

Alternative Report – United Kingdom

Implementation of the United Nations Convention on the Rights of Persons with Disabilities



BRITISH DEAF ASSOCIATION

This alternative report (United Kingdom) was produced by the BDA in response to the UK Government's State Report to the United Nations regarding the Convention on the Rights of Persons With Disabilities (CRPD).

© BDA February 2017

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1. Executive Summary of the Alternative Report – United Kingdom

- 1.1 This report summarises the alternative report that focuses specifically on issues pertaining to Deaf people in the UK. In summary it highlights that:
- 1.1.1 **The Deaf community, with its unique culture and sign languages, is virtually invisible in UK disability policies.**
- 1.1.2 The Secretary of State for the Department of Work and Pensions (DWP) formally announced on 18th March 2003 that the Government recognised British Sign Language (BSL) as a language in its own right and promised to look into the legal recognition of BSL. In addition the Northern Ireland Assembly recognised both BSL and Irish Sign Language (ISL) as languages in their own right in 2004. **However, there have been no real changes in policy except that:**
- Scottish Parliament passed the BSL (Scotland) Act 2015 to enforce Scottish public authorities to produce BSL plans that will be implemented next year;
 - Northern Ireland Assembly introduced a 16 weeks consultation on the proposed BSL / ISL framework last year, not yet making announcement for the next steps.
- 1.1.3 **To date, BSL is still not legally recognised in spite of the fact that Welsh, Gaelic and recently Cornish languages are, and as such are entitled to public funding to protect and promote their native languages.**
- 1.1.4 **In response to the lack of the Governments plans to take further action since March 2003, the BDA launched a detailed discussion paper; ‘Legal Status for BSL and ISL’ (BDA 2014c) at the national BSL Symposium in March 2014.** This document mapped out a route to a much needed BSL and ISL (NI) Act. Many findings in the discussion paper revealed that the Equality Act, 2010, is not adequate to protect the rights of Deaf sign language users. The current situation of linguistic exclusion, refusal of linguistic human rights, denial of full citizenship and widespread policy apathy for promoting and preserving of our sign languages and Deaf culture is unacceptable. It has had a significant detrimental impact on the lives and wellbeing of members of the Deaf community. **The Government still does not take note and respond with action.**
- 1.1.5 Existing equality legislation is **impractical as a mechanism to reduce discrimination and ensure that Deaf people’s linguistic human rights are respected** since it relies on the individual citizen to pursue cases through the courts.
- 1.1.6 Current policies are impacting adversely on Deaf people’s lives, specifically: health services, education, the justice system, employment, political participation and the ability to partake in culture, sports and recreation.
- 1.1.7 The evidence contained in this report is recent and includes examples of:
- Access to Work (AtW) cap level funding which threatens Deaf people’s jobs and employability;
 - healthcare treatment being provided without informed consent;
 - evidence of significant health inequalities for Deaf people;

- an attainment gap where inadequate access to BSL and social contact has resulted in Deaf children do significantly worse than their hearing peers at age 16;
- Deaf prisoners being denied basic access to rehabilitation and equal treatment;
- prohibition of Deaf people from participating in jury service;
- meagre sums of money being provided by Government to fund British participation in the International ‘Deaflympic’ games; and,
- Deaf people wishing to stand for elections denied funding for BSL/English interpreters due to the inexplicable and sudden closure of the Access to Elected Office for Disabled People Fund soon after the 2015 General Election.

1.1.8 The version of this alternative report includes lists of recommendations (the full list of 33 recommendations is shown under Appendix A) advising how the situation can be improved. **The most urgent action required is set out below:**

Summarised recommendations for change

We therefore call on the Committee on the Rights of Persons with Disabilities to insist on action from the UK Government to:

- **Incorporate the CRPD into national legislation;**
- **Give legal status to BSL and ISL** and introduce measures to support and promote Deaf culture and our native sign languages, ensuring full implementation of Articles 21 and 30;
- **Implement the provision of Video Relay Services (VRS)** as a matter of urgency in order to accord Deaf people with equal access to a visual telecommunication service;
- **Put in place measures to educate broader society** about the value and contribution of the Deaf community, our culture and sign languages;
- **Implement a detailed plan with time-bound and measurable targets** to ensure Deaf people are visible in legislation, policies and reporting;
- **Re-evaluate and reform Deaf education**, including guaranteed sign intensive bi-cultural, bi-lingual provision for d/Deaf children with Deaf teachers as role models; and promote BSL-medium schools;
- **Put in place measures to reduce health inequalities** between Deaf and hearing people;
- **Ensure Deaf people can participate in jury service** with the support of registered qualified BSL/English interpreters;
- **Bring back the Access to Elected Office for Disabled People Fund;** this will enable Deaf people to stand for elections and be more involved in mainstream politics.

We also ask the Committee on the Rights of Persons with Disabilities to draw the UK Government's attention to its obligation under Article 31 to produce disaggregated statistics relating to Deaf people who use BSL in the UK and also ISL in Northern Ireland.

- 1.1.9 The UK Deaf community offers an important contribution to the cultural and linguistic enrichment and vitality of the UK. **The report requests that the Committee on the Rights of Persons with Disabilities insist on action from the UK Government to enable Deaf people the opportunity to participate and contribute in society as full citizens.**
- 1.1.10 The BDA hopes this alternative report to the UN CRPD Committee will help the committee members to further question the UK Government on what key steps they will take, especially in relation to our **top five key priorities**:
- **Introduce a legal status for BSL and ISL;**
 - **Implement Video Relay Services (VRS) similar to the current Typetalk Relay Service;**
 - **Reform Deaf Education;**
 - **Remove the Access to Work Cap Level;**
 - **Reinstate the Access to Elected Office for Disabled People Fund.**

2. Implementation of the Convention on the Rights of People with Disabilities in United Kingdom

- 2.0.1 This British Deaf Association (BDA) presents Deaf People's Alternative Report to the UN Committee on the Rights of Persons with Disabilities (CRPD). **This report has brought together evidence from 38 d/Deaf organisations and stakeholders from BSL communities across the UK.** In what follows we highlight the *priority* areas where the UK Government is failing Deaf people with regard to the UNCRPD.
- 2.0.2 The CRPD contains five articles which refer directly to sign language, four of which require the Government to make changes to ensure equal access, safeguard our human rights and remove discrimination. The CRPD focuses on many areas including access to public services, health care, education, civil justice, political life and sport, culture, recreation and justice. **The articles that refer to sign language include articles 2 (definition), 9, 21, 24 and 30.**
- **Article 9** requires the Government to give Deaf people equal access to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. To do this the statutory and public bodies are required to provide professional qualified registered BSL/English interpreters, Deaf Relay interpreters, English/BSL translations services or Deaf BSL guides as necessary and as appropriate.

- **Article 21** requires the Government to facilitate the use of sign languages in official interactions, and to recognise and promote the use of sign languages.
- **Article 24** obliges the Government to facilitate ‘the learning of sign language and the promotion of the linguistic identity of the deaf community’ and to ensure that education is ‘delivered in the most appropriate languages ... for the individual, and in environments which maximize academic and social development’. Article 24 also requires the Government to employ teachers - including Deaf teachers - who are native users of, or qualified in, sign language.
- **Article 30** notes that Deaf people are entitled, on an equal basis with others, to recognition and support of our ‘specific cultural and linguistic identity, including sign languages and deaf culture’. Other indigenous minority languages such as Welsh and Scottish Gaelic already receive support for this.

2.0.3 The UK’s State Report to the UN Committee on the Rights of Persons with Disabilities was made under article 35 of the CRPD in November 2011 (CRPD/C/GBR/1). We acknowledge that the UN has given guidance on what to include and on the length of the UK State Report. However we feel that the overall tone of the UK State Report is too sanguine about the very real struggles that Deaf people face in common with other disabled groups. It points to a number of encouraging developments in particular areas but there are also omissions.

2.0.4 This report focuses specifically on issues pertaining to Deaf people in the UK, a minority language group with our own language and culture. We have many issues in common with disabled people in the UK including access issues, visibility issues, exclusion and human rights issues. However, spoken minority language communities in the UK are given legal recognition and support for their languages and culture from the state. **The Deaf community in the UK has two minority languages; British Sign Language used by the majority (approximately 151,000 people) and Irish Sign Language used by some of the Deaf community in Northern Ireland (1,500 people).** Although the two languages were recognised in 2003 and 2004 respectively, **they have no legal status and there are no measures to support and promote our languages and cultures.** As such for the UK as a whole, there is no parity with the other indigenous minority languages of the UK (Welsh, Scottish Gaelic and now, Cornish). Consequently we are still campaigning for legal status for BSL and ISL, bilingual-bicultural education for Deaf children, and linguistic human rights.

