit with the timescales for BSL Plans. Suggestion that flexibility should be built in reporting
cycles to allow public authorities to progress BSL planning within the relevant organisational planning cycles.

Consultation

There was broad support for engagement of those affected by the provisions in the Bill in the development of the National Plan and Authority Plans. For example, many respondents felt BSL users and their representatives should be the main focus of consultation and engagement at all stages of BSL planning and review. Others suggested a “co-production model” should be used (SCoD) to encourage active engagement.

Where concerns were raised – by public authorities – these were in relation to:

- An “additional burden on staff time” to consult (NHS Ayrshire and Arran)
- Significant resource implications in organising and carrying out consultations, including the cost of interpreters and holding consultation events.
- Time consuming to effectively engage BSL users, depending on starting point for the authority (e.g. if already have networks to work with).
- Being able to meaningfully consult due to there being few BSL users using or engaging with specific services.
- Potential for “consultation fatigue” among the small number of deaf organisations in Scotland.

To address these concerns, it was suggested that opportunities should be developed for joint consultation, as proposed in the Scottish Government’s written evidence.

A small number of organisations suggested that specific organisations should be added to the Bill as those required to be consulted (speech and language therapists, Action on Hearing Loss, SCoD, NDCS and Deaf Action). COSLA suggested that listed authorities should be consulted on a draft of the National Plan:

“The Bill calls for the National Plan to be consulted upon by those who the Scottish Ministers consider are likely to be directly affected by the National Plan and lists these as particularly being persons who use BSL and persons who represent users of BSL. We would suggest that listed authorities that will be directly affected by the National Plan - as they will potentially incur additional costs - should also be consulted.”

Listed Authorities

Regarding the authorities listed in Schedule 2 of the Bill, of the small number of respondents that commented, the list as currently presented was seen as comprehensive / adequate. However, it was noted that the list should be regularly reviewed to ensure it was fit for purpose.

As well as those listed in the Bill, additional suggestions were put forward, including:

- Those that write Gaelic Language Plans.
• Those that have to comply with equality legislation/write equality outcome agreements.
• Organisations representing Deaf people and/or those receiving Scottish Government funding.

One respondent suggested that local authorities should be required to have a BSL plan for each of its services (e.g. education, child protection, adult care, etc.), while there were a small number that suggested additions to the list, notably:

• Skills Development Scotland
• Scottish Enterprise
• Creative Scotland
• Historic Scotland
• Audit Scotland
• The Care Inspectorate
• Scottish Social Services Council
• Transport Scotland
• Scottish Information Commissioner
• National Records of Scotland

The submission from Graham Turner provides a longer list of suggested authorities to consider adding to the list at Schedule 2.

Other Issues

A key area of concern for a number of respondents was promoting BSL in an education setting. For example, through:

• BSL being available through the current 1+2 language learning policy in schools
• Ensuring that BSL education is explicitly considered within the National Plan.
• Improving the quality of education available to Deaf children.
• Basic levels of BSL being part of the school curriculum – there is evidence that children enjoy it and it enables them to communicate more effectively with Deaf children.
• BSL classes for parents who have Deaf children to improve communication and assist in developing language skills alongside their children.

A small number of respondents noted the demise of specialist Deaf schools - communicating primary through BSL - leading to a loss of access to BSL. In contrast, there were others who felt that specialist Deaf schools were not the best environment in which to educate a Deaf child. Rather, the view was that mainstream provision should more effectively accommodate BSL use in learning.

Health, specifically access to health services, was also an important issue for respondents. Some noted the importance of healthcare professionals being Deaf aware, while others noted the challenges of not being able to directly communicate with health professionals either about their own conditions, or about those affecting their children. Having an interpreter present at doctor and hospital appointments was seen as critical.
There were those who cited experiencing serious health conditions where it had not been possible to capture critical information about the condition or its treatment or medicine due to there not being an interpreter available. There was also positive feedback about a GP having some sign language, and the importance of this for the experience of the BSL user.

Finally, some submissions cited concerns about the Bill's limitations, notably:

- Not all deaf people are BSL users (Inclusion Scotland, Shetland Community Health and Social Care Directorate), so the Bill has limited value in supporting the range of communication support needs of deaf people.
- Other forms of communication “should enjoy equal status in law as formally recognised systems of communication between service users and service providers.” (RCSLT)
- The Bill does not go as far as the Gaelic Language (Scotland) Act 2005 – for example there is no indication of resources being put in place to promote BSL (Stirling Council).
Summary of Facebook comments

Introduction

The Education and Culture Committee set up a BSL group on Facebook in November 2014 with the aim of encouraging the Deaf community and BSL users to give us their views about the British Sign Language (Scotland) Bill. We especially wanted to allow people to submit their views in BSL video, a format which is well suited to Facebook.

Since it was created, the BSL group has attracted over 1900 members. Hundreds of comments have been posted, including numerous BSL videos.

This document identifies the key themes from these comments, particularly those most relevant to the Bill. It is not meant to be a complete analysis of all comments received, which are publicly available at: BSL Facebook Group.

Importance of BSL

Comments reflected there was strong support for the BSL Bill. There was very enthusiastic support for the opportunity the Bill provides to improve the quality of life for future generations of Deaf people.

Promoting the use of BSL was seen as vital as it is the language Deaf people use in daily life to connect to the world.

Many people commented they had missed out on normal family communication where, for example, family members had limited signing skills. They hoped the proposed change to the law would help families to enjoy fuller lives.

Legislating on BSL

It was felt the Bill was necessary in order to recognise BSL as a language in its own right. The existing equality legislation was criticised as it labelled Deaf people as disabled and not part of a linguistic and cultural minority. Others commented that BSL deserved equal recognition to other minority languages like Gaelic and Welsh.

People hoped that recognising BSL in this way would help to break down barriers, reduce Deaf people’s feelings of isolation and promote their integration into Scotland’s communities. For example, it was suggested that giving BSL the same status as spoken languages would help to validate the parenting role of Deaf parents where they had hearing children.

Barriers to BSL users

Many people had concerns about the barriers that stopped them accessing basic services. They hoped the Bill would resolve some of these issues by raising awareness of the needs of Deaf people.
Access to education

To many, it was vital the Bill improved access to quality education for Deaf people. Many people’s experiences of education had been negative - the use of sign language had not been widely used, which had limited their learning experience and left them feeling isolated.

One of the reasons for this had been the approach taken in schools throughout the UK to promote oralism (i.e. spoken language) as the preferred method of instruction rather than manual sign language. Several people said this had put Deaf children at a huge disadvantage.

People told us they wanted basic levels of BSL to be part of the school curriculum. Pupils at Clydevie Academy, in Inverclyde - who were encouraged to use BSL as a first language - enjoyed learning the language as it enabled them to communicate more easily. Another 14-year old pupil felt Deaf children were not treated equally compared to their hearing peers because there was not equal access to information in school.

A large number of comments expressed disappointment that the Bill did not include a requirement to provide BSL classes in schools. It was suggested that such a requirement should be included in the national plan. Many felt that such a move would improve educational outcomes for Deaf pupils and give them access to a wider range of employment opportunities and to further or higher education. Several others highlighted the importance of teaching Deaf children BSL at an early age, as this would maximise children’s potential for future bilingualism.

Access to healthcare

Deaf people also strongly felt the Bill could improve their lives by raising awareness about their needs in accessing health services.

People wanted healthcare professionals to be more Deaf aware and to understand that Deaf people often felt marginalised and isolated. For example, someone had felt they had been ignored in hospital and had not received the same level of emotional support from nurses as hearing patients. They had been forced to communicate by passing written notes back and forward.

A Deaf parent explained how she had taken her hearing child, who was sick, to the doctors. However, the child had to explain the symptoms to the doctor and then interpret to the parent what the doctor was saying. The parent hoped the Bill would mean that Deaf parents would be treated equally to hearing parents and be able to express their concerns easily.

Having an interpreter present at doctor and hospital appointments was critical. Some people had experienced potentially life-threatening situations where they had not been able to understand key messages about their illness or medication due to there not being an interpreter available. It was suggested that online interpreting services should be provided in hospitals and included in the national plan.
However, there were also some positive experiences. One person said their GP could use some sign language and this had been of great benefit. A number of others emphasised the importance of this and called for all doctors and NHS staff to be trained in the use of BSL.

Various comments referred to the need to ensure staff in social care settings were aware of the needs of Deaf people. It was of particular concern that older people in care homes should receive communication.

**Access to other services**

Other comments highlighted difficulties Deaf people had experienced in accessing other services—

It could take the Police hours to arrange an interpreter and so describing an incident or making a report could be a lengthy process involving communicating by written notes. In an emergency situation such delays could be critical. It was also seen as important that Deaf people should have access to an interpreter at every stage of the criminal justice system.

Another comment was that Deaf people sometimes found it difficult to access counselling services, where they might feel uncomfortable having an interpreter present. Their view was that Deaf people had the right to share their experiences in the same way as hearing people and suggested more counsellors should be able to use sign language.

There was also a call for people in public facing positions to have some level of sign language ability. A number of comments highlighted this was the case in the USA where many hearing people working in hotels and at tourist attractions could use sign language, which they had learned in high school. This was seen as a good model, which, if implemented in Scotland, would have a significant impact on the quality of life of Deaf people.

Some people referred to a lack of awareness by bus drivers who required Deaf travellers to state their destination when using a National Entitlement Card. An alternative method of providing the information should be worked out that did not require the Deaf traveller to type the information into their mobile phone and then show the driver.

Other challenges related to the use of technologies. For instance, a number of people highlighted difficulties using speech-only intercoms and wanted video screens to be considered where appropriate.

There was also a call for banks to have greater Deaf awareness. In one case, a bank had refused to deal with a family member of a Deaf person because they were not the account holder, despite money apparently having been illicitly withdrawn from the bank account. It was suggested people were forced to lie and pretend to be the amount holder.
Fact-finding visits

Introduction

The Committee held two fact-finding visits to help inform its scrutiny of the BSL Bill:

- Windsor Park School and Sensory Service, Falkirk, on 9 December 2014
- Deaf Action, Edinburgh, on 20 January 2015

Background on the visits is contained in the Annexe.

The key aims of the visits were:

- to understand the challenges experienced by Deaf people;
- to discuss the importance and benefits of using BSL; and
- to consider what impact the BSL Bill might have.

This paper summarises the main points to have emerged from both visits.

Key issues discussed

Challenges accessing services

People told us they had to overcome barriers in order to access everyday services. For example, how they felt isolated and unable to access healthcare services.

One person said they had to wait hours for an interpreter in A&E, and another said they had only been able to get an interpreter in hospital after a hearing family member followed up the request.

We were told that hospitals lacked awareness of the communication needs of Deaf patients, or patients with Deaf family members. There were calls for improvements in the way hospitals provided information to patients and their families, such as by text message. Others commented that information leaflets were sometimes unhelpful and should be improved, and that general health warnings needed to be communicated in ways Deaf people could understand.

It was also suggested that greater use could be made of centralised video and online interpretation services, for example at doctor and hospital appointments. However, it was acknowledged that in some circumstances it would be better to have face-to-face contact.

Other people on our visits highlighted difficulties with using everyday financial services. For example, people said banks and insurance companies had refused to deal with enquiries and requests to purchase insurance made via an interpreter.

Some people suggested that contacting the emergency services could be made easier by using SMS messaging. Others felt that information at train stations, such as last minute platform changes, needed to be more effectively communicated to Deaf
people. It was also suggested that public bodies should make general information available in the form of BSL video clips.

There were also calls for additional support in the workplace, particularly for someone’s first day in a new job. It was suggested workplaces could use signed video induction tools for Deaf staff, which would save time and avoid the need to book interpreters.

Other people told us they would like to see better Deaf awareness at polling stations and from representatives canvassing for support in the build up to elections.

The particular needs of Deafblind people were also highlighted. It was recognised that their needs had to be taken into account when public bodies were considering how to make services accessible to Deaf people.

In addition, the cost of learning BSL – which could run to thousands of pounds – was prohibitive to many. This meant family members could sometimes not afford to learn BSL. This was a particular problem given that 90% of Deaf children were born into hearing families.

**Challenges relating to education**

People told us about the difficulties they had experienced as children going through education and there was concern about the quality of education Deaf children received today.

It was felt that Deaf pupils should get more support in school to ensure they understood what the teacher was saying. It was acknowledged that Deaf children were often some of the most vulnerable in society and so they needed extra help to make sure they succeeded at school.

It was suggested BSL should be a part of the school curriculum, like other languages such as French and German, and for it to be included as an option in the list of new national qualifications. The reference to BSL in the Scottish Government’s 1+2 language policy was seen as a useful starting point and one that could be built upon.

Others highlighted there was a need to ensure teachers of Deaf children were qualified in BSL to a high standard. It was, however, acknowledged teaching cover would have to be arranged to allow teachers to attend BSL training courses and this could sometimes be difficult to arrange.

A good example of support provided to Deaf children was at Windsor Park School and Sensory Centre, in Falkirk. We saw how the teaching staff and a BSL tutor worked with children at the nearby Falkirk High School where BSL was an everyday part of school life.

The BSL tutor delivered a programme of BSL sessions for the primary and secondary Deaf pupils, teaching and support staff, family members and associated agencies working with Deaf children. The tutor also provided deaf awareness and sign
language classes for hearing pupils as well as for education staff, front line staff and members of the community.

Windsor Park introduced sign language to its pupils at an early age, which was seen as critical. It also used BSL interpreters for school events such as prize ceremonies and assemblies, as well as parents’ evenings and a discussion about children’s rights with the Children’s Commissioner.

We met some of the secondary pupils who received support from Windsor Park and they told us learning BSL had helped them to be able to communicate with their classmates and friends. Signing, they said, was most important when there was a lot of information given by the teacher, or they were not using their hearing aids, for example at the swimming pool.

Impact of the Bill

People hoped the Bill would raise awareness of the challenges faced by Deaf people, which would in turn encourage action to improve access to services. While it was acknowledged this was a long-term process, people supported the Bill in the hope it would improve the lives of Deaf children and young people in the future.

We asked people whether they thought the production of BSL plans was the best use of money, and if the resources could be spent on anything else that would deliver greater quality of life for BSL users. Some people commented that instead of creating paperwork, the money could be better spent on tangible things, such as more interpreters. However, the majority view was that the Bill was a hugely important step in recognising and promoting BSL as a language and raising awareness and understanding of the communication needs of Deaf people.

By raising awareness of Deaf people’s needs, it was hoped the Bill would begin to break down barriers faced by the vulnerable, reducing their feelings of isolation and promoting a more inclusive society.

It was also said the Bill provided a huge opportunity to begin to raise people’s expectations of what Deaf children and young people could achieve in life. Someone suggested it could be important in helping parents to understand the benefits of their child learning BSL.

Others commented that the Bill provided an opportunity for BSL users to influence how resources to support BSL would be used in the future. Also, it was suggested the Bill might encourage more people to choose to train as BSL interpreters.

There was, however, concern about the financial pressure councils were under, which could mean a lack of money to implement the actions included in the BSL plans.
Windsor Park School and Sensory Service

The School sits alongside Falkirk High School and Bantaskin Primary School. The Committee visited the three purpose-built classrooms that are situated within the High School.

Specialist support is currently provided for 10 primary and 7 secondary pupils who have significant hearing loss. Some of the pupils also have a range of other physical and learning impairments. With support, the pupils integrate into the primary and secondary mainstream establishments that are on-campus.

In addition, the School provides an outreach service, which allows staff to support pupils with sensory impairments across the local authority area.

The Committee also met members of the Sensory Services Team based in the Forth Valley Sensory Centre, Falkirk. This social work team provides communication support for adults who have a hearing or visual impairment.

Deaf Action

Deaf Action was established in 1835 and was the first formally constituted Deaf organisation in the UK.

Deaf Action promotes the welfare of deaf people and those with other sensory and support needs, including those who are blind, partially sighted and deafblind.

Specifically, Deaf Action provides social work services, assistance on financial matters and communication support. It also provides training on deaf awareness issues as well as specialist accommodation and care for deaf people with additional support needs.
Education and Culture Committee

4th Meeting, 2015 (Session 4), Tuesday, 24 February 2015

British Sign Language (Scotland) Bill – Written Submissions

The Committee will take evidence on the British Sign Language Scotland Bill.

The following written submissions have been received by those giving oral evidence—

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Clerk to the Committee
19 February 2015
BSL (SCOTLAND) BILL

BDA SCOTLAND’s SUBMISSION TO THE SCOTTISH PARLIAMENT
EDUCATION AND CULTURE COMMITTEE

Contact: directorcc@bda.org.uk

31st January 2015

“Then a light came shining through the night,
Showing BSL a language in its own right.” (Dot Mills, 1990)

Introduction

The BDA Scotland welcomes the BSL (Scotland) Bill as a much needed piece of forthcoming legislation and we welcome the language focus which is integral to the Bill. The BDA has been pressing for official governmental status for BSL since the 1980s. Our first formal document BSL: Britain’s Fourth Language: the Case for Official Recognition for British Sign Language (BDA 1987) set out the fundamental principles that BSL is one of the UK’s four indigenous languages. It demonstrated that promotion of BSL necessitates formal legislation of the kind developed to preserve and promote the Gaelic language. Last year we published a discussion paper on the Legal Status for BSL (BDA 2014a) showing the shortcomings of the Equality Act (2010) as a satisfactory mechanism for ensuring full equal opportunities for Deaf individuals and the lack of full citizenship accorded to members of the Deaf community in the UK (Emery 2009) for so long as BSL continues to lack legal status. We also outlined how other states (New Zealand, Finland, Austria and Hungary among others) have successfully achieved legal status and policy recognition of their indigenous sign languages.

It is often the case that those less familiar with BSL will perceive BSL as a disability rather than a minority indigenous language issue. This is an error in fact which has hitherto precluded effective policy making capable of promoting BSL in the UK. Common errors by those not familiar with BSL include a presumption that communication systems used by deafened and hard of hearing people may somehow be adversely affected by policies supporting BSL or that disability legislation such as the Equality Act (2010) is enough itself to meet the equality agenda. There is no evidential basis to support either of these assumptions. Furthermore, the Scottish Government’s ‘See Hear –Sensory Impairment Strategy’ now addresses the needs of these groups.
What has been lacking however until now is any form of legal status for BSL or any parity of treatment for BSL as one of the valued and culturally enriching indigenous languages of Scotland. The Scottish census (2011) indicated 13,000 people used BSL at home (Scottish Government 2014). BSL is an indigenous language of the UK. Scotland is now engaged at the cutting-edge of innovative policy making with this Bill. The Deaf community across the UK are placing their hopes on the forward thinking of the Scottish legislature in embracing this bill and enabling promotion of their language, BSL. It is hoped by many that this will be a beacon of change for the other UK nations. With this in mind, the BDA Scotland supports the private members BSL (Scotland) Bill and its enabling approach. We also very much welcome the Scottish government’s early indication of support.

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 (Scotland) Bill was the best approach. Do you think we need to change the law to promote the use of BSL and, if so, why?

Yes we definitely support changing the law to promote and protect BSL and accord it legal status and parity with the Gaelic language as valued indigenous languages of Scotland deserving protection and promotion.

1.1 Voluntary code

Given the current situation where Deaf people report issues of linguistic exclusion and lack of access in all spheres of life (as evidenced in the recent consultations on the BSL (Scotland) Bill) we do not place any reliance on a voluntary code: instead legislation is certainly required. We are opposed to a voluntary code as it is neither a workable nor an enforceable solution. A voluntary code would require a far-reaching hearts and mind exercise to educate the broader population that BSL is a language not a ‘disability communication tool’. Our experience with the BDA’s BSL Charter\(^1\) shows that take up was patchy and consistency could not therefore be guaranteed across the UK. The proposed BSL Act will achieve the desired outcome more cost effectively, with universal take up, and a great deal more quickly.

