

## Education, Children and Young People Committee

Wednesday 15 May 2024  
15th Meeting, 2024 (Session 6)

# Scottish Languages Bill

## Introduction

1. The Scottish Government introduced the [Scottish Languages Bill](#) on 29 November 2023.
2. The Bill gives the Gaelic and Scots languages official status in Scotland and makes changes to how Gaelic and Scots are supported in Scotland. This includes changes in relation to Gaelic and Scots education.
3. The Education, Children and Young People's Committee has been designated as the lead committee for the Bill at Stage 1.
4. A SPICe briefing on the Bill has been published in [English](#), [Gaelic](#) and [Scots](#).

## Committee meeting

5. The Committee is taking evidence on the Bill at its meetings on 1st, 8th, 15th and 22nd May.
6. The Committee has so far taken evidence from Scottish Government officials who have been working on the Bill along with Scottish Government lawyers; and from institutions and organisations concerned with the provision of Gaelic and Scots education in schools, Further Education and Higher Education.
7. At today's meeting, the Committee will take evidence from two panels.
8. Panel one will consist of public bodies and will explore the duties that the Bill will place on them in relation to Gaelic and Scots:
  - Donald Macleod, Chief Officer for Education & Children's Services, Comhairle nan Eilean Siar;
  - Joanna Peteranna, Area Manager, Highlands and Islands Enterprise; and
  - James Wylie, Corporate Director of Education, Leisure and Housing, Orkney Islands Council.
9. The Committee may recall that it took evidence from Donald Macleod at its meeting on 8 May, however, this was in his role as a representative of the Association of Directors of Education (ADES) in a session focused on Gaelic and Scots education in schools.
10. At this meeting, Mr Macleod is representing Comhairle nan Eilean Siar and will be giving evidence in relation to the duties that the Bill will place on public bodies.

11. Panel two will consist of representatives from Bòrd na Gàidhlig:

- Ealasaid Dhòmhnallach, Chief Executive Officer,
- Iain MacMillan, Director of Development and
- Jennifer McHarrie, Director of Education.

## Supporting information

12. A SPICe briefing, covering both panels, is included at **Annexe A**.

13. Comhairle nan Eilean Siar, Highlands and Islands Enterprise, Orkney Islands Council and Bòrd na Gàidhlig all responded to the call for views. These are included at **Annexe B**.

14. Following his evidence at the meeting on [1 May](#), Professor Wilson McLeod has provided supplementary evidence. This is included at **Annexe C**.

## Call for views

15. The Committee issued two [calls for views](#) – a short survey and a longer call for views - on the provisions of the Bill on 22 January 2024. These ran until 8 March 2024. Respondents could choose to respond to either call for views in English, Gaelic or Scots. There was also a BSL option for the longer call for views.

16. In total, the Committee received 224 responses to the short surveys and 132 responses to the longer calls for views.

17. The responses to the calls for views have been [published](#). A summary of the responses is included in the meeting papers published for [1 May meeting](#).

**Clerks to the Education, Children and Young People Committee, May 2024**

Annexe A

**SPICe**

**The Information Centre**  
An t-Ionad Fiosrachaidh

## **Education, Children and Young People Committee**

**15 May 2024**

### **Scottish Languages Bill**

#### **Introduction**

This briefing is to support the Committee for the third of its evidence sessions on the Scottish Languages Bill.

This week, in the first panel, the Committee will hear from public bodies on implementation of language policy. In the second part of the session, the Committee will take evidence from the Bòrd na Gàidhlig.

#### **Powers to support Gaelic development**

The Bill declares that Gaelic has official status in Scotland. The Bill states that this will be given effect by:

- provisions in the 2005 Act (as amended by the present Bill) in relation to the functions of Bòrd na Gàidhlig, the Scottish Government and others in relation to promoting, facilitating and supporting the language; and
- enactments in relation to Gaelic education.

The Committee explored this with the Bill team [on 1 May who](#) confirmed that the obligations “do not necessarily flow from the statement of official recognition” but that if the Bill “did not make a strong statement on status, its absence would be noticeable”. (Col 6)

A key change to the Gaelic policy landscape that Section 5 of the Bill proposes is that the Bòrd will no longer produce the National Gaelic Plan, rather the Government will produce a National Gaelic Strategy. The Financial Memorandum indicates that the first National Gaelic Strategy will be issued around 2028, at the end of the period covered by the current National Plan.

The Policy Memorandum comments that—

“In order to make progress with Gaelic it is essential that there is an agreed set of priorities for the language and that the provision of a Gaelic language strategy will be given increased status by being issued directly from Ministers.”

