

The British Sign Language (Scotland) Bill

Stage 3 Briefing

I am delighted to support the British Sign Language Bill at Stage 3 and would like to take this opportunity to commend Mark Griffin MSP for taking forward this important piece of legislation. I also commend the co-productive approach taken by the Education and Culture Committee and in particular their direct engagement with British Sign Language (BSL) users and the Deaf community, including with children and young people, throughout the scrutiny of the Bill.

In written evidence and in my submission to the Stage 1 debate, I noted that BSL was recognised as an official language by the UK in 2003 and indeed by the Scottish Government in March 2011. Despite this, there has been limited progress in securing equal rights for Deaf people. This Bill is symbolically important as it sends out an important message to those who use BSL as their sole means of communication, that their language is valued and their rights to linguistic access recognised.

As Commissioner for Children and Young People, my main role is to promote and safeguard children's rights and to reinforce the commitment made to children and young people when the UK ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991 (thus agreeing to implement the UNCRC rights and to periodically report on progress). I highlighted two articles which are particularly pertinent to this Bill:

- Article 29(a) which notes that the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential as well as the development of respect for the child's parents, his or her own cultural identity, language and values'. This has

implications for teaching children in their indigenous language and ensuring that children who use BSL as their main (and often sole) language can receive access to quality education from someone proficient in this language. Many children are failing to have the right met as local authorities are not providing a curriculum accessible to them. Deaf children have the same capacity to learn as other children and should reach their full potential with the appropriate education. A failure to provide this is denying them a basic human right.

- Article 30 underlines the right to use one's language to participate fully in community life and stresses that...'*a child belonging to such a minority... shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.*

I also highlighted the UN Declaration on the Rights of Persons Belonging to National or Ethnic Religious and Linguistic Minorities, adopted by the UN General Assembly in 1992 which also underlines the existence of linguistic identity and the right for linguistic minorities to enjoy their own culture without discrimination and to have adequate opportunities to learn their mother tongue or have instruction in their mother tongue. This Bill goes some way to meeting this requirement.

Deaf BSL users currently rely on the Equality Act 2010 to secure access to information and services in their own language.

I know that some organisations felt that legislation was not an appropriate way to address this, as the public sector equality duties (general and specific) already require public bodies to have due regard to the need to eliminate discrimination and provide 'reasonable adjustments'. These arguments however fail to take account of the linguistic and cultural arguments presented by the Deaf community and begs the question as to why no other group of people have to declare themselves 'disabled' to access service provision or information when they should be able to do so through their rights to linguistic access.

Many of the responses received demonstrated a poor understanding of BSL and I feel sure that the passing of this Bill will help to raise and increase awareness of BSL across the wider hearing population, dispel long standing myths and preconceptions and lead to a better understanding and appreciation of this language. That in itself will be a substantial achievement.

There are a number of areas I would like to draw attention to:

- I am comfortable with a supportive improvement approach rather than a sanctions approach, but the move from a performance review system to a progress reporting mechanism is not a guarantee that the local authority will deliver, although it will provide BSL users the opportunity to raise questions if commitments are not being met, particularly if other authorities provide examples of best practice. My view is that this new system will require to ensure a high level of accountability if authorities fail to take action in relation to BSL. Increased awareness about BSL will ultimately lead to changed attitudes and a willingness to deliver on this. In this regard, training and Deaf awareness are essential.
- The amendments moved by the Minister at Stage 3 will alter the timescale involved around the National Plan and will allow two years following the passage of the Act before the first National Plan is produced. This is welcome and will allow for the National Advisory Group to be established and consultation with BSL users to take place. The views of children and young people who are BSL users must be part of that process.
- In earlier submissions, I called for a commitment to BSL classes for parents, given that the majority of Deaf children are born to hearing parents. I was therefore disappointed that Mary Scanlon MSP's amendment to include BSL family provision fell at Stage 2. However I am encouraged to see a recognition that such support is crucial and am reassured that this will feature in the first National Plan. Early Years provision is essential: appropriate information and evidence in the early years will allow parents to make informed choices -

supporting access to that choice, including BSL, is key as an effective mode of communication (and a positive choice) must be established as early as possible.

- I also raised concerns around the limited skills of teachers of specialist subjects relying on communication support workers to interpret subjects they have limited knowledge of and also called for minimum levels of qualification in BSL for education practitioners. Addressing the attainment gap is a key priority of the Scottish Government: providing Deaf children with improved educational provision will lead to improved educational attainment and more Deaf people attending further and higher education.
- Because of the limited number of interpreters, young Deaf people often rely on family members to help out in certain situations (e.g. doctor's surgeries and job centres). Although there is a requirement under the Equality Act 2010 to provide interpretation, with few interpreters available, this is not always seen as a 'reasonable' adjustment. Yet this has implications for a young person's rights to privacy and confidentiality. There is a clear need to increase the capacity of interpreters to meet the demands that the Bill will place on them. Better awareness of BSL may lead to more of the hearing population wishing to pursue a career as an interpreter or as a teacher of Deaf children, leading to more interpreters and improved information and better service provision. However, this will not happen overnight, so I look forward to seeing developments in this regard. One way towards this would be to ensure that BSL should also be an accredited school qualification, with the same status as other languages.

Concluding remarks

Under Section 6 (3) of the Commissioner for Children and Young People (Scotland) Bill there is a requirement to 'pay particular attention to groups of children and young people who do not have other adequate means by which they can make their views known'. My office is fully committed to the needs of BSL children and young people and I feel that the Bill will ultimately help to promote the rights of Deaf children who use BSL and also help to further the aims of my office. I am delighted to welcome its passage.

If you require any further information about the content of this briefing, please contact my Head of Policy, Máire McCormack: maire.mccormack@sccyp.org.uk or (0131) 346 5350.



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