In addition, in Northern Ireland the Sign Language Partnership Group (a consortium of Government departments officials, deaf organisations) is proving that the voluntary code approach is not robust enough to make the necessary changes and the Department for Culture, Arts and Leisure (DCAL)’s latest roadmap review report (March 2014) and Review Action Plan (Jan 2015) are reaching a conclusion that a formal policy is required to enforce the necessary changes to create accessible environment for BSL users.

1.2 BSL as a valued language

Currently language rights for BSL are only offered under the aegis of disability legislation, however speakers of other indigenous spoken languages are not required to

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\(^1\) a voluntary code signed up to by some local authorities in the UK: see Appendix 2
self-identify as disabled to access their language rights. The Equality Act (2010) does not make specific reference to BSL and it is therefore the subject of case law and legal interpretation as to what constitutes a “reasonable adjustment”. Reasonable adjustments are achieved primarily through the use of BSL-English interpreters (the majority of interpreters have acquired and use BSL as a second language). The mere provision of second language speakers acting as interpreters would not for one moment be considered adequate to safeguard and protect the integrity of other (spoken) indigenous languages.

The Equality Act (2010) does not therefore focus on the value and integrity of BSL and Deaf culture. It accords rights to individuals to protect them from discrimination but it does not protect or promote BSL as a language.

BSL (as used by those fluent in their native BSL) is a language capable of considerable depth and beauty. It has an innate productive capacity capable of evolving and changing in response to new concepts and ideas. BSL has a long history of signed folklore and storytelling: many are narratives not well known outside the Deaf community (Sutton Spence 2010, Limping Chicken 2013); however better known to hearing people will be examples such as Denmark’s BSL retelling of Iron Man and Hanafin’s BSL version of Little Red Riding Hood where all the characters are Deaf. Sutton Spence has argued that for “adults, too, signed storytelling and other forms of signed folklore are crucial for enculturation” (2010:266). Thus late-comers to the Deaf World often find a home within the Deaf community where there are no barriers and where they can develop their linguistic cultural identity and Deafhood (Ladd 2003).

For BSL poetry the outstanding work of authors such as Dorothy Miles (Miles 1976, Miles 1990, Read 1998, See Hear 2013) testify to the extraordinary versatility and beauty of BSL, capable of poetic register and offering a rich cultural linguistic resource and Deaf Gain for all (Bauman and Murray 2009).

However, BSL is a threatened language and without a BSL Act there is a real risk of losing the cultural and linguistic diversity it represents due to the very real threat posed by interrupted intergenerational transmission. Existing disability legislation is not capable of safeguarding, protecting and promoting the culturo-linguistic resource embodied in BSL. The current situation of absent statutory guidance on language protection also constitutes a threat to Deaf people’s collective culture-linguistic diversity and heritage and amounts to a diminution of prospects for self-actualisation and achievement.

1.3 International Obligations

The UNCRPD imposes a number of obligations on the UK including promotion, recognition, and support of Deaf people’s linguistic identity, sign languages and Deaf culture, recognition of sign languages, and employing Deaf teachers qualified in BSL. Currently this is not happening across the UK (BDA 2014a), so the BSL (Scotland) Bill would have the advantage of ensuring that these obligations are being met in Scotland. The matrix below summarises the key obligations that are required by the CRPD. Additionally Article 19 provides for linguistic access and the provision of sign language interpreters.
| Article 21 | States must “ensure disabled people have the right to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention.”

Article 21, (b) requires states to assist this by ‘accepting and facilitating the use of sign languages, ... by persons with disabilities in official interactions’

and by “recognizing and promoting the use of sign languages” (Article 21 e)

| Article 24 | Clause 3 stipulates that inclusive education should be offered at all levels, requiring states to facilitate: (b) ‘the learning of sign language and the promotion of the linguistic identity of the deaf community’; and, ensure that education (c)...‘is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.’

Clause 4 requires states to: ‘employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education’

| Article 30 | 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’ Article 30, Clause 4

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO 2005) imposes further obligations on the UK to protect and promote the diversity of cultural expressions and create conditions of cultures to flourish and build bridges between communities (article 1, objectives, see Appendix 1). In the case of the Scottish Deaf community this is through BSL. During the consultation process a contributor expressed the hope that the BSL (Scotland) Bill would help to:

“improve understanding between hearing and non-hearing communities and eliminate the fear hearing people have of Deaf / BSL users”

The BSL (Scotland) Bill would move the Scottish Government closer to fulfilling its existing international obligations for promoting the linguistic identity of the Deaf community, fostering cultural linguistic diversity and the potential economic value of the BSL community, and the value of BSL for shaping identities.

1.4 The Equality Act (2010)

Our research shows that the Equality Act is not always respected nor implemented on a day to day basis (as detailed in the BDA’s Legal Status for BSL discussion paper 2014).
This places a heavy burden on individual Deaf people having to sue for their rights using the Civil Procedure Rules for each and every instance of exclusion.

Existing legislation does not deliver linguistic rights as shown in the examples below.

**Holistic wellbeing / health**

Health services for Deaf people are so shocking that we believe the UK government is in serious breach of human rights.

During the consultation commentators complained of being forced to interpret for their Deaf relatives. This practice is dangerous as family members are emotionally involved and unqualified.

> “I grew up with Deaf parents and have been using BSL all my life. Since I was young, I accepted responsibility for my parents… During my early teens, I interpreted for my parents at different events such as a parent evening or a doctor appointment. It was inappropriate”.

Failure to use qualified interpreters has led to poor understanding of medical treatment, reluctance to seek medical advice and issues with lack of informed consent (BDA 2014a).

> “We need better access in hospitals because when I was in hospital for 2 weeks, I tried to ask for an interpreter but the staff kept ignoring me. I was upset in the 2nd week and my hearing daughter was furious and had a word with the staff. I got an interpreter in the next day. Why did they not listen to me? They only listened to my hearing daughter. I was the patient! “

> “Why is it always awful in hospitals? Every time I ask for an interpreter for my hospital appointments, no one turns up. It is so frustrating. Why other people with different languages have better access to their interpreters?”

In March 2013 the Scottish Public Services Ombudsman ruled that failure by NHS Tayside to provide an interpreter for a Deaf patient was a breach of their informed consent policy. Sign Health states that “poor access and communication suggest the health service is at risk of harming Deaf patients. It is certainly not meeting the requirements of the NHS Constitution or the Equality Act." (2014:3).
Access to Emergency Services

Access to emergency services is also severely restricted for Deaf BSL users and the potential for misunderstanding using written English potentially dangerous.

“I tried to ask for help from NHS24 when my friend was ill. I was using a minicom but it was awful. I was confused with their questions. It took 2 hours before the ambulance came to collect my friend who was really ill. If I was able to communicate in my language – VRS – my friend would be in hospital much quicker”.

The European Universal Service Directive (article 26) requires OFCOM to regulate electronic communications making caller location information available for such calls. Next Generation 112 aims to give full access to disabled users to emergency services, but so far only NG Text Relay is being implemented. We hope that the BSL (Scotland) Bill will be able to recommend that OfCOM add Video Relay Service (VRS) to the regulator’s mandate to make it possible to have the NG 112 service, that emergency control centres are able to use video when receiving calls, making services much faster (embracing Total Conversation); and that sign language interpreters can be invoked by the emergency centre operator (as happens for other non-English groups).

Education

The Equality Act also obliges schools to make reasonable adjustments. However, using level 2 Communication Support Workers in mainstream settings denies learning to deaf children who need BSL. Scotland offers Gaelic language education and should be able to offer enhanced BSL-medium instruction where this is required.

However, it is currently not possible for a family to choose sign bilingual-bicultural BSL-medium education for their child because there is virtually no provision. Grimes (2009) found that of the 205 teachers interviewed in Scotland in 2007 only 8% held BSL qualifications at level 3 or above. Under article 24 of the UNCRPD schools should now employ “teachers, including teachers with disabilities, who are qualified in sign language”.

“I teach BSL. That is my job. One of my students came on my introduction to BSL course. She told me she is a classroom assistant in a mainstream school. She is supporting 2 deaf children. But she doesn’t know how to sign yet so how can these children understand her?”

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In addition, Deaf parents have also complained of lack of access to their hearing children’s schools and the abusive and inappropriate practice of asking children to interpret their own parent-teacher interviews.

“I asked for a BSL interpreter for the parent evening at my children’s school. They kept forgetting to provide one. It is not right to use my children to interpret for me and their teacher because they can sign”

There is also a strongly felt wish for BSL to be offered as a modern second language in schools, considerable work has already been invested into a National BSL curriculum for this which could be draw on at minimal cost.

“BSL should be on the school curriculum in Scotland. If hearing children learn BSL at school, this will mean, in the future, the society will be more deaf and BSL aware and able to communicate with us”

### Employment

Deaf people have reported difficulties in securing employment, and getting interpreters for appointments at the job centre.

“I went to the job centre to find a new job. The receptionist refused to help to contact a potential employer. She told me to use the phone but how can I hear or speak on the phone??”

“I asked the Job Centre for a provision of BSL interpreters. They refused or forgot to provide one. Because of this, I have difficulty in finding a job. My dad has been involved with helping find a job for me. He is unhappy with the Job Centre service. I am still looking for a job.”

Another contributor provided a brave and very emotional personal account of how failures by Job Centre Plus had resulted in him losing his home and his relationship. Also that, after becoming homeless, his efforts to get re-housed had failed due to social landlords not providing interpreters leaving him with a feeling of hopelessness. This avoidable tragedy was not unique and illustrates well the point that the BSL (Scotland) Bill would place greater responsibility on public services to deliver equal service access to Deaf people. It is not just the right thing to do, it is a necessity if tragedies like this are to be avoided in the future.

During the consultation Deaf contributors have also reported difficulties in retaining employment and in getting interpreters for interviews:

“I have great difficulty in finding a job for two years. I want to work as a cleaner but because of my bad English and being deaf, my application has been rejected. I got sacked because of my so-called attitude. No one believed me that I was bullied for
my lack of speech at my previous job."

“For a job interview, I was refused a BSL interpreter. It was totally unfair”.

Since the late 1980s, Deaf people have relied on Access to Work (ATW) payments to enable them to be employed on an equal basis to hearing workers. The BDA survey (2014b) found numerous structural failures with this system. In acknowledgement of restrictions imposed by ATW, i.e. the ‘30 hour rule’ introduced in 2011 requiring Deaf people who use over 30 hours of ATW funded support to employ lower salaried Communication Support Workers, instead of freelance interpreters (BDA 2014c), the Government suspended the ruling for three months from May 2014 pending a review. This is a welcome development but the BDA remains concerned about the future of ATW.

Holistic wellbeing and health, access to emergency services, education and employment are just some examples of the many policy fields where Deaf people’s rights are neither protected adequately by the Equality Act nor by other legislative instruments such as the UNCRPD. The Equality Act has also failed to guarantee BSL for access to criminal justice, sport, telecommunications, broadcasting, leisure and civil justice among others (BDA 2014a, BDA 2015a). The Equality Act also places the onus on Deaf individuals to enforce their rights through the courts on a case by case basis without full access to the legal system. Given the lack of qualified legal representatives who use BSL it follows that invoking the Equality Act is generally intimidating, burdensome and inaccessible. However, one drawback with the proposed BSL (Scotland) Bill is that it will impose obligations only on the Public sector. BSL users will be forced to rely on the Equality Act for their rights within the private sector.

We nevertheless support the BSL (Scotland) Bill and wish to see it enter the statute books as the BSL (Scotland) Act.

1.5 Summary

Therefore the BDA Scotland strongly believes we do need legislative safeguards to:

- enable BSL users to participate as equals in an inclusive Scottish economy;
- promote and safeguard Scottish Deaf culture, our BSL language and heritage;
- protect our threatened British Sign Language and to facilitate resurgence and reconstruction within the Scottish sign language community; and
- counter the pervasive and endemic social exclusion of Scotland’s BSL community and their families.

These things have neither been protected by existing equalities legislation nor by voluntary codes of practice. People who do not have a good understanding of BSL traditionally see only disability and work towards integration of Deaf people into

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3 The announcement was made by The Minister for Disabled People (Mike Penning MP), on 12 May 2014, to the House of Commons Select Committee <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news/access-to-work-launch/> accessed 13 June 2014.
mainstream society. However BSL is a minority indigenous language and deserves the same protection and promotion afforded to other indigenous autochthonous languages in Scotland. Without legislation the importance of BSL as an indigenous language of Scotland is almost always overlooked. In passing this BSL (Scotland) Bill, Scotland will become a beacon for change leading the rest of the UK to see a model for good practice which they can emulate. Scotland will also come much closer than the rest of the UK to meeting the existing international obligations under the UNCRPD and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).

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 BSL (Scotland) Bill is an enabling bill aiming to increase the use of BSL in delivery of services and to enhance the profile of the language. The BSL (Scotland) Bill is a significant and important step towards this goal.

We agree that the requirements of the Bill will support our public authorities to increase the use they make of BSL and incrementally expand the extent to which they are in a position to respond to demand for services in BSL. This will in part result from an increase in confidence levels among Deaf people who will feel more empowered to ask for linguistic access through BSL both as individuals and as a collective group. There may be a transition period while authorities and individuals come to understand the changed policy position which enables BSL (as opposed to pushing it to one side).

We do not feel that “a lack of BSL/English interpreters” is a reason for not progressing on this point. Much use could be made, for example, to digital accessible BSL explanations of key documents giving greater access to Deaf individuals. These can be pre-recorded and made available on-line. Video Relay Service (VRS) would also expand the BSL-English interpreting capacity. The BDA can signpost ways to do this effectively with the Scottish Government. Advanced planning of access requirements is also much less costly and less difficult than endeavouring to put in place last minute access under the Equality Act. Ultimately we would expect there to be net gains in terms of enhanced linguistic and cultural diversity, and the reduction in costs that are associated with: failed health care provision, inaccessible isolating education, and minimal employment prospects.

Elsewhere in the UK, the BDA has had some success with local authorities and some hospitals and police services that have adopted the BDA’s BSL Charter (Appendix 2) but this has not happened in Scotland and provision across the UK remains patchy. The BDA’s BSL Charter consists of 5 pledges in the fields of information and services, teaching and learning, support for Deaf families, staff with BSL skills working with Deaf people, and consultation with the Deaf community. The BDA’s BSL Charter can be a useful toolkit for local authorities and public bodies who will be required to become accessible under this current proposed bill to enable them to comply with the BSL (Scotland) Bill and BDA would be happy to assist them to understand how they can implement the five pledges.
The argument that there has hitherto been little demand for BSL in some authorities is also an argument that there are parts of Scotland where Deaf people have found it harder to live and work. The whole of the territory of Scotland should be available to BSL users as it is to speakers of Scotland’s other languages.

In summary, legislation to support and promote BSL is essential to kick start an understanding and valuing of the linguistic diversity of BSL and to remove some of the linguistic barriers BSL users encounter. We believe this legislation is essential and will lead to a process of more inclusive and linguistically accessible governance.

We applaud Mark Griffin, MSP for taking a lead in this Bill: the first in the UK. We are also delighted that the Scottish Government has shown a positive reaction to the bill to date.

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?

No, we do not accept that there could be unintended consequences for other languages or forms of communication used by the Deaf community. There have not been unintended consequences in other states that have legally recognised their national sign languages such as New Zealand, Finland, Austria and Hungry among others. Interestingly, New Zealand conversely has only recognised two languages, New Zealand Sign Language and Maori. It has not recognised English as it recognised the power differentials which made indigenous languages in need of additional statutory protection.

3.1 Learning from elsewhere

The matrix below summarises the different policy domains covered by sign language legislation in the different states that have recognised their national sign languages.

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<th>Policy Domain</th>
<th>States</th>
<th>Comment</th>
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<tr>
<td>Bilingual education</td>
<td>Hungary, Finland, Brazil, Greece, Cyprus, Norway, Iceland, Sweden, Slovakia, Portugal</td>
<td>Still quite rare.</td>
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<tr>
<td>Free sign language instruction to hearing parents</td>
<td>Iceland, Sweden</td>
<td>New Zealand is working towards this</td>
</tr>
<tr>
<td>Provision of interpreters for witnesses and defendants in court</td>
<td>UK, New Zealand, Austria, Finland</td>
<td>Applies to many countries – very common through disability legislation and a requirement of the EHRC</td>
</tr>
<tr>
<td>Access to public services</td>
<td>UK, New Zealand, Finland, Austria, Romania</td>
<td>Applies to many countries – very common</td>
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The existence of sign language legislation in these different states offers a precedent that shows that it can work cost effectively in small states and that other communication
systems have not been adversely affected. The Hungarian, Austrian, Finnish and New Zealand cases show how the requirements of the CRPD are being met and offer exemplars of good practice.

The New Zealand case is worthy of note as the New Zealand Sign Language Act (2006) was reviewed in 2011 and the Government has been working with the Deaf community to enlarge the policy domains covered to include:

- increased awareness training in government departments and courts,
- use of New Zealand Sign Language in schools and preschools,
- use of New Zealand Sign Language in health boards.

The review very strongly advocated increased access to education via NZSL; this is an important lesson in considering what can be learned from the New Zealand experience and the desirability to specify education and holistic wellbeing and Health in the BSL (Scotland) Bill. Key actors in the Deaf community in New Zealand have said:

“Much progress has been made. It has been a positive process and we are looking forward to the outcome”.

In Finland, Deaf sign language people have a budget that they can use for interpreting in social and civil situations which enables them to participate in voluntary activities such as school boards and local councils. Currently this does not exist anywhere in the UK further contributing to the social exclusion and lack of full citizenship of Deaf BSL people (Emery 2009, BDA 2014a).

Uniquely among minority language users, Deaf BSL people find barriers to acquiring spoken languages and are therefore not likely to change to a different language in a different policy context. This fact heightens the need for protection, promotion, usage and acquisition planning for BSL. As a group there are barriers to acquiring English, this causes linguistic exclusion which materially affects their lives in terms of accessing medical care, education, employment and other basic civil rights.

### 3.2 Other forms of communication

Other forms of communication will continue to be used by deafened and hard of hearing people. However, these are not fully developed natural living languages with their own culture and heritage. Other forms of communication used by deaf people in Scotland include Makaton (used primarily by people with learning difficulties with some signs borrowed from BSL and not a full language) and Sign Supported English (SSE) which is a signed version of the English language not a sign language in its own right. Acquired deaf and deafened people whose first language remains as English use other forms of assistive English language base aids to communication including oral expression with lipreading, loops, cued speech, text and written communication. They also use a variety of aids including implants. None of these would be adversely affected by the proposed BSL Act.

We see no reason why a BSL (Scotland) Bill should impact in any way on the communication choices made by other groups. The Scottish Government’s “See Hear
Impairment Strategy” already addresses the needs of these groups and is separate, rightly, to the proposed BSL (Scotland) Bill.

BSL is Britain’s fourth indigenous language and used for the transmission of Deaf culture and heritage. It is the native language used fluently by most culturally Deaf people and by some hearing members of the sign language community. It is right that BSL should receive parity of treatment with Gaelic in Scotland. The Funding Memorandum shows that less funding is envisaged for BSL than the Gaelic language as there is no BSL Board and no additional funding for guidance on BSL education.

