

# CONVENTION RIGHTS MEMORANDUM

## The Sign Language Bill

### INTRODUCTION

1. This memorandum has been prepared for the Committee for Communities ('the Committee') to assist with its scrutiny of the Sign Language Bill ('the Bill'). It has been prepared by the Legal Services Office.
2. The Bill was introduced on 10 February 2025.
3. This memorandum does not constitute legal advice, but seeks to assist the Committee in scrutinising issues in relation to the Bill which may arise under the European Convention on Human Rights ('the Convention') and Article 2(1) of the Windsor Framework ('Article 2(1)').
4. The memorandum sets out whether, in the view of the Legal Services Office, this Bill engages Convention rights, and identifies those clauses where there is potential interference with a Convention right.
5. This is because, should a clause of the Bill occasion interference with one or more Convention rights, that clause may merit further scrutiny by the Committee and discussion with the Department of Communities ('the Department').
6. Where a clause of the Bill may engage rights which fall within the scope of Article 2(1), the rights issues in those clauses are set out, and may also merit further scrutiny and discussion with the Department to identify any potential incompatibility with Article 2(1).
7. The Convention rights given effect in domestic law are set out at Annex A to this memorandum. The text of Article 2(1) of the Windsor Framework and its associated annex is at Annex B to the memorandum.

### SUMMARY OF THE BILL

8. The Bill consists of 15 clauses and no schedules. The long title describes it as '*a Bill to make provision about the status of, and for the advancement of, British Sign Language and Irish Sign Language.*'
9. The Bill provides for the recognition of both British Sign Language ('BSL') and Irish Sign Language ('ISL') as a language of Northern Ireland. The Bill places duties regarding BSL and ISL on prescribed organisations. These include a duty to take reasonable steps to ensure that the sorts of information and services provided by the organisations are as accessible to individuals in the deaf

community as to those individuals who are not in the deaf community. Several duties are also placed on the Department by the Bill including a duty to publish a five-yearly report evaluating the impact of the Bill. It also grants a number of regulation-making powers to the Department to promote and facilitate the use of BSL and ISL, including issuing guidance on best practice. Prescribed organisations are those listed in regulations made by the Department under clause 4 of the Bill and must include all Northern Ireland departments.

## SECTION 1: CONVENTION RIGHTS

10. This section sets out the Convention rights<sup>1</sup> which the Legal Services Office considers may be engaged by the Bill. These Convention rights are marked in the table below with 'x'.

<b>Part I</b>	<b>The Convention Rights and Freedoms</b>	<b>Engaged</b>
Article 2	Right to life	
Article 3	Prohibition of Torture	
Article 4	Prohibition of slavery and forced labour	
Article 5	Right to liberty and security	
Article 6	Right to a fair trial	
Article 7	No punishment without law	
Article 8	Right to respect for private and family life	x
Article 9	Freedom of thought, conscience and religion	
Article 10	Freedom of expression	x
Article 11	Freedom of assembly and association	
Article 12	Right to marry	
Article 14	Prohibition of discrimination	x
<b>Part II</b>	<b>The First Protocol</b>	
Article 1	Protection of Property	
Article 2	Right to Education	x
Article 3	Right to free elections	

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<sup>1</sup> As set out in Section 1(1) and Schedule 1 of the Human Rights Act 1998, see Annex A for further guidance

## CLAUSES FOR FURTHER CONSIDERATION

11. This section of the memorandum only deals with provisions of the Bill which may raise ECHR issues. The remaining provisions of the Bill are not considered to engage the Convention rights.

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### **Clause 2**

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12. This clause places a mandatory duty on the Department to promote as it considers appropriate, *'to such extent (and in such manner)'* the greater use and understanding of BSL and ISL, the general entitlement of individuals in the deaf community to use BSL or ISL in everyday activities and the further development of the deaf community's culture by reference (but not solely) to use of BSL or ISL. Clause 2(2) provides that the greater use or understanding of BSL or ISL includes an obligation that the Department is to make arrangements for the teaching of BSL or ISL for deaf children and their close families / guardians/ carers. Children are defined here as persons under 19 years of age.

