



Response

to

The Consultation

on the proposed

British Sign Language Bill, Scotland

BDA Scotland
October 2012

Introduction

This document forms the official response by the British Deaf Association (BDA) Scotland to the Consultation on the proposed British Sign Language (BSL) Bill.

BDA Scotland has been a driving force behind the Bill because it has gathered evidence that many Deaf people consider current legal remedies to be inadequate. We therefore welcome unequivocally any steps towards improving the human rights of Deaf people who use BSL as their first or preferred language.

The following pages include the questions from the Consultation paper and our answers to these.

1) Do you support the general aim of the proposed BSL Bill? Please indicate "yes/no/undecided" and explain the reasons for your response.

Yes, BDA Scotland unconditionally supports the general aim of the proposed BSL Bill. This is because BDA Scotland believes that for too long Deaf people have been the forgotten minority in Scotland and in the UK. For example:

- Data from the UK Government shows that at Key Stage 2 in 2011, 55% of deaf children did not achieve the expected level for Key Stage English and Maths. 64% did not achieve the expected level for the 3 Rs at Key Stage 2. (Department for Education 2011 (England))
- The attainment gap between hearing children without special educational needs and deaf children was 43%. Studies of mental health incidences show that deaf children of hearing parents have a higher number of referrals (almost double) than Deaf children with Deaf parents (Hindley et al, 1994; Hindley, 2000)
- The Access to Communication in English Report (2006 UKCoD) stated there were "*literally hundreds of thousands of deaf people for whom the provision of language and communication access across services is a right which they were denied*". A further survey by RNID found that: 46% of people reported they were unable to interact with their public services "all the time" or "often" due to the lack of language and communication access services available.
- Recent research from a consortium of seven organisations including the BDA shows that Deaf people have problems when they go to hospital or the GP. Out of 305 Deaf people, 84% of respondents reported they did not have access to a sign language interpreter. 68% asked for one for an appointment with the GP, but did not get one. Even with one, 36% made a complaint because they could not understand the interpreter.

Current legislation has failed to address these issues. BDA Scotland therefore wholeheartedly supports the aims of the BSL Bill and would extend these to ensure that Deaf people using BSL should be at the heart of any proposed development. For too long, non-Deaf experts have made decisions about Deaf people and our language while not really appreciating the subtleties of our language and the dynamics of our Deaf community.

2) Do you believe legislation is required? If not, what other non-legislation means can be followed?

BDA Scotland believes that the non-legislation means have not worked. Deaf people are too small a minority and too dispersed to ensure that non-legislative means will take into account our needs. Our response is therefore an unequivocal stance for legislation. This is due to the following reasons:

- The Equality Act 2010 only covers Deaf people if they declare themselves to be disabled. To access services and information in one's own language should not be covered by the 'protected characteristic' of disability. BDA Scotland believes that this is an anomaly that requires legislation to clarify.
- BSL is a language and not an additional communication support need and requires clear and distinct legislative powers for its preservation and promotion to ensure the full equality of Deaf people in Scotland.

3) What, if any, might be the main benefits of the proposed Bill? Do you see any challenges? Please list these.

It supports the aims of the Scottish Government for:

- A Wealthier and Fairer Scotland
- A Smarter Scotland
- A Healthier Scotland

We live in a market economy. To deprive any community the opportunity to join in that economy is a denial of basic rights. The main benefits of the proposed Bill are that it recognises the right of Deaf people to have comprehensive access to goods, education, information and other services. This enables Deaf people to fully participate in the Scottish economy. This contributes to a wealthier and fairer Scotland.

Improving access through the provision of BSL/English interpreters ensures that Deaf people are better informed and more able to make decisions on their merits. Improving access to BSL for families and their deaf children contributes towards improved learning opportunities for deaf children thus ensuring a smarter Scotland.

Improving access to health services and information supports the aim of a healthier Scotland by ensuring the following:

- Better informed Deaf people about their own health
- Better choices made by Deaf people about their health
- Improved mental health well-being amongst Deaf people
- Reduced poor health rates amongst Deaf people leading to less pressure on services.