The Bill provides that both Scottish Ministers and public bodies will be required to have regard to the National Strategy when exercising their functions. Public authorities will be required to have regard to the National Strategy when developing their Gaelic Plans – currently they would have regard to the National Gaelic Plan.

Section 6 of the Bill provides that Ministers can make regulations which set standards for public bodies. The Financial Memorandum states that initially these powers will be used to “move content and requirements that have appeared in statutory guidance and Gaelic language plans into regulations.” (FM para 42)

Section 7 provides for a general duty on public authorities to “have regard to the desirability” of supporting Gaelic and Gaelic culture.

The Bill provides that Ministers can issue guidance on this general duty or on the production of plans. Ministers may also give directions to specific public bodies on their Gaelic Plans or the general duty to consider supporting Gaelic.

The Bill therefore provides a suite of powers that Ministers can use to create duties or obligations on public bodies.

The Delegated Powers and Law Reform Committee [published its report on the Bill on 23 April 2024](#). A summary of that report is included in the Annexe to this paper.

DPLRC drew this Committee’s attention to the guidance making powers in the Bill which public bodies must ‘have regard to’. These powers have no Parliamentary procedure attached. While statutory guidance to which public bodies must ‘have regard’ does not directly impose duties, it can become relevant should a decision of a public body be challenged. It is worth setting out how courts can interpret duties in relation to having regard to statutory guidance. In [Certas Energy UK Ltd v South Lanarkshire Licensing Board](#) (Sep 2023), the judgement stated—

“Clearly, ‘guidance’ means something less than ‘direction’. It does not have the binding effect of primary or secondary legislation. But statutory guidance cannot be ignored; it must be taken into account. This involves a ‘conscious approach and state of mind’. The duty to ‘have regard’ to statutory guidance involves more than ‘mere form or box-ticking’: it must be performed ‘with vigour and with an open mind’. Nor do matters end there. Crucially, having duly considered statutory guidance, the decision-maker is not then at liberty simply to take it or leave it on a whim. Such a construction would put statutory guidance on a par with the many forms of non-statutory guidance that are issued by departments of state. Instead, statutory guidance of this nature is imbued with an enhanced potency: a decision-maker is free to depart from it, even substantially, but only for a cogent reason, articulated in the course of some identifiable decision-making process. In the absence of such cogent reason, articulated and disclosed, a deviation from the statutory guidance

would constitute an error of law.”

(Original references to case-law removed for ease of reading.)

The DPLRC considers the powers listed in the Delegated Powers Memorandum. While the Gaelic and Scots strategies proposed in the Bill are not delegated powers and were not the subject of scrutiny by the DPLRC, both come with ‘have regard’ duties on public bodies. Neither has an attached Parliamentary process to approve the strategies.

Highlands and Islands’ Enterprise said—

“In order for [areas where Gaelic is widely spoken] to thrive, there are many wider contributory considerations in addition to Gaelic which are required for the communities and therefore the language to flourish, including factors such as housing availability, transport connections and digital connectivity. Acknowledgement of this within the Bill would be welcome.”

The Bill team told the Committee on 1 May—

“I think that those infrastructural issues, which are of social and economic importance, will feature. For bodies such as Highlands and Islands Enterprise, which will probably be key to many of the provisions transport, housing, infrastructure and economic issues will overlap with their Gaelic commitments. Those issues will feature in the strategy and the standards, and as local authorities move towards considering areas of linguistic significance.”

The Bill provides for certain bodies to be consulted in developing strategies and standards in the Bill. Orkney Islands Council said—

“Where the Bill does mandate consultation processes, there are significant shortcomings. The Scottish Government have repeatedly stressed that Gaelic education is part of a more significant cultural movement that can be felt outwith the schools themselves. However, Section 12 (ss.4) does not include local authorities or local communities in the parties that must be consulted when preparing regulations [on standards relating to Gaelic education]. It does include the local education authority and multiple national organisations, but the local people should also have a say on whether Gaelic education is needed in their community.

“Ideally, we would look to have the powers of direction removed from the Bill until there is more clarification as to what these powers may be used for. We would also require that the list of parties who must be consulted when creating new regulations or giving directions be expanded to include local authorities as a whole, as well as the wider local community.”

Comhairle nan Eilean Siar’s submission said—

“As the Bill is framed in very general terms and contains no concrete language rights, tightening and strengthening of legislation is required. Future enforcement of policy and plans in relation to Gàidhlig will not be possible unless obligations and rights are set out clearly, from the outset, in terms of legislation, regulation, timelines and guidance, with measurable, preferably SMART targets.”