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?

The minister should be responsible for requiring the BSL (Scotland) Act to be delivered by the listed authorities and by the Scottish government.

S/he will be accountable for safeguarding the BSL (Scotland) Act and ensuring the interests of the BSL community are protected, that standards and quality maintained, and that BSL is promoted. The minister will be responsible for ensuring the spirit and principles of the BSL (Scotland) Act are delivered so that

“the profile of the language will be heightened and its use in the delivery of services increased” (Policy Memorandum point 2)

and that national plan and authority plans are delivered effectively.

S/he will also ensure consultation with and involvement of fluent native BSL people and their elected representatives. If established, the BSL national advisory group will advise of drafts and national plans. It will provide the consultation mechanism to involve and engage the Deaf community, embedding their knowledge of the socio-linguistic situation of BSL into the practical implementation of the BSL (Scotland) Bill. We argue strongly that this must consist of a minimum 75% fluent Deaf native sign language people in Scotland to have any credibility with the Scottish Deaf community. It would also be a useful source of advice to the Minister.

S/he will also ensure that the implementation of the plans is effectively evaluated with a view to ensuring continuous learning and sharing of knowledge takes place between the authorities. S/he will foster an organisational culture where appropriate changes can be made in response to lessons learned from what has not worked. S/he will facilitate the dissemination of good practice.

We would like the minister to develop sufficient BSL Awareness, Deaf Culture and Deaf Etiquette to effectively discharge their duties. We do not see this as a junior appointment and would caution against aggregating the portfolio with disability rather than other minority languages as this would be counterproductive in terms of the
message it gives out. It would be good to explore the possibility of a post for a native BSL user as to ensure smooth communication with the minister, the Scottish Government and the proposed BSL national advisory group. There may also need to be an ad-hoc committee set up to work on assessment/quality assurance with public authorities for the short term until national plans are agreed.

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?**

If performance review is the chosen evaluation approach it should not be a simple ‘tick-box exercise’, it should have both a formative and summative evaluation component. The formative component is essential to ensure real time learning of lessons and adaptability during the life course of a plan. The summative component should enable the extent of impact to be assessed as well as holding authorities to account.

We understand however that the current approach has shifted to *continuous improvement* at the level of individual authorities. This is likely to work well in the absence of any existing benchmarks against which performance could be realistically reviewed. Sustainable continuous improvement could be supplemented by building in an element of pan-authority knowledge sharing about *what works and why* to short-circuit organisational learning lead times and to disseminate good practices. The BDA BSL Charter provides the template to achieve this and has been proven to work with the local and public authorities who have signed up to this.

There is extensive literature on stakeholder evaluation approaches which work well in ensuring that the evaluation of strategies and plans are owned by the relevant stakeholders. This moves away from a summative style of evaluation (which assesses outcomes against benchmarks) but embeds a sense of collective shared mission to achieve the goals of the plans with the community it serves. Authorities would thus become accountable to the BSL community to ensure engagement, involvement, dialogue and continuous improvement.

**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?**

The BSL (Scotland) Bill sets out what an Authority plan should include only in very generic terms (measures relating to the use of BSL and a timescale plus a response to any performance review). The Policy Memorandum sets out the objective that

“the profile of the language will be heightened and its use in the delivery of services increased” (point 2).

This is however no detailed specification of content for the plans. The content ideally needs to cover the key policy fields within that authority’s competence; health,
education, criminal justice, civil rights and accessibility as a minimum. However, we are keen to raise the profile of BSL education and holistic well-being for education for long term health and would like to see this specified.

Point 20 of the Policy Memorandum outlines the following areas for authorities to consider

- the extent to which the authority’s functions are exercisable using BSL;
- the potential for developing the use of BSL in connection with those functions;
- any representations made to the authority in relation to the use of BSL in that connection;
- any comments on the existing plan within the most recent Performance Review;4
- any guidance issued by the Scottish Ministers.

As such the BSL (Scotland) Bill is an enabling bill. We hope that working closely with the BSL National Advisory group and using various on-line consultation tactics the authorities will be able to ensure they are meeting the stated needs of the BSL community.

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?

Ideally we would like to see the national and authority plans being produced in a shorter timescale than specified, we support however the need to build capacity. The collective endeavour involving stakeholder evaluation and ownership of the plans is more likely to generate good will and act as a force for change.

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?

The Bill states that “persons who use British Sign Language” should be consulted (1.6.a, 3.6.a). These leaves open their Deaf or hearing status and the extent of BSL skills they have.

The BDA is a directly elected democratic organisation. The Bill does not specify the need for elected representatives only asking for “persons who represent users of British Sign Language (1.6.b and 3.6.b). We would prefer to see those with a mandate to talk on behalf of Deaf BSL users being the focus of consultation, involvement and engagement exercises. We also ask for a minimum 75% of Deaf native BSL sign language people being included in any advisory committee.5 Deaf people have been

4 Or continuous improvement and stakeholder empowerment evaluations if this is adopted
5 Fluent native BSL people will have been using BSL since age 7 or younger.
disempowered for long enough and do not need unelected representatives purporting to speak on their behalf. It is therefore vital that native Deaf BSL sign language people are empowered to make decisions about their language and that their innate understanding and knowledge of BSL and Deaf culture is embedded into the BSL Act and the national plan.

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 schools being required to comply with the plans and education authorities being included. Other than this we cannot at this stage comment in depth on the list of authorities but would like to see a commitment to it being kept under review and scrutiny in each cycle.

Financial implications

The estimated costs of the Bill are set out in the Financial Memorandum (FM), which can be found at page 7 of the Explanatory Notes. The Finance Committee would welcome any views that could help it to scrutinise the Bill, including answers to the following questions.

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes. There were a total of 9 events that BDA Scotland either set up or supported. So far 371 people involved with the consultations at these events.

1. BSL (Scotland Bill) Open Meeting, Glasgow (12/1/15) – 100 [16 video clips]
2. Crystal Palace Pub, Glasgow (23/1/15) – 85
3. Dundee, Tayside (27/1/15) – 20 [15 video clips]
4. Edinburgh (20/1/15) – 40
5. Edinburgh (29/1/15) – 45
6. Forth Valley Sensory Centre, Falkirk (28/1/15) – 32 [10 video clips]
7. Inverness (31/1/15) – 16 [7 video clips]
8. Motherwell, Lanarkshire (24/1/15) - 18 [20 video clips]
9. Deaf Connections, Glasgow (22/1/15) – 15 [10 video clips]

In addition, the BDA Scotland, jointly with SCoD, undertook a Live Streaming from BSL (Scotland) Bill in Glasgow, more than 400+ watched during and after the event. A total of 47 call of evidence video clips were recorded in BSL from the BDA Scotland.

The BDA’s website has a BSL (Scotland) Bill section with all the web links and video clips about the BSL (Scotland) Bill. There are a further 3 BSL dialogue clips on the SCoD website and contributions to the Scottish Parliament’s Facebook page.
A representative from the Scottish Government presented their response to the Bill including its financial implications at an open meeting hosted by BDA Scotland and SCoD in Glasgow earlier this month. The meeting attracted nearly 100 attendees and over 400 people watched via live streaming including at Deaf clubs in Edinburgh and Aberdeen. The video of the meeting was later shown at other BSL (Scotland) Bill events across Scotland.

Most of the comments made on the night were about how Deaf BSL users could get fair access to education, health and social care support. They wanted to see deaf children getting fair and equal BSL support at schools, Deaf people getting good BSL interpreters at hospitals and health centres and older Deaf people getting care support with good BSL. Participants also emphasised the need for a National BSL Curriculum in Schools, this is important as a stepping stone to career paths for hearing people in Deaf field (such as social workers, teachers, and BSL-English interpreters). Difficulty in accessing and retaining employment was also emphasised particularly in relation to lack of BSL-English interpreters to access services at Job Centre Plus. In addition participants emphasised the need for more BSL teachers for teaching in schools and training specifically for this group.

None of us knew how this would be funded but were happy to work with the Scottish Government to improve access and support to BSL users in Scotland through a national BSL and authority plan.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Further research is needed on current financial allocations, so it is difficult for us to make detailed comment but at the BDA Scotland we feel there are a number of ways to make sure funding and resources for BSL users are used effectively and provide better value for money. There are several devices which can be used to reduce costs:

1) Our existing BDA BSL Charter could be rolled out to the authorities listed in the BSL (Scotland) Bill.

2) Greater use could be made of VRS interpreting. This has the effect of building interpreter capacity and enabling authorities to get closer to meeting their existing obligations under the Equality Act (2010). There will be times (especially in health care settings) where the physical presence of an interpreter is required, VRS cannot replace this, but it can in some situations provide a useful cost saving and capacity building mechanism for ensuring access.

3) Similarly better use of digital media will also enable greater involvement in the BSL (Scotland) Bill as has been shown by the success of the Scottish Parliament’s Facebook page with over 1,600 members in a short period of time.

4) Although difficult to quantify, there will be cost savings to the public purse generated by greater social inclusion of Deaf people; more Deaf people in employment, fewer Deaf people suffering from preventable physical and mental illnesses, higher levels of attainment by Deaf school leavers, and a reduction in social marginalisation.

5) Adoption of a strategy for pan-authority knowledge and good practice sharing to reduce up front and on-going costs and ensure greater efficiency in delivering obligations under the BSL (Scotland) Bill.
3. Did you have sufficient time to contribute to the consultation exercise?

We have done a significant amount of work in spreading the word to BSL users living in Scotland. This has been done via the BDA website, social media videos and contributions to the Scottish Parliament BSL Bill Facebook. We have also published information in British Deaf News magazine and encouraged our thousands of followers on social media to contribute to the consultation exercise.

We wanted to do more to reach those who don’t have access to the internet or social media, especially small BSL user groups in remote rural areas.

In conclusion we applaud the Scottish Parliament for setting up a BSL (Scotland) Bill Facebook page that is truly accessible for BSL people. We feel the consultation exercise has been reasonably fair. Some of our members would have appreciated more information on how the process of the Bill becoming a statute works. Our only regret is not having the time to reach those who don’t have access to website, social media and were unable to attend BSL (Scotland) Bill consultation events.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

Not applicable. We do not anticipate the BSL (Scotland) Bill incurring significant direct costs to the BDA

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

We believe the up-front cost of setting up the National and Authority plans are justified on the basis of the need for legislation to redress the ongoing social and linguistic exclusion of Deaf people within Scotland. The BDA has long argued for legal status for BSL and we see the current BSL (Scotland) Bill as essential to this.

The current Bill envisages funding for preparation of plans only. There is no requirement that plans are translated into BSL. Although £1,474,000 was allocated to deaf organisations and the BSL Consortium from the Equality Fund (2012-15), this is not intended for the preparation of BSL plans. The Financial Memorandum expresses considerable caution in producing estimates but does indicate a possible expenditure of £2,380,000 - £3,590,00 in the first session reducing to £1,210,000 - £2,400,000 in subsequent sessions. This is appropriate as the initial set up costs will necessarily exceed those that follow when ground work is already in place and plans will only need updating and revising.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

We do not anticipate the BSL (Scotland) Bill incurring significant direct costs to the BDA
7. **Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?**

We are not in a position to forecast costs effectively with the information available so far.

**Wider Issues**

8. **Do you believe that the FM reasonably captures all costs associated with the Bill? If not, which other costs might be incurred and by whom?**

This would need to be the subject of a more detailed cost effectiveness analysis. We have indicated earlier in this document (financial implications, question 2) that we can see places where costs savings can be made through pan-authority knowledge and good practice sharing and the use of digital media to reduce face to face translation costs. Face to face interpreting will always be a requirement though (however this is provided for as a reasonable adjustment under the Equality Act so does not necessarily entail significant extra costs).

In addition we anticipate significant savings will result from lessened social exclusion of Deaf BSL people: more Deaf people in employment, fewer Deaf people on benefits, higher and better career paths and options, fewer Deaf people requiring treatment for preventable illness within the NHS, holistic wellbeing and a reduction of mental health issues in long term, and a higher standard of literacy and achievement among deaf students.

We also anticipate an unquantifiable benefit from safeguarding, protecting and promoting the linguistic diversity embodied by BSL for Scotland. This has the added advantage of enabling Scotland to show it has legislated to meet the requirements of the UNCRPD and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

Passing the bill will also place Scotland at the cutting edge of policy making in this field enhancing its reputation across the UK as an exemplar of good practice and therefore will generating good will (equally difficult to quantify in cost terms).

9. **Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?**

We would envisage an expanding public interest in learning BSL supported by the offer of national BSL curriculum and BSL qualifications in schools. This would ultimately pay for itself in terms of expanding the numbers of possible BSL-English interpreters available for authorities to use to deliver their obligations under the Equality Act.

We also anticipate that hearing parents of Deaf children would benefit from being offered free BSL instruction in order to comply with the spirit of Article 8 of the Human Rights Act (HRA 1998) Right to private and family life. However this is not therefore
necessarily a cost generated by the proposed bill but a pre-existing obligation implied by
the HRA 1998. In the words of one commentator during the consultation:

“Most deaf babies are born to hearing parents. These parents should be
offered free BSL classes to help them to communicate and bond their child.
It is happening in other countries like Sweden. Parents of deaf children have
free sign language classes. It should be the same in Scotland.”

There are no direct costs that we are aware of envisaged by the BSL (Scotland) Bill
itself which have not already been specified in the Financial Memorandum. The
exception to this would be an expectation that public documents linked to
implementation of the BSL (Scotland) Bill are available in accessible BSL versions. A
small additional cost would consist of training for the Minister to meet the Deaf
community’s strongly held belief that the minister should commit to Deaf awareness,
Deaf culture and BSL training.
REFERENCES

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BDA (2014d), *Access to GPs in North Derbyshire Report*


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BDA (2015c), *Access to Council Services for Deaf People in Derby Report*

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Other Publications


Emery, S., 2009, In space no one can see you waving your hands: making citizenship meaningful to Deaf worlds, *Citizenship Studies*, 13:1, pp.31-44


APPENDIX 1 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO (2005))

Article 1 – Objectives, the objectives of this Convention are:

(a) to protect and promote the diversity of cultural expressions;

(b) to create the conditions for cultures to flourish and to freely interact in a mutually beneficial manner;

(c) to encourage dialogue among cultures with a view to ensuring wider and balanced cultural exchanges in the world in favour of intercultural respect and a culture of peace;

(d) to foster interculturality in order to develop cultural interaction in the spirit of building bridges among peoples;

(e) to promote respect for the diversity of cultural expressions and raise awareness of its value at the local, national and international levels;

(f) to reaffirm the importance of the link between culture and development for all countries, particularly for developing countries, and to support actions undertaken nationally and internationally to secure recognition of the true value of this link;

(g) to give recognition to the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning;

(h) to reaffirm the sovereign rights of States to maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory;

(i) to strengthen international cooperation and solidarity in a spirit of partnership with a view, in particular, to enhancing the capacities of developing countries in order to protect and promote the diversity of cultural expressions.
APPENDIX 2  BSL Charter

Introduction to the BDA’s Charter for British Sign Language (BSL)

The BDA is asking local authorities and public services across the UK to sign up to our Charter for British Sign Language (BSL). The Charter sets out a number of key pledges to improve access and rights for Deaf people who use sign language. Each pledge requires a commitment, to overcome the disadvantages that Deaf people using BSL face, in order to achieve the stated objective. The benefits that will ensue from achieving the stated objective are also listed.

The five pledges are:
1. Ensure access for Deaf people to information and services
2. Promote learning and high quality teaching of British Sign Language
3. Support Deaf children and family
4. Ensure staff working with Deaf people can communicate effectively in British Sign Language
5. Consult with our local Deaf community on a regular basis.

ANNOUNCEMENT OF RECOGNITION
On 18 March 2003 the Department of Work and Pensions in the UK Government announced the recognition of BSL as a language in the UK.

DEVON COUNTY COUNCIL
Hosted the first SignVision conference. It included a review of progress made in implementing the BSL Charter in Devon.

BDA revamps the BSL Charter with the assistance of staff from Bristol City Council, Devon County Council, Deaf Project, Cardiff Council and the London Borough of Lewisham.


BRISTOL CITY COUNCIL
Adopts BSL Charter. They have over 130 video clips in BSL on their website.

DEVON COUNTY COUNCIL
Adopts the BSL Charter. They have 12 local organisations signed up to the Charter.

Two Deaf Equality Officers organised a conference at Bristol City Council that aimed to raise awareness of the BSL Charter.

The BDA launches the BSL Charter Toolkit. The Toolkit aims to assist public bodies to self-assess their progress.
Trevor Phillips, former Chair of Equality and Human Rights Commission:

"The essence of the Charter is that Deaf people deserve equal access to services which will, in the long-term, lead to better life outcomes. But organisations will also benefit by adopting the Charter. Not only does it add a new dimension to communication with customers, service users and staff; it also makes good organisational sense to become accessible to the many thousands of BSL users throughout the UK."

Why was official recognition so important?

It was hoped that Deaf BSL users would be able to gain access to health services, council services and services by public bodies through front line staff being able to use BSL and the provision of sign language interpreters.

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**DERBY CITY COUNCIL**
Commitment to Deaf people.
26 September.

**NOTTINGHAM UNIVERSITY HOSPITAL NHS TRUST & NOTTINGHAM CITY COUNCIL**
BSL Charter. 8 January.

**DERBYSHIRE HEALTHCARE NHS FOUNDATION TRUST**
BSL Charter. 9 May.

**LEICESTERSHIRE POLICE**
BSL Charter.
24 September.

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**LEICESTERSHIRE COUNTY COUNCIL**
BSL Charter.
12 November.

**NOTTINGHAMSHIRE HEALTHCARE NHS TRUST**
BSL Charter.
7 May.

**DERBYSHIRE COUNTY COUNCIL**
BSL Charter.
23 September.

**BRIDGEND COUNCIL**
Is the first to use the BSL Toolkit. An Awards ceremony will be held in December to congratulate Bridgend Council on their progress.
BSL CHARTER SUCCESS: Advancing equality

BDA’s Chair, Dr Terry Riley OBE and Robin Ash, Empowerment and Campaigns Officer made their way to Matlock last month, to celebrate its partnership with Derbyshire County Council signing of the BDA’s Deaf Charter.

More than 40 people were present to witness the momentous occasion, with 10 stalls dedicated to providing information on local services.

Councillor Kevin Gillott opened proceedings, offering his own personal experiences of hearing loss from within his family.

Gillott said: “We’re committed to improving equality and want all Derbyshire residents be able to access our services when and where they need them.”

Ian Stephenson, Chief Executive of Derbyshire County Council, expressed excitement demonstrating their pledge to the Deaf Community despite the £152 million cuts the council have been forced to make over the next several years.

Said Dr Riley: “United we stand, divided we fall, together we can achieve equality.” He also commended the Derbyshire County Council for its commitment at a time of austerity where several County and local Councils are cutting back on services for the most disadvantaged in the community.

Attendees were then entertained by the lively storytelling of Derbyshire and its local landmarks by local deaf resident Jerry Hamilton.

Paul Barker, of the newly formed North Derbyshire Deaf Forum, concluded the proceedings by highlighting related historical moments in Deaf history and linking it in with the Signing of the Charter – a new moment in history for all concerned.

Robin Ash, Empowerment and Campaigns Officer

Harrow United Deaf Club backs BSL Charter

Harrow United Deaf Club met at The Bridge Centre, in Harrow, for its annual Halloween party and heard from guest speaker, BDA’s Community Development Officer, Graham Welton, about the BSL Charter.

