



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EDUCATION AND CULTURE COMMITTEE

Tuesday 16 December 2014

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EDUCATION AND CULTURE COMMITTEE

29th Meeting 2014, Session 4

CONVENER

*Stewart Maxwell (West Scotland) (SNP)

DEPUTY CONVENER

*Neil Bibby (West Scotland) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Jayne Baxter (Mid Scotland and Fife) (Lab)

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Chic Brodie (South Scotland) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Mary Scanlon (Highlands and Islands) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mark Griffin (Central Scotland) (Lab)

Joanna Hardy (Scottish Parliament)

CLERK TO THE COMMITTEE

Terry Shevlin

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Education and Culture Committee

Tuesday 16 December 2014

[The Convener opened the meeting at 10:03]

Interests

The Convener (Stewart Maxwell): Good morning. I welcome everybody to the 29th meeting in 2014 of the Education and Culture Committee. I remind everyone present that electronic devices should be switched off at all times, as they interfere with the broadcasting system.

Today, we will have our first evidence session on the British Sign Language (Scotland) Bill, so our meeting will be interpreted in British Sign Language. I welcome Shaurna Dickson and Paul Belmonte, who are our BSL interpreters—I hope that you have a pleasant time at the committee.

Our first item is to welcome to the committee Chic Brodie, who is our new member in place of Clare Adamson. I am sure that all members will join me in paying tribute to Clare, who was a member of the committee from the start of session 4 and was very assiduous. I wish her well on the new committees that she is moving to.

I invite Chic Brodie to declare any relevant registrable interests.

Chic Brodie (South Scotland) (SNP): I have no relevant registrable interests.

The Convener: Thank you very much.

British Sign Language (Scotland) Bill: Stage 1

10:04

The Convener: Our next item is our first evidence session on the British Sign Language (Scotland) Bill. I welcome Mark Griffin, who is the member in charge of the bill, and his supporting officials from the Scottish Parliament. Joanna Hardy is from the non-Government bills unit and Neil Ross is principal legal officer.

We intend to focus on the policy intentions of the bill. Our call for evidence is still open. We are having this session to help those who are considering making a response by allowing them to hear Mark Griffin's evidence to us in advance of making a submission. Mark Griffin will, of course, come back to give us extra evidence at the end of the process. He will then respond to all the other relevant evidence that has come in during the process.

I welcome Mark Griffin to the committee. We will go straight to questions. Mary Scanlon will start us off.

Mary Scanlon (Highlands and Islands) (Con): Since the Parliament was set up in 1999, there has been no shortage of British Sign Language initiatives—I will not read them out to you, but our committee paper mentions that there were seven separate initiatives between 2000 and 2011. Given that fairly long policy history on promoting BSL, why is a statutory response required? In what specific ways will the bill succeed where previous efforts have not failed but perhaps have not gone far enough?

Mark Griffin (Central Scotland) (Lab): There have been initiatives and it is clear that good work is on-going. For example, Dingwall academy is doing excellent work, staff at HMP Perth are being trained in BSL, and museums and galleries are translating massive amounts of information into BSL. It is clear that there are pockets of excellent practice throughout the country, but that does not mean that that is happening everywhere.

The bill would place an obligation on the Government to promote the use of BSL and put it on an equal footing with Gaelic, so that people who use BSL—who, in fact, do not have the opportunity to learn any other language—feel just as important as any other language group.

The bill would also end the postcode service provision. I know that there have been studies and reports even into single areas. For example, Action on Hearing Loss carried out a study on social work services for deaf and hard-of-hearing

users and found that performance across the 32 local authorities was variable.

The bill would enable the Government to co-ordinate public authorities' actions, give them a strategic policy lead through a national plan, and say clearly that we value British Sign Language—which the Government did when Shona Robison was the Minister for Public Health—by putting the approach on a statutory footing.

Mary Scanlon: I am pleased that you mentioned Dingwall academy. I have visited that wonderful centre of excellence, and it is very proud of its BSL teaching. Given the size of the Highlands—the most sparsely populated area of Scotland—would the bill allow children and their families to have a higher level of access to BSL in that area, let alone all Scotland?

Mark Griffin: The bill would be the starting point to the Government promoting the use of BSL. I spoke to Dingwall academy pupils when they visited the Parliament. It is fair to say that they loved learning BSL and they were disappointed that, after their first and second years, they were not able to take that further because of pressure on their studies and other subjects. The bill would give to the Government the platform to take forward the excellent curriculum developed by Dingwall academy and replicate it across Scotland.

Mary Scanlon: My second question relates to the Government memorandum on the bill. I will read out one sentence from it:

"The intention is that, by placing this obligation on the Scottish Government ... the profile of the language will be heightened and its use in the delivery of services increased."

Basically, you are asking for BSL plans to be prepared and published by ministers and local authorities. Does that go far enough? The publication of a plan is not a guarantee that more people will learn BSL. It is just publishing an intention.

Also, are there any specific improvements or outcomes that you would like to see as a result of the bill? The committee visited Falkirk Council, which is another centre of excellence. If it publishes a plan and adds to the excellent work that it is doing, that will be wonderful, but if we consider another local authority where the base is low, the progress that results from publication of a plan might be minimal. What are your expectations for improvements and outcomes as a result of the bill?

Mark Griffin: What will literally happen as a result of the bill is that public authorities will publish their plans, and the crucial point for me will be the performance reviews. I have set the timescale for them as three to four years down the

line after the plans have been published, but I am open to variation of that. The minister will then report to the Parliament on the performance reviews.

