

BRITISH SIGN LANGUAGE BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the British Sign Language Bill as introduced in the House of Commons on 16 June 2021 (Bill 33)

- These Explanatory Notes have been prepared by the Department for Work and Pensions, on behalf of Rosie Cooper MP, the Member in Charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This is a Private Members Bill introduced by Rosie Cooper MP on 16 June 2021. The Bill is narrower than the long title as presented and the intention, should the Bill pass second reading, is that amendments to the long title will sought in committee to reflect the content.
- 2 The Bill consists of four Clauses:
 - Recognising British Sign Language as a language of Great Britain in its own right.
 - A duty on the Secretary of State for Work and Pensions to report on the promotion of British Sign Language in Ministerial Departments;
 - A duty on the Secretary of State to issue guidance on the general promotion and facilitation of British Sign Language; and
 - The extent of the Clauses and when the provisions will commence.

Policy background

- 3 British Sign Language is the primary form of communication for nearly 90,000 residents of the United Kingdom, with around 150,000 users in total. Its vocabulary and syntax do not replicate spoken English and, particularly where individuals have been Deaf from birth or early childhood, subtitles or written English are not an adequate alternative as British Sign Language is not a signed version of written or spoken English. Many Deaf British Sign Language users have a lower reading comprehension age than the general population, and users in the United Kingdom can face social exclusion as a direct result of linguistic exclusion, adversely affecting employment, education, and access to healthcare.
- 4 British Sign Language was recognised as a language in its own right by a Written Ministerial Statement¹ to the House of Commons on 18 March 2003 by the then Secretary of State for Work and Pensions, Mr Andrew Smith MP. This sought to place British Sign Language on a similar level to many indigenous languages in the United Kingdom as recognised by the Council of Europe's Charter for Regional of Minority Languages².
- 5 The Equality Act 2010 requires 'reasonable adjustments' to be made by a wide range of people and sectors. Public sector organisations may, therefore, be required to make use of British Sign Language in certain circumstances. Public sector organisations may also consider the use of British Sign Language in relation to the Public Sector Equality Duty (PSED).
- 6 The Bill will help to promote and facilitate the use of British Sign Language by providing legal

¹ <https://publications.parliament.uk/pa/cm200203/cmhansrd/vo030318/wmstext/30318m02.htm>

² <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/text-of-the-charter>

recognition, whilst preserving the architecture of the Equality Act 2010.

- 7 The Bill seeks to place a duty on the Secretary of State (in practice, this will be the Secretary of State for Work and Pensions) to report describing what Ministerial Departments have done to promote or facilitate the use of British Sign Language in its communications with the public.
- 8 The Bill also requires the Secretary of State (in practice, this will be the Secretary of State for Work and Pensions) to issue guidance on the promotion and facilitation of the use of British Sign Language. Guidance will be produced in consultation with Deaf BSL Users, Interpretation experts, government departments and other interested persons. This guidance may include advice on best practice for communicating with BSL, as well as advice for government departments about the new reporting duty. The general approach is to encourage those government departments included in the scope of the report to carefully consider including BSL Interpretation in the public communications of central government.

Legal background

- 9 The following notes give a brief overview of any significant existing legislation that is relevant to this Bill.
- 10 There is no 'official' legal language of the United Kingdom. However, the Welsh Language (Wales) Measure 2011 gives the Welsh language official status in Wales. The Gaelic Language (Scotland) Act 2005 establishes a body for promoting the use of the Gaelic language in Scotland. The British Sign Language (Scotland) Act 2015 requires Scottish Ministers to promote and facilitate the promotion of BSL.
- 11 British Sign Language was recognised as a language in its own right by a Written Ministerial Statement to the House of Commons on 18 March 2003 by the then Secretary of State for Work and Pensions, Andrew Smith.
- 12 The Equality Act 2010 puts persons under a duty to make reasonable adjustments across a wide range of sectors in England, Scotland and Wales. Public sector organisations may, therefore, be required to make use of British Sign Language in certain circumstances.

Territorial extent and application

- 13 Clause 4(1) provides that the provisions of the Bill extend to England, Wales and Scotland only. The Bill explicitly recognises British Sign Language as a language of England and Wales and Scotland. The Bill does not extend to Northern Ireland. This approach aligns with that taken in the Equality Act 2010.
- 14 The devolution settlements for both Scotland and Wales provide that the 'promotion of equal opportunities' is a reserved matter. However, there are significant exceptions to this, which in practice mean that the encouragement of equal opportunities is a devolved matter.

