



Submission Paper

Equality Act 2010 and Disability

To the House of Lords' Select Committee

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SUMMARY

This submission focuses specifically on issues pertaining to Deaf people using British Sign Language (BSL) as their first or preferred language in the UK. The Deaf community, with its unique culture and sign languages, is virtually invisible in UK disability policies. The Government recognised BSL in 2003 as language in its own right, and ISL (Irish Sign Language in Northern Ireland) in 2004 but there have been no attendant changes in policy.

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. 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.

Since the Equality Act 2010 came into force in October 2010 it has failed to strengthen the law as far as Deaf BSL users are concerned. For example, holistic wellbeing and health, access to emergency services, education and employment are just some of the areas where Deaf people's rights are not protected adequately by the Act. The Act has also failed to guarantee BSL for access to criminal justice, sport, telecommunications, broadcasting, leisure and civil justice. The Act also does not focus on the value and integrity of BSL and Deaf culture. It accords rights to individuals to protect them from discrimination but it does not protect or promote BSL as a language. We believe Parliament must strengthen the Act to ensure a clear interpretation of what "reasonable adjustments" are in the context of Deaf BSL users.

The Public Sector Equality Duty is too broad and we see that Government departments are not following the example of private sector companies in embracing advanced technology in order to enable Deaf customers to access their services.

The BDA continues to press for legislative change and action by the government, especially to ratify and implement its obligations under the UNCRPD by giving legal status to BSL through BSL Act and through additional legislation to implement the specific provisions in the fields specified by the UNCRPD

This would strengthen the Equality Act 2010 allowing it to be applied and rendered workable and to end the pervasive socio-economic linguistic exclusion that blights the lives and limits the opportunities of Deaf people and their families. This would help to:

- Ensure that Deaf people are given full citizenship through legislation that protects their cultural, social and political citizenship;
- Ensure that hearing people and families of Deaf children can learn BSL and appreciate the culture-linguistic diversity of Deaf culture that still exists in the UK that can enrich their lives;
- Put BSL / English interpreting on a statutory footing; and
- Implement additional legislation to ensure that BSL, as the UK's one of indigenous minority languages, Deaf culture and heritage are safeguarded and protected.

BACKGROUND

The UK Deaf community has its own distinct language and cultural heritage that stretch back at least 250 years (Ladd 2003).

Since the BDA was founded in 1890, its primary purpose has been the status and recognition of the Deaf Community and British Sign Language (BSL) in the United Kingdom. The cornerstones of the BDA are: valuing and promoting our language, BSL, and asserting our linguistic rights; working with and supporting the UK-wide community of BSL users; fostering a strong and positive Deaf identity, especially amongst young people; preserving our Deaf heritage and representing the needs, aspirations, rights and responsibilities of Deaf people.

As a member-led organisation, our work is focused on achieving equality for Deaf people through community empowerment, membership and campaigning. Working with local Deaf and BSL Communities is crucial to the success of BDA campaigns and creates opportunities for Deaf people to develop, participate and contribute to wider society.

The BDA is a high profile national 'Deaf People's Organisation' with a strong presence throughout England, Scotland, Wales and Northern Ireland. We operate in a fast-paced, politicised environment dealing with complex and often controversial social issues with multiple stakeholders.

The BDA has been pressing for official governmental status for BSL since the early 1980s. Between 1999 and 2003 the BDA participated in a nationwide campaign for formal legislation which resulted in a limited recognition of BSL by the Department for Works and Pensions on 18th March 2003.

In 2002, the UK Government gave protected language status to the indigenous UK languages including Welsh, Scots, Ulster Scots, Scottish and Irish Gaelic and recently Cornish. BSL is not included in this list which reflects the continued policy perception of BSL as a communication tool for disabled people despite extensive academic research to the contrary that BSL is the UK's one of the indigenous minority languages.

Although DWP "recognised" BSL in 2003, this was merely an acknowledgement by one Government department that it exists as a language and did not offer any legal rights.

Deaf sign language users qualify for protection under the Equality Act 2010. This gives Deaf people a set of rights which speakers of minority spoken languages did not have especially in relation to accessing the private sector.

Recognising continued social exclusion and the limitations of the Equality Act 2010, Deaf people in the UK still suffer pervasive and endemic social exclusion. Compared with hearing people they experience:

- Well below average Deaf school leavers' achievements (BDA Scotland 2015a);

- Inadequate access to health information (Signhealth 2014 and BDA 2014a);
- Higher than average levels of acquired mental ill health;
- Exclusion from employment, criminal justice and civil engagement;
- Deaf prisoners also experience extreme social isolation (BDA 2014b).

The BDA continues to press for legislative change and action by the government, in order to ratify and implement international legal instruments for the benefit of the sign language community.

General

1. **Has the Equality Act 2010 achieved the aim of strengthening and harmonising disability discrimination law? What has been the effect of disability now being one of nine protected characteristics?**
 - 1.1 The Equality Act 2010 may have harmonised the law across the protected characteristics but hasn't strengthened the law as far as Deaf BSL users are concerned.
 - 1.1 Our research shows that the Equality Act 2010 is not always respected nor implemented on a day to day basis (as detailed in the BDA's *Legal Status for BSL* discussion paper 2014c). This places a heavy burden on individual Deaf people having to make claims in either the County Court or Employment Tribunal enforcing their rights for each and every instance of discrimination. In addition, Deaf people face significant linguistic barriers to pursuing their rights through the courts. The Equality Act 2010 places the onus on Deaf individuals to enforce their rights through the courts on a case by case without full access to the legal system. Given the lack of qualified legal representatives who use BSL, it follows that invoking the Equality Act 2010 is generally intimidating, burdensome and inaccessible.
 - 1.2 Existing legislation does not deliver linguistic rights as shown in the examples below.