That will give BSL users in their communities, for the first time, the opportunity to ask why their local authority—I give my local authority, North Lanarkshire Council, as an example—is not taking forward the excellent work that is happening elsewhere, such as in Dingwall academy. It will give our constituents the opportunity to come to us to challenge the minister—I hope that we will have a minister for British Sign Language—on why such authorities are not performing as well as their neighbouring authorities.

That will be the literal outcome of the bill but, more broadly, what I hope to see as a result of it is increased awareness of BSL. I hope that public authorities, with their increased consciousness of BSL, will move to ensure that their front-line staff are more appropriately trained in it, that there are more opportunities for people to learn it and that the language continues to grow and flourish. That is my ultimate aim.

Mary Scanlon: We have seen performance reviews over the years and we have also had historic concordats and single outcome agreements with local authorities. The bill offers what I would term a stepping stone to improvement, but it seems to stop short of setting clear rights for BSL users or even duties on public authorities. It is saying, "We want you to do a little bit better than you are doing just now." It seems to fall short of putting in law a right for BSL users and their families to have access to that excellence. I wonder whether there is enough incentive for public authorities to improve their services.

Mark Griffin: You are right to say that the bill is a stepping stone. I am not saying that, with the bill, I am waving a magic wand and that, all of a sudden, anyone who uses BSL will suddenly be able to turn up at a local authority one-stop shop and get access to services immediately. I have set out what I expect local authorities to include in their plans, and that is listed—

Mary Scanlon: But there is no duty on local authorities, so they could ignore that if they wanted to.

Mark Griffin: I set out in the bill what authorities would need to do in preparing their plans. There is a list of things that they would have to do, which relate to consultation on BSL, staff awareness of BSL and how they provide access to services in BSL.

The stepping stone starts with the Government, as the bill gives it a platform to set out its policy priorities. At the end of the day, it will be up to the Government to choose what resources to put into

its policy priorities. If its ultimate priority is classes for families of BSL users, the bill gives it the opportunity to set that priority in its national direction and to put resources behind it.

I was not specific about any particular area—such as the example of classes for families of BSL users, which you gave—because I was aware that a large sum of money would be involved. I wanted to leave it open to the Government of the day to set its policy priorities and decide on the resources that it could match to that.

10:15

The Convener: I should have said before we started the questions that members should speak clearly and not too quickly, should keep questions short and concise, and should allow a short pause after the last speaker has finished, so that the interpreters can do their job.

Chic Brodie: Good morning. The bill intends to promote use of BSL. I think that it is recognised that the approach taken in the bill will not by itself close any service gaps. Ms Scanlon mentioned improvements and outcomes. Why does the bill not attempt to close current service gaps so that there is a level playing field for all those who would benefit from others using BSL?

Mark Griffin: The bill sets a platform to start to close that gap by making people throughout Scotland aware of the services that public authorities are providing in relation to BSL. It will allow people to challenge Government and authorities on what they are doing. If we were to talk about closing gaps in access to services, there is a danger that we would stray into equalities issues. For me, this is a cultural issue. It is about people's access to services in their own language and giving people a platform to challenge public authorities on their provision of services in that language.

Chic Brodie: I meant to say at the beginning that I congratulate you on pursuing the bill.

Returning to the issue of the level playing field and encouraging local authorities, Ms Scanlon asked you about specific improvements and outcomes. Should the public authorities that you seek to encourage to use BSL provide measurable outcomes?

Mark Griffin: It may be that there are measurable outcomes. In setting out its national plan, the Government will give guidance to public authorities on what should be in their plans. The Government will then carry out a performance review on whether public authorities have met the objectives that the Government set out at the start of the parliamentary session. There will be an opportunity for the Government to say whether

public authorities have met the standard that the Government has set out in its guidance.

The Convener: If a public authority, for whatever reason, does not carry out the statutory duty of delivering a plan, what is the penalty?

Mark Griffin: There is no penalty. When we consulted on the issue and drafted the legislation, we had a close eye to the Gaelic Language (Scotland) Act 2005. The sanctions in that act amount to Bòrd na Gàidhlig writing a letter to an authority to ask it to comply. The language in the bill is about promoting BSL and encouraging access to BSL. A lot of authorities are already implementing positive measures.

There would not be any formal sanction as such, but there would be the performance review and a Government minister would report to Parliament and MSPs that X, Y and Z public authorities were, say, doing fantastic work in providing services in BSL while other authorities had not even produced a plan or had produced a plan but had made no effort to achieve its outcomes. In doing so, the minister would make it clear that that was not acceptable and that those authorities would be expected to step up to the mark and start delivering services in BSL.

Moreover, we around this table and indeed other members will be approached by their constituents who are being impacted by the choice of authorities not to develop plans or services and will want to challenge, through their MSPs, that situation.

The Convener: Are you not concerned that, in the current rather straitened circumstances in which public authorities find themselves, this might become in effect a tick-box exercise?

Mark Griffin: It will all depend on the strength of the Government, the minister in question, the Government's national plan, its guidance and the resources that the Government chooses to put in. It is clear from the Government's memorandum, which has been provided to the committee, that it has a strong understanding of and commitment to BSL; in fact, it is going over and above what I am proposing in the bill. The Government has made a clear commitment in its policy direction and the resources that it will provide to ensure that the bill is a success, and I am grateful for that.

The Convener: Thank you.

Neil Bibby (West Scotland) (Lab): Like Chic Brodie, I welcome the fact that you are pursuing this important issue in this bill. The current legislation, the Equality Act 2010, has been in place for a couple of years now. Why are the protections that it offers not seen as sufficient to promote and facilitate the promotion of BSL?