2.0.5 This is the reason for this document “Deaf People’s Alternative Report”.

2.1 Articles 1, 2, 3 and 4 – General principles and obligations

2.1.1 The UK State report (2011) does not mention Deaf people or sign languages in its discussion of Articles 1-4. Yet these general principles have a direct bearing on the lived experiences of Deaf people in the UK.

2.1.2 In what follows, this report shows how the purpose of the CRPD has yet to be achieved for Deaf people in the UK. There are legislative and administrative obstacles to accessing fundamental human rights including lack of Linguistic Human Rights (LHRs) (Skutnabb Kangas 2006, 2010), lack of equal access to

health care (SignHealth 2014, Healthwatch York 2013), lack of full access to education (NDCS 2008, BDA 2014a), and a lack of basic civil rights (BDA 2014a).

2.1.3 We welcome the recognition by the CRPD that signed languages are languages. However in the UK, some Government departments (including the Department for Education) continue to perceive BSL as ‘communication tools’ (Batterbury 2013). Our main concern is that the National College for Teaching and Leadership (NCTL, 2015) states that **Teachers of the Deaf are only required to have Level 1 in British Sign Language (BSL): the lowest and most basic level** which does not permit any form of educational instruction in BSL.

2.1.4 Article 3 sets out the principles of the CRPD. In our assessment full implementation of these principles has not yet been achieved. The matrix below outlines the key issues and difficulties.

CRPD General principles	Key Issues
a. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;	Deaf people are currently denied individual autonomy in the UK: registered qualified BSL/English interpreters are routinely not provided for hospital admissions nor for primary and secondary care appointments. Hearing family members are frequently asked to act as unqualified language brokers. This results in denial of a Deaf person's independence and freedom to make their own communication choices. It can also place an unreasonable psychological burden on hearing relatives. (Healthwatch York 2013, SignHealth 2014)
b. Non-discrimination;	<p>Cases of discrimination using the Equality Act (2010) have been brought, however the Equality Act only refers to individual rights and it is very difficult for individuals to gain access to legal representation. This situation has worsened since cuts to legal aid budgets and the closure of one of the main Deaf legal centres which had previously offered Deaf people access to a qualified Deaf solicitor.</p> <p>The current UK practice of denying Deaf people the right to sit on a jury is an overt form of institutional discrimination and failure to accord Deaf people their rights as full citizens (Brennan & Brown 1997, Majid, 2007).</p> <p>Failure by the Government to oblige the NHS to use BSL/English interpreters is also a form of institutional discrimination. In the case of the NHS we have evidence that this has had a statistically significant negative impact on Deaf</p>

	<p>people's physical health (SignHealth 2014). There have also been reported cases of Deaf people being treated less favourably than that of hearing people in prisons (Brennan & Brown 1997) and in the case of child welfare.</p>
<p>c. Full and effective participation and inclusion in society;</p>	<p>Television: the <i>Code on Television Access Services</i> provides for financial contributions towards the British Sign Language Broadcasting Trust (BSLBT), but with limited terrestrial transmission slots, full access requires a computer and internet connection. Less than 5% of programmes of terrestrial high audience channels on the high audience channels are signed. Signed programmes tend to be shown in the middle of the night: suggesting it is the norm to marginalise sign languages and Deaf users of same to the twilight hours and the fringes of society. Short BSL summaries of news broadcasts are often pulled when there are live outside broadcasts or breaking news items. There was no simultaneous BSL interpreting when the Olympic and Paralympics Games were being broadcast.</p> <p>Deaf people do not have adequate access to the NHS. There have been a number of cases of surgery being undertaken without informed consent due to the lack of BSL/English interpreters. Deaf patients and their relatives have also reported being denied important medical information (BDA 2014a, SignHealth 2014).</p> <p>Cuts to Access to Work budgets are causing difficulties for Deaf people in retaining employment and progressing in their careers (BDA 2014b).</p> <p>There is no budget for interpreting for participation in civic and social activities – family funerals, parish councils, school boards, etc.</p> <p>Deaf people do not have access to interpreted information on party manifestos. There are no Deaf MPs and no budgets for campaigning. The <i>BBC Parliament</i> TV channel is neither interpreted nor subtitled.</p>

<p>d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;</p>	<p>Cuts in higher education have resulted in closure of the leading research centres specialising in Deaf culture and Deafhood (University of Bristol). Articles 21, 24 and 30 of the CRPD require promotion, recognition and support of the cultural and linguistic identity of Deaf people: this has not happened and there are no policies in the UK to support this (Batterbury 2013). Failure to ratify the <i>UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage</i> (UNESCO 2003) has also meant nothing has been done to safeguard Deaf heritage. (BDA 2014a). Existing UK disability legislation does not address adequately the need to protect and promote the quality of life within Sign Language communities themselves.</p> <p>The Human Fertilisation and Embryology Act (2008) section 14.4.9 prohibits selection of a disabled embryo for implantation; this constitutes a denial of right to life and directly contradicts this CRPD principle (Emery et al 2010).</p>
<p>e. Equality of opportunity;</p>	<p>There are a number of structural impediments to achieving equality of opportunity:</p> <p>The Access to Work Cap Level policy will be implemented in April 2018 – This will have a negative impact on Deaf people's ability to do their jobs and on relations with their employers.</p> <p>There is no funding on offer for BSL/English interpreters to support Deaf people looking for work or who want help finding full time work if they are already in part time employment.</p> <p>Only Educational Communication Support Workers (ECSWs) whose BSL skills tend to be very basic. Consequently Deaf children are excluded from full access to education especially in mainstream schools (BDA 2014a).</p> <p>The SignHealth survey (2014) has found that Deaf people are being denied access to health services and information. There is a marked health inequality with preventable conditions being under-diagnosed, resulting in impoverished health outcomes for Deaf people.</p>

f. Accessibility;	Deaf people experience access issues in broadcasting, participation in public, civil and political life, political debates, health consultations and advice, education, civil justice and civic rights. Access to information is denied where public services do not offer BSL summaries on their websites. We have evidence for these access issues and the negative implications for the health of Deaf people caused by linguistic exclusion (SignHealth 2014, Hindley et al 2000, NDCS 2014) and for educational attainment (NDCS 2008)
g. Equality between men and women;	82% of the UK's qualified BSL/English sign language interpreters are female (BDA 2014c). This means there is a shortage of male interpreters for medical appointments where a Deaf man may prefer a male interpreter. Currently no action is being taken to address this gender imbalance.
h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.	Deaf identity and Sign Language are threatened by failure to offer full sign bilingual education to Deaf children, and by Government's insistence on 'parental choice' as a way of determining communication strategies in schools (Gregory 1997). In reality it is not possible to choose a Sign Language medium for education of a Deaf child. There continues to be the use of oral methods despite ample research evidence that this fails most Deaf children (Nuffield Foundation 2014, Gregory 1997). Preservation and promotion of Deaf identities for children requires considerable legislative effort for those with hearing parents and this support and effort is currently lacking (BDA 2014a). This is a fundamental core issue for the Deaf community and for the well-being of Deaf children as they develop into Deaf adults.

2.1.5 Clause 3 of article 4 specifies the requirement on the Government 'to work with disabled persons through their representative organisations'. We welcome this and have been consulted in the *'Fulfilling Potential'* Disability Strategy and most recently the Green Paper *'Improving Lives'*. We hope that some of the policy-focused reports we have developed will be given serious consideration by policy makers (BDA 2014a, 2014b, 2014c).

2.1.6 The Secretary of State for the Department of Work and Pensions formally announced on 18th March 2003 that the Government recognised BSL as a

language in its own right and promised to look into the legal recognition of BSL. To date, now nearly fifteen years, **BSL is still not legally recognised in spite of the fact that Welsh, Gaelic and more recently Cornish, are all legally recognised and are entitled to public funding to protect and promote their native languages.** BSL is Britain's fourth indigenous language as determined by intensive language research reports, accepted by highly respected expert linguists and university professors (Brennan et al 1984, Deuchar 1984, Sutton Spence and Woll 1998).