Holistic wellbeing / health

Health services for Deaf people are so shocking that we believe the UK Government is in serious breach of human rights.

During the consultation commentators complained of being forced to interpret for their Deaf relatives. This practice is dangerous as family members are emotionally involved and unqualified.

"I grew up with Deaf parents and have been using BSL all my life. Since I was young, I accepted responsibility for my parents... During my early teens, I interpreted for my parents at different events such as a parent evening or a doctor appointment. It was inappropriate".

Failure to use qualified interpreters has led to poor understanding of medical treatment, reluctance to seek medical advice and issues with lack of informed consent (BDA 2014c).

"We need better access in hospitals because when I was in hospital for 2 weeks, I tried to ask for an interpreter but the staff kept ignoring me. I was upset in the 2nd week and my hearing daughter was furious and had a word with the staff. I got an interpreter in the next day. Why did they not listen to me? They only listened to my hearing daughter. I was the patient! "

"Why is it always awful in hospitals? Every time I ask for an interpreter

for my hospital appointments, no one turns up. It is so frustrating. Why other people with different languages have better access to their interpreters?"

In March 2013 the Scottish Public Services Ombudsman ruled that failure by NHS Tayside to provide an interpreter for a Deaf patient was a breach of their informed consent policy. Sign Health states that "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." (2014:3).

Access to Emergency Services

Access to emergency services is also severely restricted for Deaf BSL users and the potential for misunderstanding using written English potentially dangerous.

"I tried to ask for help from NHS24 when my friend was ill. I was using a minicom but it was awful. I was confused with their questions. It took 2 hours before the ambulance came to collect my friend who was really ill. If I was able to communicate in my language – VRS – my friend would be in hospital much quicker".

The European Universal Service Directive (article 26)¹ 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 Relay is being implemented. We hope that the Equality Act will be strengthened by recommending that OfCOM add Video Relay Service (VRS) to the regulator's mandate to make it possible to have the NG 112 service, that 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 other non-English groups).

Education

The Equality Act also obliges schools to make reasonable adjustments. However, using level 2 Communication Support Workers in mainstream settings denies learning to deaf children who need BSL (above level 4). Wales and Scotland offer their own language education and should be able to offer enhanced BSL-medium instruction where this is required.

¹ Council Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002.

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.

Two sources of statistical information about the signing skills of teachers of deaf children in Scotland: a survey carried out by Grimes (2009) 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.**

Under article 24 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) schools should now employ “teachers, including teachers with disabilities, who are qualified in sign language”.

“I teach BSL. That is my job. One of my students came on my introduction to BSL course. She told me she is a classroom assistant in a mainstream school. She is supporting 2 deaf children. But she doesn’t know how to sign yet so how can these children understand her?”

In addition, Deaf parents have also complained of lack of access to their hearing children’s schools and the abusive and inappropriate practice of asking children to interpret their own parent-teacher interviews.

“I asked for a BSL interpreter for the parent evening at my children’s school. They kept forgetting to provide one. It is not right to use my children to interpret for me and their teacher because they can sign”

There is also a strongly felt wish for BSL to be offered as a modern second language in schools, considerable work has already been invested into a National BSL curriculum for this which could be draw on at minimal cost.

“BSL should be on the school curriculum. If hearing children learn BSL at school, this will mean, in the future, the society will be more deaf and BSL aware and able to communicate with us”

Employment

Deaf people have reported difficulties in securing employment, and getting interpreters for appointments at the job centre.

“I went to the job centre to find a new job. The receptionist refused to help to contact a potential employer. She told me to use the phone but how can I hear or speak on the phone??”

“I asked the Job Centre for a provision of BSL interpreters. They refused or forgot to provide one. Because of this, I have

difficulty in finding a job. My dad has been involved with helping find a job for me. He is unhappy with the Job Centre service. I am still looking for a job.”

Another contributor provided a brave and very emotional personal account of how failures by Job Centre Plus had resulted in him losing his home and his relationship. Also that, after becoming homeless, his efforts to get re-housed had failed due to social landlords not providing interpreters leaving him with a feeling of hopelessness. This avoidable tragedy was not unique and illustrates well the point that the Equality Act should be strengthened to place greater responsibility on public services to deliver equal service access to Deaf people. It is not just the right thing to do, it is a necessity if tragedies like this are to be avoided in the future.

During the consultation Deaf contributors have also reported difficulties in retaining employment and in getting interpreters for interviews:

“I have great difficulty in finding a job for two years. I want to work as a cleaner but because of my bad English and being deaf, my application has been rejected. I got sacked because of my so-called attitude. No one believed me that I was bullied for my lack of speech at my previous job.”

“For a job interview, I was refused a BSL interpreter. It was totally unfair”.