Mark Griffin: This comes back to the point that I made earlier that I do not see the provision of services in BSL as a disability issue. For me, it is a cultural issue. Indeed, I am grateful to be here in front of the Education and Culture Committee to talk about a British Sign Language bill.

This is a language issue; it is about the fact that Scotland's BSL users have their own language and a culture associated with that language. That is how we should deal with the issue. As a result of the 2010 act, improvements have been made in access to services for deaf people, but people who speak Urdu, Polish or any other minority language do not have to self-define as being disabled in order to use the provisions of the 2010 act and access services. For me, the issue is firmly about the language and culture of BSL.

Neil Bibby: Are you aware of proposals to change the Equality Act 2010 to address BSL?

Mark Griffin: I am not aware of any, but if the member knows something that I do not, he can send it on to me.

The Convener: You estimate in your financial memorandum that the cost in staff time will be between £20,000 and £30,000 per authority. How have you reached that estimate for

"the production and publication of National Plans, Authority Plans and Performance Reviews"?

Mark Griffin: I will bring Joanna Hardy in to address the development of the financial memorandum and questions around it.

Joanna Hardy (Scottish Parliament): It is always difficult to put a price on this kind of thing, but we took a few soundings on people's experiences with implementing the Gaelic Language (Scotland) Act 2005. We also attempted to quantify the work involved and the grade at which that work would take place. That is reflected in the broad range of the cost estimates. The estimate is based on an individual of a middle-management grade spending approximately half their time at the point of producing the plan, and we factored in a bit of time for reviewing and reporting back to the Government.

We also spoke to the Convention of Scottish Local Authorities and got input on its experience with the Gaelic act. Obviously, local authorities are not all the same size, nor are they the same size as all the public bodies that are listed in schedule 2 to the bill. There was a lot of guesswork involved that was based on all the factors that we were able to determine.

The Convener: There are two reasons why I ask. First, paragraph 20 of the Government's memorandum, which you will have seen, says—and I echo this question—that

"It is difficult to assess whether these costs are realistic as the Bill does not specify what BSL plans should cover, or what process will be involved in developing them."

Given that that is correct and that the bill does not specify what the plans should be, I am struggling to understand how you would work your way back to what the costs would be of producing such a plan.

Secondly, paragraph 21 of the Government's memorandum states that COSLA, which you mentioned, believes that the upper estimate should be £40,000 per authority, not £30,000.

Joanna Hardy: The first question was on working our way back from the tone of the bill, which is to be silent on the detail of what the authority plans would include. Mark Griffin has already touched on the reason for that, which is that it is a matter for the Government of the day to set the tone with an eye on resource, and authority plans should flow from that. That is why the bill is silent on that. It makes it difficult to estimate costs, but financial memoranda are important, so we did the best job that we could. That is fairly typical for this type of bill.

On the second point, you are right that COSLA came to us with a figure of about £40,000. We took the decision to rein that back slightly based on experiences with the Gaelic act. There are differences between how that act was implemented and how this bill is likely to be implemented. Again, in an attempt to come up with the best possible estimate, we felt that a more conservative figure would be more realistic.

The Convener: I will not take you through all the pages and paragraphs that are in the Government's submission but, near the end of the financial section, in table 5 on page 9, it says that, using the upper estimates, the total cost for the period 2016 to 2020 will be in excess of £6 million.

First, how realistic do you believe that those figures are? Secondly, given that local authorities and other public services are under financial strain at the moment and are having to make difficult decisions, is putting an additional statutory burden on them of some £6 million reasonable at this time?

Mark Griffin: It is a big top-line figure. It is worth pointing out that it would be shared across more than 100 public bodies and that the Government already has plans to invest more than £2 million, which would bring the burden on public bodies down to just over £4 million at the outset.

It basically comes down to the Government's or the member's priorities. If you feel, as I do, that it is right and proper that British Sign Language, which is the language of a significant proportion of people in Scotland and is the only method of communication that they can use, in that they

have no opportunity to learn spoken English, should be given priority, we have to put in the resources to match that. I am happy to see the Government supporting it with those resources.

10:30

The Convener: You are quite right: in politics, everything is a matter of priority. The money must come from somewhere. Have you had any thoughts about the possible unintended consequences of having a statutory obligation for local authorities to produce a BSL plan, to review it and to do all the work required?

Let me give you a scenario. Authority X spends £50,000 in this area at the moment, supporting local deaf people and ensuring that services are available, at least to some extent, to support people who are deaf in the area. Is there a danger that, if there is now to be a statutory obligation to produce a plan, the authority will use some of the money that it currently uses for supporting deaf people in its area to produce that plan, given that it will not necessarily have money available from other parts of its budget?

Mark Griffin: The authority will obviously need to find the resources from somewhere. I would be very disappointed if it withdrew services to produce a plan. That would entirely go against the ethos of the bill. The authority's plan should set out what service it is currently providing and how it plans to go beyond that. It would be very disappointing if authorities pulled funding.

The Convener: It would indeed be very disappointing. Is there not a danger that, if a BSL plan is made statutory, any money that is spent on areas such as sign-supported English or the use of modern communication technology, which the bill does not discuss, would be transferred by the local authority into supporting the BSL plan?

Mark Griffin: The bill is not exclusive. It does not rule out the use of particular technology, including video relay technology, with BSL. In fact, I would encourage local authorities and other public authorities to use the technology that is available to save money. There is no doubt that producing a plan will have a financial impact on local authorities. It will be up to them to manage their budgets.