- 2.1.7 **In response to the lack of the Government's plans to take further action since March 2003, the BDA launched a detailed Discussion Paper 'Legal Status for BSL and ISL' (BDA 2014c) at the national BSL Symposium in March 2014.** This document mapped out a route to a much needed BSL and ISL (NI) Act. Many findings in the discussion paper revealed that the Equality Act 2010 is not adequate to protect the rights of Deaf sign language users. The current situation of linguistic exclusion, refusal of linguistic human rights, denial of full citizenship and widespread policy apathy for promoting and preserving of our sign languages and Deaf culture is unacceptable. This concludes to call on the Government to sit up, take note and respond with action.
- 2.1.8 In September 2015, **the BDA submitted a detailed response paper to the House of Lords Select Committee on Disability and Equality in which we called for a legal status of BSL to be added to the Equality Act.** To protect Deaf BSL users, legal recognition of BSL is needed to enforce service providers to provide Deaf BSL users with fair and equal access. The BDA was also invited to give oral evidence to the Lords Select Committee in October 2015 (BDA, 2015a). **To date, the Government still ignores the list of recommendations from the Lords Select Committee report pushing for the Equality Act to be strengthened.**
- 2.1.9 The Scottish Parliament accepted the need to pass the BSL (Scotland) Bill in September 2015 after hearing from the Scottish Education and Leisure Committee that the Equality Act 2010 was not adequate to protect Deaf BSL users (BDA, 2015b). The new BSL (Scotland) Act 2015 will require public authorities across Scotland to produce BSL plans which must include details of how Deaf people can access service provisions and support.
- 2.1.10 The Northern Ireland Assembly introduced a 16 weeks consultation on the proposed BSL and ISL framework last year. It is hoped that the Assembly will introduce a proposed Bill this year. This may be similar to the BSL (Scotland) Act.
- 2.1.11 To date, in spite of the BDA producing plenty of evidence and detailed reports to the Government, the BDA has also made repeated attempts to persuade various Ministers for Disabled People to consider a bill similar to that passed in Scotland for the rest of the UK. The BDA continues to campaign for a legal status for BSL (BDA, 2014c).

The BDA calls on the Committee to recommend that:

1. The Government needs to meet its obligations under the CRPD for both Deaf and disabled people. Policy development and existing measures and

policies necessitate that the Government should mainstream consideration of Deaf people's needs and opinions to ensure we are not overlooked and rendered invisible. A simple matrix as used above serves to highlight gaps and areas where Deaf people's issues have simply been overlooked and where existing policies are failing the Deaf community and denying us full citizenship.

2. The Government ratifies *UNESCO's Convention for the Safeguarding of the Intangible Cultural Heritage* (UNESCO 2003) to commit the Government to take measures to promote and protect Deaf cultural heritage.
3. The Government improves policies aimed at guaranteeing and protecting economic, social and cultural rights of Deaf people in the UK, specifically by the introduction of a legally-binding BSL and ISL Act.

2.2 Article 8 – Awareness raising

- 2.2.1 The draft UK State Report was placed on the Office for Disability Issues (ODI) website in different versions¹ 'to help ensure accessibility' (para 354), but there was no BSL version. Public health promotion interventions are not translated into BSL: the *Stop Smoking* campaign is a typical example.
- 2.2.2 In the UK, being Deaf is still referred to as a 'hearing impairment': the medical model of deficiency and loss prevails and frames the policies aimed at Deaf people (Batterbury 2013).
- 2.2.3 There have been no public awareness raising campaigns to promote positive acceptance of sign language and Deaf culture. TV programmes which feature Deaf characters tend to imply it is acceptable to use family members as unqualified interpreters in health care settings. Popular media also champions individuals who have chosen *cochlear implants* as exemplars of a desired recapturing of hearing. There have been no awareness raising campaigns to show the skills, merits and abilities of Deaf people nor their contributions to the workplace and the labour market. In addition in the education system there are almost no positive images of Deaf people in schools nor in their text books and materials.
- 2.2.4 Furthermore, websites for public bodies are not accessible. The UK State Report says that the ODI website is 'fully accessible' (para 52) but there are no BSL videos providing summaries of the main points.

The BDA calls on the Committee to recommend that:

4. The Government makes efforts to ensure broadcasters provide equal access to terrestrial TV programmes and 'public bodies' websites, by interpreting content into BSL;

¹ The versions were PDF, Word, Easy Read and Braille formats.

5. The Government undertakes an awareness raising campaign informing hearing people about sign languages and the cultural values of the UK Deaf community.

2.3 Article 9 – Accessibility - Everyday services

- 2.3.1 In the UK, provision of BSL/English interpreters in official interactions is a requirement of the Equality Duty, and necessitates advanced booking by the public bodies in question. However, it is much less automatic in other areas such as health care appointments, banking, tax queries, marriages and court cases (except where the Deaf person is the defendant or a witness). Unlike churches, registry officers will not allow weddings to be conducted in BSL although they will accept an interpreter. In situations where the Deaf person is in a supporting role (e.g. school parents' evenings, a birth partner) provision of interpreting has to be negotiated and the Deaf person is often subjected to complaints about the cost. As previously mentioned, Deaf people are not allowed interpreters in jury rooms and are therefore unable to fulfil their civic role as members of juries (Brennan and Brown 1997).
- 2.3.2 The UK State Report takes a more positive view of the everyday experience of disabled people. Many of the barriers Deaf people encounter are omitted from the UK report as the adjustments Deaf people require are more easily overlooked when discussing broader non-Deaf disability issues
- 2.3.3 The UK report (paragraph 88) states that;

'In 2009, 32% of disabled people reported experiencing difficulties related to their impairment or disability in accessing goods or services, significantly less than in 2005 when 37% of people experienced these difficulties'.

However, astonishingly, as Article 9 is one of the 5 CRPD articles that actually mentions sign language, the UK report makes no reference to it whatsoever. This is symptomatic of the political apathy which lies behind the on-going social exclusion of Deaf people and lack of linguistic human rights for Deaf people in the UK today.
- 2.3.4 We welcome the Civil Aviation (Access to Air Travel for Disabled Persons and Person with Reduced Mobility) Regulations 2014. However this has no legislative force and our Deaf members and users report a number of incidents where this code has not been adhered to.
- 2.3.5 We wish to highlight here the Reach 112 project which recommended that public authorities invest in total conversation Video Relay Services (VRS) for all calls including social and emergency to small or medium SMEs allowing Deaf people to communicate in BSL (Reach 112: 2012). The UK did not implement this and it is also regretted that government and public websites have failed to increase the provision of information and access in BSL.

To illustrate this point, *text is of little use when you need your hands free to get someone on the floor, in a recovery position or to administer CPR. This is not only scary but dangerous: the Government's stalling over BSL access to the telephone service is quite simply putting people's lives at risk and probably has.*²

- 2.3.6 The European Universal Service Directive (article 26)³ requires OFCOM to regulate electronic communications making caller location information available for such calls. Next Generation 112 aims to give full access to disabled users to emergency services but so far only NG text is promised.
- 2.3.7 In 2009, OfCOM identified a need for adding VRS and captioned relay to existing Text relay but this was not acted on by the coalition government. New broadcasting technology such as IPTV and HbbTV which can provide closed signing needs to be encouraged as this will help improve on the sign language quota of 5% required of broadcasters in the Communications Act 2003. IPTV closed signing will not only allow more access for Deaf people but will also provide employment for Deaf people as Deaf interpreters. IPTV is relatively new with Japan the first country to adopt this technology last year.
- 2.3.8 We wish to highlight here the Reach 112 project which recommended that public authorities invest in total conversation VRS for emergency phone calls permitting Deaf people to make emergency service calls in BSL (Reach 112: 2012). The UK did not implement this, resulting in very poor access to emergency telephone services. The European Universal Service Directive (article 26)⁴ requires OFCOM to regulate electronic communications making caller location information available for such calls. Next Generation 112 aims to give full access to disabled users to emergency services but so far only NG text is promised.
- 2.3.9 Currently, d/Deaf people can access to the British Telecom (BT) Tynetalk Relay Services to make calls to anyone. This requires users of the service to have a command of written English and is not accessible to Deaf people who use BSL. This service was set up in early 1990s since when new advances in technology have developed. The BDA has consistently lobbied the Government and OfCOM to add Video Relay Services (VRS) provision similar to that of the Tynetalk Service. To date, these pleas have been ignored.

The BDA calls on the Committee to recommend that:

6. The Government enforces on OfCOM to add VRS to the regulator's mandate to make it possible to have NG 112 service. Emergency control centres are able to use video when receiving calls making services much faster (embracing Total Conversation); and that sign language interpreters can be invoked by the emergency centre operator (as happens for non-English groups).
7. The Government should update the regulations relating to access to telecommunications – specifically Video Relay Services - for Deaf people who use BSL.