[On 1 May](#) Professor Conchúr Ó Giollagáin argued that the Bill in its current form should be scrapped. He said that the key consideration should be whether the policy will protect and support the “native-speaking community of Gaelic” (Col 34). He said—

“I do not think that it introduces anything new that will help the vernacular community in the islands with the linguistic crisis that they live with. Basically, it is a rebureaucratisation of the existing set-up, and, as the crisis emerged under the existing set-up, the only way out of the crisis is radical change, and the bill does not amount to radical change.” (Col 30)

At the same meeting, Professor Wilson McLeod described the Bill as “cautious and incremental” and said “but it has considerable potential if it can be strengthened in appropriate ways as it goes through Parliament.” (Col 31)

## Areas of Linguistic Significance

One of the ideas explored in the Government’s 2022 consultation was the creation of a Gàidhealtachd. In this context, this would be a recognised area where there is enhanced support for Gaelic. The [analysis of responses to the consultation](#) highlighted the variety of opinions around this proposal and the Bill has taken a different approach. Rather than a nationally defined Gàidhealtachd, the Bill provides local authorities the power to designate part or all of their area as “areas of linguistic significance”.

The Policy Memorandum stated that “designating areas of linguistic significance provides a community framework within which Gaelic language planning activity can take place.” (PM para 49). The Financial Memorandum identifies costs of the designation process but identifies no additional costs to improve the support for Gaelic in those areas.

The Bill Team told the Committee on 1 May—

“There has always been a wish that Gaelic support and Gaelic development should be proportionate and that support should be improved and made stronger where there are more speakers. Going back to the 2005 act and the guidance that followed, there was still a wish that provision should be proportionate. ... The policy device of areas of linguistic significance seemed to suit the profile of Gaelic in Scotland. It seemed that it could provide for areas where there are higher numbers and a higher density of speakers, but it also seemed to offer something for areas where Gaelic is growing and is being spoken. Therefore, we see it as a device that, as well as contributing to strengthening areas where there are a significant number of speakers, is of benefit to areas where Gaelic might be growing in towns and cities.” (Col 11)

Comhairle nan Eilean Siar’s submission supported the proposal for areas of linguistic significance. It said that “the main emphasis of the Bill should be directed towards reviving Gàidhlig in community settings.”

There is work currently underway which seeks to direct resource and attention at the community level. The [National Gaelic Plan 2023-28 stated](#)—

“Community Gaelic Plans will be developed for 3 key Gaelic Communities with support and Guidance prepared and available for other communities by 2028.

“In recognition that for Gaelic there are areas of linguistic significance with differing needs – further and particular consideration will be given and steps taken to reflect these in policy development and delivery across Scottish public life.”

The Bòrd na Gàidhlig’s submission stated—

“Currently Bòrd na Gàidhlig are working on community Gaelic language plans in partnership with the community and our key delivery bodies in 2 areas, in Uist and in Lewis, where progress is demonstrating the desire within communities to take ownership of Gaelic development.”

On Uist, [Ceòlas](#) works with others to promote and preserve Gaelic language, music, and dance, while also providing educational opportunities for people of all ages. [Cnoc Soilleir](#) is a new Gaelic arts and cultural centre that houses a state-of-the-art recording studio and performance space. Ceòlas’ funding comes from Bòrd na Gàidhlig, Creative Scotland, The Scottish Government, Comhairle nan Eilean Siar and Highlands and Islands Enterprise. Ceòlas’ submission said—

“Ceòlas is the lead organisation in the development of a Gaelic plan for Uist – paving the way for the language across grassroot community groups and third sector organisations. The formation of the Uist Gaelic Stakeholder Group has led to the appointment of an officer to lead on creating, implementing and monitoring of this plan. This post is funded by Bòrd na Gàidhlig and without this post, this work would not be possible. The plan will initially focus on Gaelic in the community, home and work, as well as a focus on youth and the importance of the next generation.”

## *Designation process*

The Bill proposes that areas that meet either of the following criteria could be designated an area of linguistic significance:

- at least 20% of the population of the area have “Gaelic language skills”
- the area:
  - “is historically connected with the use of Gaelic”
  - has GME provision, or
  - has “significant activity relating to the Gaelic language or Gaelic culture”.

The Bill provides that local authorities would initiate this process and an ALS could cover some or all of the local authority’s area. If a local authority is minded to make

such a designation, it would be required to consult with the Bòrd na Gàidhlig and “such other persons as the local authority considers appropriate”. The local authority then submits the proposed ALS to Ministers who may then accept or reject the proposal or accept with modifications. Should Ministers choose to accept with modifications, they must consult with the relevant local authority.