I am open to considering ways for local authorities to consult more efficiently. It is clear from its memorandum that the Government has considered the matter in depth, looking in particular at whether it could change the authority plans to a statement of intent, whether there could be a national co-ordinated consultation or whether authorities could get together on a community planning partnership basis to produce plans or statements.

I am open to the Government's suggestions on ways to alleviate some of the costs, so that the scenario that you paint does not arise.

The Convener: We will come on to those suggestions in a moment or two, but I wish to bring in Chic Brodie first.

Chic Brodie: I understand the difficulties in coming up with financial figures. Have you been informed by what has happened internationally? What evidence have you taken? I know that there are currency and inflation issues and organisational issues. Has there been any contact with other countries about what they have done to implement such plans, at least to inform you about the financial circumstances that you face?

Mark Griffin: We have not done any international comparisons on inputs. There are international comparisons on what services are provided. At the time of the consultation, we had 80 registered British Sign Language interpreters for the whole population of BSL users in Scotland. In Finland, a country with a similar population, there are 750 interpreters.

Chic Brodie: Have you gone to those Governments and asked about the cost of setting that up?

Mark Griffin: No, we have not done any international comparisons on cost; we have done so just on outputs and service provision.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I want to move on to the subject of consulting on BSL plans. The bill requires the Scottish ministers and listed authorities to consult on their draft plans. Given the constraints on time and on the financial resources available to many public authorities, how can the Scottish Government and other public authorities ensure that they fulfil their obligation to consult effectively?

Mark Griffin: It goes back to the resource question again. For Government and public bodies to consult effectively from the outset, they have to consult BSL users, and there is no doubt that there would be a cost to that. That does not mean that I expect a public body to consult every BSL user in its area, as long as there is some input from BSL users in the area. As I said, I am open to the Government's suggestions on collective consultations, whether that is done at national level or by taking a grouped approach at a more local level, such as at the level of a health board area that includes more than one local authority, or at a community planning partnership level, bringing in police, fire, health boards and local authorities.

Gordon MacDonald: You have said that we could streamline the number of public bodies

involved, either through partnership or based on a geographical area, but you still have the problem that you mentioned a minute ago, that only 80 people are registered BSL interpreters. How do you conduct an effective consultation that does not create the difficulty of a few organisations and individuals being swamped by requirements to review a whole list of draft plans? Those people also have normal duties to undertake in addition to what you are proposing.

Mark Griffin: It is a chicken-and-egg question. We have only 80 interpreters, but if we do not do anything about it, we will only ever have 80 interpreters and we will only ever have that level of capacity to consult and to provide adequate services. The bill is the first point in saying that we will be clear about promoting the use of BSL, about the culture that surrounds BSL, and about encouraging more people to be aware of it and to take up learning the language. Learning BSL is a long process, but if we do not take action now, we will still be in a position 10 years down the line of having only 80 interpreters, and there will still be resource issues for consultations. However, the Government has suggested that there should be a national advisory body on BSL with a significant number of BSL users, and it could be used to conduct meaningful consultation.

Gordon MacDonald: Given your suggestion that we need to grow the number of interpreters, do you have an idea of how many we would need and what the financial implications would be?

Mark Griffin: The international comparison that I gave earlier is Finland, which has a similar population size to Scotland but has 750 interpreters, as opposed to the 80 that we have here.

Gordon MacDonald: Do we have the training infrastructure to grow to that number?

Mark Griffin: Higher education institution bodies here in Edinburgh, such as Heriot-Watt University, provide those kinds of learning opportunities, but the funding for the places is not as widespread as we would like it to be. Moreover, the pupils at Dingwall academy told me that they enjoyed learning BSL, which they are taught in first and second year. However, when they move into third and fourth year and have to study for formal qualifications to get them into university and college or into work, they find that there is no formal qualification for BSL for which they can get Universities and Colleges Admissions Service points and so it gets dropped. As a result, there is a block on that number growing.

Gordon MacDonald: The duty to consult in the bill takes in a large group of people, including those who are deaf, are deafblind or have a hearing impairment. How would you go about

consulting with individuals? Do you think that the different groups should be prioritised and, if so, why?

Mark Griffin: I do not think that there should be any prioritisation of the different groups. After all, those who communicate in BSL cover the whole spectrum of what you might call a deaf person's deafness from deafblind to hard of hearing, and those who should be prioritised are those who use BSL as their main language.

As far as consultation and engagement are concerned, the committee's own work, consultation and engagement in seeking evidence stand as an exemplar. There are close to 1,000 people on the Facebook page; every day they are uploading videos of their own submissions in BSL, and that has certainly been a very effective method of consultation and is a pretty good model that local authorities can look at. Of course, there will be a cost associated with translating consultation responses that are made in BSL.

Gordon MacDonald: Finally, given their specific communication needs, have you given any consideration to how people who are deafblind should be consulted?

Mark Griffin: People who are deafblind use BSL, but it is a really resource-intensive process requiring, for example, individual guide communicators. An organisation that focuses purely on deafness might need only one interpreter for a consultation event, whereas with a consultation event held by, say, Deafblind Scotland, every single person who is deafblind and who uses BSL will need their own guide communicator. Those people would have to use their own guide communicator to respond to the consultation.

Gordon MacDonald: Thank you very much.

Jayne Baxter (Mid Scotland and Fife) (Lab): The bill states that the Scottish ministers should set out a strategy for the promotion and facilitation of the promotion of BSL in the national plan, and the policy memorandum states that the national plan

"will set out a framework for action on BSL."