² *Ibid.* (some details slightly altered to protect confidentiality)

³ Council Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002

⁴ Council Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002

8. Deaf people are provided with an Independent Support Budget enabling them to book interpreters for civic and recreational activities as well as study and work.

2.4 Articles 10 – Right to Life

- 2.4.1 The UK report focuses on the right 'from birth' and in doing so avoids the fact that the Human Fertilisation and Embryology Act 2008, section 14.4.9, states: 'Persons or embryos that are known to have a gene, chromosome or mitochondrion abnormality involving a significant risk that a person with the abnormality will have or develop –
 - *a serious physical or mental disability,*
 - *a serious illness, or*
 - *any other serious medical condition, must not be preferred to those that are not known to have such an abnormality'*
- 2.4.2 During the debate of the HFEA (2008), deafness was cited as an example of a 'serious medical condition', or a 'serious illness', which caused alarm among our members. This meant that the implantation of embryo that could *potentially* result in the birth of a deaf baby, or become deaf at a later stage in life, would be forbidden (Emery et al 2010). We consider this to be in direct contravention of the CRPD which cites: 'States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.'

The BDA calls on the Committee to recommend that:

9. The Government removes this offending clause from the Human Fertilisation and Embryology Act 2008

2.5 Articles 11 – Situations of risk and humanitarian emergencies

- 2.5.1 Our members point out that when there is a grave risk, services tend to rely on voice announcements which place Deaf people at a disadvantage and perhaps at greater risk.

The BDA calls on the Committee to recommend that:

10. Emergency television broadcasts which feature a senior politician such as the Prime Minister should be interpreted by a registered qualified BSL/English interpreter.

Note: USA and Australian television companies have, amongst others, achieved this with live simultaneous interpretation of emergency broadcasts about their flood and fire disasters, and, terrorist issues.

2.6 Articles 12, 13 and 14 – Access to Justice; Liberty and security of the person; Equal Recognition before the Law

- 2.6.1 The Equality Act 2010 and the DDA (1995) as amended (2006) in Northern Ireland have given Deaf people more rights. However, the only mention of a Deaf person is in relation to a hearing dog for Deaf people.
- 2.6.2 The Code of Practice for the detention, treatment and questioning of persons by police officers (PaCE 1984, Code C (Section 13.1)), previously required Chief officers to book NRPSI and CACDP registered BSL/English interpreters for Deaf people (Code C 2008).⁵ This was amended in 2013 so that Code C now only requires interpreters for people who are detained suspects or who are being interviewed under caution. References to 'deaf people' have been dropped and the Code now states 'if the suspect has a hearing or speech impediment, references to 'interpreter' and 'interpretation' in this Code include appropriate assistance necessary to establish effective communication with that person' (Section 13.1), (Unchanged in May 2014 version).
- 2.6.3 The publication of the *Equal Treatment Bench Book* (Judicial College, 2013) was intended to promote equal treatment in the UK courts. However, Section 9B of the Juries Act 1975⁶ can deny people from serving on a jury on the basis of a disability. In the case of Deaf people there are several examples where they have been denied this opportunity by the HM Courts and Tribunal Service, who state that an interpreter would constitute a '13th person', in contrast to the USA where Deaf people have served as jurors since 1990 (Emery 2011: 88; Guardian 2010).
- 2.6.4 The recent report published by BDA (BDA 2016b) following up the previous BDA report "Double Sentence" in 2000, reveals that d/Deaf prisoners still face isolation and in some cases court judges have given more lenient sentences to d/Deaf people knowing that their stay in prison would be marked by this isolation. The isolation experienced by d/Deaf prisoners is described as a "prison with a prison". Isolation can lead to a lack of social interactions and mental stimulation. One key issue is that in one prison, there were seven Deaf prisoners and even then they felt small in number; feeling intimidated by both hearing prison officers and prisoners. They stated that they felt that other hearing people did not like the idea of Deaf prisoners being together and, as a result, stopped their monthly get-togethers. Additionally, they felt that they did not get many visitors, compared to their hearing peers.
- 2.6.5 Jeff McWhinney, Chief Executive of the BDA at that time, appealed against the Courts barring him from the jury service but lost the case at Crown Court (Independent 1999). It was stated that 'the Government is already taking steps to

⁵ National Register of Public Service Interpreters (NRPSI) or the Council for the Advancement of Communication with Deaf People (CACDP)

⁶ 'Halsbury's Laws of England' Vol.11(3) "'1286. Summoning of jurors; panels'", Juries Act 1974, s.9b

give interpreters ... access to the jury room ... the Home Office is researching the subject.' The BDA persuaded the Ministry of Justice to set up a working group in 2014. The group has met about five times to look into deaf prisoners, courts and jurors. The report was presented to the Minister of the State in March 2015 to discuss with the BDA representatives. **To date, no real action on allowing Deaf jurors has been taken by the Government since 1999, nor again from 2015.**

2.6.6 The UK State Report comments that: 'Equality within the legal system means disabled people who commit criminal offences are protected in the same way as non-disabled people. The Equality Act and DDA, as amended, provide even more protections from discrimination' (paragraph 142).

2.6.7 A report by HM Inspectorate of Prisons (2009) found that there were 409 prisoners who were either Deaf or had a hearing loss. Only 16 out of 82 Disability Liaison Officers said that they had BSL trained staff able to help Deaf prisoners (HM Inspectorate of Prisons, 2009: 30).

McCulloch (2012) however states:

- prisons are in breach of the law in not making reasonable adjustments for Deaf prisoners (2012:1);
- Evidence from many visits to prisons indicates that Deaf prisoners experience deleterious conditions (2012:1);
- Deaf prisoners might be judged to only receive a partial justice system, arguably being at a disadvantage compared to other prisoners (2012:3).

McCulloch's evidence found that Deaf prisoners:

- Lack provision of sign language interpreters so they are unable to communicate with other prisoners and staff;
- Are concerned about personal safety, inability to understand the prison regime, and lack of access to rehabilitation and education courses potentially impacting on their release dates (McCulloch 2012:3);
- Are unable to watch interpreted television broadcasts as these are normally shown after midnight; and,
- Are not allowed to use text phones to make telephone calls.

2.6.8 It has been reported that some Deaf prisoners have longer sentences because they fail to meet the requirements for parole, as there is no communication provision in prison education classes (BDA 2016, McCulloch 2012).

2.6.9 Other incidences of a breach of Article 12 is where social services have taken children of Deaf adults into care using neither interpreters nor qualified Deaf social workers. *Deaf parents ostensibly consented for their new-born baby to be fostered under Section 20 of the Children Act 1989. Despite her learning difficulties the mother was asked to interpret for the father. Their appeal was allowed and the placement for adoption order was dismissed.*⁷

⁷ Case No: B4/2013/2048 & B4/2014/0198 [2014] EWCA Civ 128. Summary: <http://www.familylawweek.co.uk/site.aspx?i=ed128597> accessed 13 June 2014

The BDA calls on the Committee to recommend that:

11. In the police, courts and prisons there should be proper provision for Deaf people: Deaf people should be treated equally with hearing people. This necessitates provision of Deaf legal centres and / or budgets to facilitate legal advice in sign language.
12. The Government should establish a public inquiry into the situation of Deaf prisoners.
13. The Government should accept Deaf people to sit on jury service.
14. The Government draw up a legally binding BSL Act for Parliamentary debate. An Act would also meet the requirements of Article 21(e).

2.7 Article 16 – Freedom from exploitation, violence and abuse

- 2.7.1 Wilson (2012), a Development Consultant for the National Society for the Prevention of Cruelty to Children (NSPCC), reports that Deaf girls experience sexual abuse more than twice as often as hearing girls, while for boys it is three times as high. However, the Government is doing nothing specific to support these vulnerable young children.
- 2.7.2 The current reduction in specialist child, family social work/care services for Deaf people indicates increasing invisibility of this issue and of Deaf people's unique cultural needs (Young et al 2010). Deaf people find it very difficult to report violence and abuse, partly because of the linguistic barriers in approaching police, but also due to the power issues entailed in such offences.

The BDA calls on the Committee to recommend that:

15. The Government works closely with and provides funding to the NSPCC to help its public inquiry into the extent of the abuse of d/Deaf children, with a view to establishing safeguards and prevention measures.
16. Deaf people should be given access to confidential counselling in their native sign languages.