There is a similar process should a local authority seek to revoke or vary an ALS.

Professor Conchúr Ó Giollagáin described the proposed criteria as over complicated and suggested that there should be two categories, “the remaining vernacular communities, and the other networks of learners and speakers in other parts of Scotland.” He continued—

“There is a risible element in the bill, which is that the areas with the designation of more than 20 per cent Gaelic speakers have to compete with areas where there is a historical interest, which means areas with few or no Gaelic speakers. That is the opposite of giving priority to the crisis at the minute.” (1 May, Cols 50-51)

Professor McLeod disagreed with Professor Ó Giollagáin. He said—

“When we talk about a 20 per cent threshold, that includes areas where there is limited day-to-day use of Gaelic but where there is potential. We must harness the potential for Gaelic in different parts of Scotland and it would be unwise to write off the potential for growth. ... There are huge problems in harnessing that potential and providing a context for the social use of Gaelic in urban communities, but it is a significant part of the challenge and it is important that that element is taken into account in the legislation and in wider Gaelic language policy.” (1 May, Col 51)

Bòrd na Gàidhlig’s submission welcomed the proposals and suggested that this is an area of the Bill that deserves significant amount of attention. It questioned “which level of Government is the most appropriate to make the designation of area of linguistic significance, and the role of the community itself in the process.” On 1 May Professor Wilson McLeod also questioned why local authorities would have the lead role in designating an ALS.

Bòrd na Gàidhlig’s submission said—

“This optional nature of designation to area of linguistic significance status may lead to local communities being disappointed and consider themselves disenfranchised if they wish to be a designated area but their local authority is not engaging in the process. Bòrd na Gàidhlig believe that there should be a community right to request designation and that this should be addressed in the Bill.”

Comhairle nan Eilean Siar’s submission stated—

“It is good that the ALS designation is sufficiently flexible to include both rural Gàidhlig heartlands and urban areas. There is however the inherent danger of alienating areas which have a critical mass of Gàidhlig speakers but in which less Gàidhlig is spoken pro-rata if areas with very small populations, but a higher pro-rata percentage of Gàidhlig speakers, are designated as ALS. This



is especially true of a local authority such as Comhairle nan Eilean Siar. It is concerning that the National Gàidhlig Plan 2023-28 makes mention of plans being developed for ‘3 key Gàidhlig communities’ when little is known about how communities were identified for this purpose. Does this mean that these areas will automatically become the first ALS, with all the benefits that such a designation entails? If that is the case, there seems to have been a lack of transparency in the process and it is questionable whether it is appropriate for this to be happening in tandem with the formulation of the current Bill.”

## *What would an Area of Linguistic Significance mean?*

The Bill Team told the Committee on 1 May that standards and the strategy would set out enhanced expectations in relation to areas of linguistic significance. However, the Committee was not able to discover what this might mean in practice.

HIE’s submission stated—

“The designation of areas of linguistic significance’ allows a collective and collaborative approach to development and regeneration and provides strong alignment with broader place-based initiatives for community resilience around any geographically defined areas, driven by statistical evidence of Gaelic competency/use in communities. We would welcome a collective approach to consider these areas and support them, building on the Community Planning Partnership, Regional Economic Partnership, the Short Life Working Group on the Economic and Social Opportunities for Gaelic and COHI work. Designations should be kept flexible for review around census periods and HIE experience shows that communities are able to self-identify in the natural definition of their community.

“We recognise that Gaelic language planning does need to be integrated into a place-based approach and support for this may be required in informing the technical processes as well as sharing good practice and guidance. There is no information on what support (guidance or financial) would be given to designated areas in the development of their plans, nor implementation. Given the challenging times for public funding, clarity on this would be welcomed by the communities.”

COSLA’s submission said that it was unclear about the rationale for this suggestion and also called for “a fuller explanation of Scottish Government’s expectations of uptake” in local authorities. Comhairle nan Eilean Siar said—

“The rationale and responsibility for, and obligations and benefits associated with ALS designation need to be clarified as a matter of urgency. Leaving the process undefined as it stands currently in the Bill will lead to unhelpful debate and divisions across Gàidhlig communities.”

Bòrd na Gàidhlig’s submission asked—

“What is the incentive for declaring an Area of Linguistic Significance? With the lack of commitment to resources in relation to implementation of the Bill, consideration must be given that local authorities may choose not to designate due to inability to resource at this current point, as well as a lack of

clarity on what such a designation will mean in practice. The expectation amongst communities will be that such a designation will result in more activity and increased development spending.”