HUDC has been encouraging Harrow Borough Council to sign up to the Charter. HUDC President Asif Iqbal said: “In the last five years, we have been working with our partners, raising awareness on the needs of deaf people in accessing services and inviting councillors, MPs and partner organisations to visit HUDC and gain our experiences at first hand.”

100 Guests see Leicestershire Police Pledge to Deaf Community

Leicestershire Police has become the first UK force to sign BDA’s BSL Charter – to coincide with last month’s International Week of the Deaf.

There was an amazing atmosphere at the Police Headquarters, where members of the Deaf Community and Police Officers were all seen to be communicating in BSL.

Chief Constable Simon Cole said: “We are proud to be the first police force to sign the BSL Charter. We have worked hard over the years to build strong relationships with the deaf community and we hope that by signing this charter we will show further commitment to supporting them.”

The Police and Crime Commissioner, Sir Clive Loader, who visited the Leicester Deaf Action Group said: “It is extremely important that we maintain a good relationship with the deaf community.”

Robin Ash, BDA’s Empowerment and Campaigns Officer, gave examples of the good working relationship enjoyed with Leicestershire Police and how incredibly efficient the police service have been in terms of exceeding the expectations of the Charter before it was even signed.

BDA’s Chair Dr Terry Riley, OBE also gave examples of his involvement with the Police spanning 30 years and said: “Together we can achieve our rights as equal citizens.”

“Being disadvantaged is not just about financial poverty but also poverty of information and being denied access to services. Without Information one is denied their human rights. Without information one cannot participate in democracy. Without information one is denied the right to participate. Without equality we are vulnerable.”

Prior to the formal signing of the Charter, three of the 18 Police Link Officers for the Deaf shared their own personal journey of learning BSL and their involvement in the local Deaf community. They were all congratulated by huge waves in the air from the audience.

Robin Ash, BDA Empowerment and Campaigns Officer

November 2015 • British Deaf News
**Frankie McLean - Response to the BSL (Bill) Consultation**

First of all, I would like to outline the auspices under which I send this submission to the Committee. This is an individual and very much personal response based on my own personal experiences as a bilingual 4th generation Deaf person whose first language is BSL, moving through life in a “hearing world” and my extensive experience as a professional working with BSL users - both as an active practitioner (predominantly social work) and a senior manager. Having personal and first-hand experience of the challenges that Deaf people face every day, this translates into a passion that all Deaf people should be full citizens in society and valued as contributors and achievers.

Please note that I have used the term ‘Deaf’ to describe BSL users throughout. Increasingly, some individuals prefer to describe themselves as ‘BSL users’, ‘individual whose first language is BSL’, ‘visually oriented’ or one from several other terms. It also does not cover hearing people who use BSL – e.g. individuals from Deaf families. I have elected to use ‘Deaf’, but please do not assume that it should be used as a definitive umbrella term.

Finally, I do not presume to speak for everybody nor do I claim that my views are *de facto* and exhaustive, but I would hope that the Committee is stimulated by debate and will carefully consider the points I raise amongst many. I am also aware that I have not produced this in BSL, and I make apology for this to the Deaf community, but in considering the intended audience I am convinced that the greatest impact will be in written English.

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?*

Yes, a change in the law is required – specifically, with the introduction of a specific Act prescribing for a specific language. If current legislation and codes were sufficient, there would not be such a tidal wave of strong opinion and horrific stories of negative experiences; some of which can be seen on the Facebook page and other experiences have been raised in the various consultation meetings. Put simply, Deaf BSL users are consistently being failed by ‘the system’ on a daily basis – there are several research findings and publications to support this. The then Scottish Executive’s Investigation of Access to Public Services in Scotland using British Sign Language (2005) and its Community Care and Mental Health Services for Deaf Adults with Sensory Impairment in Scotland (2006) findings are notable examples, alongside others such as University of Edinburgh’s Achievements of Deaf Pupils in Scotland research and NDCS’ Closing the Gap report. The current state of play is that Deaf people are treated as disabled – most see themselves as a linguistic minority, disabled by a society that does not widely recognise, appreciate or use their language. There is also a lack of consistency in the application of existing legislation and codes across organisations and authorities in Scotland, most likely because they cater for a wide range of needs and are therefore “catch-all” in nature, which means that BSL is easily overlooked, misunderstood or even not understood at all. Although I appreciate that the BSL Bill proposals are not of the same extent as for Gaelic, the fact that the Gaelic model has been implemented and appears to be progressing surely means that another of Scotland’s indigenous and rich languages should be legislated for. Furthermore, in some other countries (including those in the “Third World”) their national sign language is embedded in their Constitution – Scotland should follow suit as a proud, multicultural and multilingual country in incorporating BSL in its legislature. I have been very fortunate in being able to access life opportunities that is not always afforded to many other Deaf people – e.g. an excellent standard of education, two Honours degrees, gainful full-time employment, *et cetera*. The provision of support and encouragement in my own first language, BSL, from a very early age played a great deal in this and this should always be available for others as well to allow them to succeed and receive
appropriate support when they need it. Ultimately, I should not have to say that I was ‘very fortunate’ to have been afforded the same rights and opportunities that many others take for granted.

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?
Yes, this would be realistic. The National Plan would provide a “template” of sorts to the listed authorities/bodies, and allow them to implement suitable plans of their own. Authorities could work together to share good practice and pool resources to provide better quality services. There is a lack of consistency in service provision across Scotland, and some of this is down to a lack of knowledge and understanding of the needs and issues – having obligations placed on the various bodies would mean that they would have to look into BSL and try to understand it better. This can only be positive.

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 and no. Not all deaf people, or those who become deafened after acquiring a spoken language for example, use BSL and not everyone will want to use BSL for whatever reason(s). However, for far too long it has been very much “one or the other.” Research has shown that bilingualism is effective and has great benefits for cognitive development and brain function, and BSL would very much augment other languages and communication methods. Research has also disproven that BSL impairs speech – what is fundamental is a baby/toddler has a strong, well-developed base language upon which to base other languages. As most deaf children would rely more on vision, the option of developing BSL as a base language would make sense. (Going off topic slightly, it would benefit hearing children and adults as well in terms of providing bilingualism, and having a visual language to use alongside a spoken language would be useful – instead of another spoken language that is only used when people go outside the UK on occasion.)

BSL can also be presented unfavourably and poorly explained by influential professionals to families (probably due to a lack of knowledge and understanding), which will inevitably influence decision-making. There is a need to present all options fairly, accurately and effectively based on up to date research and practice by experienced practitioners. I think one real life example best illustrates how BSL can be extremely complementary to family life – a mother elected to have a cochlear implant for her son, which was effective but the mother could not communicate with her son during bath time when he had his cochlear implant off. The mother realised that utilising BSL would be extremely beneficial to support communication. However, there is a real issue with provision of BSL teaching and learning – or the lack of thereof. This will need to be tackled alongside capacity building efforts, possibly at school curriculum level (indeed, it would appear that there is strong support for this at the current time.)

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?
This Minister should identify suitable individuals or a group of individuals to provide suitable advice and representation to the Government on all matters BSL-related. The Minister should also coordinate input into an effective and ambitious yet realistic National Plan. The Minister would need to be clear that any advisors represent the BSL community and have its best interests at heart, as well as being open and respectful to other groups, such as deaf people who do not use BSL, deafblind, et al.

This is a very political point - and I repeat that this response is based on my own views - but I must stress that it is imperative to be guided by people truly from the Deaf/BSL community, not from individuals or groups claiming to “speak for those poor Deaf people” and who may
seek to exploit opportunities for gain, whether for themselves or for their group or organisation. Unfortunately, it is often that those who are listened to are those who can speak (literally) loudest to a society that is unable to communicate with people directly in BSL. On that note, I must applaud the Parliament and the Committee for its Facebook initiative and attempts to engage directly with the Deaf/BSL community. This was clearly much appreciated, and while I am sure the Committee will be overwhelmed by the number and range of responses, it is clear that the Deaf community has long been frustrated and repressed; that it has gratefully and powerfully seized the opportunity to speak out. Whoever is appointed as the lead Minister should continue this kind of outreach and engagement work if possible.

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 is uncertain. There needs to be some mechanism to highlight examples of good practice and initiatives (to acknowledge and praise) and underachievement (“name and shame”) - this may encourage consistency and expertise sharing across bodies. Sanctioning could well be counterproductive and lead to the creation of superfluous and light targets - authorities should be allowed to be ambitious without fear of sanctions if they fail. Certainly, a Performance Review process would identify failed targets and pick up on areas for improvements, but whatever recommendations or comments are made will need to be followed up with the relevant body or bodies. It may be that the lead Minister will need to take on this responsibility of liaison.

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?

Such Plans should be produced in conjunction with those who use BSL and suitable local organisations, and steps should be taken to try and address gaps and ensure Deaf people are able to access everyday services that others take for granted. Such areas include education, social work, housing, health, financial matters, and many more. As per my earlier point, care needs to be exercised in that the individuals and groups engaged with are truly representative and do not have other agendas nor conflicts of interest. Discussions and work should always be two-way, with a suitable feedback loop established to allow for effective communication. ‘Consultation fatigue’ does happen, but only because communication tends to be one way and nothing meaningful comes of consultations. The need to create and publish actual working documents will provide a useful aim and goal for all involved.

Whilst excellent interpreting provision is crucial, this is not the only way to achieve access in BSL. Suitably trained professionals who are Deaf or fluent/native BSL users themselves should play a part in providing direct access to services delivered in BSL. As the spread and distribution of Deaf people across Scotland is variable, thought needs to be given as to collaborative working across public bodies and authorities, and appropriate centralised services. I appreciate that plans should always respond to local needs, but some needs are shared across Scotland and it would make sense in many respects (including financial) to have pooled resources where suitable.

Consideration does need to be given to producing the plans in BSL so that they are accessible, despite the BSL Bill not making this a requirement. Accessibility is essential, and it would be odd that an inaccessible document is produced. Translation costs can be high, but if the BSL Bill promotes the need for BSL documents then the costs would eventually reduce as demand rises and production costs per unit reduce. This would also provide potential training and employment opportunities.

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?
I understand that the feeling surrounding the Gaelic language plan cycles is that they are far too short - the Scottish Government's response to the BSL Bill has suggested that consideration should be given to extending the cycles. However, my view is that at the moment authorities should already be prepared in some ways, BSL Bill or not, as they have duties and obligations under the Equality Act, et cetera (which are often overlooked, whether conveniently or otherwise).

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?

I do not wish to make comment as this is a personal response; I am assured that my employers will address this in their response.

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?

No.

In relation to the Financial Memorandum questions, I do not feel it is appropriate for me to answer these. However, I wish to make comment on the financial implications. After discussions with some local authorities and bodies, it became apparent to me that there was concern about costs – especially “additional costs.” However, local authorities still have obligations and duties, such as those under the Equality Act; some bodies are already spending money on services and I expect such bodies to continue to do so and have their commitment reinforced. Having a BSL Act may be productive in reducing the number of bodies “ducking” their obligations by clearly identifying a language that must be supported and provided for. As mentioned earlier, there is much variation in service provision across Scotland and consistency across bodies would be helpful. I am sure examples of good practice and appropriate spending can be identified and adopted by other authorities. The National Plan, again, will be crucial in providing guidance and a basis for the Authority Plans.

Furthermore, whatever current spending there is tends to be on “reactive” services and especially with adults. This is expensive and intensive. If there was to be investment in children and families services for deaf children and families - early intervention and support, language support and exposure, appropriate high quality education, specialist practitioners fluent in BSL (social workers and nursery workers, for example) suitably skilled in working with children and families, et al – this could promote deaf children’s development and allow them to grow into achieving, contributing adults who have less need for services. However, this is not to say that adult services should receive zero spending, as there will still be individuals who require support in their own language with practitioners who can communicate effectively and understand their circumstances, just as hearing adults have their own life problems and need support with them. Indeed, support for older people is one example of an area of acute need – two examples being that there is no residential home specifically for BSL users, and people living with dementia and other long term conditions often do not receive adequate support. Such individuals then become extremely isolated, cut off and the quality of life deteriorates sharply.

Confident, achieving Deaf citizens would contribute effectively towards a rich and diverse society, “paying their way” instead of being labelled as disabled and reliant on the goodwill of others and the welfare system.

Frankie McLean
1 February 2015
1. Introduction

1.1. We welcome this opportunity to submit evidence on the British Sign Language (Scotland) Bill (the Bill) and would be happy to support the contribution of deaf young people in any future evidence sessions.

1.2. To inform this response, NDCS surveyed 75 members about their experiences of BSL provision in their local area. We also held a consultation session with 9 deaf young people to gather their views on the Bill, 7 of whom have submitted videos to the Education and Culture Committee.

2. Background

2.1. The National Deaf Children’s Society (NDCS) is the leading charity in Scotland dedicated to creating a world without barriers for deaf children and young people. In Scotland, we have a dedicated team based in Glasgow and led by Heather Gray, Director. The team has a strong focus on addressing the attainment gap that exists for deaf learners. This includes the work we do with our Young Campaigners who are a group of deaf young people aged 14-20 years old. They call for better services and campaign on issues affecting deaf children in Scotland. Our Young Campaigners have submitted their own video response to the Committee as additional evidence to the NDCS written response.

2.2. As well as this work, NDCS provides a dedicated Family Support Service across the country. Our current service, Your Child, Your Choices (YCYC) delivers family sign across specific geographical locations. NDCS also commissions research to inform the sector and provides training for professionals as well as running a programme of events and activities for deaf children and their families aimed at building skills and confidence.

2.3. NDCS is funded entirely from voluntary income and trusts and foundations in its delivery of services in Scotland.

2.4. We know that with the right support, deaf children can achieve equally well to their hearing peers, however we know that a significant gap in educational attainment and life chances exists for deaf children in Scotland. NDCS are working with partners across sectors to address the issues which we know contributes to gaps in life chances and employability outcomes. The Bill is timely in terms of the strong focus on deaf learners created through the national sensory impairment strategy, See Hear.

2.5. Our recent research report, Close the Gap, highlighted significant gaps in outcomes for deaf young people across education, training and employment and has also raised concerns about the employability of deaf young people in Scotland, highlighting that the group is under-represented in Higher Education, training and employment. In addition, the research has indicated issues in access to support, information and guidance for deaf young people across the range of post-school settings including college, apprenticeships and the workplace.
2.6. NDCS has welcomed the commitment made by the Scottish Government to acknowledge the attainment gap that exists for deaf learners and commit to closing it.

3. Summary of NDCS’ position on the Bill:

3.1. The aim of the Bill is to promote and raise awareness of BSL. It will mean that national and local government will need to establish Plans that set out how they intend to promote the use of the language. NDCS welcomes the principles of the Bill.

3.2. As it stands, the Bill does not provide specific duties around education however it is intended as an enabling framework. It will be down to national and local government to develop Plans and outline the specific actions they will take to promote the use of BSL in schools.¹

3.3. We would like these plans to address a number of important issues for deaf learners:

1. Closing the persisting education attainment gap for deaf learners;
2. Ensuring that children and young people who access teaching and learning through BSL are supported by Communication Support Workers who are able to accurately interpret what the teacher is saying. This requires minimum levels of qualification in BSL.
3. BSL becoming an accredited school qualification within the full Scottish Credit and Qualifications Framework, and having the same status as other languages;
4. Improving the availability of Family Sign Language (FSL) which enhances the ability of hearing parents to communicate with their deaf child and promote their development. NDCS Scotland currently delivers FSL courses and understands the lasting impact this kind of support can have on children and families;

3.4. It is critical that the aspirations of the Bill are appropriately resourced so they can be fully realised. For example, the delivery of FSL is not routinely funded and will require national and local investment in order to address this gap in BSL service delivery.

4. Context

4.1. The latest Consortium for Research into Deaf Education 2014 Scotland Report (CRIDE 2014) data suggests there are 3,057 deaf children in Scotland. The latest data on preferred communication methods of deaf children in Scotland (CRIDE 2013) suggests 3% of deaf children solely use British Sign Language (BSL), around 12% use sign language in combination with another language and 0.6% use a sign system other than BSL.²

4.2. NDCS believes actual figures of deaf children in Scotland to be higher due to the limitations of the CRIDE survey. However there is currently no complete national data set on numbers of deaf children and young people in Scotland. While information collected through the Pupil Census has improved over the years, this only records information about school-age children and there are still gaps in this means of data collection. Without a basic understanding of the numbers of deaf children and their needs, it is difficult for national and local government to effectively plan service delivery.

4.3. The advent of Universal Newborn Hearing Screening (UNHS) in Scotland since 2005 has allowed for earlier diagnosis of childhood deafness. However the improvement of data collection and sharing, or the development of national standards in early years provision has not followed. NDCS has been involved in two pilot Local Records of Deaf

¹ Like that of the Scottish Government Early Years framework and Collaborative
² Consortium for Research into Deaf Education 2013 Scotland Report
Children projects. These projects have seen positive outcomes with regards to sharing basic information from UNHS with appropriate local agencies in order to plan services effectively. The recommendation from these pilot projects have been a national roll out. NDCS would welcome the opportunity to provide more information on these pilots.

5. Academic attainment

5.1. Latest Scottish Government data (2012/13) shows some concerning downward trends in attainment data for hearing impaired pupils and school leavers:

5.2. While attainment has improved on some indicators – including an increase in overall tariff scores and among those moving into employment after school - there is persisting attainment gap for deaf leavers. The below data illustrates that the numbers of deaf school leavers leaving with no qualifications is increasing, while those entering Higher Education has decreased.

5.3. School leavers with no qualifications

<table>
<thead>
<tr>
<th>Year</th>
<th>Hearing Impaired pupils</th>
<th>Pupils with no ASN</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/13</td>
<td>9.8</td>
<td>0.9</td>
</tr>
<tr>
<td>2011/12</td>
<td>8.2</td>
<td>1.1</td>
</tr>
</tbody>
</table>

5.4. School leavers entering Higher Education

<table>
<thead>
<tr>
<th>Year</th>
<th>Hearing Impaired pupils</th>
<th>Pupils with no ASN</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012/13</td>
<td>21.8</td>
<td>40.0</td>
</tr>
<tr>
<td>2011/12</td>
<td>26.5</td>
<td>38.6</td>
</tr>
</tbody>
</table>

5.5. We know that closing the attainment gap is high on the agenda for the Scottish Government and we were very encouraged by its recent recognition of the attainment gap experienced by deaf learners at the formal debate that took place in the Scottish Parliament on this important issue, led by Kenneth Gibson MSP.

6. Qualifications of Teachers of the Deaf

6.1. There is no national statutory framework of standards for deaf education and as such there is no requirement for Teachers of the Deaf (ToD) to qualify beyond BSL Level 1. According to the CRIDE 2014 Scotland Report, 71% of peripatetic hearing impairment services in Scotland do not have staff who are qualified to BSL level 3 or beyond. There were 6 services with a member of staff with no BSL qualification. These statistics show a need improve the consistency of support across the country and ensure all services are able to meet their service users’ needs by having appropriately qualified staff members.

6.2. The Requirements for Teachers (Scotland) Regulations 2005 stipulate that “where ... an education authority employ a teacher wholly or mainly to teach hearing impaired pupils that teacher” must “possess an appropriate qualification to teach such pupils.” There are over 200 ToDs in Scotland and around a third do not hold this mandatory qualification. In addition there is no national oversight of those specialist teachers working with deaf children, such as a Register of Teachers of the Deaf which may be beneficial to identify national inconsistencies and take action to address these. The need to address the issue of inconsistencies in teacher qualifications was highlighted by the Minister for Learning in the recent Parliamentary debate on the educational attainment of deaf children.3

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?