2.8 Article 21 and 23 – Freedom of expression and opinion, and access to information; Respect for the home and family

- 2.8.1 Parts (b) and (e) of Article 21 note that States should: '[Accept and facilitate] the use of sign languages...' (UN 2007:14); and: '[Recognize and promote] the use of sign languages (UN 2007:15).'
- 2.8.2 In the UK State Report's discussion of Article 21 paragraphs 208 and 209 concern sign language. However, while one paragraph focuses on training interpreters in Scotland and another focuses on a Welsh Assembly and European Social Funded initiative to train BSL teachers in Wales, no reference is made to any activities in either Northern Ireland or England.
- 2.8.3 The UK State Report comments that BSL can be learnt in UK colleges (paragraph 208), but it does not make it clear that courses generally require high fees.⁸ These costs exclude low-earning families with d/Deaf children who wish to learn so that they can include their Deaf child in their family (Article 23). One family says '*We were in shock when we realised there was no real provision for us to learn. We couldn't believe that no one would give us the possibility to communicate with our child*' (National Deaf Children's Society - NDCS 2014:18).

The BDA calls on the Committee to recommend that:

17. Priority groups (e.g. hearing parents of d/Deaf children) be offered subsidised and free sign language classes: an I-Sign Pilot Project funded by the Department of Schools and Families (now the Department for Education) between 2008-2011, involving a consortium of 7 organisations, provided full details of how sign language could be taught to families of d/Deaf children cost effectively.⁹
18. There should be translations of key Government and public authority texts into BSL on their websites

2.9 Article 24 – Education

- 2.9.1 Clause 3 of Article 24 specifically refers to sign languages and the Deaf community. It requires States to facilitate:

'(b) ...the learning of sign language and the promotion of the linguistic identity of the deaf community;'

and, ensure

⁸ 'Signature' describes itself as the leading awarding body for qualifications in communication techniques for deaf people. Its website describes the different levels of learning BSL here <http://www.signature.org.uk/british-sign-language>. Each organisation and local college set their own costs, however, a random search of three locally-based Signature approved courses across the UK found the following costs: between £296-395 for Level 1; £460-510 for Level 2; and £650-£900 for the first stage of Level 3. These costs exclude additional exam and BSL-material costs.

⁹ Research Report DFE-RR137; ISBN: 978-1-84775-950-4 (see Batterbury et al 2011).

‘(c)... that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, *and in environments which maximize academic and social development.*’ (UN 2007:17) (italics: our emphasis)

2.9.2 The evidence does not support these statements.

2.9.3 Article 21 of the Salamanca Statement (1994) stresses the importance of sign language and the need to acknowledge the individual differences and situations of children, including stipulating the possible more suitable education of d/Deaf and (Deaf)blind in special classes and units in mainstream schools. This view was supported by Sir Malcolm Bruce MP in the House of Commons¹⁰ following an investigation that found a third of local authorities in England have cut services for d/Deaf children since 2010 (NDCS 2012). There are just 23 specialist Deaf schools in the UK, whereas 50 years ago there were 75, and the remaining schools are increasingly under threat of closure.¹¹

2.9.4 Mainstream education has not been inclusive for d/Deaf children. It has been exclusive in denying them opportunities for peer to peer learning and strong language role models. O'Brien (2013) and Knights (2010) outline the negative psychological consequences of the current situation for d/Deaf children and young people who are isolated in oral mainstream schools:

‘Deaf people consistently report teachers not knowing how to teach d/Deaf pupils, missing most of what is going on around them in the classroom, being unable to take part in conversations during school breaks, and general neglect by teachers. These are not isolated examples. Young people who are the only d/Deaf child in the class and attain high educational achievements report being desperately unhappy, and equally desperate for a d/Deaf peer group to make friends.’

2.9.5 At primary level over half of d/Deaf children (51%) are still failing to achieve the expected level for reading, writing and mathematics (NDCS, 2013). As at 2015, almost two thirds (58.9%) of deaf children were failing to achieve the government's expected benchmark of five GCSEs at grade A* - C (including English and Maths), compared to just 35.8% of other children with no identified special educational need (NDCS, 2015).

2.9.6 The UK State Report observes that ‘Deaf or hearing impaired pupils, whether educated in mainstream classes, specialist units in mainstream schools or in special schools, will have access to the means of communication they, their parents and the local authority or school consider the most appropriate’ (paragraph 233).

2.9.7 The solid evidence and statistics shown above clearly demonstrates that Deaf children have historically faced many barriers to quality education, including a denial of quality education in BSL which has led to a denial of their rights.

¹⁰ Hansard Volume No. 568, Part No. 57, 17 Oct 2013 : Column 964 ‘Deaf Children and Young People’. As a result of this debate Parliament resolved to ask Ofsted to carry out an investigation but this has yet to be undertaken (see Appendix 2).

¹¹ Dilemmas in the deaf community, by Kerra Maddern, *TES Newspaper*, 23 August 2010

Therefore it is essential that Deaf children have the right to fully develop their cultural and linguistic identity (Article 30 of the UN CRP). The BDA has been pressurising the Government to embrace the new position paper 'Language Rights of Deaf Children' produced by the World Federation of the Deaf (WFD) (BDA, 2016a).

- 2.9.8 However it is currently not possible for a family to choose sign bilingual-bicultural BSL-medium education for their child because there is virtually no provision in the UK. **The Government is claiming there is a choice when this is very far from the reality.**
- 2.9.9 Article 24, clause 4 requires States to:
- 'take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education'.
- 2.9.10 In the case of **teaching staff**, currently Teachers of the Deaf (ToD) must achieve a minimum basic Level 1 qualification in BSL. Two sources of statistical information about the signing skills of teachers of deaf children in Scotland: a survey (Grimes 2009) carried out for the BSL and Linguistic Access Working Group, and the CRIDE survey 2014 (NDCS, 2014). Both conclude with very similar results: **around 8% to 10% of teachers of deaf children in Scotland have signing skills at level 3 or above.**
- 2.9.11 There are very few **Deaf teachers** in the UK. Figures indicate approximately 10% of all TODs have declared a hearing loss (Batterbury 2012:256). However not all of these are Deaf teachers with BSL or ISL skills. Despite Article 24 Clause 4, there is no reference to the possibility of disabled or Deaf people working as teachers in the UK State Report.
- 2.9.12 In recent years there has been a surge in numbers of Deaf students attending higher education. Fordyce et al (2013) have shown that Deaf graduates have as good employment outcomes as all other graduates; this is due to their being socially advantaged demographically and the fact that Disabled Students' Allowance (DSA) exists. However, Deaf students still get limited DSA funding thus no full access to their higher education lectures, discussion groups and support.
- 2.9.13 The BDA agrees that for many disabled children inclusion is the appropriate context for education, but inclusion does not necessarily mean that mainstreaming is the most appropriate form of education for d/Deaf children. While the BDA shares issues relating to access, visibility, exclusion, and human rights with disabled people in the UK, Deaf people also face linguistic barriers, cultural deprivation and discrimination.
- 2.9.14 The UK entered a reservation on inclusive education (for Article 24, clauses 2(a) and 2(b)). While we support the view that this reservation is inappropriate for disabled children, the situation of d/Deaf children is a distinctive case. Kauppinen and Jokinen (leaders of the World Federation for the Deaf) write 'education of the deaf is not special education but education in one's own language and culture' (2014:136).

The BDA calls on the Committee to recommend that:

19. The Government supports a human rights approach to the development and education of d/Deaf children; in particular:

- that children have the right to be fluent in a language, including BSL, by the age of 5, including the adoption of the WFD Position Statement 'Language Rights of Deaf Children';
- an intensive and early signing environment is therefore necessary for d/Deaf children from hearing families (Lieberman et al 2014);
- very early interactions are necessary with a native BSL adult who can provide the 'maternal cues' needed to establish joint attention (Baines et al 2009); these features could be modelled by a Deaf adult for hearing parents;
- Teachers of the Deaf should have fluent BSL skills equivalent to Level 6 BSL.

20. Following on from the pre-school intervention and in line with the European Union of the Deaf position paper¹², the Government ensures:

- access in a national sign language, including - where appropriate - access to the written and spoken national language(s), and Deaf culture;
- Fluency in a language (namely sign language) to access the national curriculum, including Deaf culture;
- the learning of sign language and Deaf culture in early intervention programmes, including for children with hearing aids or cochlear implants;

and, in mainstream settings:

- the education of several d/Deaf children in one class, to create a sign-intensive environment, and encourage the development of Deaf culture;
- using registered qualified BSL/English interpreters and/or a Deaf role model to foster the natural acquisition of sign language and Deaf culture;
- support for parents throughout the whole educational process, including access to sign language classes and unbiased information regarding educational outcomes of d/Deaf children.