## Gaelic education

The Bill makes a number of changes to the provision of Gaelic education. These include—

- expanding rights of parents to seek Gaelic Medium Education in Early Learning and Childcare
- including Gaelic education as part of the statutory definition of school education across Scotland.

The Bill would provide for a duty on Ministers to “promote, facilitate and support” Gaelic education. It also would give Ministers a range of powers to set standards and provide guidance on Gaelic education.

Taken together, the Bill seeks to increase local authorities’ focus on the provision of Gaelic education and provides the Scottish Government more tools in which to shape or direct the provision of Gaelic education across Scotland or in local areas.

## Role of Bòrd na Gàidhlig

The 2005 Act established Bòrd na Gàidhlig as a Non-Departmental Public Body. The Bòrd is the principal public body in Scotland responsible for promoting Gaelic development and providing advice to the Scottish Ministers on Gaelic issues.

The Government’s consultation on Scots and Gaelic summarised the Bòrd’s current role—

“The general functions of Bòrd na Gàidhlig, as set out in the 2005 Act, can be summarised as relating to the Gaelic language, Gaelic education and Gaelic culture. Bòrd na Gàidhlig has duties to promote and facilitate the promotion of the use and understanding of the language. Bòrd na Gàidhlig has functions to provide advice on language, education and culture to Scottish Ministers and other public bodies. In addition, Bòrd na Gàidhlig has power to advise, on request, other persons on matters relating to the Gaelic language, Gaelic Education and Gaelic culture.

“Bòrd na Gàidhlig is also responsible for duties relating to Gaelic plans and for the preparation of the National Plan for Gaelic. The Bòrd can require public authorities to produce a Gaelic Language Plan setting out what that body will do in relation to Gaelic, can agree the content of the plan with them and request reports on progress on how that is implemented. Bòrd na Gàidhlig is also required to prepare Guidance on Gaelic language plans and on Gaelic education. A significant percentage of the funding allocated to Bòrd na Gàidhlig is distributed through grants by them to other bodies and projects related to support for the Gaelic language.

“The 2005 Act provides that the functions conferred on Bòrd na Gàidhlig should be exercised with a view to securing the status of the Gaelic language as an official language of Scotland commanding equal respect to the English language through increasing the number of persons who are able to use and understand the Gaelic language.”

The [summary of the responses to the Government’s 2022 consultation reported that the most common themes in relation to the Bòrd na Gàidhlig were—](#)

Views on the current duties of Bòrd na Gàidhlig and suggestions

1. Bòrd na Gàidhlig requires more funding for the effective operation
2. Bòrd na Gàidhlig should be more visible and efficient in promoting Gaelic
3. Bòrd na Gàidhlig should be restructured as an organisation with more legal powers
4. Bòrd na Gàidhlig should engage with communities more

Views on structural changes at Bòrd na Gàidhlig

1. Bòrd na Gàidhlig should have more influence in decisions regarding the promotion of Gaelic
2. A culture of accountability for language plans should be instilled within the organisation

Views on review of the functions and structure of Bòrd na Gàidhlig

1. Working with significant organisations, including councils, universities, and charities, to update Gaelic Language Plans
2. Commission more research on the effectiveness of other language planning bodies for best practices

On 1 May, Professor McLeod described the Bòrd as “hugely underpowered in what they are able to deliver, especially with regard to action on the ground and community development work in Gaelic, which is hugely underfunded” (Col 32). He said—

“Bòrd na Gàidhlig is a small, underfunded public body that has little status or power in Scotland’s wider public realm. It cannot push public bodies hard to demand strong language plans and does not really have the power to enforce them effectively.” (Col 37)

The move away from the Bòrd producing National Gaelic Plans to the Government producing a National Strategy may make accountability for outcomes for the language clearer. Bòrd na Gàidhlig’s submission stated—

“Bòrd na Gàidhlig welcome the replacement of the National Gaelic Language Plan with the Gaelic Language Strategy. The national focus and status due to

its preparation by Scottish Ministers should see an integration into a wider range of national policy objectives and this is a positive step forward.”

The Bill will also shift the duty to prepare and publish statutory guidance on Gaelic education from the Bòrd to Scottish Ministers

The Bòrd will retain its powers to require public bodies to develop Gaelic language plans. The Bill would create additional duties on the Bòrd. These include:

- reporting on progress on the objectives of the National Strategy
- reporting on the compliance with any standards set by Ministers and agreed by Parliament
- reporting on public bodies’ fulfilling the general duty to “have regard to the desirability” of supporting Gaelic and Gaelic culture.