Can you provide more detail on what you expect the national plans to include? To what extent do you expect any subsequent national plans to take account of previous plans and performance reviews?

Mark Griffin: It is exactly as you have said: the national plan has to set out a strategy for the promotion and facilitation of BSL, and the bill provides an opportunity for the Government to set out its policy priorities for the BSL community.

A range of issues affect the BSL community; I know, for example, that the committee is taking forward an inquiry on the educational attainment of deaf pupils, which is a massive issue. There is also the fact that 90 per cent of deaf children are born to hearing parents, and there is no funding in place for parents, grandparents and siblings to learn BSL in order to communicate with those children.

I would like the national plan and the guidance to cover areas such as BSL classes, front-line service provision, staff awareness of BSL and deaf pupils' attainment. As I said, all that I am setting out is the overarching strategy that the Government should promote. It should facilitate the use of BSL and then take forward its own policy priorities of the day.

I am sorry: what was your second question?

10:45

Jayne Baxter: Would you expect any subsequent national plans to take account of previous plans and performance reviews in a rolling programme?

Mark Griffin: Yes. There is a statutory requirement in the bill that authorities must have regard to their performance review when they are drafting their next round of plans.

Jayne Baxter: Can you give the committee an indication of the types of actions that you would like to be included in authority plans that would directly benefit BSL users?

Mark Griffin: I have been more explicit in the bill about authority plans and what I expect in terms of how authorities will provide services in line with how BSL users must access the services, and about consultations on services—whether that is on a local authority's consultation on the local development plan in relation to BSL, or on how the national health service will facilitate BSL users accessing doctors' appointments or turning up at accident and emergency departments. I have been more specific in the bill on authority plans and what I expect them to provide.

Jayne Baxter: Authority plans will be used to assess progress against the national plan. Have you had any discussions with the Scottish Government about the level of detail that should be included?

Mark Griffin: I had an initial meeting with the minister to talk broadly about the bill's policy objectives and aims, but we have not got down to that level of detail on what I would like to be produced in guidance and the national plan. However, I expect that to happen as we scrutinise the bill.

Jayne Baxter: Finally, is it your intention that, following its consultation exercise, a listed authority should make its final authority plan publicly available?

Mark Griffin: Yes. Again, it is a statutory requirement in the bill that an authority must make its plans public.

Chic Brodie: According to the bill, the authority plan is

"to set out measures to be taken by the listed authority".

Earlier, I asked about measurable outcomes. I am confused. We are asking the authority plan to list measures that the authority has to take—that is, measurable outcomes—but you said that there are none, per se. However, you are asking that the authority plans encompass measures.

Mark Griffin: I am sorry if I seemed to contradict myself. I said that there will be no measurable policy outcomes resulting from the bill. There will be measurable outcomes in terms of a performance review. Essentially, a performance review will measure the outcomes and actions that a public authority has taken in regard to its authority plan. Those will be the measurable outcomes. However, there are no measurable policy outcomes.

Chic Brodie: Okay. That is clear. Thank you.

The Convener: I want to ask about consistency. The bill states that

"A listed authority, in preparing an Authority Plan ... is to try to achieve consistency between that plan and the most recently published National Plan".

Why is there a statutory requirement

"to try to achieve consistency between"

the national plan and the authority plan?

Mark Griffin: That goes back to the original intention of the bill to try to deliver a more even and equitable spread of services for BSL users. That would ensure that the good work of exemplar authorities is shared through the Government and then filtered down into an authority's plan. Therefore—quite rightly—a BSL user in your constituency would expect the same services in my constituency.

The bill says that listed authorities should "try to achieve consistency" because we want not only to have a consistent approach across Scotland, but to give local authorities some flexibility. For example, there may be particular local issues: to a large extent, public bodies that operate locally will know better the needs of their constituents than will national Government. The bill will give an element of flexibility to allow authorities to vary provision according to their local needs.

The Convener: That is why I asked the question. If we are trying to achieve consistency, is there not a danger that you will effectively limit the potential of individual authorities to pursue policies that are helpful locally or that meet specialist needs in the area? That may also be about the difference between rural and urban areas. Indeed, there may be a number of good reasons for inconsistencies in provision.

Does the requirement

“to try to achieve consistency”

effectively limit authorities’ potential to go out and pursue areas of flexibility if those are not in the national plan?

Mark Griffin: The national plan gives authorities a steer on what the Government will expect them to deliver. The bill says that they should “try to achieve consistency”. The word “try” gives them the flexibility to do things as they see fit, according to local demands and needs.

The Convener: I am trying to understand whether you want to achieve a minimum standard or consistency for BSL users. Those are not necessarily the same thing. Can you explore that further? Are you trying to provide the same service across the country, or can BSL users expect a minimum standard of service? Of course, local authorities and other public services could go beyond that and produce services that are particularly specialist or locally based.

Mark Griffin: I hope that a minimum standard develops, so that a BSL user would be able to access a local service in their language. I hope to see that happen as a minimum.

The Government will be able to set out its priorities through national objectives, too. I mentioned some of the measures in my response to Jayne Baxter. I still think that the bill allows local authorities the flexibility to pursue their own individual local needs.

The Convener: I am sorry if I am not understanding you. Are you saying that you are trying to pursue a minimum standard through the bill?

Mark Griffin: The bill’s overarching aim is to promote use and understanding of BSL. Therefore, in a way, it is hard to say that there should be a minimum standard.

I can come back to the committee with more—

The Convener: I am sorry to press the point, but in answers to me and to other members, you have been talking about consistency in service provision. In response to my questions you talked about the consistent service that BSL users could expect. If we are talking about service provision, it sounds like we are talking about the need for a

minimum standard. However, the bill is not really about that, which is why I am getting a little bit confused.