21. The Government takes measures to ensure that there are no further Deaf school closures. The cultural-linguistic nature of the Deaf community means Deaf schools should be modelled similarly to Welsh-medium and Gaelic-medium schools that are available to spoken language minority communities. This would mean a bilingual-bicultural approach to education, whereby Deaf schools become 'BSL-medium schools' where peer to peer learning, Deaf cultural development and sign language modelling takes centre stage (see for example Teruggi 2003, Kushalnagar et al 2010, ASLA 2012).

¹² <http://www.eud.eu/Education_Position_Paper-i-559.html> accessed 13 June 2014

22. The Government ensures that Deaf teachers should be offered the choice of achieving their qualification in a Deaf school.
23. The Government ensures that Disabled Students' Allowance must not be cut or reduced for Deaf students in further and higher education.

2.10 Article 25 – Health

- 2.10.1 Health services for Deaf people are so shocking that we believe the UK Government is in serious breach of human rights.
- 2.10.2 In some instances complaints against hospitals have been made and upheld (BDA 2014a).

A Deaf man was treated for dementia he did not have. In consequence he was not told he had cancer from which he died one month later. The ombudsman upheld a complaint against the hospital in question (BBC News Wales 2013); it was also found that eleven months previously, 7 Welsh health boards were noted as having 'failed Deaf people' and 'breached the law by not providing accessible services for the deaf and hard of hearing' (Pollock 2013).

- 2.10.3 The Scottish Public Services Ombudsman ruled that failing to obtain an interpreter for a Deaf woman who was admitted to hospital to have her appendix removed, 'did not adhere to their informed consent policy' (Urquhart, 2013). The Ombudsman also noted that: using lip-reading and pen and paper is not likely to be an adequate or reasonable response to the needs of a BSL user, and that the hospital needed to revise its translation and interpreting policy to reflect this.
- 2.10.4 SignHealth undertook a survey of 533 Deaf people, and BUPA Health Assessments of 300 Deaf people plus a smaller number of in-depth interviews over a 5 year period (2009-2014).

Case studies include:

- surgery being carried out without informed consent;
- premature deaths;
- failure to ensure the Deaf patient had understood what their medication is for;
- reluctance to attend medical appointments due to communication difficulties;
- Hospital staff treating the babies of Deaf people on postnatal wards without obtaining consent nor explaining what the treatment was for (Spit the Dummy 2014);
- A tendency to use family members as unqualified, unpaid, interpreters;
- Deaf patients and their relatives being denied important medical information (BDA 2014a, Spit the Dummy 2013, SignHealth 2014).

Other issues include:

- To access the only specialist Neuro Clinic in London, Deaf people have to travel the entire length of the UK; and there are only three specialist inpatient Deaf mental health units across the UK¹³;
- Failure by the Government to oblige the NHS to provide appropriate accessible services, for example, BSL/English interpreters, bilingual health care providers, or culturally sensitive mental health services in BSL;
- Failure to account for the fact that interpreters require payment if the Deaf patient is kept waiting or requires more time than anticipated;
- More than one misdiagnosis being made of dementia when a person is Deaf (BDA 2014a), also a breach of Article 17 protecting the physical integrity of the person;
- In terms of awareness raising and public health campaigns, information is rarely offered in BSL: e.g. the UK State Report discusses the availability of Braille for HIV and malaria prevention but makes no reference to sign languages (UK State Report: paragraphs 276-278).

2.10.5 SignHealth write:

‘The study found poorer health, poorer diagnosis and poorer treatment/management. These three problems were probably largely caused by poor access to services, poor communication, and poor access to information. Issues with poor access and communication suggest the health service is at risk of harming Deaf patients. It is certainly not meeting the requirements of the NHS Constitution or the Equality Act.’ (SignHealth 2014:3)

2.10.6 Hindley's research (2000) reported that Deaf people were 2-5 times more likely to develop acquired mental health problems due to stigma, social exclusion and lack of access to health care (see also Young 2014:17). Since Hindley's research, the Mental Capacity Act 2005 was brought in but it fails to make adequate provision for Deaf people.

2.10.7 Research by O'Brien (2013) confirms that Deaf young people have a high incidence of mental health distress.

The BDA calls on the Committee to recommend that:

24. The Government sets up an urgent public enquiry into the state of health of UK Deaf citizens be conducted, following the uncovering of serious breaches of the human rights of Deaf people. Urgent measures should be put into place with achievable targets and timetable to improve access to the health service for Deaf people

¹³ These are Old Church at South West London and St George's Mental Health NHS Trust; Jasmine Suite, The Barberrry, at Birmingham and Solihull Mental Health NHS Foundation Trust; and John Denmark Unit at Greater Manchester West NHS Foundation Trust. There are 7 local community services: Manchester, Bristol, London, Birmingham, North East, Nottingham, South Yorkshire – these are outpatient and less specialised in identifying mental illness in Deaf people

2.11 Article 27 – Work and employment

- 2.11.1 The last time information was submitted relating to Deaf people's employment was in the form of a Memorandum by the Royal National Institute for Deaf People (RNID) (EDP 39) to the Select Committee on Work and Pensions, in August 2003. The RNID has published subsequent research showing 75% of Deaf people face barriers to employment opportunities (RNID 2014).
- 2.11.2 A report on one city in the UK, Brighton and Hove, found that: 'Without schemes to promote the inclusion of Deaf people in work [in a smaller jobs market] job applications will be ignored. This overt, yet hidden discrimination will be left unmonitored and it is extremely difficult to challenge in tribunals' (Walker 2012:14).
- 2.11.3 *In a well reported case, Jane Cordell, who had worked at the Foreign Office for 9 years and completed a highly successful posting overseas at First Secretary level with support provided by lip speakers, obtained a further posting as a Deputy Ambassador to three Central Asian countries. The Foreign Office withdrew the posting due to the cost of providing support. This effectively ended her 10-year career as a diplomat due to her deafness. The case did not offer clear guidance on how to balance the many positive aspects of enabling a strong senior Deaf role model to pursue her career and inspire others to do so, with the high support costs (Cordell v. Foreign and Commonwealth Office, Sept 2010).¹⁴*
- 2.11.4 Since the late 1980's Deaf people have relied on Access to Work payments to enable them to be employed on an equal basis to hearing workers. The BDA survey (2014b) found numerous structural failures with this system. To date, we welcome the positive action from the Government to improve AtW systems.
- 2.11.5 However, our main concern is that the Government will introduce a new AtW cap level (£41,700 a year) starting from April 2018. More than 80% of AtW users getting more than £41,700 a year are Deaf people using BSL as their first or preferred language. This policy applies to any organisations, small or large, profit or non-profit, will lead to many employers being unwilling to meet the shortfalls, resulting in potential serious consequences such as reducing Deaf employees to part time and dismissing Deaf employees via capability procedures. In addition, many young Deaf people are now worried about whether it is worth to get higher education qualifications, knowing they may not get their dream jobs because of the cap level. To date, the BDA has tried many times to persuade the Government to reconsider, to no avail.

The BDA calls on the Committee to recommend that:

25. The Government immediately removes the Access to Work cap level and ensures a fairer award through in-depth individual assessment.
26. The government puts in place statutory arrangements for Deaf people, to ensure the provision of registered qualified BSL/English interpreters is guaranteed.

¹⁴ For full information see <<http://gettingequal.com/about/>> accessed 13 June 2014

2.12 Article 28 – Adequate standard of living and social protection

- 2.12.1 Some Deaf people receive either Disability Living Allowance (DLA) or the new Personal Independence Payment (PIP) but this is not linked to specific language and communication issues.
- 2.12.2 In the case of deafblind people and those with Usher's syndrome there is a different legislative framework. Section 7 of the Local Authority Social Services Act 1970 was amended in March 2001 by the Department of Health which issued the *Social Care for Deafblind Children and Adults - LAC (2001) 8*. This has since been changed with a circular issuing Guidance to Local Authorities in 2009 (LAC(DH) (2009) 6).
- 2.12.3 This is described as 'guidance' but it nevertheless placed new statutory duties on local authorities in England and Wales. The equivalent in Scotland has led to deafblind people having to contribute to their communication support as 'care'.
- 2.12.4 In England and Wales, Local Authorities do have a duty under the LAC, but often the process of obtaining a care package with direct payment or personal budget is tedious and slow. *As an example, a Deaf person with Ushers had to wait 2.5 years to get awarded a personal budget due to support from a solicitor specialising in care, and this is not an isolated incident¹⁵.*

The BDA calls on the Committee to recommend that:

27. The Government sets up an investigation into introducing a specialised form of payments, separate from the benefits system, to enable Deaf people to pay for BSL/English interpreters, and other forms of communication, in order to participate in society on an equal basis with hearing citizens.