There will be challenges. Some will emanate from organisations and local authorities who feel that the Deaf community is too small to provide specialist "communication support". BDA Scotland's view is that there will be opportunities for cross-boundary initiatives by enlightened organisations and authorities.

There will also be challenges on the grounds of expense. BDA Scotland has two responses to this: For many years Deaf people have paid their national and local taxes in full but have only received part or no service in return compared to the rest of the community. Secondly training of Deaf people to become teachers of BSL and training of hearing people to become BSL/English interpreters will become additions to the economy rather than a drain on resources.

There will also be a challenge by "experts" who insist that Deaf people should make more effort to integrate within the wider community using speech and listening. BDA Scotland's response is that improved linguistic skills in a minority language lead to improved skills in a majority language. BDA Scotland believes that Deaf people should be bilingual in BSL and written English, and see this Bill as a great opportunity to open up the mainstream community to Deaf people and in doing so, improve their writing and reading skills in English.

Some will be from the Deaf community itself due to a long established belief and ingrained dependency that Deaf people should not expect equal treatment, much less demand it. The challenge will come in the form of lack of action or an unwillingness to insist that the spirit of the legislation is adhered to.

4) Do you agree with the case for taking specific action to promote BSL (as opposed to other minority languages)?

Yes. Deaf people miss out on hearing many things – the TV, the radio, everyday conversation, and information and casual conversation in the workplace. The latter is often key to building good relationships within the workplace and ensuring job satisfaction. Sustained employment is essential for the Scottish economy.

Many Deaf people have also missed out on a fulfilling family life because of the lack of communication between themselves and their hearing relatives. Other minority languages do not suffer the same information shortfalls or communication barriers as Deaf people using BSL.

5) To what extent might this proposed Bill improve awareness of the case for access to free BSL classes for deaf children and their families? What other non-legislative measures might be required?

BDA Scotland believes that the proposed Bill will vastly improve awareness of the case for access to free BSL classes for deaf children and their families. It has been a tragedy that so many Deaf people have not had satisfying or fulfilling family lives. BDA Scotland has too many anecdotal stories such as these:

- *"I missed the opportunity to have a real family life as I was away from home in a residential school with only a limited time at home."*
- *"I'm the only Deaf person in the family and it was difficult to share anything so I fell out with the family and lost touch as I grew up. It is very hard."*
- *"I always use my brother or sister to act as my voice when I'm with the family – often people will just put thumbs up to me and don't bother trying."*

About 95% of deaf children are born into hearing families who often do not have access to BSL and are often either unaware or have a limited experience of Deaf people and Deaf culture. They do not have a balanced vision of how their child may grow up.

There will be need for training of Deaf people to work with families. The training will need to include child development stages, parental rights, child language learning and selection criteria will need to be rigorous.

6) Should there be a designated Minister to take the lead on BSL in the Scottish Government or should this be the responsibility of all Scottish Ministers? What benefits or challenges will a designated Minister have for BSL and for Deaf people and what in your opinion should the role of the designated Minister entail?

BDA Scotland believes it would be best to have a designated Minister. This enables one person to build up knowledge of the key issues surrounding BSL and be clearly identifiable by Deaf people.

The benefits are:

- Deaf people know who is responsible and can approach the Minister's office directly
- The Minister will be able to create joined-up thinking processes
- The Minister's office will themselves develop a greater understanding of BSL with the proviso that they employ or contract Deaf people who have BSL expertise
- Cross-department working will be easier.

The challenges are:

- Managing the expectations of Deaf people
- Ensuring that there is follow through on Ministerial initiatives
- Monitoring the situation
- Resourcing initiatives
- Training Deaf people

The role should include: engagement with all departments to ensure BSL is included in any work on improving access, coordinating cross government activity to support the promotion of BSL, hosting a cross government group on vulnerable Deaf people e.g. prisoners, deaf people with mental health issues etc., chairing the Advisory Group on BSL, working with the Minister for Education and Lifelong Learning, monitoring local authority plans on BSL.

