

# BRITISH SIGN LANGUAGE BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the British Sign Language Bill as brought from the House of Commons on 21 March 2022 (HL Bill 136).

- These Explanatory Notes have been prepared by the Department for Work and Pensions, on behalf of Lord Holmes of Richmond, the Peer 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 The Bill consists of four clauses:
  - Clause 1 recognises British Sign Language as a language of Great Britain in its own right;
  - Clause 2 places a duty on the Secretary of State for Work and Pensions to report on the promotion and facilitation of British Sign Language by ministerial departments;
  - Clause 3 places a duty on the Secretary of State to issue guidance on the general promotion and facilitation of British Sign Language; and
  - Clause 4 outlines the extent of the clauses and when the provisions will commence.

## Policy background

- 2 British Sign Language is the primary form of communication for nearly 90,000 residents of the United Kingdom, with around 150,000 signers in total. Its vocabulary and syntax do not replicate spoken English and, particularly where individuals have been Deaf<sup>1</sup> 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.
- 3 For the purposes of this Bill, BSL refers to both the visual form of British Sign Language used by Deaf people and to a range of forms of British Sign Language used by Deafblind people in the UK, including tactile signing (for example, “hands-on” signing or “Deafblind manual” fingerspelling) and “visual frame” signing. Deafblind people require the services of BSL interpreters who have been trained in the forms of British Sign Language used by Deafblind people.
- 4 BSL is a rich, visual-gestural language with a distinctive grammar using handshapes, facial expressions, gestures and body language to convey meaning. It helps to build a sense of community and belonging for Deaf people and highlights Deaf culture, identity, community and history, reflecting unique characteristics found amongst the population of Deaf people.
- 5 As a result of linguistic exclusion, many Deaf British Sign Language signers have a lower reading comprehension age than the general population, and can face social exclusion as a direct result of linguistic exclusion, which can adversely affect employment, education, and healthcare.
- 6 British Sign Language was recognised as a language in its own right by a written ministerial statement<sup>2</sup> 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 of the United Kingdom as recognised by the Council of Europe’s Charter for Regional or Minority Languages<sup>3</sup>.
- 7 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

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<sup>1</sup> The term Deaf (with a capital D) refers to people of all ages who sign BSL, or acquire BSL later in life, as a primary or preferred language and identify in any way with the lived experience of being Deaf

<sup>2</sup> <https://publications.parliament.uk/pa/cm200203/cmhansrd/vo030318/wmstext/30318m02.htm>

<sup>3</sup> <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/text-of-the-charter>

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).

- 8 The Bill will help to promote and facilitate the use of British Sign Language by providing legal recognition, whilst preserving the architecture of the Equality Act 2010.
- 9 The Bill places a duty on the Secretary of State (in practice, this will be the Secretary of State for Work and Pensions) to report on what ministerial departments have done to promote or facilitate the use of British Sign Language in their communications with the public.
- 10 The Bill also requires the Secretary of State to issue guidance on the promotion and facilitation of the use of British Sign Language. Guidance will be informed by the perspectives and priorities of Deaf BSL signers, interpretation experts, government departments and other interested persons. It will be made available in BSL and published on the GOV.UK website.
- 11 This guidance may include advice on best practice for communicating with BSL signers, 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 information in the public communications of central government.

## Legal background

- 12 The following notes give a brief overview of any significant existing legislation that is relevant to this Bill.
- 13 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.
- 14 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, Mr Andrew Smith MP.
- 15 The Equality Act 2010 puts persons under a duty to make reasonable adjustments across a wide range of sectors in England, Scotland and Wales. Service providers, those exercising public functions, employers and businesses may, therefore, be required to make use of British Sign Language in certain circumstances.

## Territorial extent and application

- 16 Clause 4(1) provides that the provisions of the Bill extend to England and 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 broadly aligns with that taken in the Equality Act 2010.
- 17 The devolution settlements for both Scotland and Wales provide that equal opportunities is a reserved matter. However, there are significant exceptions to this. In particular, the encouragement of equal opportunities (other than by prohibition or regulation) is devolved to Senedd Cymru and the Scottish Parliament. The recognition of language is also devolved to the Senedd and the Scottish Parliament. As such Legislative Consent Motions are being sought in relation to clauses 1-3 of the Bill. Further detail is provided in Annex A.
- 18 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 concern communications about matters that only relate to Scotland and do not relate to matters that are reserved to the UK Parliament. Similarly the report will not concern communications about matters that only relate to Wales and do not relate to reserved matters. Clause 3 requires the Secretary of State to issue guidance about the promotion and facilitation of the use of BSL. Similarly, the guidance will not include advice or material which relates only to Scotland or Wales and does not relate to matters that are reserved to the UK Parliament.
- 19 The Bill does not impose the two duties (to report and to issue guidance) on the Devolved Administrations of Scotland and Wales.
- 20 The Bill does not affect the operation of the BSL (Scotland) Act 2015.
- 21 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

# Commentary on provisions of Bill

## Chapter 1: Declaration recognising British Sign Language

### Clause 1: Recognition British Sign Language

- 22 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.
- 23 Clause 1(2) ensures that the Bill does not 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). 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.