Yes. From a rights based perspective, NDCS agrees that legislation is required to ensure that the rights of people using BSL are upheld under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and United Nations Convention on the Rights of the Child (UNCRC). Through our national Family Support Work, we see regular instances where children’s rights to fully participate and engage in education and life in their language are not fully upheld.

Education

The UCRPD’s Article 24 clearly and explicitly states that States should realise the right of all person with disabilities to education without discrimination and on the basis of equal opportunity. The article makes explicit mention of the measures states should take to facilitate the learning of sign language and the promotion of the linguistic identity of the deaf community. It is also stated that governments should ensure that education of deaf persons is delivered in the most appropriate languages and in environments which maximize academic and social development. The governments shall also take appropriate measures to employ teachers who are qualified in sign language.

Some deaf learners have expressed concerns to NDCS that they are unable to communicate with their classroom teacher and in some cases their ToD in their preferred language. Deaf young people have also raised concerns about the inadequate level of BSL they feel those supporting them at school sometimes have. Deaf young people who use BSL as their preferred method of communication require high quality of fluency of support which given the lack of qualification framework for support staff, is not always on hand. It can be frustrating for learners to not feel confident that everything the teacher is saying is being effectively translated to them and they understand everything that is going on in the classroom. As one deaf young person told us, "I sign very fast and I think the ToD is about level 2/level 3 and they struggle to receive what I am saying and also you miss out on a lot of information and I feel as if I’m constantly having to get things repeated to me." (Young person who solely uses BSL).

The role of Communication Support Workers (CSWs) is critical to ensuring that children and young people who rely on signing to access teaching and learning receive accurate interpretation of what the teacher is saying and what is going on in class. Ensuring CSWs in schools and colleges have a minimum level of BSL qualification so that they can effectively fulfil this role is fundamental.

NDCS believes the Bill is an opportunity to strengthen the consistency of qualifications for those working with deaf learners across Scotland, and address issues such as minimum qualifications for ToDs and CSWs, as well as the regulatory framework they work within. This issue was also recently highlighted by MSPs in the parliamentary debate on the issue of the attainment gap for deaf learners. Jenny Marra MSP stated that, “there needs to be regulation and monitoring to ensure that there are adequately trained teachers of all ages throughout our system to support our deaf and hard-of-hearing children.”

However given the small number of deaf learners using BSL, it is critical that services address the issue of BSL qualifications creatively, meeting demand of their service users while

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4 Articles 8,9,21,23,24
5 Articles 5,13,23,28,29, 30
effectively using available resources. Given the demanding financial environment facing national and local government, there is a need to look creatively at this issue and consider possibilities of national and regional commissioning of communication support and other ways to improve the quality and consistency of provision across Scotland.

Informed Choice

NDCS believes it is essential that families are provided with information and access to the full range of support options and communication methods available to them. Information about these options should be presented to families in their own terms, taking into account their cultural and social background in such a way that enhances a family’s ability to make informed decisions which reflect their own culture, values and views and meet the needs of their child. Every family should be given access to information and knowledge so that they are empowered to understand all of the options available to them.

Through our experience of delivering a national family support service, NDCS understands that the provision of information for families with deaf children across Scotland is patchy and inconsistent. A recent survey of parents across Scotland raised concerns about the consistency of information provision they had had about using BSL with their child. While it is positive that approximately 50% of the 75 respondents received information about BSL either at the point of diagnosis or in the early years, 15% only gained this knowledge when their child reached primary school and a worrying 35% said they had never received information about BSL. In terms of where this information came from – around 40% said they received this from either audiology or education services. While 46.8% said they received this from NDCS or through their own research. This shows a clear need to improve the consistency of information provision to families with deaf children about the range of communication options available to them.

Even where families have good access to information, they may not always have genuine informed choice. The decisions some families make with regards to how they communicate with their child may be influenced by the reality of provision in their local area. For example, the lack of local opportunities to learn and be supported in BSL may discourage families from pursuing BSL as a communication method.

Family Sign Language is an area where service provision in the early years for deaf children is extremely inconsistent. Despite 90% of deaf children being born to hearing parents, this type of support is not routinely delivered by local authorities and there is no national programme available.

Case in point: NDCS Family Sign Language

NDCS delivers FSL to families with deaf children in the Early Years. It is the only curriculum in the UK of its kind. It is unique in that the BSL is taught in a child-centred way using vocabulary suitable for a young child. Courses are delivered at times and places to suit families, in a format which is most appropriate to them. The group format offers families a chance to gain peer support and families of children with any level of hearing loss can attend.

FSL has not typically been offered by local authorities due to the limited number of qualified teachers required to deliver the course. Families still require support nonetheless, which varies from area to area. Families typically find out about YCYC and FSL through NDCS contacting them or through proactive professionals. Families also find out about the course through Newly Identified weekends, also run by NDCS.

Findings from our three most recent FSL courses indicate that families are making use of what they learn. 50% of parents reported that their child used sign to communicate with them at the
beginning of courses, in contrast with 88% of parents at the end of the course – 69% of parents felt they understood their child better, and 81% felt their child had a better understanding of what their parents were saying. Parents reported that they had closer relationships with their children, better communication, and less frustration as a result of attending family sign language.

Parent A (child profoundly deaf, 1 year old):

‘We have a profoundly deaf, pre-verbal child – we were at a loss at what to do to communicate with her... I feel there’s a real gap for FSL, for us as a family, and for professionals like the nursery staff who look after my child 2 days a week. When the Teacher of the Deaf visited the nursery all the staff were really receptive to what she had to say, and she gave them signing sheets, but again, nothing which helps to link everything together. The staff want to learn to sign, but again there’s nothing appropriate for them...

It would be fantastic if there was something available to us locally that we could be involved in. I have been on the Family Sign website, which was good, but again, limited... we need someone to coach us through it.’

NDCS recognises that the provision of FSL requires more than one approach. In February 2014 the organisation piloted a 1:1 model for hard to reach families, a first for the organisation. The course has had a significant impact on the family, who were unable to attend a group course due to their geographic isolation and restricted by views of older members of the family, highlighting the need for localised BSL provision:

‘We use sign everyday now...She definitely understands what I am saying to her – before she would cry before nursery, because I couldn’t explain where we were going, but now she’s really happy because she understands. Her little personality has come out and we are even closer than before – she’s able to tell me things and I’m able to understand her. I’ve been talking to my Teacher of the Deaf about how I can continue learning to sign – I’d like to do a qualification and maybe change my career to supporting deaf children.’

The current patchy nature of BSL provision in other early years settings means that in order for children to use BSL as a primary communication method, their parents must be skilled in signing too. This may disadvantage children from hearing families who are learning to sign.

Informed choice is therefore critical for deaf children and young people too. All children, including those who are deaf should have the option to develop BSL skills. Currently, a very small number of children have the opportunity to study BSL at school, and none have the opportunity to develop their BSL skills right through secondary school due to lack of qualifying routes in senior years through SQA.

NDCS works with many deaf young people who have been brought up orally and have raised issues about not being able to learn BSL. Many feel they would like this opportunity to develop their deaf identity as well as helping to communicate with deaf friends. One young person who uses spoken English as well as BSL told us he wanted to see more opportunities for all young people to learn BSL at school, “People don’t realise that BSL is an actual language... it would be really nice to have more and more people, especially the school age kids, more aware that BSL... is actually a genuine language that loads of people actually use.”

Simple solutions such as pupils who uses BSL as their first/ preferred language accessing funding to enable them to teach hearing pupils and staff to learn BSL are ways to help facilitate social inclusion and participation as well as increasing opportunities for other deaf young people to develop their BSL skills.
NDCS understands the challenges local authorities face in enforcing BSL planning in the early years due to the lack of available courses for professionals and parents and associated training costs. To help overcome these challenges faced by local authorities, NDCS would suggest the following recommendations are at a national level:

- Targets on number of early years workers with BSL qualifications
- National pool of specialist workers
- Every hearing impairment service to have specialist early years workers/TODs with BSL skills
- Establish minimum standards in early years provision and include BSL qualifications
- A BSL qualification aimed at working with young deaf children
- The necessary funding available to deliver Family Sign Language Courses

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?

NDCS believes it is realistic that the Bill will lead public authorities to increase their use of BSL, their understanding of the impact of delivering services in BSL, and greater engagement with their service users who use BSL. This will also result in a positive culture shift by promoting the status and recognition of the language.

However the position of authorities to respond to demand for services in BSL will depend on a number of contributing factors. Particularly the funding available to resource these services, which is not insignificant, together with the current workforce constraints in Scotland of those qualified to deliver services in BSL. There are currently only 80 interpreters in the country. With the current budgetary cuts being faced by existing services, there is concern surrounding the impact that this may have on implementing the aspirations of the Bill.

As previously mentioned, the Bill presents an opportunity to consider consistent quality standards in terms of how services are delivered, and how qualified the workforce is undertaking these roles. Investment into the recruitment and shaping of a fit for purpose workforce in early learning and childcare settings is essential. This should include interpreters and CSWs working in a number of roles such as criminal justice, health.

A workforce mapping exercise should be undertaken to project expected demand and analyse how the current workforce is to meet this. It is likely that the current workforce would be unable to cope with increased demand, and would require strategic investment at a national level to ensure the aspirations of the Bill are met in practice.

In terms of developing effective models of education in BSL, they are already out there. It is a case of sharing best practice. NDCS has created Quality Standards for deaf children and young people on both resource provision, and specialist teaching and support services. There are also many successful examples of effective practice in supporting deaf learners and cases where resources are being used creatively to deliver the best possible service.

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Case in point: Windsor Park School and Sensory Service Deaf children and young people in Falkirk are supported by Windsor Park school and a Peripatetic Service from diagnosis to

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NDCS Quality Standards: Resource Provision for deaf children and young people in mainstream schools
NDCS Quality Standards: Specialist teaching and support services
school leaving age. Pupils attending Windsor Park are taught through Total Communication (speech, audition, lip reading, Sign Supported English) with BSL being introduced at an early stage to facilitate the pupils’ communication variations and needs.

Windsor Park has a primary 7 initiative and Cluster 1+2 languages. Pupils are supported in the mainstream schools (Bantaskin Primary school and Falkirk High) according to individual needs, communication needs and ability. There are 3 classrooms within Falkirk High School and deaf pupils follow mainstream curriculum as much as they are able. Deaf pupils have personalised timetables, extended & personalised transitions, make their individual Choice Options and sit national qualifications

Windsor Park employs fully qualified staff committed to providing a quality service. A profoundly deaf Sign Language Tutor provides sessions 2 days a week for primary and secondary deaf pupils, teaching support staff, family members and all associated agencies working with deaf children. He also provides deaf awareness and sign language classes for hearing pupils within the cluster schools. This can be extended to education staff, front line staff and members of the community. Over the past 15 years he has taught over 1000 people, some of which have gone on to achieve BSL Level 1 & 2.

We believe the Bill has the ability to provide the necessary framework to improve these opportunities to learn BSL in schools and the routes through which pupils can gain qualifications in BSL. The 1 + 2 language initiative to promote the learning of languages in primary school provides a clear model through which BSL could be included. Developing these opportunities would have the benefit of strengthening and enriching the inclusive education experiences of all children and young people.

It may often be the case that local authorities want to provide services in BSL but are constrained by factors such as lack of budget and availability of local expertise. However a lack of understanding of the importance of delivering services in BSL, with a recognition of the status of the language, also means that these barriers are not pragmatically approached and overcome resulting in the very patchy and inconsistent nature of service provision in BSL across Scotland.

It is therefore of concern that NDCS has become aware of a Scottish local authority who is moving away from BSL by replacing it with Signalong.

Case in point: Signalong:

Formed by the charity, Signalong Group, Signalong is primarily designed for children and adults with learning disabilities. Although emphasis is placed on how it can be used in a variety of situations.

The charity provide materials that include a mixture of BSL, adapted BSL, signs local to the Kent area and their own signs.

Reasons why Signalong may be attractive to local authorities include:

1. It is relatively quick to train in Signalong, and considerably less expensive than BSL tuition. For example a 6 session CPD course.

2. Signalong offers support materials for the whole curriculum, including the Oxford Reading Tree series. This means that in theory a support worker can learn signs relevant to the curriculum by following a Signalong book, rather than learning BSL signs through tuition and/or experience.
3. Signalong are happy to receive commissions to produce support materials, and do so relatively cheaply. This means that local authorities can effectively get support and materials for anything they are missing from the curriculum.

However NDCS is concerned that, whilst it is similar, Signalong is not BSL. It is not consistently recognisable Scottish BSL, so a child who uses BSL would most likely find it confusing to have communication support in Signalong. Signalong also emphasise that their method is intended for use with speech, so for those learners using only BSL this would present quite a challenge.

NDCS is concerned that without the Bill being made into legislation, there is increasing risk of more authorities taking approaches like this. NDCS appreciates the benefits that Signalong may bring to many children and the need to ensure a range of sign systems are available to meet differing needs of deaf children. However it is important that the promotion and status of BSL as a language with its attached culture is not lost. This is why national level guidance and investment into BSL provision in the early years is essential.

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?

Deafness and communication support needs exist on a spectrum. There is no evidence that BSL is incompatible with the development of English or the use of sign supported English, or cued speech. The importance is that parents need to have choice across the options.

This Bill is about securing the status and recognition of BSL as a language and NDCS welcomes this. We also understand that an intended consequence of the Bill is to generally raise deaf awareness across public service providers and better meet the needs of all deaf people. As such, there is an opportunity within accompanying guidance to the Bill to support local authorities to understand the communication needs of deaf people, separating out BSL from other sign systems and highlighting the importance of being able to meet the needs of deaf people in their preferred communication method.

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?

The Minister should set the strategic vision for the National Plan and have responsibility for its delivery. The Minister should also have oversight of the delivery of Authority Plans, ensuring that each authority is improving and strengthening its service provision. This must be appropriate to each service and based on a benchmarking exercise of the service in order to track and monitor progress after implementation of the Bill. Support that local authorities may need in developing their Plans in particular areas must be considered. NDCS would welcome the opportunity to support the development of Plans where appropriate, particularly with regards to meeting the needs of children and young people in specialist areas such as early learning and childcare.

There is also a place for a BSL Task group to share best practice and keep up the momentum for the implementation of Plans. This would create a level of accountability as well as make the necessary links with other emerging policy. NDCS would welcome the opportunity to be part of such a group and contribute learning, not just across the UK, but nationally and internationally.
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?

There must be clear guidance produced in order to support authorities to develop their Plans in a way that will allow for effective Performance Review. While Plans should be aspirational and contain a service’s vision for provision in BSL, they must also contain clear SMART,\(^9\) objectives which will lead to the achievement of set outcomes.

It is important that current service provision is benchmarked within a national framework and progress on implementing the plan is routinely monitored to ensure consistency amongst local authorities. The Scottish Government and lead Minister will require support in the scrutiny of these Plans. A BSL Task Group, which contains experts in the field as well as those affected by Plans, should support and innovate this process.

An important aspect to the Performance Review mechanism will be the clear process in terms of actions that are taken if a Plan is found to be unsatisfactory. The Scottish Government should understand and set out the process by which it will determine Plans or aspects of a Plan that are unsatisfactory. Authorities should understand the implications for them if this is found to be the case. NDCS would welcome the opportunity to support authorities in delivering their service Plans successfully and by sharing best practice.

**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?

Section 3(4) requires authorities to try to achieve consistency with the National Plan when preparing Authority Plans. NDCS proposes that the National Plan should contain a clear vision and be linked to outcomes such as education and wellbeing. It is vital that deaf children and young people are well represented in formulating these Plans. This is an opportunity for the Scottish Government to set the direction of national priorities in terms of BSL provision to be reflected in local plans. NDCS strongly recommends prioritising education within these Plans to work towards closing the attainment gap for deaf learners. This is in line with the commitment already made by the Scottish Government to close this gap.

While the See Hear strategy contains a valuable overarching framework around service provision, there is little in the way of more detailed quality standards in terms of service provision for deaf people, including those using BSL. For example, despite the introduction of newborn hearing screening in Scotland in 2005, there are no national quality standards or guidance with regards to provision of early years support for deaf children and families. The result is that there is a postcode lottery in terms of areas where there are genuine opportunities to be supported in and learn BSL.

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 amended reporting and review cycle set out by the Scottish Government appears to be more realistic and workable. However NDCS recommends that there are steps that should be

\(^9\) Specific, measurable, achievable, realistic and timebound.
taken more immediately by listed authorities in order to meet the duties of the Bill appropriately. This may include carrying out mapping and benchmarking exercises of their own BSL provision.

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?

NDCS welcomes the opportunity and is committed to facilitating these discussions with deaf children and young people and their families as the leading charity in Scotland working with them. In addition, a recent survey of 75 NDCS members revealed 95% agreed that local authorities should consult with those who are likely to be affected by an Authority Plan. NDCS can support this process through our membership of over 2000 families and professionals; our network of 8 local groups affiliated to NDCS and engagement with our Young Campaigners. There may be a significant and associated impact on NDCS staff and resources as a result of this. These are further explained under question 4 of the financial implications section.

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:

Skills Development Scotland

The Care Inspectorate

The Scottish Social Services Council

Financial implications

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes. We commented as follows prior to the final version of the Bill being laid before Parliament.

“NDCS considers that the Bill will clearly have financial implications for public bodies resulting from the action plans required by the proposed Bill.

These will mainly result from requirements to upskill existing staff or recruit new staff with appropriate skill set to communicate with fluency in BSL; the provision of sign language classes for families; increased cost of interpreter and translation services to support BSL users’ participation in planning policies and services as required by the local action plans.

In light of these financial implications, NDCS is concerned that, in these tight budgetary times with significant emerging cuts for sensory services across Scotland, action plans which may focus on delivering more access to BSL on the school curriculum for all children may divert financial resources from other additional support required by deaf children in the classroom. For example, communication support workers, radio aids, improved classroom acoustics. 10

Guidance accompanying the Bill would need to make clear the status of this legislation as promoting the use of a language which will ultimately benefit deaf children’s access to the world around them, but not something which can be conflated with provisions under the Additional

10 See NDCS Deaf Friendly Schools Resource
Support for Learning Acts 2004 and 2009, and the Equality Act 2010, to support all deaf children’s access to their school education.”

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

No answer.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

4. If the bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

Section 3(6) places a consultation duty in the Bill which would mean engaging with deaf children and young people in order to ensure authorities meet their duty to consult with those likely to be affected by the Plans. Third sector organisations may be asked to support the development of Authority Plans and may strengthen this development if involved, however NDCS is unsure if this staff time and resource has been factored in to the FM.

NDCS would be well placed to support authorities to consult with this group given our membership, youth networks and expertise in this area. The consultation duty is a valuable one and NDCS supports it remaining in the Bill. In order for services to be child and person-centred and fully understand the needs of deaf children much more consultation with them is required. Additionally, the involvement of deaf children and young people in a BSL Task Group, or shadow Task Group, to monitor overall progress is an important consideration.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Yes – for the development of Plans. However the FM does not attempt to quantify the potential additional costs in terms of delivery that may arise as this falls outside the scope of implementing the Bill. Point 23 in the financial memorandum states:

“The costs associated with implementing Authority Plans, which is not pertinent to this Memorandum, will vary depending on what level of BSL provision each local authority currently has in place and whether or not a local authority decides that further action is necessary following the introduction of the Bill and as a result of the development of its Authority Plan.”