The Bill seeks to provide for greater accountability of the Bòrd to Ministers and Parliament through a new duty to prepare a corporate plan.

## *Accountability*

The 2005 Act provided that the Bòrd may monitor the implementation of public bodies’ Gaelic plans. Under the 2005 Act, there are two ways in which the Bòrd can escalate issues with public bodies’ Gaelic plans. In the process of approving plans, the Bòrd can suggest amendments to the public body and, if agreement is not reached, the Bòrd may refer the matter to Ministers, who are able to decide whether the suggested changes should form part of the public body’s plan. If the Bòrd considers that a public body is failing to implement adequately measures in its plan, the Bòrd may submit to the Scottish Ministers a report setting out its reasons for that conclusion. Ministers may then direct the authority in question to implement any or all of the measures in its Gaelic language plan. It is not clear to what degree these processes have been used.

A number of submissions suggested that there can be tensions between the role of supporting public bodies to develop their Gaelic Plans and support the language, and the monitoring role. TRACS’ submission stated—

“Bòrd na Gàidhlig are still left in a difficult situation whereby on one hand they are offering support to groups and organisations while on the other hand, they are also expected to monitor and enforce organisations’ adherence to Gaelic language plans. It seems obvious that BnaG require an increase in funding to continue to perform their existing duties plus the additional new duties highlighted in the Bill.”

The Committee has heard that some stakeholders would like a commissioner to be established to support greater accountability and challenge on public bodies in relation to supporting Gaelic. The Bill Team told the Committee on 1 May, “there is more opportunity to make a lot of progress with Scottish Government leadership and by having public bodies working collaboratively and being positive about the language, rather than by having an ombudsman in an adversarial role at this point.”

The Policy Memorandum said—

“Through the Bill, Bòrd na Gàidhlig will be required to publish reports on compliance by public bodies with the Gaelic language strategy and standards for Gaelic. What is changing is the focus of its work so that it is looking at practice across the public sector. It will be able to report directly to Parliament rather than only through Scottish Ministers. These measures and the fact of its being able to publish reports will increase its voice and leverage, making its messages more impactful and efficient.”

## *Public Bodies’ Plans and Reporting*

The 2005 Act also provided for the Bòrd to have the power to require public bodies to prepare, publish and implement Gaelic Language plans. The Bòrd’s [website lists 57 public bodies](#) with approved Gaelic Plans.

Iain Caimbeul argued that there is too much focus on public bodies’ language plans. His submission stated—

“It is highly questionable whether the Gaelic Language Plans of Public Bodies are making much difference in supporting an increase in the number of fluent Gaelic speakers and daily users of the language. There is clearly a mismatch between expectations of what language plans can achieve and how they impact on the wider community dimensions of supporting Gaelic.”

On 1 May, in relation to public bodies’ Gaelic Plans, Professor Ó Giollagáin said that “some are more useful than others” and “they generally tend to emphasise the symbolic value of Gaelic rather than suggesting any practical support for learners or speakers”. Professor McLeod expressed disappointment at the number of public bodies that do not have Gaelic Plans, he also said—

“Many of the plans, especially those in the stronger Gaelic areas, are weak, symbolic or might be described as tokenistic. The key principle of the 2005 act was that there would be varying levels of provision and that plans would be more stringent in Gaelic areas. Unfortunately, the plans that were adopted and approved by Bòrd na Gàidhlig and the Scottish Government in relation to stronger Gaelic areas were, in my opinion, too weak.” (Col 37)

The Highland Council’s submission suggested that public bodies plans be replaced by local Gaelic strategies and implementation plans in order to “shorten and refine the Gaelic policy renewal process, enabling Local Authorities to stimulate work in Gaelic development”. Ceòlas said “plans are important – they should allow organisations to show their ambitious vision for development of the language within their organisation.”

The Bill would introduce a duty on public bodies with a Gaelic plan to regularly report on progress on the plan to Bòrd na Gàidhlig. Currently the Bòrd may request such reports. Orkney Islands Council’s submission stated that it “is concerned that this would be a significant commitment of time and resources when, ultimately, Gaelic is not a priority for the local community nor for the education authority.” Orkney Islands Council [is not currently listed as having an approved Gaelic Language Plan](#).

The Bill would also provide that Bòrd na Gàidhlig may require a local authority to supply information about its provision of Gaelic education.