Since the late 1980s, Deaf people have relied on Access to Work (ATW) payments to enable them to be employed on an equal basis to hearing workers. The BDA survey (2014d) found numerous structural failures with this system. In acknowledgement of restrictions imposed by ATW, i.e. the '30 hour rule' introduced in 2011 requiring Deaf people who use over 30 hours of ATW funded support to employ lower salaried Communication Support Workers, instead of freelance interpreters (BDA 2014c), the Government suspended the ruling for three months from May 2014 pending a review². This is a welcome development but the BDA remains concerned about the future of ATW especially new cap level restricting Deaf people's highly skilled jobs in the future, heavily relying on the BSL/English interpreters

- 1.3 Holistic wellbeing and health, access to emergency services, education and employment are just some examples of the many policy fields where Deaf people's rights are neither protected adequately by the Equality Act 2010 nor by international instruments such as the UNCRPD.

² The announcement was made by The Minister for Disabled People (Mike Penning MP), on 12 May 2014, to the House of Commons Select Committee < <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news/access-to-work-launch/>> accessed 13 June 2014.

- 1.4 The Equality Act 2010 has also failed to guarantee BSL for access to criminal justice, sport, telecommunications, broadcasting, leisure and civil justice among others (BDA 2014a, BDA 2015a). BSL users are forced to rely on the Equality Act 2010 for their rights within the private sector.
- 1.5 Currently language rights for BSL used by Deaf people in the UK are only offered under the aegis of disability legislation, however speakers of other indigenous spoken languages are not required to self-identify as disabled to access their language rights. The Equality Act 2010 does not make specific reference to BSL and it is therefore up to case law and judicial interpretation to determine what constitutes a “reasonable adjustment”. Reasonable adjustments are achieved primarily through the use of BSL-English interpreters (the majority of interpreters have acquired and use BSL as a second language). The mere provision of second language speakers acting as interpreters would not for one moment be considered adequate to safeguard and protect the integrity of other (spoken) indigenous languages.
- 1.6 The Equality Act 2010 does not therefore focus on the value and integrity of BSL and Deaf culture. It accords rights to individuals to protect them from discrimination but it does not protect or promote BSL as a language.
- 1.7 BSL is a threatened language and without a BSL Act there is a real risk of losing the cultural and linguistic diversity it represents due to the very real threat posed by interrupted intergenerational transmission. The Equality Act is not capable of safeguarding, protecting and promoting the culturo-linguistic resource embodied in BSL. The current situation of absent statutory guidance on language protection also constitutes a threat to Deaf people’s collective culture-linguistic diversity and heritage and amounts to a diminution of prospects for self-actualisation and achievement.
- 1.8 In Scotland, the Scottish Parliament’s Education and Culture Committee report (April 2015) “Stage 1 report on the British Sign Language (Scotland) Bill” states that some public authorities felt existing legislation, notably the Equality Act 2010, was sufficient for addressing the communication needs of Deaf people as employers and service providers have an obligation to anticipate the needs of employees and service users and to make reasonable adjustments for them. However, others rejected the view that existing legislation could adequately address the needs of BSL users. BDA Scotland told the Committee that the Equality Act 2010 “accords rights to individuals to protect them from discrimination, but it does not protect or promote BSL as a language”. The Minister for Learning, Science and Scotland’s Languages, responded to comments saying that although Deaf people are covered by existing legislation, such as the Equality Act 2010, their needs are still not being met despite those legal protections.
- 1.9 In conclusion, despite the Equality Act 2010, Deaf people still face significant discrimination in almost every aspect of their everyday lives. There is an enormous disparity in opportunities for Deaf and hearing people and Deaf people and evidence points to the fact that Deaf people have fewer basic civil, linguistic and human rights than most hearing people. The BDA therefore calls on the UK Government to take immediate steps to remove these layers of exclusion and ensure that our sign language communities and Deaf people are granted full citizenship and language justice: Language justice entails social justice through language access and linguistic

cultural protection rather than other form social redistribution (Batterbury 2013). In the spheres of education and health especially, Deaf people are treated as an underclass: this is wholly unacceptable and the Government has a duty to resolve this without delay.

2. Are there gaps in the law on disability and equality not covered by the Equality Act 2010 or other legislation?

2.1 The European Convention on Human Rights (ECHR) grants directly actionable rights to individuals through Article 34 against public authorities. It is implemented in the UK through the Human Rights Act 1998 (HRA). It does not, however, grant specific rights to national minorities. The Equality and Human Rights Commission (EHRC) feels that the creation of a UK Bill of Rights should not be an attempt to undermine the HRA 1998 and also they have advocated the inclusion of “a fully enforceable free standing right to equality” in a future Bill of Rights. The BDA insists that this fully enforceable right to equality includes Deaf people and BSL users.

2.2 The UNCRPD imposes a number of obligations on the UK including the promotion, recognition, and support of Deaf people’s linguistic identity, sign languages and Deaf culture, recognition of sign languages, and employing Deaf teachers qualified in BSL. Currently this is not happening across the UK (BDA 2014a). The UNCRPD contains five articles specifically referring to sign languages:

1. Article 2 includes sign languages in its definition of “language”;
2. Article 9 linguistic access;
3. Article 21 freedom of expression and opinion (see below);
4. Article 24 education (see below); and
5. Article 30 participation in cultural life, recreation, leisure and sport (see below).