Authorities will need to deliver on their plans and will need to invest into BSL provision in order to do so. In a time of great budgetary pressures, authorities will be faced with difficult decisions about taking resources from one area to invest in another. NDCS proposes that guidance is developed to accompany the Bill which addresses this issue and suggests ways in which listed authorities can efficiently and creatively meet their new duties.

NDCS proposes that more investment from the Scottish Government is required to enhance BSL provision for deaf children and young people. This investment should support authorities to implement their plans and create real change and improvement in outcomes for this group. The Department for Education in England is investing into its BSL provision and some very valuable projects are being funded by the Government such as iSign.

Case in point – i-Sign:
The Department for Education in England (DfE) has significantly invested into improving access to British Sign Language learning and provision for deaf children and young people and their families. Over the next two years £800,000 will fund a consortium of deaf sector organisations to undertake the I-Sign project and many of its objectives would be welcome areas of work in Scotland. The objectives of I-Sign are to:

- Map BSL Learning provision available to families and inform families of the options and support available to them
- Support families with Education, Health and Care Plans in accessing personal budgets to pay for BSL support
- Develop a new Signature CSW qualification for children at Key Stages 3 and 4 in the English curriculum
- Set up a CSW development fund for schools and colleges to support the development of BSL skills of communication support staff
- Train more professionals to deliver FSL courses
- Provide support to local groups and societies to facilitate the establishment of FSL courses.

NDCS believes it is vital that appropriate resources are put in place to ensure the improvement of outcomes and to close the educational attainment gap for deaf learners in Scotland. NDCS recommends that in developing its National Plan the Scottish Government will consider and fund some of the very positive developments that the DfE is funding in England.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

No. See question 4. It is difficult to predict staff resources and capacity requirements in a time of budget cuts. NDCS would need to plan for this in advance, so interim measures would be required.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

No answer.

8. Do you believe that the FM reasonably captures all costs associated with the Bill? If not, which other costs might be incurred and by whom?

See previous answers.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

See answer 5 in terms of the delivery of Plans. Whilst it is not possible to quantify accurately, it is possible to carry out workforce mapping exercise project (see question 2) and cost the
delivery of services based on best practice models that already exist. NDCS welcomes the opportunity to provide more information on such models.

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30 January 2015

Clerk to the Education and Culture Committee
Room T3.40
The Scottish Parliament
EDINBURGH
EH99 1SP

For the attention of Committee Members

Dear Committee Members

**British Sign Language Bill – Call for Evidence**

COSLA welcomes the opportunity to respond to the Education and Culture Committee call for evidence. Our Executive Group for Health and Wellbeing discussed the Bill at an early stage and again in November 2014, following publication. We have also met with Mark Griffin MSP and observed the first evidence session to your Committee on 16 December 2014.

In addition COSLA Officers have been involved in the group which produced the “See Hear” Sensory Impairment Strategy. As part of the “See Hear” strategy Scottish Government have funded a Sensory Impairment Lead Officer in each of the 32 local authority areas for two years. These officers are currently auditing the number of individuals with a sensory impairment and the services which are available to them and any gaps in provision. The strategy encourages partnership working between the private, third sector, health and local authorities. The main thrust of the Sensory Impairment Strategy is that early identification should encourage early support to be provided, and that in the longer term this will help individuals to maintain their independence. We support this strategy and think it should lever additional support for BSL users. Our members are not convinced of the need for a separate BSL Bill.

**Specific issues of concern**

- BSL Bill – should we be spending scarce resources on producing plans rather than providing services
- BSL Plans - lack of content in the Bill on what should be in plans
- Performance Review - local authorities having to report on performance to Scottish Government
- Financial Memorandum – fails to quantify any additional costs for new duties which may fall on local authorities as a result of the Bill
COSLA agrees that BSL should be promoted and that BSL users should be able to access services and information. However, we are unsure that the Bill as produced will improve provision, in fact there is a risk that it will become an expensive bureaucratic exercise which draws funding and expertise away from the provision of services for BSL users to the production, interpreting, consulting and reporting on 117 public authority plans. We are unsure what a Scottish Government BSL National Plan will contain, but would stress that if the national plan places additional duties and this involves additional costs to local authorities the Scottish Government will need to provide for these additional costs.

We wonder if there is additional funding available to operate a new bureaucracy whether the BSL Bill is the best use of these resources, or whether such an amount could be spent in other ways; such as raising awareness, providing training and employing more BSL interpreters and providing initial training to front line staff to aid BSL users in communicating with them.

BSL Plans

The Bill calls for the National Plan to be consulted upon by those who the Scottish Ministers consider are likely to be directly affected by the National Plan and lists these as particularly being persons who use BSL and persons who represent users of BSL. We would suggest that listed authorities who will be directly affected by the National Plan, as they will potentially incur additional costs, should also be consulted.

The Bill calls for all 117 listed authority plans to be consulted upon by BSL users. We have held some discussions with Scottish Government officials and recognise that consulting on 117 separate plans will place a burden on BSL users and perhaps an even heavier burden on interpreting services, which are likely to be diverted from their key role in providing support to BSL users. Scottish Government proposals to limit the burden on those to be consulted by some form of a joint consultation exercise is of interest to us.

The Bill says listed authority plans should set out measures to be taken in relation to the use of BSL in connection with the exercise of the authority’s functions, and set timescales by which any such measures are to be taken. In some areas there are few BSL users and demand would need to be assessed and decisions taken on whether exercising functions in BSL forms was justifiable on likely uptake and costs. Conducting all functions in BSL would be a boon for interpreters and instructors but a waste of scarce money if there was no demand.

Other than exercise of authority functions in BSL and setting timescales there appears to be a lack of detail in the Bill on what should be in the national or listed authority plans. We viewed your committee’s evidence session on 16 December 2014. Questions asked included what should be in plans and whether this is about setting minimum standards, the answer provided to these questions was; “that will be for the Parliament to decide”. So the Bill seems to have been written in such a way that the blanks will be filled in by amendments as the Bill passes through Parliament. This makes it difficult to try to estimate costs both to produce a plan and to cost any additional duties.

Performance Review

We met with Mark Griffin MSP on 27th November 2013 to discuss what was at that stage his proposed Bill. We raised concern around the tone which suggested that Scottish Government would hold local authorities to account on their performance against BSL plans. We explained that this proposal confused the accountability relationships that exist within local government and suggests a top down, command and control relationship between the Scottish Government and local authorities rather than the partnership relationship which currently exists.
It is our view that any monitoring or scrutiny of local authority plans should be done at a local level and would suggest this could be done by local community planning partnerships. This partnership approach is in line with the “See Hear” Sensory Impairment Strategy.

The Policy Memorandum talks of there being no statutory sanctions for non-compliance with the legislation but that Scottish Ministers will hold listed authorities to account. The Policy Memorandum also says that the risk of being “named and shamed” for poor performance should act as a significant incentive for listed authorities. We do not consider this to be appropriate for local authorities who are accountable to their electorate and local communities. Local authorities will always do the best job they can for all their constituents, whilst attempting to balance competing priorities, and we find the language of naming and shaming being an incentive to be of concern.

If an ability to hold listed authorities to account through the Parliament is created and restricted to BSL users alone then this is unfair to other citizens who do not have recourse to such an option, and sets a precedent. Currently if individuals or organisations are unhappy with decisions taken by local authorities they can lobby their council or complain to the Scottish Public Services Ombudsman. We see no reason to transfer such powers to the Scottish Ministers or the Scottish Parliament.

The proposed timescale for the publication of the Performance Review: one year after the production of the listed authority plan, seems too short. Implementation of plans would just come into effect and then almost immediately performance would need to be analysed. We would suggest there needs to be time for plans to be put in place and established. Plans being in place for a minimum of 2 - 3 years would seem a reasonable timescale prior to beginning the process of assessing effectiveness.

Financial Memorandum (FM)
The FM comes up with a series of figures for the cost of producing plans and the performance review mechanism of approximately £6 million but notes that it does not attempt to quantify any potential additional costs in support of additional activity linked to the Bill, nor does it consider the costs to listed authorities in providing information to the performance review mechanism.

We think that the lack of detail in the Bill on what should be in plans makes it hard to quantify additional costs. If the National Plan places new duties on listed authorities this will introduce new costs. The intent is that listed authority plans will take account of the national plan. If the Bill suggested what should be in the national plan we could potentially work out likely additional costs.

Conclusion
We are concerned that the Bill will divert scarce funding from the provision of services to the creation and maintenance of an expensive bureaucracy. The lack of detail in the Bill on what will be in the National Plan makes it difficult to work out additional costs to local authorities and that such costs are missing from the Financial Memorandum. The Performance Review confuses local governments partnership relationship with Scottish Government as one of inspected and inspector. The Bill takes no account of “See Hear” the Sensory Impairment Strategy and appears to have been developed in isolation of it.

Finally local authority budgets are under strain and need to be balanced and there are many competing priorities. If this legislation imposes unfunded additional duties on local authorities,
which will effectively ring fence spend, this will protect any new duties at the expense of other areas of local authority activity which will consequently see funding reduced.

We are of course happy to work with the Scottish Government and the Parliament and will watch your deliberations with interest.

Yours faithfully

Councillor Peter Johnston
Spokesperson for Health & Wellbeing
Education and Culture Committee  
British Sign Language (Scotland) Bill  

Call for evidence - A joint response follows from the Scottish Universities' Heads of Disability Services

It should be noted that, given the large and diverse nature of our sector, opinions vary.

Whilst supporting the aim to promote the use of BSL and the need for significant investment in training for BSL interpreters, there are some concerns that the proposed legislative focus on BSL as a minority language may detract from our existing responsibilities to provide reasonable adjustments for students who are BSL users. We feel this has the potential to have a negative impact on their access to higher education.

We also have some concerns about the potential cost implications for higher education institutions if it becomes the case that students who are BSL users are unable to access Disabled Student Allowance. We support legislation that facilitates inclusion and access for all and recognise that identifying as a disabled student in order to access funding is a sensitive issue.

We do not feel that the proposed Bill fully addresses these issues.

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?

Legislation is required because there is currently a lack of provision across Scotland. BSL users do not have access to a wide range of information, services or facilities due to insufficient BSL coverage. Whilst speakers of other languages may face similar issues, they have the option to learn English, but this is not possible for many BSL users.

There is also a general lack of awareness around BSL i.e. that it is a language in its own right and many false assumptions are made e.g. that all deaf people use hearing aids and can read and write English well. This leads to poor understanding, poor communication and ultimately poor quality of information and provision.
The Bill is about promotion of BSL as a language. It is stated in the Bill documentation that the Equality Act 2010 provisions ‘do not explicitly include recognition of discrimination on the basis of language’. Also ‘The intention is to highlight that BSL users are a linguistic minority rather than disabled people in need of adjustments to mainstream services.’

Adapting the Act would be unwieldy and might dilute the intended BSL focus of the Bill and therefore the aims and resources of the proposals. There is already an anticipatory duty under the Equality Act to provide equal access and ensure the prevention of discrimination but this alone will not achieve the Bill aims; to ‘promote the use of BSL’.

A Bill would engender consultation with relevant parties to address some of the issues of BSL support such as demand, accessibility, availability of interpreters; working practices and funding.

A change in the law is needed otherwise there is the risk that any proposals within HEIs to promote BSL specifically could inevitably drop off the agenda given the very small number of stakeholders compared to other groups, be these linguistic groups and/or disability interest groups.

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?

Public bodies will be asked to consider their BSL provision; for most this will probably be the first time they have done so. This will inevitably lead to increased activity, presumably increased provision.

Universities already consult, plan and report in the Equality Mainstreaming report. If a separate plan is produced that requires authorities to promote the use of BSL then additional access to BSL services may be introduced through increased consultation and additional Government resources, the need for which would be identified in the planning process.

The extent to which authorities can respond will depend on: guidance, access to services, long term planning of BSL interpreter training and funding of additional services.
There is already a demand in Higher Education for suitably qualified and experienced BSL/English interpreters which sometimes cannot be met in a timely fashion due to low numbers of qualified interpreters and communication support workers available. The willingness and desire of HEIs to use BSL and respond to demand for services in BSL is therefore distinctly separate from making this a reality in the short- and medium-term. The finite number of qualified BSL/English interpreters and BSL tutors (to name only two groups of professionals whose services and expertise may be required by HEIs in activities to promote BSL) could result in HEIs competing with each other to secure the services of such niche practitioners.

There is the risk that HEIs would be obliged to draw on the services of less qualified people in a new legislative climate where goals set out in a BSL Plan had to be achieved and published at all costs.

The extent to which the Bill could achieve this objective is limited by these very practical considerations, however, there is scope in the HEI sector for HEIs working collaboratively and pooling resources, whilst still individually promoting 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?

If the promotion of BSL leads to more BSL users accessing services then it may be that the profile of other forms of communication is raised. However, it is also possible that the statutory requirement to promote BSL may result in finite resources being concentrated in this area rather than on other forms of communication including other sign languages.

It may reduce awareness of the needs of deaf people who do not identify as belonging to a Deaf Culture.

It may negatively impact on funding made available for communication workers for all deaf people reducing provision across the board.

It may negatively impact on the provision of technology and equipment being made widely available for all deaf people who need it.

The promotion of BSL could be perceived by some as preferential treatment of BSL users over other groups of deaf or disabled people and this could cause misunderstanding and resentment. In an HEI, for example, with 2 full-time students who are BSL users, a similar number of staff who are BSL users and many more who are deaf but do not use BSL, demands may be made for the promotion and provision of lip-reading classes, SSE (Sign Supported English) classes and greater
provision of loop systems and other assistive devices across the campus for study and work purposes.

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?

The Minister should consult with relevant parties, create forums, offer examples of plans, identify resources, offer guidelines then ask for responses, publish plans of all authorities and clarify any sanctions for non-implementation.

The Minister should be ‘deaf aware’ in the widest sense and have a thorough knowledge and understanding of relevant organisations, institutions and structures already in place with regard to BSL. (S)he should already have BSL skills or at least be learning BSL.

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?

Given that there are no specific obligations on provision, and no sanctions, there is a danger the proposals could be too weak. The threat of “naming and shaming” may be enough to spur public bodies into action but there is a risk that the public at large won’t be invested enough in the issue to care. Significant pressure will come from the Deaf community but this is a small proportion of the population. However, a stronger Bill would perhaps be less likely to pass and there is some merit in allowing Public Bodies free reign to develop and promote as they wish, rather than being too prescriptive.

The Bill will be ineffective if there isn’t accountability. It should be in the form of review and guidance rather than sanction, especially in the early days, otherwise it might result in weak initial plans being prepared with a view to possible sanctions for non-compliance with plans.
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 would sensible to try to achieve consistency between authority plans and the most recently published National Plan, however, there needs to be consultation on the proposed National plan before it is finalised.

The BSL Plans of HEIs would be determined by our main functions and promoting the learning of BSL and providing opportunities to learn BSL could be a feature of BSL Plans from the HE sector. HEIs already have a track record in delivering adult and continuing education in the community and there is scope for collaboration and development in this respect.

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?

[No comment.]

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?

Whilst it is always university policy to seek the views of students, there may only be 1 or 2 BSL users studying in an HEI at any one time. There are, however, significant numbers of deaf/hard of hearing students who may also identify strongly as culturally Deaf but not use BSL as a main language. Except where there is BSL specialism, in most HEIs there are generally also very small numbers of staff who use BSL.

We consult on Equality & Diversity matters already; the process would be similar.

Smaller number of those ‘likely to be affected’ for consultation purposes so attracting a wide range of respondents may be difficult.

Given that the Bill is not about BSL in the context of disability equality but as a language, staff who have not necessarily been directly involved in making BSL provision to date may be considered to be “directly involved” under the terms of the BSL Bill in term of promotional activities, for example, colleagues working in event organisation, marketing and PR & communication, language centre administrators
and tutors of other languages. These staff would also have to be consulted and it is not known to date what the level of engagement might be.

Significant staff time would need to be set aside to consult with individuals in an accessible way, fitting around their work and study schedules, as well as around the availability of qualified BSL/English interpreters whose services would be required.

The Bill refers to “persons who represent users of British Sign Language”. HEIs would need to define who these persons would be.

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?

[No comment.]
NHS Grampian and NHS Orkney Response to the Call for Evidence re the British Sign Language (Scotland) Bill

1. Question One
Do you think we need to change the law to promote the use of BSL and, if so, why?

Response
There are a number of options. The main ones are:

- **New primary legislation for Scotland**
  This is a viable option but might encourage other disability related groups to also seek primary legislation to further their particular aims.

- **A voluntary code of conduct/guidance**
  This could be tried. If it did not work, new primary legislation could be introduced

- **Re-interpreting or adding to existing legislation**
  The General Duty of the Disability Discrimination Act 2005 requires public bodies to:
  a). promote equality of opportunity for disabled people
  b). eliminate discrimination
  c). eliminate harassment of disabled people
  d). promote positive attitudes towards disabled people
  e). encourage participation by disabled people in public life
  f). take steps to meet disabled peoples’ needs, even if this requires more favourable treatment

The Scottish Government, if they wished, could make it clear either by a policy statement or by Scottish supplementary legislation that when deaf people use public services, the public services (to meet their responsibilities under the terms of Sections a) and f) above) must provide BSL interpretation if requested. The Equality and Human Rights Commission for Scotland, could then be requested to monitor compliance. The Equality Act 2010 also echoes this requirement.

**Re-interpreting existing legislation is our preferred option.**
2. Question Two
Will the Bill lead public bodies to increase the use they make of BSL services?

Response

Main benefits

Consistency
At present, many public bodies in Scotland are exemplary in their provision of BSL services for deaf people. Sadly, others are not. The proposed Bill, or other options, would help to ensure a consistent quality of service provision across Scotland.

Higher profile
BSL services would be given a higher profile.

Main challenges

In Scotland there is a chronic shortage of BSL interpreters in some areas
In Grampian there are only four qualified BSL interpreters. Often, NHS outpatient appointments have to be rearranged or planned around the availability of BSL interpreters.

If a greater availability of trained BSL interpreters was specified by legislation when deaf people accessed public services, in Grampian this simply could not be met without more BSL interpreters being trained and being available.

On Orkney, there is only one BSL interpreter, who covers the Orkney mainland and all of the smaller Islands. This lack of capacity is a serious issue.

In 2013/14, NHS Grampian expenditure on BSL interpreters was £44,200. This expenditure will continue to increase year by year.

If public bodies were required to make BSL interpreters more readily available without an increase in the number of BSL interpreters, this would greatly increase demand for a limited resource.

This increase in demand for a limited number of trained BSL interpreters would inevitably lead to higher charges being levied by the BSL interpreters. This would result in public bodies simply having to pay more for the same volume of service.
3. Question Three
Could there be unintended consequences for other languages or forms of communication used by deaf communities?

Response
Yes.

(i) Lip reading for people with Acquired Profound Hearing Loss
Not all deaf people wish to learn BSL. Some people with Acquired Profound Hearing Loss find that their friends, relatives and work mates cannot communicate using BSL. Accordingly, more resources should be put into teaching the deafened person lip reading skills or at least give them the choice of learning both lip reading and BSL. The BSL Bill ignores this other important means of communication.

(ii) Texting, 3G Mobile Phone Technology and Computers
Many younger deaf people use texting as a means of communication. They can also use mobile phone video imaging to either lip read each other or sign. Could these skills be taught to the older generation of BSL users and lip readers who perhaps are not aware of the benefits of these technical advances or who perhaps cannot afford them? Could the Scottish Government actually fund SMART phones and training for deaf people?