The Policy Memorandum explains that the Bòrd will have a role to monitor progress in relation to Gaelic both nationally and at the level of public bodies. It says—

“The Bill requires Bòrd na Gàidhlig to prepare and publish reports about the Scottish Ministers’ progress towards meeting the objectives in the Gaelic language strategy, and the compliance by relevant public authorities (either generally or specifically) with their duty to have regard to the Gaelic language strategy and to comply with standards and requirements specified in regulations, and to publish and lay these reports before the Scottish Parliament. This reporting requirement will encourage Bòrd na Gàidhlig to highlight good practice and share examples of progress along with identifying areas which need attention and suggesting what actions could be considered to address gaps.”

## **Support for the Scots language**

Under Part 2, Chapter 1 of the Bill, the Bill declares that Scots “has official status within Scotland”. This is to be given effect “by the provisions in this Act conferring functions on the Scottish Ministers and other persons in relation to promoting, supporting and facilitating the use of the Scots language.” The Bill defines Scots as “the Scots language as used in Scotland”.

The Bill provides that Ministers must produce a Scots language strategy. Ministers and Scottish public authorities will have to “have regard to” the strategy in performing their functions. Ministers may also issue guidance. Again, Scottish public authorities will have to “have regard to” this guidance.

Ministers will report on progress of the strategy. Progress in the Gaelic strategy will be reported on by Bòrd na Gàidhlig rather than the Government.

The Committee has explored how a national Scots policy framework can reflect and respect the variety of dialects across Scotland. The Doric Board emphasised the “linguistic richness and diversity” of Scots and said that it is “a language of dialects”. The Doric Board argued that “the recognition of (and indeed support for) this important nuance is critical in the successful promotion of Scots.” HIE’s submission stated—

“We welcome the provision of official status to Scots in Scotland. We would also recommend recognition of the associated dialects including Shetlandic, Orcadian and Doric. This is a significant milestone for the Scots Language and its protection, support and development.”

Orkney Islands Council argued that the Bill does not sufficiently take account of the language spoken in Orkney. It said—

“Orkney’s roots are Norn and this affects not just individual dialect words, but also sentence structures and syntax. The concern here would be that a national Scots Language Strategy and a push for standardised education in or around Scots may unintentionally erase Orkney’s unique voice. ... The 41% of

Orcadians who reported to speak Scots at home [in the 2011 Census] is not so much evidence of a Standardised Scots-speaking community in Orkney, but evidence of a thriving Orcadian language community which may be harmed by the promotion of a Standardised Scots language.”

Professor Robert Millar said—

“On the other hand, if we were to call ourselves a collective of different dialects, that would really not make us very strong; it would be an easy way of picking us off, one at a time. If speakers of those dialects do not agree with that viewpoint, that is their right. They would still get funding and encouragement. The point is that there would be a connection between the different parts of Scotland, which has never been encouraged in the past. ...

“there has to be some way of articulating different views and different dialects. That sort of thing is commonplace practically everywhere, apart from anywhere that speaks English.” (1 May 2024, Cols 43-44)

Dr Dempster from the Scots Language Centre said that national policy making should not lead to a standardisation of Scots. Although he suggested that it is possible that, in terms of written Scots, an “official form” might arise organically through public bodies’ converging on a particular form. He said—

“One o the strengths o the Scots strategy is that we can bring thegither dialects and see what they have in common. Where dae we work fae, fae here? How does the Shetland speaker speak wi the Dumfries speaker? What is common there?” (1 May, Col 44)

The Committee also explored with witnesses whether a Scots Board should be established to support the Scots Language. Professor Millar said “Some kind of body has to exist, otherwise why should we bother saying that something is official?”. Both he and Dr Dempster said that any such body should reflect the users of Scots across the country. (1 May, Cols 54-55)

## *Scots Education*

The Bill defines Scots language education as “education consisting of teaching and learning in the use and understanding of the Scot’s language”.

The Bill provides that Ministers and local authorities have a duty to “promote, facilitate and support” Scots language education. Ministers will also have the power, by regulations, to specify standards and requirements in relation to Scots language education. These regulations may apply differently in different areas. The Bill provides that Ministers may also issue guidance on Scots language education.

The Bill provides for a duty on Ministers to ensure that the “progress made in the delivery of Scots language education in schools” is reported on.

The use of Scots can currently form part of school education. Within [CfE’s Es & Os, under “Literacy and English Principles and Practice”](#) it says—

“The languages, dialects and literature of Scotland provide a rich resource for children and young people to learn about Scotland’s culture, identity and

language. Through engaging with a wide range of texts they will develop an appreciation of Scotland's vibrant literary and linguistic heritage and its indigenous languages and dialects. This principle suffuses the experiences and outcomes and it is expected that practitioners will build upon the diversity of language represented within the communities of Scotland, valuing the languages which children and young people bring to school."