Mark Griffin: I will bring in Joanna.

Joanna Hardy: You are right, convener: it is very difficult to look at and understand the bill without linking it to service provision. However, there is nothing in the bill on service provision. The bill is about, as I think you identified, production of the plans.

There is no point in having a national plan if it is to simply stand on its own and be completely unconnected to local plans. Although listed authorities have the scope and flexibility to tailor their plans to the needs of the people whom they serve, it is important that the national plan sets the tone and influences those plans. The bill is creating a linkage that also allows for flexibility.

Service provision is a step well beyond the bill. I hope that that clarifies matters.

The Convener: I understand that service provision is beyond the scope of the bill, which is why I am a little confused about the explanation that has been given. As we explore the evidence, it may become clearer. It is particularly important that BSL users throughout the country understand the scope of the bill and what it intends to achieve.

Joanna Hardy: Service provision is very closely linked with the aspiration for what will result once the bill is enacted. It is difficult to look at either side in isolation.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I would like to explore the performance review a bit more. You have said that you expect that no policies will be developed as a result of the bill. If I was a BSL user, what benefits would I expect as a result of the bill? What outcome would I see?

Mark Griffin: I hope that this comes across clearly when the committee takes evidence, but the evidence that has already been gathered via the Facebook page is along the lines of, “You value my language and culture” and “You put British Sign Language on an equal footing with spoken English and Gaelic.” People have talked about the recognition and promotion of BSL throughout Scotland and the focus that it will rightly be given through the establishment of a Government ministerial post for BSL to promote BSL in all areas of Government policy.

Colin Beattie: The bill states that the performance review should draw on the national plan and authority plans to provide

“an account of measures taken and outcomes attained”.

What outcomes is it intended will be measured?

Mark Griffin: They would be the measures that the local authorities include in their plans. As I said to Chic Brodie, there are no measurable policy outcomes from the bill. There are aspirations and there will be policy directions that the Government of the day may choose to pursue. A public authority will state in its plans what it will do to provide services to BSL users and how it plans to improve on that. The performance review will take into account whether the public authority has met its objectives.

Colin Beattie: The bill says that the performance review should highlight “examples of best practice” and, where they exist, “examples ... of poor performance”. The 117 participants will put forward their plans and that will all be brought together into one performance review, which will be laid before Parliament and the Scottish ministers. Who will evaluate best practice? Who will evaluate poor performance? How will they be measured? What will poor performance be? What will best practice be?

Mark Griffin: The Government minister who will be responsible for BSL will take forward the performance review when reporting to Parliament on the outcomes. Best practice and standards will follow from the national plan, where the Government sets out its guidance and priorities for BSL. The performance review will set out how local authorities’ plans and actions match up to that Government ambition.

Colin Beattie: Would deviation from the national plan constitute poor performance?

Mark Griffin: Deviation would not, but failure to meet any specific policy intention that the Government had decided to pursue through the national plan would constitute poor performance. If the Government decided to take a course of action and funded that policy through the national plan but an authority failed to meet it, it would be right for the Government to report that to Parliament.

11:00

Colin Beattie: I talked about a performance review being prepared and laid before Parliament by the Scottish ministers. That performance review would draw together the performance of the Scottish Government and the 117 listed public authorities. Could one performance review covering such a wide range of institutions realistically capture the activity, progress and outcomes that were being achieved? Is that not too big an area?

Mark Griffin: I do not think so. We all undertake scrutiny of the Scottish Government’s budget every year and we manage to bring that £30 billion project together into a performance review. What we are discussing is nowhere near that scale. I do

not think that it is unrealistic to expect the Government to pull that together, and it has suggested its own method of doing that—a BSL advisory group that will pull together authorities’ performance reviews and brings them into one document. I do not think that that is beyond the wit of the Scottish Government.

Colin Beattie: What mechanism do you envisage the Scottish Government using to review the performance of the listed authorities?

Mark Griffin: The Government has set out an example of how that could work. The BSL advisory group could assist with the mechanism of collecting performance reviews and analysing them against authority plans. The Government has helpfully set that out for me.

Colin Beattie: There are to be no statutory sanctions for non-compliance with the legislation. The only possible sanction is naming and shaming. Is that a sufficient sanction for non-compliance?

Mark Griffin: As I said at the outset, the ethos of the bill is about promotion and encouraging the positive aspects of BSL and its culture, and a formal censure or sanctions regime would run counter to that approach. I do not think that any local authority or public body wants to be mentioned in the Parliament in an unflattering way. I think that the naming and shaming approach is enough to ensure that authorities carry out what they say they will do in their plans.

Colin Beattie: Do you have an example of where that approach has worked in the past?

Mark Griffin: We have the example of the Public Audit Committee. It does not have any formal powers over the public bodies whose spending and governance it looks into. It reports on the Auditor General for Scotland’s report, and if that is hard hitting and it rebukes a public body on its performance, the body will stand up and take notice of Parliament.

The Convener: You have mentioned a couple of times the guidance that the Scottish ministers would produce. Will you outline what you envisage that guidance would include?

Mark Griffin: I have said before that that is really a matter for the Government. It is up to the Government to determine its policy priorities for British Sign Language in Scotland and what it feels it can resource. However, the guidance could set out what the Government expects to be included in an authority plan as a minimum, or it could even include a template authority plan, which could go some way towards reducing the burden of costs of developing a plan. I know that the Government has indicated that it has a preference for an authority statement rather than

for a full and formal authority plan, and I am happy to discuss that with the minister.