## Chapter 2: Duties relating to the promotion and facilitation of British Sign Language

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

- 24 Subsections (1) and (2) provide a specific duty on the Secretary of State to prepare and publish a “British Sign Language 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.
- 25 Subsections (3) and (4) detail the types of communication that should be collected and reported on. The report is not intended to include 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, workplaces etc.
- 26 The report would not 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).
- 27 It is not intended that the information included in the report would be highly detailed (for example, the percentage of the total types of communication created). But it might, for example, set out how many press conferences held by ministerial departments listed at Schedule 1 had BSL interpretation.
- 28 Subsection (5) provides that the Secretary of State must not include in the report information about communications that relate only to Scotland and do not relate to reserved matters; and must not include in the report information about communications that relate only to Wales and do not relate to reserved matters.
- 29 Subsection (6) requires the Secretary of State to publish the report no more than three months after each reporting period ends.
- 30 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.

- 31 The information will be collated by the Cabinet Office Disability Unit and published at least every three years. The reports will be made available in BSL and published on GOV.UK. It is possible that the collated reports will be published more frequently to align with UK disability reporting.
- 32 Subsection (8) defines what is meant by a 'relevant government department'. It is one of the ministerial government departments listed in the Schedule to the Bill. Subsection (9) gives the Secretary of State power to amend this list by regulations. 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

- 33 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 signers that will advise the Secretary of State on its format and content. This board will convey the perspectives and priorities of those with lived experience, from BSL signers living across England, Scotland, and Wales. It is the intention of the Secretary of State to establish this as a non-statutory board.
- 34 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 signers 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 signers 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.
- 35 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.
- 36 Subsection 3(4) prescribes that the guidance issued by the Secretary of State must be published.

## Chapter 3: General

### Clause 4: Extent, commencement and short title

- 37 Subsection 4(1) extends the provisions in the Bill to England and Wales and Scotland.
- 38 Subsection 4(2) provides that clause 4 will commence on the day that the Act is passed.
- 39 Subsection 4(3) provides that the provisions in clauses 1 and 2 and the Schedule will commence two months after the Bill receives Royal Assent.

40 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.

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

### Schedule: Relevant government departments

42 The Schedule sets out the relevant ministerial departments in respect of which the Secretary of State must prepare and publish a British Sign Language Report.

## Commencement

43 Clause 4 comes into force on the date that the Bill is passed. Clauses 1 and 2 and the Schedule come into force two months after the date on which the bill receives Royal Assent. Clause 3 comes into force on a date to be specified by the Secretary of State in regulations.

## Financial implications of the Bill

44 The Bill does not impose any new costs on ministerial departments other than minor administrative costs. 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 material additional costs as the Bill does not materially add to the requirements / considerations already within the Equality Act 2010 and the Public Sector Equality Duty.

## Parliamentary approval for financial costs or for charges imposed

45 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 money resolution is not generally required where, as in this case, a bill will only give rise to minor administrative costs. A ways and means resolution is required where a bill authorises new charges on people – broadly speaking, new taxation or other similar charges. That is not the case for this Bill.

## Compatibility with the European Convention on Human Rights

46 As this is a Private Member's Bill, the Secretary of State is not required to make a statement under section 19 of the Human Rights Act 1998. Nonetheless, the Department has considered the question of compatibility. As the Bill requires the Secretary of State to report on what each relevant government department has done to promote or facilitate the use of BSL in its communications with the public, and to publish guidance about the promotion of BSL, it is the view of the Department for Work and Pensions that the provisions of the Bill are compatible with the European Convention on Human Rights.

## Related documents

47 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>
- British Sign Language Bill and Explanatory Notes (BSL Version)  
<https://www.gov.uk/government/publications/british-sign-language-bill-and-explanatory-notes-bsl-version>

## Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 2	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 3	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 4	Yes	Yes	No	Yes	No	No	N/A
Schedule	Yes	Yes	No	Yes	No	No	N/A

### Subject matter and legislative competence of devolved legislatures

- 48 The devolution settlements for both Scotland and Wales provide that equal opportunities is a reserved matter. However, there are significant exceptions to this. In particular, the encouragement of equal opportunities (other than by prohibition or regulation) is devolved to the Senedd and the Scottish Parliament.
- 49 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 concern communications about matters that only relate to Scotland and do not relate to matters that are reserved to the UK Parliament. Similarly, the report will not concern communications about matters that only relate to Wales and do not relate to reserved matters. Clause 3 requires the Secretary of State to issue guidance about the promotion of BSL. The guidance will not include advice or material which relates only to Scotland or Wales and does not relate to matters that are reserved to the UK Parliament.

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