Article 21 Freedom of expression and opinion and access to information	States must “ensure disabled people have the right to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice , as defined in article 2 of the present Convention.” Article 21, (b) requires states to assist this by ‘ accepting and facilitating the use of sign languages , ... by persons with disabilities in official interactions’ and by “ recognizing and promoting the use of sign languages ” (Article 21 e)
Article 24 Education	Clause 3 stipulates that inclusive education should be offered at all levels, requiring states to facilitate: (b) ...’the learning of sign language and the promotion of the linguistic identity of the deaf community’ ; and, ensure that education (c)...’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. ’ Clause 4 requires states 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’
Article 30 Participation in cultural life, recreation, leisure and sport	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’ Article 30, Clause 4

- 2.3 The BDA calls on the Government to implement its obligations under the UNCRPD by giving legal status to BSL through a BSL Act and through existing legislation, such as the Equality Act 2010 to implement the specific provisions in the fields specified by the UNCRPD. The BDA does not accept the Office for Disability Issues’ (ODI) report to the UN Disability Committee (2011) which failed to expose the level of social exclusion of Deaf people and did not acknowledge the Government’s failure to implement the UNCRPD fully through all the nations of the UK.
- 2.4 The UNESCO Convention on the *Protection and Promotion of the Diversity of Cultural Expressions* (UNESCO 2005) imposes further obligations on the UK to protect and promote the diversity of cultural expressions and create conditions of cultures to flourish and build bridges between communities. However, the UK has not yet ratified the UNESCO Convention for the safeguarding of the intangible cultural heritage (2003). Smith and Waterton suggest the apathy towards recognising this convention indicates a willingness only to engage with “cultural stasis and status” (2008:300). The BDA calls on the Government to recognise the UNESCO Convention to demonstrate its commitment to Deaf people and to the UK’s sign language community
- 2.5 The BSL (Scotland) Bill is now at the Third Stage which will be debated and voted on by the Scottish Parliament on 17th September 2015. The BSL (Scotland) Bill would move the Scottish Government closer to fulfilling its existing international obligations for promoting the linguistic identity of the Deaf community, fostering cultural linguistic diversity and the potential economic value of the BSL community, and the value of BSL for shaping identities. If the Bill becomes an Act, it will exclude the other three nations of the UK so would not be added to the Equality Act which is there to ensure fairness and equality for all the UK.

Reasonable adjustment

3. **Are the reasonable adjustment duties known and understood by disabled people, employers, service providers and others who have duties under them? How does this apply in the specific cases of public transport, taxis, education and access to sports grounds?**
- 3.1 The ‘Our Health in Your Hands’ survey (2013) shows that 48% of deaf respondents have reported that they have been unhappy with the standard of the interpreter they were given. This means there is an increased risk of unsafe diagnosis. The Equality Act 2010 requires service providers to make reasonable adjustments, but the notion of reasonable adjustments offers considerable wriggle room for providers. Health

providers frequently do not know how to book interpreters nor how to work with them and this causes frequent lapses in standards of care.

- 3.2 We know that providers have to make reasonable adjustments. Without BSL, these “reasonable adjustments” cannot offer full inclusion nor adequate access. For example, deaf schools have been progressively closed down and replaced with mainstream provision. Almost all Deaf children are disadvantaged by being denied access to native BSL. The concept of “reasonable adjustments” is currently weak and inadequate response to a genuine requirement for equal access to teaching and learning. The Equality Act 2010 is not working: pupils and students are powerless to invoke their rights and often do not know how to complain. They are not getting the support they need to access mainstream education nor to cope the encompassing isolation of being in an inaccessible school environment. The current interpretation of the Equality Act 2010 does not offer parity between Deaf and hearing students.
- 3.3 Another example is the Code of Practice for the detention, treatment and questioning of persons by police officers (Police and Criminal Evidence Act (PaCE) 1984, Code C (Section 13.1)), which previously required Chief Officers to book NRPSI and CACDP registered BSL/English interpreters for Deaf people (Code C 2008).³ 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). In furthermore in the health care field where there is no obligation to provide an interpreter; only to make reasonable adjustments. It is not unusual for public services to ask for children and underage young people to interpret, unpaid, especially in the health and education fields as we have seen. Thus the Equality Act does not always deliver an appropriate response. Ultimately, interpreter delays can also mean that Deaf people are denied freedom and liberty for longer than hearing people.
- 3.4 Public and private sector providers are required to make reasonable adjustments under the Equality Act 2010. The UNCRPD also specifies sign language interpretation should be provided when required in official interactions. However there is a conflict with the Data Protection Act 1998 (DPA) which very often proves a stumbling block. For example, banks will not speak with people making a telephone call on behalf of a Deaf person because of the rules of the DPA 1998. The Deaf person either has to write a letter naming another person allowed to make phone calls on their behalf, or go to the bank themselves. This requires resolving through statutory regulation of the interpreting profession. However, there are several difficulties achieving access as illustrated by the following examples:

³ National Register of Public Service Interpreters (NRPSI) or the Council for the Advancement of Communication with Deaf People (CACDP)

Inland Revenue – lack of access, no reasonable adjustments made until lawyers contacted them

One Deaf man started freelance work in April 2008 and had to register for Self-Assessment Tax Returns. As English is not his first language, he experienced difficulties in understanding the forms that had to be filled in. As a result he provided inaccurate information every year. This led to tax arrears and his debit almost totalled £14,000 of which he had one priority debt of £6.550. He was struggling to make his monthly repayments of £350. He stopped freelance work in November 2011. He went to the RAD Money Advice Service for assistance as he was unable to obtain assistance from the Her Majesty's Revenue & Customs (HMRC) due to the communication barriers. RAD contacted HMRC directly on his behalf and arranged an appointment for him at his local HMRC office and ensured that a BSL interpreter was present. Due to having appropriate communication support during the appointment his issue was solved successfully. His tax arrears of £6.550 were cancelled and he was reimbursed for the money he had already paid. He was very happy with the outcome and RAD continued to support him with filling in future tax forms.