The Convener: I think that that takes us back to the discussion that we had about service provision. I am trying to envisage what would be in guidance to those who prepare authority plans that would not be about service provision. If the guidance is not to be about service provision, what will it be about?

Mark Griffin: The guidance will be about the content and structure of the plan. It would be—

The Convener: I am sorry to interrupt, but what do you think that the content of the guidance would consist of?

Mark Griffin: That comes back to the Government's priorities. I do not have access to the Government's purse strings, so I could not make a commitment that the Government would include in its national plan a particular policy direction that it would feed down through guidance to public authorities. That would depend on the Government's political priorities and in which direction it chose to take promotion of BSL.

The Convener: I accept that you are not the Government and that it is up to the Government to decide what to put in its guidance, but you must have some view about what you would like to see in such guidance. I am struggling to understand what would be in the guidance beyond the Government saying to local authorities or other public bodies, "These are the minimum standards that we expect to be met and these are the kind of services that BSL service users should expect." Is that what you expect the guidance to be about? If not, what do you expect it to be about?

Mark Griffin: It is up to the Government whether to go down the route of setting minimum standards. As I said, I had an hour-long meeting with the minister to discuss the overall policy aims of the bill, but I have not had any detailed discussions about what it would be reasonable for the Government to include in the guidance in order to set the policy direction. The guidance will follow the bill on what local authority plans should include on how they exercise their functions in providing services to BSL users, how they include BSL users in consultations and what services they provide specifically to BSL users.

George Adam (Paisley) (SNP): Good morning, Mark.

I want to ask about the publication of the plans and, in particular, the cycle of publication. The publication cycle for the first plan differs from the publication cycle for future plans. Has any thought been given to streamlining the process by requiring plans to be published every four or five years?

Mark Griffin: The publication cycle changes in order to give the Government more time to develop its initial national plan. It was considered that, after the first plan had been developed, account would be taken of the performance reviews in the development of subsequent plans, which would therefore take less time than the development of the initial plan.

The cycle has been designed in that way purely to ensure that it is the Government that drafts the national plan that carries out the performance review, rather than a different Government with different political priorities. An arbitrary number of years was chosen, based on the parliamentary cycle, simply to make sure that the Government assessed its own performance instead of its performance being assessed by a new, incoming Government, which might have a different set of priorities.

I discussed that approach with the minister, and he mentioned the difficulties associated with the Gaelic Language (Scotland) Act 2005. The Government feels that the five-year provision in that act means that it is a bit tight for time, so I am open to the suggestion that the cycle be lengthened, as long as there is evidence that that will make the exercise more productive. That would mean moving away from the original policy intention, which would have involved each Government reviewing its own plans.

George Adam: Do you think that the Scottish Government and listed authorities should translate their plans and consultations into BSL?

Mark Griffin: Yes, I think that they should translate their plans into BSL. It is not something that is in the bill; that would have been an additional cost in the financial memorandum. I have produced the consultation, the analysis of responses and the bill itself in BSL, releasing the BSL version simultaneously at every stage, and the Government is to be congratulated on its commitment to amending the bill and to providing resource to ensure that the plans are also produced in BSL. I welcome that.

George Adam: Could you repeat the last part of your answer?

Mark Griffin: The Government has indicated in its memorandum that it would prefer the plans to be produced in BSL, and it has revised the financial implications and is content to see them produced in British Sign Language.

George Adam: If it is not in the bill itself, how can we ensure that authorities and the Scottish Government would actually put those things in BSL? If, as you say, the financial memorandum states that the finances are available for that, why is it not in the bill?

Mark Griffin: I did not include that in the bill purely because I was trying to keep the costs of the bill as low as possible. I am happy to accept the Government's amendment for the finances to be available, since it is the Government that will be footing the bill. The Government has been really helpful with its seven comments on strengthening the bill, one of which is to produce the national plans in British Sign Language, and I will be more than happy to accept that amendment.

The Convener: Could I push a little further on the comments? I know that you said that you would be open to discussion on the timescale for publication. The Government has suggested in paragraph 17 of its submission to the committee:

"Under the timetable set out in the Bill, there is just over a year between the publication of the first authority plans and the first performance review which would leave insufficient time to gather meaningful information on performance, and there is only three and a half years between the publication of the first and the second national plan (three years between publication of the first and the second authority plans)."

That seems a very tight timescale, but you have said that you are open to discussion.

The Government goes on to point out the five-year cycle for Gaelic language plans and refers to the fact that those who are producing the plans say that five years is too tight, so the Government suggests a cycle of seven years and has produced a table at the bottom of page 5 of its submission to show how that would work. What is your view on the proposal for a seven-year cycle laid out in the Government's paper to the committee?

Mark Griffin: As I said, I set out the five-year cycle purely so that the process could be linked to a parliamentary cycle. If there are practical difficulties because that cycle is too short—obviously, the Government has experience of the Gaelic Language (Scotland) Act 2005—I will be happy to accept a Government amendment to lengthen the cycle.

The Convener: Thank you for that helpful clarification.

Neil Bibby: I want to ask about provision for deafblind BSL users. The consultation document talks about the needs of deafblind BSL users, but I notice that they are not mentioned in the bill. Is it your intention that the needs of deafblind BSL users could or should be specifically mentioned in the plans and, if so, in what way?

Mark Griffin: Deafblind people are not mentioned in the text of the bill. The bill specifically talks about BSL users, which covers BSL users whether they are deaf, hearing or deafblind; it covers the whole spectrum. Although deafblindness is not specifically mentioned in the

bill, it is my intention that the term BSL user should cover deafblind users of BSL.