- 15 Clause 2 requires the Secretary of State to prepare and publish a report on what Ministerial Departments have done to promote or facilitate the use of British Sign Language in their public communications. The Scottish and Welsh governments are not subject to the reporting duty. The Secretary of State's report will not include communications about matters that are devolved. Clause 3 requires the Secretary of State to issue guidance about the promotion and facilitation of the use of BSL. This will not include guidance about the promotion of BSL in devolved matters.
- 16 Clause 3(3) provides that the Secretary of State must not include guidance about devolved matters.
- 17 Bill does not extend the reporting [or guidance] duty to the Devolved Administrations of Scotland and Wales.

Commentary on provisions of Bill

Declaration recognising British Sign Language

Clause 1: Recognition of British Sign Language

- 18 The content of the Bill has been revised from the full long title in consultation and with the approval of the sponsoring member. In particular, the emphasis has shifted from recognising British Sign Language as an 'official' language of the UK to recognising it as a language.
- 19 In recognising British Sign Language as a language in law, the Bill does not affect the operation of any enactment or rule of law. However, the recognition of British Sign Language is linked with new duties on the Secretary of State for Work and Pensions to carry out certain obligations.
- 20 The long title of the Bill provides that a 'British Sign Language Council (is established) to promote and advise on the use of British Sign Language'. It is the intention of the Department for Work and Pensions to establish a non-statutory board.
- 21 Clause 1(1) recognises that British Sign Language is a language of England, Wales and Scotland. It does not seek to extend this recognition to Northern Ireland as there are two distinct sign languages used in Northern Ireland - British Sign Language and Irish Sign Language. Irish Sign Language is not in the scope of this Bill.
- 22 Clause 1(2) makes it clear that the Bill does not intend to affect the operation of any enactment or rule of law; in particular, the recognition does not affect the framework of protections provided by the Equality Act 2010 (including the duty to make reasonable adjustments).

Duties relating to the promotion and facilitation of British Sign Language

Clause 2: Duty of Secretary of State to report on British Sign Language

- 23 Subsections (1) and (2) provide a specific duty on the Secretary of State (in practice, the Secretary of State for Work and Pensions) to prepare and publish a “BSL report”. This is a report describing what each Ministerial Department (listed in the Schedule to the Bill) has done to promote and facilitate the use of British Sign Language in their public communications.
- 24 Subsections (3) and (4) detail the types of communication that should be collected and reported on. The report is not intended to capture detail about individual requests for British Sign Language interpretation services in front-facing operational delivery as a reasonable adjustment under the Equality Act 2010, for example in health or education settings, ports, police stations, courts, jobcentres, etc.
- 25 It also not intended that the report would include any personal communications with individuals that may have been translated into British Sign Language (e.g. Ministerial letters to individuals, Freedom of Information requests, ‘Treat Official’ correspondence or meetings with Ministers or Officials where there has been a request for a British Sign Language translator).
- 26 It is not intended that the information included would be highly prescriptive (for example, the percentage of the total types of communication created). But it might, for example, set out how many Press conferences had BSL interpretation.
- 27 Subsection (5) provides that the Secretary of State must not include in the report information about communications that relate only to Scotland and relate only to reserved matters; and must not include in the report information about communications that relate only to Wales and relate only to reserved matters.
- 28 Subsection (6) prescribes that the Secretary of State must publish the report no more than three months after each reporting period ends.
- 29 Subsection (7) defines when the first report should be published and at what intervals thereafter. In practice, the information required from Ministerial Departments will be requested on an annual basis to help inform reporting purposes and show changes over time. This approach allows Ministerial departments the opportunity to build on good practice, share knowledge and increase the provision of British Sign Language interpretation where statistical returns suggest it is necessary to do so.
- 30 The information will be collated by the Cabinet Office Disability Unit and published at least every three years. It is possible that the collated reports will be published more frequently to align with other disability reporting.
- 31 Subsections (8) and (9) define what is meant by a ‘relevant government department’ and allows the Secretary of State to amend the list of Ministerial Departments listed in the Schedule to the Bill. This power is intended to only be used where there are ‘Machinery of Government’ changes that may merge government departments or if, for example, a specific part of a Ministerial department’s portfolio were decoupled from its current department and formed a new Ministerial department in its own right.