7) Do you believe an Advisory Board of BSL users should be established, to advise the designated minister or all Scottish Ministers? Please explain the reasons for your answer.

Yes. The Minister will not be able to develop a full understanding of the issues around BSL without such an Advisory Board. The Board should be composed of BSL users both Deaf and hearing (particularly from establishments such as Heriot-Watt or Moray House) with the caveat that the majority of advisors must be Deaf.

- 8) Relevant public authorities will have to develop BSL action plans. Should there be a detailed list of such authorities (for example, the Scottish Government, the Scottish Parliament, health boards, local authorities etc) and if so, which ones should be included and why? Which ones should not? – (See the list of all public bodies on the Scottish Government website:**

<http://www.scotland.gov.uk/Topics/Government/public-bodies/about/Bodies>

Yes there should be a list of such authorities.

We are seeking parity with Gaelic in terms of planning. All public bodies that have a plan for Gaelic should also have a plan for BSL.

Planning should be at different levels; there should be a plan at the Scottish Governmental level and plans at the local authority level. The BDA has developed a BSL Charter for public services with five pledges. These pledges set out how public services can develop their own plans for ensuring BSL users do not face barriers when attempting to access local services. In addition, we have developed a toolkit for self-assessment that should enable public services monitor their own performance in delivering agreed outcomes.

Public bodies that do not deal directly with the public may not require plans but they should be able to provide any written information interpreted into BSL as and when required.

- 9) What financial implications do you envisage the proposed Bill would have for you or your organisation? What (if any) other significant financial implications are likely to arise?**

As an organisation that is committed to good practice, most of our staff are Deaf and are BSL users themselves. We use technology other than voice telephone calls such as Skype, OoVoo, and email. We are currently working on developing an accessible website with BSL for all Deaf people. The financial implications in terms of added costs are therefore minimal.

Putting together a BSL plan may entail staffing resources which are limited and may entail some resource implications.

The positive implications are that organisations may approach us for support and advice for their BSL plans and the implementation of those plans. This could be a potential source of unrestricted income for the organisation.

- 10) Do you believe if this proposed Bill becomes law, it will have a positive or negative impact on equality and diversity within your organisation? If you believe it will have a negative impact, how can this be minimised or avoided?**

As a Deaf organisation, BDA Scotland believes that there will be a positive impact on equality and diversity as the proposed Bill upholds our values.

11) Do you have any other comments on or suggestions relevant to the proposal?

BDA Scotland would like to see a robust monitoring process to ensure that the law is followed. BDA Scotland believes that the Equality Act 2010 has failed to safeguard Deaf people. We feel that the Act has not been adequately implemented due to a lack of support for Deaf and disabled people in ensuring that its provisions are carried out. We would not want a similar fate for the BSL Bill should it become law.

We would also want to see BSL being included in the Curriculum for Excellence and the Scottish Qualification Authority working with Deaf organisations and academic bodies to produce school qualifications in BSL.

BDA Scotland is fully committed to parental rights and considers that many parents of deaf children struggle to exercise an informed choice. This is partly due to a lack of knowledge about the Deaf community, about its language – BSL – and Deaf culture. There is also a need to recognise and accept that for many deaf children, a Deaf identity is crucial to their psychosocial well-being which also includes meeting Deaf adults and deaf peers. For them the knowledge that they are not alone in being deaf is in itself a boost to their own self-esteem. The opportunity for parents to learn about these aspects is currently lacking when the diagnosis of deafness is first made. BDA Scotland would strongly support any initiatives that enable parents to improve their understanding of what it means to be Deaf and in doing so, are able to exercise their right to an informed decision leading to improved integration into the family.

Conclusion

While we accept that such a Bill, if successfully enacted into an Act, is only the first step towards remedying the decades of poor access, we welcome this as a first step towards achieving full equality and the exercise of rights that the rest of the population take for granted.

We therefore believe strongly that resources will need to be allocated to ensure that the Act does not become a paper exercise. That would be catastrophic for the Deaf community in Scotland.