Deafblind people are specifically mentioned in the policy memorandum, and we would expect the consultation to take their needs into account. That said, we realise that the population of BSL users amounts to 12,000, and that the group of deafblind BSL users is smaller again and has a much greater resource implication with regard to the need for individual guide communicators.

11:15

The Convener: One area where the Government does not agree with the bill is the stipulation that there be a designated minister with lead responsibility for BSL. Why is it necessary for that matter to be covered in legislation?

Mark Griffin: It is in tune with the bill's overarching aim. I hope, again, that this will come out in the evidence that you will take from individual BSL users, but they are proud of their language and culture and they want a much greater focus on the issue by Government and a bill that puts BSL on an equal footing with Gaelic by putting in place a Government minister with responsibility for British Sign Language.

My policy intention is for BSL to be attached to a Government minister's portfolio, and I hope that the Government will do that anyway. As long as the Government makes it clear that there is an individual minister with responsibility for BSL in his or her portfolio, that will meet the aims and objectives of what I am trying to achieve.

The Convener: The Government has clearly stated that it is content for the responsibility to rest in a ministerial portfolio, but it is not content with its being legislated for in statute. Instead of putting such a stipulation in the bill, do you accept the Government's statement of intent that the responsibility will be given to a Government minister?

Mark Griffin: I accept that. Both methods achieve the same outcome. As long as the Government has a stated aim—and it has said as much—that a minister will have BSL added to his or her portfolio, I am happy.

The Convener: Thank you very much. As members have no more questions, I thank Mark Griffin, Joanna Hardy and Neil Ross for coming along, and I very much thank our interpreters for their work during this evidence-taking session.

Mark Griffin will give evidence to the committee again towards the end of the bill's progress, but I want to state at this stage that the committee very much welcomes views on the bill either in written English or in BSL. Further information is available in BSL on our website at

www.scottish.parliament.uk/bsl-bill, and the deadline for responses is 2 February 2015.

As Mark Griffin mentioned a couple of times, we have set up a Facebook page that now has more than 1,000 members, and I want to thank everyone in the deaf community who has taken an interest in the bill. We are receiving assistance to summarise the material that we have received on the Facebook page, and a summary document will be published after the deadline.

All of that information is available, and it is open to members of the public to submit evidence right up to 2 February. Obviously, we are particularly keen to hear directly from BSL users across Scotland. I just want to put that on the record to ensure that we get as much of a response as possible to Mark Griffin's bill, and I thank him again for coming along.

I suspend briefly to allow the witnesses to leave.

11:19

Meeting suspended.

11:21

On resuming—

Subordinate Legislation

Teachers' Pension Scheme (Scotland) (No 2) Regulations 2014 (SSI 2014/292)

Looked After Children (Scotland) Amendment Regulations 2014 (SSI 2014/310)

Children and Young People (Scotland) Act 2014 (Ancillary Provision) (No 2) Order 2014 (SSI 2014/315)

Education (Disapplication of section 53B) (Scotland) Regulations 2014 (SSI 2014/318)

The Convener: Our next item is to consider four negative Scottish statutory instruments. Do members have any comments to make on any of the instruments?

Mary Scanlon: I have a comment on the Teachers' Pension Scheme (Scotland) (No 2) Regulations 2014. We looked at the original regulations at the end of October. I note that the purpose of the regulations is

"to provide ... implementation of the Public Service Pensions Act 2013".

When will the

"Further instruments ... that will complete the statutory arrangements"

be prepared? What is the reason for the delay, and will it have any impact on the pension scheme itself? I am slightly surprised at the delay, for which we have not had any explanation.

The Convener: I am not aware that it will have any impact, but those are entirely reasonable questions. If I submitted a letter to the appropriate minister in the Government to ask those specific questions, would you be content with that?

Mary Scanlon: Yes, very content.

Chic Brodie: We in what was the Subordinate Legislation Committee—now the Delegated Powers and Law Reform Committee—have railed long and hard about the various errors that crop up in the production of subordinate legislation. That is really a matter for the DPLR Committee, but a fairly strong message was sent from the committee when I was on it to encourage those who draft legislation or amendments to legislation to do so accurately, so that those who are impacted, such as teachers with respect to their pension arrangements, do not have to go through

the hiccup of having to consider redrafted orders and so on.

The Convener: Given that there have been some comments, I will go through the instruments individually.

Does the committee agree to make no recommendation to the Parliament on the Teachers' Pension Scheme (Scotland) (No 2) Regulations 2014 (SSI 2014/292)?

Members indicated agreement.

Mary Scanlon: But we are seeking further information.

The Convener: Yes: we will be writing a letter.

Mary Scanlon: Thank you—that is perfect.

The Convener: However, we have no recommendation to make to the Parliament on the regulations.

Does the committee agree to make no recommendation to the Parliament on the Looked After Children (Scotland) Amendment Regulations 2014 (SSI 2014/310)?

Members indicated agreement.

The Convener: Does the committee agree to make no recommendation on the Children and Young People (Scotland) Act 2014 (Ancillary Provision) (No 2) Order 2014 (SSI 2014/315)?

Members indicated agreement.

The Convener: Lastly, does the committee agree to make no recommendation to the Parliament on the Education (Disapplication of section 53B) (Scotland) Regulations 2014 (SSI 2014/318)?

Members indicated agreement.

The Convener: We previously agreed to take the next item in private. I therefore close the meeting to the public.

11:25

Meeting continued in private until 12:25.

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