Bank: Failure to make reasonable adjustment

One young lady attended a mainstream hearing school and wears hearing aids. She is able to speak and sign. She went to the bank to discuss her finances. On arrival she noticed a sign for a hearing aid loop in the window but when she reached the desk she found it would not work. Using written notes she informed them that the loop was not working. The manager was called and told her it would be repaired in a few days. She then received a letter offering £50 compensation. This is not why she went to the bank as she needed to discuss her finances so she wrote a letter explaining this. She then received a reply offering a further £20 compensation. However she has still not been able to sort out her finances. The bank has not booked an interpreter nor any alternative means of communication.

- 3.5 Given evidence of the widespread social exclusion of Deaf people from almost every area of life that involves communication. The Equality Act 2010 is meant to provide equal access but as things stand it is not able to do this mainly because of “reasonable adjustments”. Suing for rights under this it is time consuming and difficult, and requires literacy and a source of legal advice and support.

4. Should the law be more explicit on what constitutes a reasonable adjustment? If so, in what way?

- 4.1 We believe that “reasonable adjustment” is a great concept, capable of evolving and keeping pace with changing technologies, from time to time. For example, companies provide SMS which enables Deaf people to send text messages. Ten years ago this would not have been reasonable because they would not have been able to do it. So as the definition of what is reasonable adapts and changes, therefore the law itself should be updated every five years to match the contemporary ideals of what is reasonable. This includes a more open societal acceptance of BSL as a linguistic and cultural resource. It is time our legislation recognises this explicitly.
- 4.2 There is considerable ambiguity on what now constitutes a reasonable adjustment following the Employment Appeal Tribunal’s decision in *Cordell v Foreign & Commonwealth Office* UKEAT/0016/11/SM, which makes it clear that there is a cap on the costs an employer is expected to pay for adjustments. In this case, it was considered that £250,000 for lip-speakers to accompany a deaf diplomat in Kazakhstan was unreasonable. The Communication needs of D/deaf people must be better understood and Parliament is required to ensure a fairer distribution of resources in the judicial process.
- 4.3 In conclusion, we believe there is too wide a scope of what constitutes “reasonable adjustments” as interpreted by the courts to provide a definitive meaning, allowing more consistent application across the board. Parliament is essentially required to strengthen the Equality Act 2010 to ensure that a clear interpretation of what “reasonable adjustments” are in the context of Deaf BSL users to allow full access to information and support in BSL, to end the blighted prospects of Deaf people and to enable an inclusive economy and society we can all be part of. It is therefore proposed that this should form part of a UK-wide BSL Act.

Public Sector Equality Duty

5. How effective has the public sector equality duty been in practice? How do you assess its contribution to the aims of the Equality Act 2010?

- 5.1 To our knowledge, we believe there is no research in this area.
- 5.2 We could easily identify with the repealed Disability Discrimination Act 1995 and the Disability Rights Commission which did a lot of good work to ensure that public authorities produce disability duty plans and provide online information support for those who need advice before taking any further action. However, we find the Public Sector Equality Duty (PSED) less effective under the Equality Act 2010 and the EHRC mainly because they are so generic, they would be OfCOM or OfSTED to fine and/or challenge providers to improve services within the spirit of the law.
- 5.3 The PSED is too broad as it now covers the nine protected characteristics. There are also no Codes of Practice for each of the protected characteristics.

- 5.4 We therefore believe a great need of a revived high-level commitment to the PSED and to the principle of organisational systemic change on each of nine characteristics, rather than a reliance on individual redress.
- 6. What has been the impact of the different approaches in England, Wales and Scotland to the specific duties designed to support the general public sector equality duty? Have the specific duties supported implementation for disabled people?**
- 6.1 In our experience of working with each nation's parliament/assembly, we have encountered different agendas towards disability work. For example, the Scottish Government is very committed to investing in the Disability/Deaf/BSL Equality programme. They have also supported the BSL (Scotland) Bill which will see every public authority asked to contribute to a national BSL plan outlining what they would deliver to promote the interests of Deaf BSL users in Scotland. This is the first legislation of its kind specifically focused on BSL. We hope the UK Government will soon consider rolling it out to the rest of the UK.

Oversight and enforcement

- 7. Does the division of responsibilities between Ministers and Government departments affect the effective implementation of the Equality Act 2010 in respect of disability?**
- 7.1 It has been clearly established that Government departments are not following the example of private sector companies in embracing advanced technology in order to enable Deaf customers to access their services.
- 7.2 We are also aware that Members of Parliament are often reticent in providing BSL/English Interpreters for one to one meetings with Deaf constituents and for any public events organised by them; and indeed, they are not covered by the provisions of the Equality Act 2010 themselves.
- 7.3** We would like to see the Minister for Disabled People being part of the Cabinet Office team, not the Department for Works and Pensions (DWP). Currently it is a junior minister post (parliamentary under-secretary) downgraded from Minister of State by the current government. This seemed to suggest to the disability movement that disability issues were less important despite the Prime Minister making a commitment to the role of the Minister a few years ago. We hope the Prime Minister will consider moving the minister and the ODI from DWP to the Cabinet Office. This would enable fair representation of the disability agenda across all government departments.
- 8. How effective has the Equality and Human Rights Commission been in exercising its regulation and enforcement powers and what contribution has this made to the impact of the Equality Act 2010 on people with disabilities?**
- 8.1 The Equality and Human Rights Commission appears to be working on a smaller budget for Disability issues than the former Disability Rights Commission. Some services disappeared soon after the new merged commission set up in 2010.