Could the Scottish Government fund computers for deaf people and provide training? Emails and Skype are other ways to enable deaf people to be pro-active in their communication to others.

4. Questions Four and Five
Proposed Scottish Parliament Performance Review process.

Response
Given the large volume of work already undertaken by the Scottish Parliament, it is suggested that this duty should be carried out at a more local level by the Equality and Human Rights Commission for Scotland (EHRC). Indeed, it could be suggested that the EHRC should already be carrying out this duty.

5. Questions 6-9
BSL Authority Plans
Response
BSL provision should already be an integral part of the Equality Outcomes, which public bodies are required to publish and implement as part of the Equality Act 2010 (specific Duties) Scotland) Regulations 2012. The BSL Authority Plans would simply duplicate this work.

If Public Authorities did not include BSL provision in their Equality Outcomes, the EHRC could make this provision a mandatory element.

6. General points

How to increase the numbers of BSL interpreters and BSL Communicators available in Scotland

There are two suggestions we would wish to put forward:

(i) Training employees in Public Bodies to be BSL Communicators
In 2012/13, 16 NHS Grampian Staff completed the: "Introduction to BSL" Course and then went on to complete the BSL Level One Course. This group are now working on BSL Level Two Training. If staff reach Level Two or Three, they will become proficient BSL “Communicators” with a recognized SQA qualification. Communicators are not SASLI registered.

However, NHS Grampian is only able to fund 50% of this SQA Communicator training, the balance was paid by the staff themselves. The training is being carried out in the evenings in the staff’s own time.

Further “Introduction to BSL” Courses will be run as a stepping stone to the higher SQA qualifications.

It would be good to see NHS staff and staff in other public bodies fully funded to obtain the BSL Level Two and Three SQA qualification.

Upon completion of their training as Communicators, it is suggested that staff should become eligible to receive an additional allowance of perhaps £3,000 to £4,000 per year in their salary, provided they were willing to continue to use their skills on an ongoing basis. This would give them some reward for their efforts and commitment. If would also embed BSL Communicators as an integral part of a public body. At present, there is no mechanism within the NHS pay structures for any financial enhancement for attaining the BSL Level Three standard.
(ii) Full Time BSL Funded Training Courses for BSL Interpreters and BSL Communicators
It is suggested that full time BSL Interpreter and Communicator Training Courses could be established as fully funded courses i.e. fees paid and students receiving a salary while training, similar to those undergoing nurse training. This would encourage more people to take up the training.

There should also be a Scottish Government backed scheme to give newly qualified freelance BSL interpreters a guaranteed income for their first three years, post qualification.

Nigel Firth,
Equality and Diversity Manager,
NHS Grampian and NHS Orkney,
23rd January 2015
NHS Health Scotland Response to Education and Culture Committee call for evidence on British Sign Language (Scotland) Bill

NHS Health Scotland is a national Health Board working with and through public, private and third sector organisations to reduce health inequalities and improve health. We use evidence and data to inform decision-makers and the public about how we can improve Scotland’s health outcomes. Our response is therefore from the perspective of how the proposed BSL Bill could contribute to improving health and in particular any inequity in health outcomes that might result from people not having access to services and information.

NHS Health Scotland recognises the need to promote the use of British Sign Language (BSL) and increase its use in the delivery of services, including health services. However more effective implementation of existing legislation would be our preferred approach in order to prevent new inequalities arising between groups with different language interpreting needs.

We know that some population groups, including Deaf people, experience poorer access to health services and that this inequity in access to services can result in poorer health outcomes. Provision of timely and accessible information can contribute to achieving equal access to and outcomes from health services and therefore to reducing inequalities in health for particular population groups, which may be compounded by other life circumstances such as poverty. If public bodies are required to focus on the provision of one language over others it could potentially lead to unintended consequences for other languages and forms of communication used by the deaf community. Research commissioned by NHS Health Scotland which examined approaches to remote interpreting for sign language users (2011) reported that older people with hearing loss are more likely to be lipreaders than BSL users and that 45% of profoundly deaf people with disabilities have significant dexterity or sight difficulties or both 1. It may also create further inequalities amongst groups whose first language is not English and who require interpreting services, leading to potential discrimination.

While it is noted that Mark Griffin MSP explored whether BSL could be promoted through existing legislation, we believe existing legislation is sufficient. The Equality Act and Public Sector Equality duty as well as, the Human Rights Act and the Patient Rights Act all place requirements on public authorities to meet the needs of Deaf people (such as provision of accessible goods, services and facilities, right to be free from non-consensual medical treatment and the right to have clear communication about care). The International Covenant on Economic, Social and Cultural Rights includes the right to the highest attainable standard of health. The ‘right to health’ includes a number of elements which the World Health Organisation has set out. This includes health care and what leads us to have healthy lives (health determinants) being available, accessible, appropriate and of suitable quality. Equality is fundamental to achieving the right to health. Greater focus on all public bodies to meet existing legislation and human rights frameworks, as well as other relevant policies (for example the Sensory Impairment strategy) may be more effective rather than placing further requirements on public authorities which may create added bureaucracy.

Finally, placing a requirement on public authorities to prepare and publish BSL plans may put further demand on the limited availability of qualified, registered BSL interpreters in Scotland. This may make it difficult for public authorities to meet the demand for services in BSL.

NHS Health Scotland supports the intentions behind the Bill; however we would advocate better use of existing equality and human rights levers to advance the needs of BSL users.

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28 January 2015

Dear Education and Culture Committee,

**British Sign Language (Scotland) Bill**

Please find below answers presented by SASLI to the consultation questions.

**General approach**

**Question 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?

SASLI believes the BSL Bill to be the best approach to encourage increased and full accessibility to information, advice and services in BSL for people who request this. The Bill will lead into better awareness of BSL across the general public, higher levels of interest and higher uptakes of BSL classes that will then increase the number of registered BSL/English interpreters to meet communication needs of BSL users in Scotland.

For the majority of Deaf and deafblind people who use BSL, they see themselves as a linguistic minority, and yet several of current legalisation require people to define themselves as disabled before becoming eligible to funding for, and provision of, communication support.

Previous and current legislation have succeeded to a small extent in improving access to information and services in BSL, but many are based on the ability of service providers to provide ‘reasonable adjustments’ to meet the needs of people with one or more of the protected characteristics, namely...
age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. No legal protection is provided for BSL language/linguistic usage. The BSL Bill approach differs to other legislation as it relates to language provision.

The Equality Act 2010 defines the strand of disability as an ‘impairment’ with a substantial and long-term adverse effect on (the) ability to carry out normal day-to-day activities. This medical perspective of deafness does not value the quality of life BSL users adapt towards everyday life. SASLI perceives the Bill as a catalyst to change this perception of deafness to a positive and living condition by raising awareness of BSL, promoting a language to enable two-way communication eliminating communication barriers. BSL does not come with reference to the legislative law, under the Equality Act 2010.

SASLI’s strapline ‘Working Towards Improving Communication between Deaf and Hearing People’ reinforces the purpose of the BSL Bill.

**Question 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?

SASLI again sees this as positive action toward Deaf and BSL awareness-raising across the public authorities. Involvement and contribution from BSL users, with personal knowledge and experience, is vital to make this successful and achievable. It is crucial that the public authorities should maintain clear and constant communication channels with local BSL users and, when necessary, local organisations working with BSL users or with links to BSL provision to gain expertise and qualified advice. Other organisations with the expertise and information of BSL and communication support should be contacted if no similar organisation operates locally. The public authority would then be able to re-invest time and money back into the local community, meeting the local needs and promoting social justice.¹

Equally crucial is that an Advisory Group be established to support the Lead Minister designated to lead the BSL Bill comprised mainly of BSL users. SASLI does not perceive the responsibility solely on one Minister is appropriate with the amount of attention and understanding required to ensure the objectives of the BSL Bill are achievable. The responsibility should be shared among Scottish Ministers. The Advisory board will encourage greater success of the Bill in obtaining its objectives with correct guidance and advice.

Additionally, appropriately skilled, experienced and/or qualified people should be consulted and employed to provide advice and information and consult on BSL issues in collaboration with BSL users, when necessary to obtain further

¹ John Rawls, *A Theory of Justice* (1971) 4, “the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of benefits and burdens of social cooperation.” (this is for your reference) - Wikipedia

WORKING TO IMPROVE COMMUNICATION

SASLI is a registered Scottish charity SC017305 and a registered company SC359723.
information and expertise. SASLI offers to provide information and advice on use of registered interpreters and other communication support provision where applicable.

SASLI supports the Scottish Government’s suggestion that the National Plan and listed Authority plans should include reviews to be available in BSL to ensure full access for BSL users, and that the Financial Memorandum to add costs for BSL translation to the anticipated costs.

Concern is shared with the Scottish Government on the availability of resources to make the BSL Bill possible. Working relationships should be considered between listed authorities, BSL users and other organisations working with BSL provision (locally where applicable) to share limited resources.

**Question 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?**

SASLI’s awareness-raising work has identified that improved understanding and appreciation of BSL is achievable only when people are more aware about levels of hearing loss and deaf-related issues. This will in turn lead to greater knowledge and appreciation for all groups of deafness, thus leading to positive consequences in raising awareness of other languages and forms of communication used by the deaf community.

Learning English frequently is not a feasible option for BSL users. English is a predominately a spoken and written language whereas BSL is a visual language, which does not need sound for communication. BSL users have individual and separate linguistic needs, arising from communication and spoken/written language barriers, and from others who use different forms of language or mode of communication.

The BSL Bill will not deflect resources from the other groups but will instead raise awareness and value of all languages and forms of communication used by the deaf and deafblind communities.

SASLI however wishes to raise the issue of deafblind people. While the deafblind community welcomes the BSL Bill, they have concerns that the Bill may be seen as an answer to deafblind people’s needs as well as other BSL users. As the Bill stands this is not the case. If measures are not taken to meet the very specialist needs of deafblind people, they may be further marginalised. SASLI proposes to include these measures in the National Plan to prevent marginalisation and unintended consequences for deafblind people.

**Duties on the Scottish Ministers**

**Question 4: The Bill will require the Scottish Government to prepare and publish a BSL National Plan (Section 1) and a BSL Performance Review**
Insufficient details are available on the role of the lead Minister. The BSL Bill states the responsibility is to be shared among Ministers in the Parliament, though led by a designated Minister. SASLI sees this a substantial workload for the Lead Minister and recommends the responsibility to be shared by all Scottish Ministers, with inclusion of native BSL users, for example, to assist with the work and performance reviews in an advisory approach.

SASLI refers to its initial response during the consultation preceding the Bill, in which an Advisory Board was proposed to assist Scottish Government with the work of BSL with expertise and knowledge. This is still deemed key for the success of the BSL Bill with contribution from BSL users themselves as well as other parties with an interest, expertise and/or knowledge of BSL and communication support.

Each Parliamentary session may see a different Minister leading this work, and time and resources will be required to re-educate the newly appointed Lead Minister in each Parliamentary session. Again, this leads to the reason for the responsibility to be shared among Scottish Ministers. An Advisory Board would act as an additional means to ensure smooth transition of leadership and information in each Parliamentary session.

Awareness and knowledge of BSL and related issues will enable identification, and setting of, benchmarks and progress made by each listed authority. SASLI foresees initial difficulties for the listed public authorities to produce performance reviews within the prescribed timescale during the first Parliamentary session due to time required to produce the initial Authority Plan and establishment of measures to achieve the objectives.

**Question 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?

Local Authority Plans should include information of current provision and identified gaps, and objectives to improve provision and eliminate barriers. Performance Reviews should be utilised to assess the measures made to address the gaps and local needs.

SASLI agrees that identification of good models should be identified and publicised. It is imperative that a range of BSL options are available to suit individual BSL users’ communication and linguistic needs. Consideration of different provisions should be made – i.e. face to face interpreters, online video interpreting, translators for webclips and videoclips, for example.
The Review process will encourage increased contact and consultations with Members of Parliament, Members of the Scottish Parliament, local councils and public sectors by BSL users with an increased range of options to access information, services, information and advice.

**BSL Authority Plans**

**Question 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?

The Plans should include, as well as the inclusions in Sections 3(3) and 3(4), procedures how they would publicise information for the BSL community.

**Question 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?

SASLI is aware that the Advisory Board established under the Gaelic Language (Scotland) Act perceives the 5-year cycle of Performance Reviews required under the Act too restrictive.

SASLI foresees the first Parliamentary session may experience similar difficulty in achieving feasible reviews within the prescribed timetable. In addition, each Parliamentary session may see different Ministers and this would require time and resources to ensure process in each Parliamentary session is carried out consistently and fairly while assessing performance reviews of each listed Authority. An extended timetable should be considered.

**Question 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?

The BSL Bill applies directly to people who use BSL as their first and preferred language. It is essential that representation from the BSL community be invited to consultation and that they make up the majority of the consultation audience. Others who ‘have an interest in that Plan’ may include people who do not use BSL as their first language but have knowledge or professional interests in BSL and provision of communication support, such as SASLI. They should be consulted when additional information and expertise is required.

It is imperative to remember BSL users are not only the ones who face barriers in everyday life that have knowledge and information to contribute but also for others who are required to consult, or provide information and
services to BSL users. SASLI agrees that local BSL users should be the main consultation players but they should also work in collaboration with others who play a part in the provision of BSL and communication support. The end findings will be more relevant to needs of BSL users, and at the same time, the Plan can be tailored to the current economic environment and available resources.

It is foreseen that contact will be made between listed authorities and a wide range of organisations providing services for BSL users or provide a service to ensure that the public services are appropriate to the needs of BSL users. A higher workload may be experienced by some organisations to respond to enquiries and consultations for information and advice.

**Question 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?

Public transport providers are not included in the list. Many cases have arisen where communication barriers arise while travelling due to lack of BSL access and awareness. Additionally the Law Society of Scotland is not included in the list.

BSL users are Scottish, and if employed, tax-paying citizens and should be able to access public authorities and agencies when and where required. Agencies such as ACAS and Skills Development Scotland should also be part of the list to ensure human relations services and public employment are accessible to BSL users.

Yours sincerely,

Lesley Crerar
On Behalf of SASLI Board of Trustees
BRITISH SIGN LANGUAGE (SCOTLAND) BILL
WRITTEN EVIDENCE: JANUARY 2015

Professor Graham H. Turner
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Heriot-Watt University (HWU) is the academic home to Scotland's largest concentration of scholars (15 individuals at the time of writing) specialising in the field of Sign Language Studies. In the REF2014 UK-wide audit of research, HWU's case study on 'Ensuring greater equality for sign language users', describing the impact of our work in the field over the last decade, was recognised as outstanding in terms of its reach and significance for society. This written evidence is a personal submission which draws upon intensive dialogue within this academic team and with students and partners in the community and professions, and on the author's global experience of 30 years’ academic engagement with Sign Language Studies.

General comments
The British Sign Language (Scotland) Bill is strongly supported as a groundbreaking initiative which proposes a concrete manifestation of the commitment the country and its Parliament have long professed to securing the linguistic human rights of its signing community.

These rights are not a new demand from BSL users. Essentially the same position has been taken ever since a Milan Congress of 1880, in which educators of deaf children rejected sign languages, and set back the status of signing communities globally. For 135 years, then, successive generations of BSL users have been desperately explaining to the non-signing world that its approach to them is damaging, disempowering, arguably even genocidal (www.un.org/esa/socdev/enable/rights/ahc5docs/ahc5wfdsid.pdf) – and self-defeating.

The reason this is done with a sense of ‘desperation’ is simple. Over and over again, anyone who cares to notice can see Deaf adults wanting to be assured that deaf children will never again experience the battle for self-expression and self-realisation, and the oppression of the human spirit, which they themselves have faced (Lane 1992, Baynton 1996). It is important to note that this ardent sense of urgency does not arise from self-interest: Deaf people know that over 90% of deaf children are born into hearing families. They are asking not so much for protection of their own children, as of yours and mine.

In what sense has the denial of sign language rights proved self-defeating? The community has not been ‘saved’ or ‘set free from a terrible infliction’ as a result of society’s historic insistence that signing should not be prioritised (Ladd 2003). On the contrary, the evidence is that British deaf children consistently fare poorly in education (http://onlinelibrary.wiley.com/doi/10.1002/dei.38/abstract), while adults are disproportionately unemployed or under-employed (http://www.ros.hw.ac.uk/bitstream/10399/2387/1/DickinsonJC_0810_sml.pdf).
and at greater risk than most of experiencing mental health concerns (file:///C:/Users/ght2/Downloads/Unheard_unseen_the_state_of_mental_health_services_in_Scotland_for_peolpe_who_are_deaf_or_deafblind.pdf).

The key to addressing these longstanding concerns is an appreciation of signed languages as the natural form of communication for Deaf people. Not until the 1950s did standard principles of linguistic analysis begin to be applied to signing (Stokoe 1960). British research began following the naming of BSL in Scotland in 1975 by the late Dr Mary Brennan (Brennan et al 1984, Deuchar 1984, Kyle & Woll 1985), and led to the publication of the British Deaf Association/Durham University BSL dictionary (Brien 1992). This research demonstrated conclusively that BSL is indisputably a full, rich and dynamic language which (though it has no orthography) can be systematically written for transcription purposes. BSL should not be misconstrued as a manual form of English: like other signed languages, it is an entirely independent language with a structure radically different from English or, indeed, any spoken language (Sutton Spence & Woll 1998; Schembri & Johnston 2007).

**Quantity and quality, access and promotion**

This re-appraisal of the status of signed languages has been transformational for Deaf people around the world. The current Bill offers the prospect of rooting such a transformation into Scottish soil. It will not be a ‘quick fix’, but creates a sustainable platform for life-enhancing practices to be embedded in our social fabric, and for continuous improvement in BSL users’ well-being, advancement and citizenship. The Bill’s proposals are designed to focus the relevant authorities’ considered attention upon ensuring that members of the signing community are afforded a genuinely effective, pro-active right to use BSL throughout the public sphere, meaningfully securing equal access to facilities and services. Critical to the success of these measures will be both the availability and also the quality of communication service provision: the right to an inadequate service is no right at all.

But the Bill as proposed goes further, and it is this additional element that holds out the prospect of enabling BSL users (of all ages) to benefit alongside others from the kind of social values and principles perfectly encapsulated in Scotland’s ‘Curriculum for Excellence’ – to be ‘successful learners’, ‘confident individuals’, ‘responsible citizens’ and ‘effective contributors’. The right of linguistic access is vital, but it is largely interpreted (as the submissions to this Call for Evidence will attest) as conferring ‘access to the hearing world’. Beyond this stands the right to human flourishing, fulfilment and self-actualisation. Here, it is the focus of the Bill on active ‘promotion’ of the use of BSL that is significant. As the nature of signed languages has been analysed without prejudice over the last half-century, Deaf people have been characterised not as deficient – ‘impaired’ versions of hearing people, as the earlier medical model would have claimed – but simply different. In this light, it is no more than rational to recognise sign languages as evidence of human creativity and endeavour, to be cherished like any other language (Turner 2006: see http://onlinelibrary.wiley.com/doi/10.1111/j.1473-4192.2006.00128.x/abstract).