Clause 3: Guidance on use of British Sign Language

32 Subsection 3(1) requires the Secretary of State to issue guidance on the promotion and facilitation of British Sign Language. It is intended that the guidance will be created with the involvement of the non-statutory board of British Sign Language users and associated persons that will advise the Secretary of State on its format and content. The guidance will be focused on the use of BSL in the public sector. However, there could be general information describing the grammatical form and linguistic approach to BSL, alongside descriptions of challenges experienced by BSL users which may be of wider interest. Subsection 3(2) provides for the areas that the guidance may cover. These will include:

- How Government departments will comply with the request to report on their activities in relation to British Sign Language as set out at Clause 2 of the Bill.
- Information on best practice for communicating with Deaf British Sign Language users in both Ministerial departments communications (as set out in Clause 2 of the Bill), and also for operational delivery purposes - for example in Jobcentres, health and education settings, courts and other public sector settings.
- Case studies illustrating the benefits of providing British Sign Language interpretation in communications with the public.

33 Subsection 3(3) provides that the guidance must not include advice or material which relates only to Scotland and does not relate to reserved matters; and must not include advice or material which relates only to Wales and does not relate to reserved matters.

34 Subsection 3(4) prescribes that the guidance issued by the Secretary of State must be published.

General

Clause 4: Extent, commencement and short title

35 Subsection 4(1) extends the provisions in the Bill to England and Wales and Scotland.

36 Subsection 4(2) provides that Clause 4 will commence on the day that the Act is passed.

37 Subsection 4(3) provides that the provisions in Clauses 1, 2 and the Schedule will commence two months after the Bill receives Royal Assent.

38 Subsection 4(4) provides that Clause 3 of the Bill (Guidance on the use of British Sign Language) comes into force on a date to be specified by the Secretary of State.

39 Subsection 4(5) states that the Bill may be cited as the British Sign Language Act 2022.

Impact Assessment

40 There is no direct impact on business, charities, or voluntary bodies.

- 41 There is no direct impact on the public sector.
- 42 The Bill will place minor additional administrative burdens on Ministerial departments to report their British Sign Language usage. These returns will be compiled and published by the Cabinet Office Disability Unit. There are thought to be minor administrative costs to compile and publish this information. The Bill does not change Ministerial departments' existing duties under the Equality Act 2010 (including the duty to make reasonable adjustments, and to comply with the Public Sector Equality Duty).

Financial implications of the Bill

- 43 The Bill does not impose any new costs on Ministerial Departments. It does place a requirement on them to report on their use and facilitation of British Sign Language, but this requirement in itself should not impose additional costs as the Bill is not seeking anything outside of the requirements / considerations already within the Equality Act 2010 and the Public Sector Equality Duty.

Parliamentary approval for financial costs or for charges imposed

- 44 The Bill does not require a money resolution or a ways and means resolution. A money resolution is required where a bill authorises new charges on the public revenue – broadly speaking new expenditure. A ways and means resolution is required where a bill authorises new charges on people – broadly speaking, new taxation or other similar charges. Neither of these apply to this Bill.

Compatibility with the European Convention on Human Rights

- 45 Private Members' Bills do not require human rights statements. However, the Government's view is that the Bill is compatible with the European Convention on Human Rights.

Related documents

- 46 The following documents are relevant to the Bill and can be read at the stated locations:

- The Equality Act 2010
<https://www.legislation.gov.uk/ukpga/2010/15/contents>
- The Public Sector Equality Duty
<https://www.gov.uk/government/publications/public-sector-equality-duty>

Annex A - Territorial extent and application in the United Kingdom

The provisions of this Bill apply to England and Wales and to Scotland. The Bill explicitly recognises British Sign Language as a language of Great Britain and the intention is for the Secretary of State to report on the communication activities of UK Government Ministerial departments which do not include devolved matters. The Bill also requires the Secretary of State to issue guidance on promotion of BSL which will not include guidance in relation to devolved matters.

Subject matter and legislative competence of devolved legislatures

The devolution settlements for both Scotland and Wales provide that the 'promotion of equal opportunities' is devolved to the respective devolved authorities. Clause 2 requires the Secretary of State to publish a report on what Ministerial Departments have done to promote the use of British Sign Language in their public communications. The Scottish and Welsh governments are not subject to the reporting duty. The Secretary of State's report will not include communications about matters that are devolved. Clause 3 requires the Secretary of State to issue guidance about the promotion of BSL. This will not include guidance about promotion of BSL in devolved matters.

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