Whilst understanding public expenditure restraints, we hope the Government will consider investing more in the EHRC to make it more productive and responsive to disability issues so that providers and disabled people are able to make a more positive contribution to the disability equality agenda in the next decade.

We are unaware of how many deaf related legal cases (civil and criminal) they have been dealt with since 2010

9. Could other regulatory bodies with a role in the effective implementation of the Equality Act 2010, such as inspectorates and ombudsmen, play a more significant part?

9.1 Other regulatory bodies could indeed play a more significant part. We believe that the likes of the Parliamentary and Health Service, Financial Service, Local Government, Legal, Retail, Housing and Prison and Probation Ombudsmen all have a significant role to play in raising awareness through their services among providers in the importance of recognising Deaf BSL users' rights to access information and services in BSL.

10. Are the current enforcement mechanisms available to private individuals (through Employment Tribunals, County Courts and, in Scotland, Sheriff Courts) accessible and effective for people with disabilities, employers and providers of goods, facilities and services?

10.1 As mentioned, there has been a serious impact from the changes in legal aid resulting in the Royal Association for Deaf People closing down Britain's only specialist legal advice service for Deaf people early last year. Deaf people are still facing unfairness and discrimination at work or in goods and services but they are clearly finding it difficult to exercise their rights without knowing where to get access to legal advisers using BSL.

10.2 There is evidence that Her Majesty's Courts and Tribunal Service is routinely failing to provide BSL/English Interpreters for Court and Tribunal hearings attended by Deaf people, either as claimants, defendants or observers (Deaf Studies Trust 2012).

11. Are there other legislative or non-legislative measures that would improve implementation of the Equality Act 2010 in respect of disability?

11.1 The BDA strongly believes we do need legislative safeguards to:

- enable BSL users to participate as equals in an inclusive economy;
- promote and safeguard Deaf culture, our BSL language and heritage;
- protect our threatened British Sign Language and to facilitate resurgence and reconstruction within the sign language community; and
- counter the continued social exclusion, education and health disparities faced by UK's BSL community and their families.

11.2 These things have neither been protected by existing equalities legislation nor by voluntary codes of practice. People who do not have a good understanding of BSL

traditionally see only disability and work towards integration of Deaf people into mainstream society. However BSL is a minority indigenous language and deserves the same protection and promotion afforded to other indigenous autochthonous languages in the UK (e.g. Welsh, Scots Gaelic and Cornish). Without legislation the importance of BSL as an indigenous language of the UK is almost always overlooked.

11.3 In hope of strengthening the Equality Act 2010, UK will become a beacon for change leading the rest of Europe to see a model for good practice which they can emulate. The UK will also come much closer than the rest of Europe to meeting the existing international obligations under the UNCRPD and the UNESCO Convention on the *Protection and Promotion of the Diversity of Cultural Expressions* (2005).

11.4 In addition, it would be useful for the Lords Select Committee to understand more about other countries' legislation relating to Deaf people using sign languages. The matrix below summarises the different policy domains covered by sign language legislation in the different states that have recognised their national sign languages.

Policy Domain	States	Comment
Bilingual education	Hungary, Finland, Brazil, Greece, Cyprus, Norway, Iceland, Sweden, Slovakia, Portugal	Still quite rare
Free sign language instruction to hearing parents	Iceland, Sweden,	New Zealand is working towards this
Provision of interpreters for witnesses and defendants in court.	UK, New Zealand, Austria, Finland	Applies to many countries – very common through disability legislation
Access to public services	UK, New Zealand, Finland, Austria, Romania	Applies to many countries – very common

11.5 The existence of sign language legislation in these different states offers a precedent that shows that it can work cost effectively in small states and that other communication systems have not been adversely affected. The Hungarian, Austrian, Finnish and New Zealand cases show how the requirements of the UNCRPD are being met and offer exemplars of good practice.

11.6 The New Zealand case is worthy of note as the New Zealand Sign Language Act 2006 was reviewed in 2011 and the Government has been working with the Deaf community to enlarge the policy domains covered to include:

- increased awareness training in Government departments and courts,
- use of New Zealand Sign Language (NZSL) in schools and preschools,
- use of NZSL in health boards.

11.7 The review very strongly advocated increased access to education via NZSL; this is an important lesson in considering what can be learned from the New Zealand experience and the desirability to specify education and holistic wellbeing and Health that should be strengthened in the Equality Act. Key actors in the Deaf community in New Zealand have said:

“Much progress has been made. It has been a positive process and we are looking forward to the outcome”.

11.8 In Finland, Deaf sign language people have a budget that they can use for interpreting in social and civil situations which enables them to participate in voluntary activities such as school boards and local councils. Currently this does not exist anywhere in the UK further contributing to the social exclusion and lack of full citizenship of Deaf BSL people (Emery 2009, BDA 2014a).