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### **Rights engaged: Article 8, 10, 14, A2P1**

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13. Article 8 protects the right to private and family life, home and correspondence from arbitrary interference by a public authority. It also imposes a positive obligation to ensure that these rights are protected (both against the state and between individuals).
14. As this clause places a positive obligation on the Department to promote the use of BSL and ISL and to make arrangements to teach BSL and ISL, the Committee may wish to raise how the Department will ensure access to classes and sufficient teaching staff to fulfil this obligation, taking account of the fact that communication within the family structure would fall within the ambit of private and family life.
15. Article 10 of the ECHR provides for freedom of expression. Limitations on the ability of those in the deaf community to communicate through the use of BSL or ISL may potentially impact on their ability to express themselves. The Bill seeks to address this through the recognition of BSL and ISL, and in obliging prescribed organisations to take reasonable steps to facilitate and promote BSL and ISL. This includes certain specific obligations such as clause 2 which provides that the Department will make arrangements for sign language classes for deaf children and families / guardians / carers.
16. Article 14 prohibits discrimination in the enjoyment of other ECHR rights. The Committee may wish to raise with the Department the extent to which persons in the deaf community may be treated less favourably in their enjoyment of human rights set out in the ECHR, and the manner in which such disadvantages are addressed by the Bill.

17. The right to education under Article 2 of Protocol No.1 ('A2P1') guarantees a right of access to educational institutions existing at a given time. The Committee may wish to raise with the Department any concerns regarding access to educational institutions which the Bill may address.

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### **Clause 3**

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18. This clause requires every prescribed organisation to take reasonable steps to ensure that information and services provided by the organisation are as accessible to individuals in the deaf community as they are to individuals who are not in the deaf community. These organisations must also offer or facilitate the use of BSL and ISL for individuals in the deaf community in accessing the information and services provided by the organisation. Clause 3(2) provides that something is accessible if it is at no extra cost to the individual. The organisations are not prevented from taking into account matters of affordability and practicability in determining how to comply with this duty.

### **Right engaged: Article 8**

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19. Article 8 protects individuals from arbitrary interference in their private life, family life, home and correspondence. Prescribed organisations must take reasonable steps to ensure accessibility of information and services; this will constitute a positive obligation. The Committee may wish to raise with the Department what is envisaged by 'reasonable steps' and what matters of affordability and accountability might arise in determining how to comply with the duty under Clause 3.
20. The Committee will also note that, as public authorities, those organisations prescribed under the Bill are under a discrete obligation to carry out their functions in a manner compatible with the Convention rights (section 6 of the Human Rights Act 1998).

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### **Clause 4**

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21. This clause places a duty on the Department to make regulations to list which public bodies are to be prescribed organisations.
22. The Committee will note that all public bodies have a discrete obligation to carry out their functions in a manner compatible with the Convention rights regardless of whether or not they fall within the scope of the Bill.

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### **Clause 6**

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23. This clause provides further detail on the guidance that the Department must issue under clause 5 of the Bill. Guidance is to give advice on implications for

public bodies including prescribed organisations of recognising BSL and ISL, what may amount to reasonable steps under clause 3 and how prescribed organisations should develop sign language action plans. The guidance should also set out best practice for interacting with people who rely on BSL or ISL for communication. This could include recommendations on how to offer or facilitate communication or accommodate particular needs of categories of people within the deaf community, which could involve accredited interpreters or web-based or technological means.

24. Public bodies under this clause include persons or groups exercising functions of a public character and as such they will also have to carry out functions of a public character in a manner compatible with the Convention rights.

### Rights engaged: Articles 8, 10, 14, A2P1

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25. The content of the guidance may raise the same issues as in clause 2 as the Department and prescribed organisations must have regard to the guidance when providing the information and services under this Bill.

### Clause 11

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26. Clause 11 defines who members of the deaf community are, including those who rely on BSL/ISL, deaf or deafblind people who normally use BSL or ISL for communication and children of deaf or deafblind people who habitually or occasionally use BSL or ISL including those who have some or full hearing. Stepchildren and children of adult ages are also included in the definition. Clause 11(3) provides that people who have little or no understanding of spoken or written English but can communicate effectively in BSL or ISL (whether or not they have full or some hearing) are also treated as members of the deaf community.