Contemporary scholarship is, in fact, revealing a phenomenon known as ‘Deaf Gain’. Back in 1989, the initial identification of Deaf Gain was reported by the popular scientist Oliver Sacks: “It is as if the left hemisphere in signers ‘takes
over’ a realm of visual-spatial perception, modifies it, sharpens it, in an unprecedented way, giving it a new, highly analytical and abstract character, making a visual language and visual conception possible… The signer becomes a sort of visual ‘expert’ in many ways, in certain nonlinguistic as well as linguistic tasks (producing) not just a visual language but a special visual sensibility and intelligence as well." In an environment where BSL is truly promoted, we generate the exciting prospect of allowing Scotland to find out what hearing and Deaf people alike can learn, to the benefit of our entire society, from nurturing the signing expression of the human spirit.

As the Distinguished University Professor of Psychology at Northeastern University in Boston, Massachusetts, Harlan Lane, has noted (http://jdsde.oxfordjournals.org/content/10/3/291.full): "How we ultimately resolve these ethical issues goes well beyond Deaf people; it will say a great deal about what kind of society we are and the kind of society in which we wish to live. Difference and diversity not only have evolutionary significance but, I would argue, are a major part of what gives life its richness and meaning."

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?

A change in the law is needed because the existing legislation has comprehensively demonstrated its inability to resolve the relevant issues.

Whilst the post-War consensus of the late 1940s had a profound effect on attitudes to disability and social cohesion, repeated legislative initiatives since that time have lacked either the understanding or the courage to treat sign language issues as a matter of linguistic human rights. Instead, provision ostensibly designed for Deaf people has been impossibly entangled with broader matters of communication and assistance for deaf, deafened, hard-of-hearing and Deaf-Blind people. It is scarcely surprising that public service employees are, with the best will in the world, often unaware of the nature of BSL and therefore uncertain of the appropriate way to proceed in encountering BSL users.

Deaf people do not imagine that the non-signing world means them harm. They are just collectively exhausted and dispirited by the experience of trying to make the existing legislative environment deliver the rights it claims to afford them (http://deafcitizenship.com/). And they hope against hope – after countless false dawns – that future generations will not still be fighting the same battles.

What Scotland needs for its BSL users now is:

- Access to education, skills, information and participation in the broadest sense
The opportunity to nurture and express a distinctive contribution to society

Reliable resources to enable the above access provision and contribution to function as intended, including:

- Skills of relevant individuals (community members, frontline and intermediary personnel) – primarily BSL skills
- Awareness of their responsibilities on the part of service providers
- Suitable infrastructure (e.g., training and qualification pathways) where required
- Clear and sufficient budgetary channels to facilitate the above.

It is imperative that the relevant actions are taken on a sustainable and, ultimately, wherever possible, a self-activating footing. A plethora of initiatives has been taken in the past, at UK (e.g., the 2004 £1.5m funding of 10 short-term projects [http://www.batod.org.uk/index.php?id=/resources/publications/onlinemagazine/sign/bsl-initiatives.htm] and Scottish levels (over £1m for 10 apprentice interpreters [www.ssc.education.ed.ac.uk/forum/docs/infopack.doc] in 2008). Few have led to significant long-term advances for BSL users, or to self-replication (cf the Scottish Funding Council's investment of £0.75m in HWU to secure university places for three intakes of 12 BSL/English interpreting students: this level of support is now open-endedly embedded in HWU's core planning).

The changes that are therefore required necessitate incremental, long-term, aggregated national planning of a kind which only Government has the authority to deliver through dedicated legislation. Wherever children are born, for example, a proportion of deaf children are born to hearing parents; these parents will always need input from fluent signers with first-hand experience and knowledge of how to live well as a Deaf person. No short-term burst of attention or injection of funding will meet this need for the foreseeable future. It will require sustained, expert, nationwide intervention. Numerous other vital undertakings are of a similarly constant, long-term character, since this is a Bill about shifting deeply-ingrained social attitudes and assumptions, and creating an entirely new climate of familiarity and understanding around the use of BSL.

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?

This is an entirely reasonable and achievable objective. In line with the spirit of the Bill as a whole, it seeks to “increase” use of BSL, rather than trying to
impose unrealistic, unattainable or unaffordable targets. The intention is evidently that the planning process should guide the considered and efficient exploitation of resources in agreed priority areas.

In order to "increase the use they make of BSL", public authorities may wish to:

i. Identify opportunities to add Deaf BSL users to their workforce
ii. Train existing staff in BSL
iii. Hire interpreters and/or translators
iv. Use video technology in order to be more penetrable to BSL users
v. Create discussion fora in which BSL is the main language
vi. Commission BSL output of their products and materials.

The initial skills to deliver and to nurture all of the above already exist in Scotland. Over time, capacity can expand through a co-ordinated process of duly integrated planning and development.

In terms of positioning authorities to respond to demand, all of the above will help to meet this requirement. However, the *sine qua non* here is the sincere, direct engagement with the BSL community which will lead to an appreciation of the nature of members' priorities.

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?

No. Existing legislation and the Scottish Government's *See Hear* Sensory Impairment strategy protect other languages (principally English and Gaelic) and forms of communication adequately. Where the British Sign Language (Scotland) Bill initiates innovations whose replication across other social group contexts may be considered desirable, such emulation should be promptly and attentively reviewed, and further action initiated on behalf of these groups.

It should be noted that other signed languages are rare but not entirely absent in Scotland. Users of these languages are typically migrants, refugees and asylum seekers, tourists or business visitors. The nature of sign language is such that they will rapidly begin to adapt towards BSL from their first encounters with Scottish signers, becoming 'new signers' of BSL. Until they acquire greater fluency, however, their encounters with the Scottish authorities require specific expertise in their preferred national sign language or in 'International Signing' (McKee & Napier 2002, Turner & Napier 2014). Further research is necessary to explore the extent of Scotland's requirements for this kind of support, and to develop an understanding of good practice in order to meet these needs.

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?
BSL issues would fit very comfortably within the portfolio of the Cabinet Secretary for Education and Lifelong Learning and with the Minister for Learning, Science & Scotland's Languages.

As to what the Minister should do: she/he should immediately and unambiguously state that, just as the Gaelic Language (Scotland) Act 2005 aims to secure Gaelic as an official language of Scotland, "commanding equal respect" with English, so this initiative commits the country to an equivalent position with respect to BSL. In order to be credible as a national 'champion' of the language, successive Ministers for Learning, Science & Scotland's Languages (or equivalent as and when Ministerial remits are redefined) should be expected to develop BSL skills – with the support of a qualified, Deaf BSL teacher – during their period of office.

At Ministerial level, authority can also be exercised over those aspects of the National Plan for BSL (proposed in Mark Griffin MSP’s Bill) which will require co-ordination across a wide span of the public sector, either because the scale of change is beyond the reach of individual or clustered listed authorities, or because a series of consecutive steps need to be managed over several planning cycles in order to build towards the desired outcomes.

It is clear that Scotland needs to expand provision of BSL/English interpreting and translation services. What remains unclear is the character of expansion that will best serve the country's requirements in future. All of HWU's expertise therefore leads to the view that a thorough, prompt and wide-ranging scoping review should be undertaken as a vital prelude to a schedule of coordinated national and local initiatives, programmed over a realistic timeframe. Actions should be neither precipitate nor improperly deferred. The landscape under consideration should cover:


ii. The use of digital technology to secure remote access to interpreting/translation – addressing questions such as when is it appropriate or particularly beneficial; how should services be established and managed for mutual benefit; what characterises good practice in service delivery; can translation of written documents into recorded BSL be made more readily available (with appropriate recordings archived on an 'open access' basis to reduce wastefully expensive repeat translation); how can all stakeholders be trained appropriately (Napier 2011, 2012, Napier & Leneham 2012, Napier, Skinner & Turner 2014)?

iii. Education and training of BSL/English interpreters and translators – addressing questions such as in what formats and contexts does Scotland need education and training to proceed; what post-qualifying training is appropriate; what is the optimal role for Deaf practitioners...
within the workforce, and how can training provide appropriate pathways to professionalism; how many people need to follow which educational pathways, and how quickly, to meet national demand (Napier 2006, Turner 2006, Bontempo & Napier 2009, Napier 2009, Major et al 2011, Major & Napier 2012, Napier, Song & Ye 2013)?


Alongside improving BSL users’ access to public life via the planning of interpreting and translation, the British Sign Language (Scotland) Bill aims to empower BSL users through the promotion of their language. Here, too, National Plans will need to consider long-term, incremental advances, as climate-changing, transformative progress will need to be built over time.

The primary means of promoting BSL will be to enhance the public visibility of the language by teaching it. Caution should be exercised here, however: BSL takes as much time as any other language to learn well. And it matters greatly that new signers are encouraged and enabled to learn well. Only through close engagement with the language, and developing genuine depth of linguistic, communicative and cultural competence, will students approach a profound appreciation of the culture and heritage it expresses and makes possible (Turner 1994, 1999, 2004, 2006). Once they achieve such an appreciation, however, they unlock for themselves insights into the cognitive landscape of Deaf Gain mentioned above, and enhance their own and, indirectly, others’ understanding of human diversity and capability.

To achieve a Scottish programme of BSL skills development, in the context of the day (Turner 2003, 2009), will again require a managed, deliberative process at the national level, since neither supply nor demand can be satisfied without high-level developmental resources.

i. Four major learning environments are identifiable – the homes of deaf children, wherein it is vital that family members are afforded Government-sponsored, sustained access to BSL teaching until at least the deaf child’s 16th birthday; schools, where, at primary and secondary levels, BSL could be actively promoted within the Government’s 1+2 languages policy; adult education (especially in colleges, which saw huge growth of BSL learning in the 1980s and 1990s, but seem latterly to have ceased to facilitate the delivery of BSL classes); and the workplaces of Deaf employees.

ii. For each of these contexts, teachers need to be trained. This presents challenges (which must be faced), since whilst native signers with first-hand experience as Deaf people bring personal insight to the task of sharing cultural knowledge with students, hearing signers are more likely to have the educational background to secure teaching qualifications.

iii. Scotland needs a ladder of BSL qualifications so that learners at all levels are rewarded and encouraged to progress (cf the frustrations of Dingwall Academy pupils whose BSL studies are going unrewarded at present https://www.tes.co.uk/article.aspx?storycode=6439804).
iv. Work is required with the responsible parties to secure the platform for teaching; clearly, this cannot blithely be imposed upon families and institutions.

v. The BSL teaching profession has lacked support in Scotland and needs a networking infrastructure to share good practice. There will be a need for workforce development, although the presence of up to 20 graduates of the Scottish Government-funded ‘BSL Training of Trainers’ course at HWU offers a platform upon which to build (http://www.scotland.gov.uk/Publications/2009/07/01102537/10).

vi. Good practice in BSL teaching has been poorly examined to date: the findings from systematic, well-designed research in this field would clearly underpin teacher-training to good effect.

vii. Across all teaching contexts, appropriate learning resources would be required. Although the advent of digital video has facilitated production processes, there is nevertheless considerable scope for informed development and careful ‘road-testing’ of age-appropriate and purpose-sensitive materials.

viii. The above requires ongoing enhancement of linguistic analysis of Scottish BSL. Whilst the ESRC-sponsored BSL Corpus Project (http://www.bslcorpusproject.org/), in which HWU was the Scottish partner, generated significant insights into regional variation in BSL, and a legacy of open access video material of real benefit to teachers and students, the project gathered Scottish data from no more than 40 people in just one city (Glasgow). The ideal international model to emulate would be the longitudinal German Sign Language Corpus project at Hamburg University (http://www.sign-lang.uni-hamburg.de/dgs-korpus/), which has a state-sponsored 15-year workplan designed to allow detailed exploration of variation over time and regional locations.

Finally, whilst promotion of BSL will surely entail increasing the number of sign language users within Scottish society, if the country decides to express a sense of pride in its national signed language through this piece of legislation, it will also wish to celebrate the richness of expression embodied in BSL through performance.

Signed television programmes made by and for Deaf people have been available here since the 1970s, but again it is only the arrival of digital video that has created the opportunity for entire signed channels (such as, since 2008, BSLBT’s http://www.bslzone.co.uk/). BBC Alba receives part of its funding from the Scottish Government, reflecting the country’s commitment to promoting Gaelic. A comparable approach to BSL promotion would appear logical.

Elsewhere, whilst live interpreting into BSL is commonplace in many theatres in Scotland, Deaf attendances are not known to be high. Numerous initiatives have shown an enthusiasm for BSL-originated artistic performances – the installation of a Deaf BSL Storyteller-in-residence at the Scottish Storytelling Centre in Edinburgh (http://www.bbc.co.uk/programmes/p00m6sz5) showcased one such art form, for instance, while the Scottish Poetry Library (a near neighbour to our Parliament) used support from Creative Scotland’s pilot Promoting Equalities Programme to award its first artist residency to a BSL interpreter, poetry researcher and artist who produced a video of a BSL poet.
saluting Deaf Scotsman, Gerry Hughes, who sailed solo round the world, via the five great capes (http://www.scottishpoetrylibrary.org.uk/connect/blog/signed) – called 'The stars are the map I unfurl' – which was well received at the Edinburgh Book Festival, Dundee Literary Festival and Shetland's annual Wordplay festival, among other events.

Such artistic output is the unwritten literary heritage of the BSL community, and may be rightfully highlighted and significantly expanded in the delivery of BSL promotion as proposed in Mark Griffin MSP’s Bill and endorsed in the Government’s responding Memorandum.

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?

The spirit of the Bill before Parliament is to create a climate to foster continuous improvement in the authorities' interactions with BSL users. Insofar as a Performance Review process implies expectations of delivery against imposed targets, it would appear to be of questionable value. What the community seeks – and the Bill fundamentally seems to intend – is a sustained, unwavering, national commitment proactively to identify and deliver incremental advances that benefit BSL users in terms of their daily experiences and life-chances.

Performance Review also entails forms of benchmarking for which baseline data are required: and the relevant baselines have not been established. No matter what form the monitoring of implementation may take, it is clear that Scotland needs to collect, aggregate and interpret data pertaining to the use of BSL to much better effect. Quite properly, the economics of this Bill have been a prominent issue at all phases of consultation. Yet there is no measure of the potential value of the Bill’s enactment to the Scottish economy, or any attempt to attach a value to the benefits to individuals, organisations and society that could accrue as a result of using BSL. Salient benefits to society are conceivable – but as yet unquantified – as a result of the proposed legislation.

As regards national and local spending to support the roll-out of the Bill, it can be noted that BSL users have no more unrealistic expectations about budgetary limitations than any other social group. The cornerstone of a positive outcome to review processes will surely be evidence of a sincere spirit of progressive, co-productive endeavour.

If a 'holding to account' is genuinely required, the community will no doubt trust the Minister and relevant parliamentary authorities to take appropriate action.

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 appears from the Scottish Government’s Memorandum responding to the published Bill that Authority Plans may, in practice, be expected to take the more limited form of a ‘statement’. The nature of this ‘statement’ may be construed as an adaptation of the National Plan to the particular role and responsibilities of the specific authority. This process of ‘focusing’ must be undertaken in co-operation with the appropriate constituency of BSL users and representatives. There is no substitute, in this context, for the first-hand life experiences of Deaf community members and it will be incumbent upon authorities to be publicly accountable for the manner in which they handle this process of engagement.

The most direct mode of interaction will always occur where authorities embed appropriately trained and supported Deaf BSL users in their own workforce to lead on such dialogue. Such appointments could, in themselves, be part of an effective, no-nonsense actualisation of promoting the use of BSL within the authority’s activities. Where intermediary action (e.g. the commissioning of English-to-BSL translations) is required because an authority is unable to present itself directly in BSL, it will always be imperative that such action is a. timely, b. culturally sensitive, c. linguistically competent, and d. carefully considered as regards the exploitation of diverse and appropriate channels of communication. Feedback from the community will enable the effectiveness of approaches to dialogue to be evaluated and continuously improved across successive review cycles.

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 Scottish Government’s Memorandum proposes a timetable which is designed to reflect lessons learned in the implementation of the Gaelic Language (Scotland) Act 2005. The logic of the proposed revision to the timetable originally documented by Mark Griffin MSP appears to be reasonable.

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?

It is to be expected that HWU will consult with its BSL section (including staff, students and external stakeholders where appropriate) in satisfying its responsibilities as regards this matter. Nothing less than enthusiastic participation can be anticipated.
Students on HWU's BSL/English interpreting and translation degree programmes constitute a group with a specific, high-level engagement with the issues addressed in the Bill. On the one hand, they exemplify the experience of hearing (typically non-native) signers learning BSL with the aim of working in the community after graduation. Insofar as the country will need many more new signers to meet long-term requirements, their experiences should inform recruitment and practice. On the other hand, they are expected to play a pivotal role in the workforce as successive National Plans are rolled out. Their participation as respondents to consultation initiatives will therefore be pertinent, since they will be expected to deliver the interpreting and translation services devised through planning processes.

Over time, improved access to education for Deaf people, along with the promotion of BSL to families and the wider society, can be expected to lead to increased demand for Higher Education opportunities for Deaf students. Whilst Scotland's universities do offer services for disabled students, and some BSL users avail themselves of these services, there is no Scottish university that has yet established itself as a consistent 'magnet' attractor of Deaf students. Given its concentration of academic staff and student knowledge of BSL, along with its programmes of study, it is foreseeable that HWU may become such a centre in future (as, for example, the University of Bristol has been in the past, for the same reasons). Our research on the use of sign language in higher education (eg Napier 2001, 2002; Trowler & Turner 2002, Napier & Barker 2004; Quinn & Turner 2014) may help to inform the development of good practice.

Consultation on all issues with the BSL community should also take cognisance of the "history of solutions" (Padden & Humphries 1988) already identified through research and dialogue. To support this information process, there may be a role for a BSL-focused knowledge hub which can reliably produce and signpost robust background documentation, surveys, fieldwork and other resources. HWU's position as a recognised centre of excellence in this field (eg http://scotlandfutureforum.org/assets/library/files/application/BSL_Report.pdf) may generate a role as an insight beacon to support research-informed planning.

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?

In light of the evidence submitted to Parliament, further consideration to inclusion of the following would appear appropriate:

To secure fair and appropriate social care for BSL users in Scotland
Care Inspectorate
Scottish Children's Reporter Administration

To secure fair and appropriate treatment under the law for BSL users in Scotland
Police Investigations and Review Commissioner
Scottish Criminal Cases Review Commission
Scottish Legal Complaints Commission
HM Inspector of Constabulary in Scotland

To facilitate equitable opportunities for BSL users in the enterprise and business activities of Scotland
Highlands and Islands Enterprise
Scottish Enterprise

To enable BSL users to engage equally in educational opportunities in Scotland
Skills Development Scotland

To promote access to citizenship for BSL users in Scotland
Commissioner for Ethical Standards in Public Life
Scottish Human Rights Commission
Scottish Information Commissioner
Standards Commission for Scotland

To value BSL users in Scotland's heritage and cultural life
Architecture and Design Scotland
Cairngorms National Park Authority
Creative Scotland
Loch Lomond and The Trossachs National Park Authority
National Galleries of Scotland
National Library of Scotland
National Museums of Scotland
Royal Botanic Garden Edinburgh
Royal Commission on the Ancient and Historical Monuments of Scotland
Scottish Futures Trust
Scottish Environment Protection Agency
Scottish Natural Heritage
sportscotland
VisitScotland
SEPA
Scottish Canals
Scottish Water
Historic Scotland
Transport Scotland

For academic sources, please see:
https://pureapps2.hw.ac.uk/portal/en/persons/graham-h-turner(689b53b0-7385-4e0f-af2b-872fa55ebeb0)/publications.html

and:
https://pureapps2.hw.ac.uk/portal/en/persons/jemina-napier(3aadebae-a415-4063-98f8-f18d8cfdca99)/publications.html

Other source details available on request.