11.9 Uniquely among minority language users, Deaf BSL people find barriers to acquiring spoken languages and are therefore not likely to change to a different language in a different policy context. This fact heightens the need for protection, promotion, usage and acquisition planning for BSL. As a group there are barriers to acquiring English, this causes linguistic exclusion which materially affects their lives in terms of accessing medical care, education, employment and other basic civil rights.

11.10 In conclusion, the BDA continues to press for legislative change and action by the government, in order to ratify and implement international legal instruments for the benefit of the sign language community:

- Ratify United Nations Educational, Scientific and Cultural Organisation’s (UNESCO) Convention for the Safeguarding of the Intangible Cultural Heritage (UNESCO 2003) thereby protecting the undoubted intangible heritage of the sign language community;
- Apply the safeguards envisaged in the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO 2005) to the sign language community by according legal status to BSL.
- Follow the current initiatives of the Nordic Council and investigate if the European Charter on Regional and Minority Languages (CoE 1992) can be applied to BSL
- Implement its obligations under the UNCRPD by giving legal status to BSL through BSL Act and through additional legislation to implement the specific provisions in the fields specified by the UNCRPD

This would strengthen the Equality Act 2010 allowing it to be applied and rendered workable and to end the pervasive socio-economic linguistic exclusion that blights the lives and limits the opportunities of Deaf people and their families. This would help to:

- Ensure that Deaf people are given full citizenship through legislation that protects their cultural, social and political citizenship;
- Completely restructure Deaf education and instigate a national plan;

- Ensure that hearing people and families of Deaf children can learn BSL and appreciate the culture-linguistic diversity of Deaf culture that still exists in the UK that can enrich their lives;
- Put BSL / English interpreting on a statutory footing;
- Recognise minority group rights in regard to protecting, promoting and safeguarding BSL; and
- Implement additional legislation to ensure that BSL, as the UK's one of the indigenous minority languages, Deaf culture and heritage are safeguarded and protected.

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Appendix 1 **BDA BSL CHARTER**

Introduction to the BDA's Charter for British Sign Language (BSL)

The BDA is asking local authorities and public services across the UK to sign up to our Charter for British Sign Language (BSL). The Charter sets out a number of key pledges to improve access and rights for Deaf people who use sign language. Each pledge requires a commitment, to overcome the disadvantages that Deaf people using BSL face, in order to achieve the stated objective. The benefits that will ensue from achieving the stated objective are also listed.

The five pledges are:

1. Ensure access for Deaf people to information and services
2. Promote learning and high quality teaching of British Sign Language
3. Support Deaf children and family
4. Ensure staff working with Deaf people can communicate effectively in British Sign Language
5. Consult with our local Deaf community on a regular basis.



ANNOUNCEMENT OF RECOGNITION

On 18 March 2003 the Department of Work and Pensions in the UK Government announced the recognition of BSL as a language in the UK.

DEVON COUNTY COUNCIL

Hosted the first SignVision conference. It included a review of progress made in implementing the BSL Charter in Devon.

BDA revamps the BSL Charter with the assistance of staff from Bristol City Council, Devon County Council, Deaf Project, Cardiff Council and the London Borough of Lewisham.

2003

2004

2005

2006

2009

2011

2012

BRISTOL CITY COUNCIL

Adopts BSL Charter. They have over 130 video clips in BSL on their website.

DEVON COUNTY COUNCIL

Adopts the BSL Charter. They have 12 local organisations signed up to the Charter.

Two Deaf Equality Officers organised a conference at Bristol City Council that aimed to raise awareness of the BSL Charter.

The BDA launches the BSL Charter Toolkit. The Toolkit aims to assist public bodies to self-assess their progress.

British Deaf News • November 2014



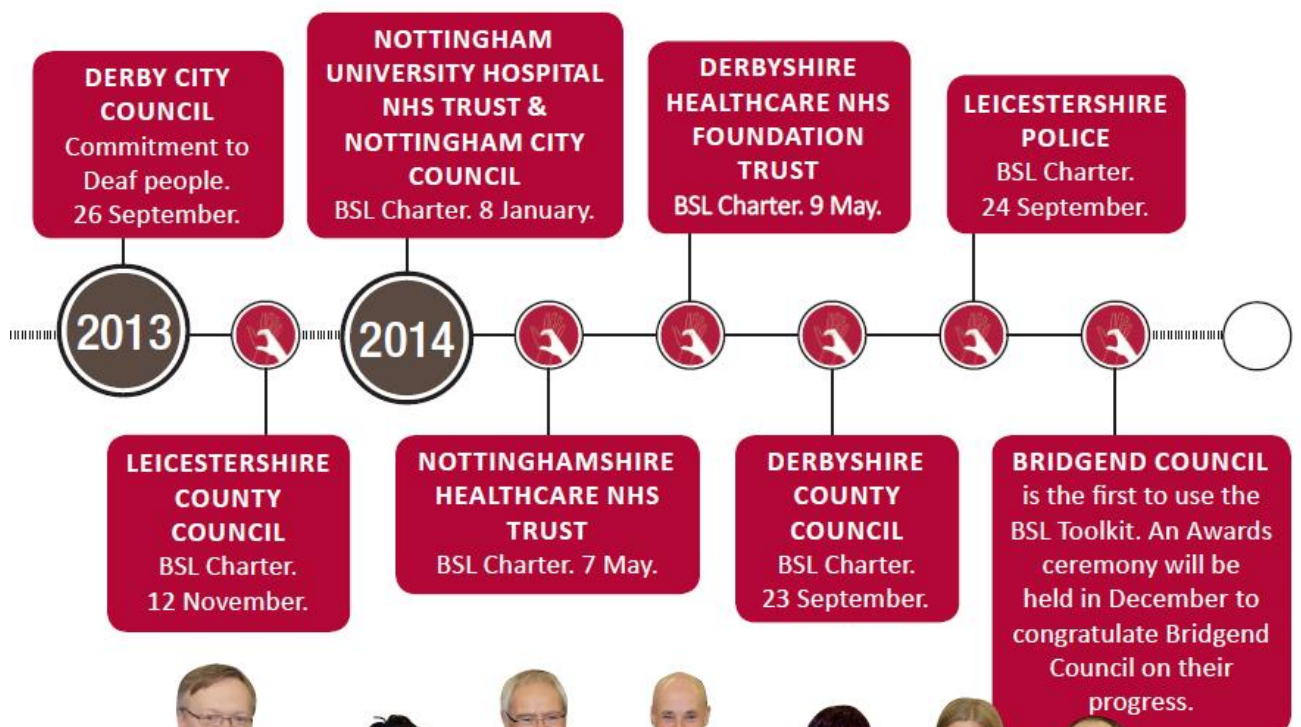
Trevor Phillips, former Chair of Equality and Human Rights Commission:

“ The essence of the Charter is that Deaf people deserve equal access to services which will, in the long-term, lead to better life outcomes. But organisations will also benefit by adopting the Charter. Not only does it add a new dimension

to communication with customers, service users and staff; it also makes good organisational sense to become accessible to the many thousands of BSL users throughout the UK. ”

Why was official recognition so important?

It was hoped that Deaf BSL users would be able to gain access to health services, council services and services by public bodies through front line staff being able to use BSL and the provision of sign language interpreters.



BSL CHARTER SUCCESS: Advancing equality

BDA's Chair, Dr Terry Riley OBE and Robin Ash, Empowerment and Campaigns Officer made their way to Matlock last month, to celebrate its partnership with Derbyshire County Council signing of the BDA's Deaf Charter.

More than 40 people were present to witness the momentous occasion, with 10 stalls dedicated to providing information on local services.

Councillor Kevin Gillott opened proceedings, offering his own personal experiences of hearing loss from within his family.

Gillott said: "We're committed to improving equality and want all Derbyshire residents to be able to access our services when and where they need them."

Ian Stephenson, Chief Executive of Derbyshire County Council, expressed excitement demonstrating their pledge to the Deaf Community despite the £152 million cuts the council have been forced to make over the next several years.

Said Dr Riley: "United we stand, divided we fall, together we can



achieve equality." He also commended the Derbyshire County Council for its commitment at a time of austerity where several County and local Councils are cutting back on services for the most disadvantaged in the community.

Attendees were then entertained by the lively storytelling of Derbyshire and its local landmarks by local deaf resident Jerry Hanifin.

Paul Barker, of the newly formed North Derbyshire Deaf Forum, concluded the proceedings by highlighting related historical moments in Deaf history and linking it in with the Signing of the Charter – a new moment in history for all concerned.

Robin Ash, Empowerment and Campaigns Officer



Harrow United Deaf club backs BSL Charter

Harrow United Deaf Club met at The Bridge Centre, in Harrow, for its annual Halloween party and heard from guest speaker, BDA's Community Development Officer, Graham Welton about the BSL Charter.

HUDC has been encouraging Harrow Borough Council to sign up to the Charter. HUDC president Asif Iqbal said: "In the last five years, we have been working with our partners, raising awareness on the needs of deaf people in accessing services and inviting councillors, MPs and partner organisations to visit HUDC and gain our experiences at first hand."

100 Guests see Leicestershire Police Pledge to Deaf Community

Leicestershire Police has become the first UK force to sign BDA's BSL Charter – to coincide with last month's International Week of the Deaf.

There was an amazing atmosphere at the Police Headquarters, where members of the Deaf Community and Police Officers were all seen to be communicating in BSL.

Chief Constable Simon Cole said: "We are proud to be the first police force to sign the BSL Charter. We have worked hard over the years to build strong relationships with the deaf community and we hope that by signing this charter we will show further commitment to supporting them."

The Police and Crime Commissioner, Sir Clive Loader, who visited the Leicester Deaf Action Group said: "It is extremely important that we maintain a good relationship with the deaf community."

Robin Ash, BDA's Empowerment and Campaigns Officer, gave examples of the good working relationship enjoyed with Leicestershire Police and how incredibly efficient the police service have been in terms of exceeding the



expectations of the Charter before it was even signed.

BDA's Chair Dr Terry Riley, OBE also gave examples of his involvement with the Police spanning 30 years and said: "together we can achieve our rights as equal citizens."

"Being disadvantaged is not just about financial poverty but also poverty of information and being denied access to services. Without information one is denied their human rights. Without information one cannot participate in

democracy. Without information one is denied the right to participate. Without equality we are vulnerable."

Prior to the formal signing of the Charter, three of the 18 Police Link Officers for the Deaf shared their own personal journey of learning BSL and their involvement in the local Deaf community. They were all congratulated by huge waves in the air from the audience.

Robin Ash, BDA Empowerment and Campaigns Officer

The British Deaf Association – BDA

The BDA stands for Deaf Equality, Access and Freedom of Choices

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 sign language, 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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