### Right engaged: Article 14

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27. As the Department and prescribed organisations will have obligations towards the deaf community as a whole, the Committee may wish to raise that there is no discrimination between members of the deaf community being able to enjoy the Convention rights and freedoms. The Bill does not differentiate or prioritise in terms of need where organisations have to take reasonable steps to ensure information and services are provided.

## SECTION 2: ARTICLE 2(1) OF THE WINDSOR FRAMEWORK

28. It is not considered that any clause in the Bill falls within the scope of Article 2(1) of the Windsor Framework.

### SECTION 3: SUMMARY

- There are no clauses or provisions of the Schedules to the Bill which call for particular scrutiny by the Committee.
- Minor elucidation might be sought from the Department on how several provisions will operate in practice, but none raise particular concerns as regards compatibility with the Convention.
- Article 2(1) is not engaged by the Bill.

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Legal Services Office  
18 November 2025

## ANNEX A: THE CONVENTION RIGHTS AND FREEDOMS

### **Article 2: Right to life**

- (1) Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
- (2) Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
  - (a) in defence of any person from unlawful violence;
  - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

### **Article 3: Prohibition of torture**

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

### **Article 4: Prohibition of slavery and forced labour**

- (1) No one shall be held in slavery or servitude.
- (2) No one shall be required to perform forced or compulsory labour.
- (3) For the purpose of this Article the term "forced or compulsory labour" shall not include:
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
  - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - (d) any work or service which forms part of normal civic obligations.

### **Article 5: Right to liberty and security**

- (1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - (a) the lawful detention of a person after conviction by a competent court;

- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
- (2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
- (3) Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
- (4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
- (5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

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## **Article 6: Right to a fair trial**

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- (1) In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
- (2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

- (3) Everyone charged with a criminal offence has the following minimum rights:
- (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - (b) to have adequate time and facilities for the preparation of his defence;
  - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

### **Article 7: No punishment without law**

- (1) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
- (2) This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

### **Article 8: Right to respect for private and family life**

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### **Article 9: Freedom of thought, conscience and religion**

- (1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- (2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society

in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

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### **Article 10: Freedom of expression**

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- (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

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### **Article 11: Freedom of assembly and association**

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- (1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
- (2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

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### **Article 12: Right to marry**

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Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

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### **Article 14: Prohibition of discrimination**

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The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### **Article 16: Restrictions on political activity of aliens**

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

### **Article 17: Prohibition of abuse of rights**

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

### **Article 18: Limitation on use of restrictions on rights**

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

### **Article 1 of the First Protocol: Protection of property**

- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- (2) The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

### **Article 2 of the First Protocol: Right to education**

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

### **Article 3 of the First Protocol: Right to free elections**

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

## ANNEX B: ARTICLE 2 OF THE WINDSOR FRAMEWORK

### **Article 2: Rights of individuals**

- (1) The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.
- (2) The United Kingdom shall continue to facilitate the related work of the institutions and bodies set up pursuant to the 1998 Agreement, including the Northern Ireland Human Rights Commission, the Equality Commission for Northern Ireland and the Joint Committee of representatives of the Human Rights Commissions of Northern Ireland and Ireland, in upholding human rights and equality standards.

### **Annex 1: provisions of Union law referred to in Article 2(1)**

- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services<sup>1</sup>
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation<sup>2</sup>
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>3</sup>
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation<sup>4</sup>
- Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC<sup>5</sup>

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<sup>1</sup> OJ L 373, 21.12.2004, p. 37.

<sup>2</sup> OJ L 204, 26.7.2006, p. 23.

<sup>3</sup> OJ L 180, 19.7.2000, p. 22.

<sup>4</sup> OJ L 303, 2.12.2000, p. 16.

<sup>5</sup> OJ L 180, 15.7.2010, p. 1.

- Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security<sup>6</sup>

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<sup>6</sup> OJ L 6, 10.1.1979, p. 24.