2.13 Article 29 – Participation in political and public life

- 2.13.1 A House of Lords debate 'How will the Government improve the health of Deaf people' (31 March 2014)¹⁶ was conducted without BSL/English interpreters and only shown later with subtitles following extensive lobbying by Deaf citizens.
- 2.13.2 There have been several disabled MPs in the UK parliament since its inception and no Deaf sign language using MP in history. Deaf people whose first language is BSL have been at a substantial disadvantage due to the costs required to fund BSL/English interpreters. *One Deaf person has been forced to spend thousands of pounds from his personal finances since 1990 to hire interpreters during election*

¹⁵ Buxton, D, ceo@bda.org.uk, 2014. Usher person had to wait 2.5 years. [email] Message to S Batterbury (s.batterbury@bristol.ac.uk). Sent 26.05.2014

¹⁶ House of Lords debate 'How will the Government improve the health of Deaf people', 31 March 2014, 'Health Deaf People: a Question for short debate' Asked by Lord Ponsonby of Shulbrede <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/140331-0002.htm#14033124000223>

*campaigns to public office*¹⁷. While the BDA welcomed the introduction of an 'Access to Elected Office for Disabled People Fund'¹⁸ (AEOF) in 2012, this has since been closed only after three years and without proper notice nor explanation from the Government.

- 2.13.3 Simeon Hart, Greens' candidate parliamentary candidate for Oldham West and Royston at the General Election 2015, was able to participate in the election period with the funding support from the AEOF to employ BSL/English interpreters during the General Election campaign. He did not win but six months later, there was a parliamentary by-election in December 2015, whereby Simeon stood again but could not get AEOF funding (BDA 2015), This was raised in Parliament, yet the Government simply ignored this raised concern. As a result of this, Simeon had to raise money to pay for his own BSL/English interpreters, an additional cost of up to £23,000 for a full six week election campaign, and one which other candidates do not have to bear. To date, the AEOF remains 'closed', an action which will prevent Deaf people from standing for elections in future. This is in breach of Article 29 which the UK Government has ratified.
- 2.13.4 Deaf people are also hindered from accessing Parliamentary and House of Lords debates because these are never interpreted; the television channel *BBC Parliament* is not covered by the Communications Act (2003) and has less than 1 percent of viewing figures.¹⁹

The BDA calls on the Committee to recommend that:

28. The Government reinstates the 'Access to Elected Office for Disabled People Fund' and makes available a *permanent* budget to enable potential candidates to stand for election as councillors and/or MPs in all elections.
29. The Government update the Communications Act by requiring BBC Parliament to include closed captions and BSL-interpreted access.

2.14 Article 30 – Participation in cultural life, recreation, leisure and sport

- 2.14.1 Clause 4 of Article 30 makes specific reference to sign languages: 'Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture' (UN 2007:23).
- 2.14.2 There is limited BSL/English interpretation available for national cultural events such as visual art exhibitions, the performing arts, theatre performances, or literary festivals. Theatres and cinemas are particularly difficult to access with unfavourable time slots generally being offered (Guardian 2011).

¹⁷ <http://www.bda.org.uk/News/51> accessed 13 June 2014

¹⁸ <http://www.access-to-elected-office-fund.org.uk/> accessed 13 June 2014

¹⁹ Riley, T. terryriley.bdachair@gmail.com, 2014, CRPD [email] Message to S. Emery (epzsde@bristol.ac.uk). Sent 14 June, 2014

- 2.14.3 There is no State support for interpreted performances in the UK. Sign language access has to be fought for; *for example, following several months of extensive lobbying backed up by a threat to resort to the Equality Act the Royal Shakespeare Company offered its first signed performance in several years in March 2014.*²⁰
- 2.14.4 There is a precedent in the UK for planned Government support of culturo-linguistic patrimony of autochthonous spoken minority language communities including Scots Gaelic and Welsh²¹. Similar provision is not yet being planned for the UK's sign languages.
- 2.14.5 Access to electronic communications (UK State Report: paragraph 165) makes reference to the British Sign Language Broadcasting Trust (BSLBT), but many Deaf people are not aware of its programmes, and, they are invisible to the wider hearing population.
- 2.14.6 BSL broadcasting on terrestrial television takes place mainly after midnight and only 5% (or less) of programmes on high frequency channels must be sign language interpreted. Only BBC2 has between 30 – 60 minutes of signed programmes each weekday morning - a woefully inadequate provision that is still out of reach of those Deaf viewers who are en route to work, school or busy with their families.
- 2.14.7 The UK State Report stresses the importance of the Paralympics in helping to change attitudes of able-bodied people towards disabled people in this country. However, the independent body set up to examine the 'sustainability' of the London 2012 Olympics and Paralympics^[1] found that there was: lack of subtitles or BSL-interpretation on the screens and on televisions at home, and a failure to understand how Deaf people who could not afford to bring their own interpreters are expected to understand important instructions for the crowd (Pring 2012).
- 2.14.8 There are no categories for Deaf participants in the Paralympics, but there is a long-running alternative the Deaflympics, which has been taking place every four years since 1924. The last event took place in Sofia, Bulgaria in 2013; and while the Olympics and Paralympics received a record £347m following London 2012 (again £347m for Rio 2016), with the Paralympics receiving a 59% increase in funding, Deaf GB athletes and bodies received just £125,000 for Sofia. **To date, UK Deaf Sports (UKDS) have received zero funding from UK Sport and Department for Culture, Media and Sports (DCMS) for the 2013-2017-2021 Deaflympic cycle.** The costs of DeaflympicsGB are minuscule compared to the spend on TeamGB and ParalympicsGB at 2012-2016-2020. Participation is the lowest of all disabilities and sits at less than 10% (source: Sport England).

²⁰ Batterbury, S., and Magill, R., email correspondence; Full Reference: Complaint to the Equality Advisory Support Service, Reference Number: 140121-000018, 'Disability Discrimination'.

²¹ For example ' National Gaelic Language Plan: Working with Public Bodies and Local Authorities to secure a sustainable future for Gaelic', a five year plan running from 2012-2017 <<http://www.scotland.gov.uk/Resource/0042/00426819.pdf>> accessed 13 June 2014

^[1] Full name: 'The Environmental Sustainability of the London 2012 Olympic and Paralympic Games'

The BDA calls on the Committee to recommend that:

30. The Government provides a fair funding to support Deaf athletes' visibility and recognition in order to compete at the Deaflympics
31. The Government increases the quota of sign language-presented programmes on the terrestrial channels (eg. BBC, ITV, Channel 4) and makes available BSLBT programmes on terrestrial television.

2.15 Article 31 – Statistics and data collection

- 2.15.1 The addition of a question on BSL in the 2011 Census for England and Wales was initially welcome, but the question was open to misunderstanding and delivered a wholly unreliable finding.²²
- 2.15.2 There is an urgent need to collect data in order to gather an accurate picture of the numbers of Deaf people in the UK in order to devise feasible services. In order to do so it is necessary to disaggregate figures when undertaking statistical data: i.e. Deaf people should be identified in any statistical calculations of disabled people.

The BDA calls on the Committee to recommend that:

32. The Government disaggregates figures when collecting data on disabled people to enable statistical identification of Deaf people and children, and further ensures that Deafblind people have their own category distinct from registers for Blind people.
33. The Government should ensure BSL (BSL and ISL only in Northern Ireland) is part of the Census in order to obtain a more accurate number of people using sign language in the UK.

²² British Deaf Association, 8 March 2013, British Deaf Association reacts to Census Figures with dismay <<http://www.bda.org.uk/News/108>> accessed 14 June 2014. See also <http://deafcouncil.org.uk/news/wp-content/uploads/Briefing-note-Census-data-on-number-of-Deaf-people-in-UK.pdf>> accessed 14 June 2014

APPENDIX A: Full List of Recommendations to the CRPD Committee

The BDA calls on the Committee to recommend that:

Articles 1, 2, 3 and 4 - General Principles and Obligations

1. The Government needs to meet its obligations under the CRPD for both Deaf and disabled people. Policy development and existing measures and policies necessitate that the Government should mainstream consideration of Deaf people's needs and opinions to ensure we are not overlooked and rendered invisible. A simple matrix as used above serves to highlight gaps and areas where Deaf people's issues have simply been overlooked and where existing policies are failing the Deaf community and denying us full citizenship.
2. The Government ratifies *UNESCO's Convention for the Safeguarding of the Intangible Cultural Heritage* (UNESCO 2003) to commit the Government to take measures to promote and protect Deaf cultural heritage.
3. The Government improves policies aimed at guaranteeing and protecting economic, social and cultural rights of Deaf people in the UK, specifically by the introduction of a legally-binding BSL and ISL Act.

Articles 8 – Awareness raising

4. The Government makes efforts to ensure broadcasters provide equal access to terrestrial TV programmes and 'public bodies' websites, by interpreting content into BSL;
5. The Government undertakes an awareness raising campaign informing hearing people about sign languages and the cultural values of the UK Deaf community.

Articles 9 – Accessibility – Everyday services

6. The Government enforces on OfCOM to add VRS to the regulator's mandate to make it possible to have NG 112 service. Emergency control centres are able to use video when receiving calls making services much faster (embracing Total Conversation); and that sign language interpreters can be invoked by the emergency centre operator (as happens for non-English groups).
7. The Government should update the regulations relating to access to telecommunications – specifically Video Relay Services - for Deaf people who use BSL.
8. Deaf people are provided with an Independent Support Budget enabling them to book interpreters for civic and recreational activities as well as study and work.

Articles 10 – Rights to Life

9. The Government removes this offending clause from the Human Fertilisation and Embryology Act 2008

Articles 11 – Situations of risk and humanitarian emergencies

10. Emergency television broadcasts which feature a senior politician such as the Prime Minister should be interpreted by a registered qualified BSL/English interpreter.

Articles 12, 13 and 14 - Access to Justice; Liberty and security of the person; Equal Recognition before the Law

11. In the police, courts and prisons there should be proper provision for Deaf people: Deaf people should be treated equally with hearing people. This necessitates provision of Deaf legal centres and / or budgets to facilitate legal advice in sign language.
12. The Government should establish a public inquiry into the situation of Deaf prisoners.
13. The Government should accept Deaf people to sit on jury service.
14. The Government draw up a legally binding BSL Act for Parliamentary debate. An Act would also meet the requirements of Article 21(e).

Articles 16 – Freedom from exploitation, violence and abuse

15. The Government works closely with and provides funding to the NSPCC to help its public inquiry into the extent of the abuse of d/Deaf children, with a view to establishing safeguards and prevention measures.
16. Deaf people should be given access to confidential counselling in their native sign languages.

Articles 21 and 23 – Freedom of expression and opinion, and access to information; Respect for the home and family

17. Priority groups (e.g. hearing parents of d/Deaf children) be offered subsidised and free sign language classes: an I-Sign Pilot Project funded by the Department of Schools and Families (now the Department for Education) between 2008-2011, involving a consortium of 7 organisations, provided full details of how sign language could be taught to families of d/Deaf children cost effectively.²³
18. There should be translations of key Government and public authority texts into BSL on their websites

Articles 24 - Education

19. The Government supports a human rights approach to the development and education of d/Deaf children; in particular:
 - that children have the right to be fluent in a language, including BSL, by the age of 5, including the adoption of the WFD Position Statement 'Language Rights of Deaf Children';

²³ Research Report DFE-RR137; ISBN: 978-1-84775-950-4 (see Batterbury et al 2011).

- an intensive and early signing environment is therefore necessary for d/Deaf children from hearing families (Lieberman et al 2014);
- very early interactions are necessary with a native BSL adult who can provide the 'maternal cues' needed to establish joint attention (Baines et al 2009); these features could be modelled by a Deaf adult for hearing parents;
- Teachers of the Deaf should have fluent BSL skills equivalent to Level 6 BSL.

20. Following on from the pre-school intervention and in line with the European Union of the Deaf position paper²⁴, the Government ensures:

- access in a national sign language, including - where appropriate - access to the written and spoken national language(s), and Deaf culture;
- Fluency in a language (namely sign language) to access the national curriculum, including Deaf culture;
- the learning of sign language and Deaf culture in early intervention programmes, including for children with hearing aids or cochlear implants;

and, in mainstream settings:

- the education of several d/Deaf children in one class, to create a sign-intensive environment, and encourage the development of Deaf culture;
- using registered qualified BSL/English interpreters and/or a Deaf role model to foster the natural acquisition of sign language and Deaf culture;
- support for parents throughout the whole educational process, including access to sign language classes and unbiased information regarding educational outcomes of d/Deaf children.

21. The Government takes measures to ensure that there are no further Deaf school closures. The cultural-linguistic nature of the Deaf community means Deaf schools should be modelled similarly to Welsh-medium and Gaelic-medium schools that are available to spoken language minority communities. This would mean a bilingual-bicultural approach to education, whereby Deaf schools become 'BSL-medium schools' where peer to peer learning, Deaf cultural development and sign language modelling takes centre stage (see for example Teruggi 2003, Kushalnagar et al 2010, ASLA 2012).

22. The Government ensures that Deaf teachers should be offered the choice of achieving their qualification in a Deaf school.

23. The Government ensures that Disabled Students' Allowance must not be cut or reduced for Deaf students in further and higher education.

Articles 25 - Health

24. The Government sets up an urgent public enquiry into the state of health of UK Deaf citizens be conducted, following the uncovering of serious breaches of the human rights of Deaf people. Urgent measures should be put into place with achievable targets and timetable to improve access to the health service for Deaf people

²⁴ <http://www.eud.eu/Education_Position_Paper-i-559.html> accessed 13 June 2014

Articles 27 – Work and employment

25. The Government immediately removes the Access to Work cap level and ensures a fairer award through in-depth individual assessment.
26. The government puts in place statutory arrangements for Deaf people, to ensure the provision of registered qualified BSL/English interpreters is guaranteed.

Articles 28 – Adequate standard of living and social protection

27. The Government sets up an investigation into introducing a specialised form of payments, separate from the benefits system, to enable Deaf people to pay for BSL/English interpreters, and other forms of communication, in order to participate in society on an equal basis with hearing citizens.

Articles 29 – Participation in political and public life

28. The Government reinstates the 'Access to Elected Office for Disabled People Fund' and makes available a *permanent* budget to enable potential candidates to stand for election as councillors and/or MPs in all elections.
29. The Government update the Communications Act by requiring BBC Parliament to include closed captions and BSL-interpreted access.

Articles 30 – Participation in cultural life, recreation, leisure and sport

30. The Government provides a fair funding to support Deaf athletes' visibility and recognition in order to compete at the Deaflympics.
31. The Government increases the quota of sign language-presented programmes on the terrestrial channels (eg. BBC, ITV, Channel 4) and makes available BSLBT programmes on terrestrial television.

Articles 31 – Statistics and data collection

32. The Government disaggregates figures when collecting data on disabled people to enable statistical identification of Deaf people and children, and further ensures that Deafblind people have their own category distinct from registers for Blind people.
33. The Government should ensure BSL (BSL and ISL only in Northern Ireland) is part of the Census in order to obtain a more accurate number of people using sign language in the UK.

APPENDIX B: Brief Introduction of the British Deaf Association

Founded in 1890, the BDA stands for **D**eaf **E**quality, **A**ccess and **F**reedom of Choice.

Vision

Our vision is Deaf people fully participating and contributing as equal and valued citizens in wider society.

Mission

Our Mission is to ensure a world in which the language, culture, community, diversity and heritage of Deaf people in the UK is respected and fully protected, ensuring that Deaf people can participate and contribute as equal and valued citizens in the wider society. This will be achieved through:

- Improving the quality of life by empowering Deaf individuals and groups;
- Enhancing freedom, equality and diversity;
- Protecting and promoting BSL.

Values

The BDA is a Deaf people's organisation representing a diverse, vibrant and ever changing community of Deaf people. Our activities, promotions, and partnerships with other organisations aim to empower our community towards full participation and contribution as equal and valued citizens in the wider society. We also aim to act as guardians of BSL.

1. **Protecting our Deaf culture and Identity** – we value Deaf peoples' sense of Deaf culture and identity derived from belonging to a cultural and linguistic group, sharing similar beliefs and experiences with a sense of belonging.
2. **Asserting our linguistic rights** – we value the use of BSL as a human right. As such, BSL must be preserved, protected and promoted because we also value the right of Deaf people to use their first or preferred language.
3. **Fostering our community** – we value Deaf people with diverse perspectives, experiences and abilities. We are committed to equality and the elimination of all forms of discrimination with a special focus on those affecting Deaf people and their language.
4. **Achieving equality in legal, civil and human rights** – we value universal human rights such as the right to receive education and access to information in BSL, and freedom from political restrictions on our opportunities to become full citizens.
5. **Developing our alliance** – we value those who support us and are our allies because they share our vision and mission, and support our BSL community.

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