There are a number of organisations that support the use of Scots in schools. Last week the Committee took evidence from the Scots Language Co-ordinator at Education Scotland and the Open University, which is running a course to support teachers' practice in this area. The Scots Language Centre provides information and advice on Scots and promotes the use of the Scots language, culture and education. The Doric Board performs a similar function but focusing only on Doric. The Association of Scottish Literature, Scots Hoose and the Scottish Book Trust, along with the Scots Language Centre, all (among other things) provide support for Scots education.

## Outcomes

The policy outcomes in Scotland tend to be expressed in general and iterative terms. The aim is often "to enhance..." or "to increase...", rather than measurable outcomes. The previous National Gaelic Plan had more specific targets, but it is not clear if these have been achieved.

Professor McLeod told the Committee—

"The question of ultimate measures of success is very difficult. We should think in terms of outcomes, not outputs. It is easy to point to things that have been produced and so on, but, eventually, we are looking for a wider use of Gaelic—more people speaking Gaelic more frequently and in more contexts. That is a very high-level goal to achieve, and it is a difficult one to measure in relation to actual language use, but we should bear that in mind.

"However, I certainly want to see higher-level targets. For example, the national language strategy in Wales sets high-level targets. The most obvious one is on the overall number of recorded speakers, but there are also targets on the numbers of people enrolling in Welsh-medium education and so on. That is then rolled out through different kinds of mechanisms—for example, there is a system of strategic plans for Welsh in education that local authorities put together." (1 May, Cols 39-40)

Professor Ó Giollagáin told the Committee that there should be better measures on the fluency of pupils who have experienced GME. Comunn na Gàidhlig's submission said—

"The success of Gaelic Medium Education is often 'measured' by the numbers of GME schools or units, and by the numbers of children entering at P1 level. There is no measurement whatsoever to help us judge whether GME is reaching any linguistic objectives. No linguistic targets or measurable outcomes have ever been clearly stated. Certainly, pupils pass exams, and follow the curriculum, but these are educational measures. Are we sure this investment and this system is contributing sufficiently to the overall health of



the language? How many pupils leave their senior secondary phase functionally fluent in Gaelic? These questions are challenging, and not welcomed by those in authority.”

## Finance

The Financial Memorandum sets out the expected additional costs that will arise from the Bill – around £700k over five years. The FM sets out the costs of taking forward the provisions in the Bill, not the costs of the consequences of those actions. For example, it provides estimates of the costs to develop strategies, but not costs of delivering on those strategies.

The FM states—

“The main impact of the Bill provisions is a shift in activity, a repurposing of resources in terms of effort and attention. The Scottish Government considers that provisions do not create wholly new costs or a requirement for wholly new spend.” (FM Para 13)

The Bòrd na Gàidhlig’s submission stated—

“We reiterate our belief that the introduction of new legislation must be adequately resourced to ensure the effective implementation of change, as well as a core funding model which will ensure that success is a demonstrable objective of the legislation as it is underpinned by investment. Without this it is difficult to envisage legislation being able to deliver on the key range of objectives, particularly major policy and operational change such as the introduction of areas of linguistic significance. There is also a real danger that communities will disengage with a process that fails to adequately recognise the challenges they are facing on a daily basis, thereby eroding trust and engagement which will have serious consequences for language development.

“Bòrd na Gàidhlig welcome the principles set out in this legislation to the extent that they are matched with a realistic financial and investment framework.”

Comhairle nan Eilean Siar’s submission stated—

“The reality for local authorities is that funding for Gàidhlig has ‘remained relatively static since 2010/11.’ The Scottish Languages Bill is being introduced at a time when even the most supportive of local authorities are having to consider reducing spending on Gàidhlig markedly. Numerous, vague references to costs e.g. ‘not wholly new,’ ‘not specific,’ and the statement such as that ‘no additional spend is anticipated’ contained in the Government’s Financial Memorandum are therefore unhelpful and extremely worrying. The additional duties, obligations and responsibilities, of which there will undoubtedly be many, are yet to be clarified in relation to implementing the Bill and, like all meaningful commitments, they will come at a cost. Any funding that is provided ought to be aligned to wider strategic planning initiatives at a local level, with measurable outcomes.”

**ECYP/S6/24/15/1**

**Ned Sharratt, Senior Researcher (Education, Culture), SPICe Research  
9 May 2024**

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# ANNEXE

## Summary of the Report of the Delegated Powers and Law Reform Committee

The Bill provides for a variety of powers for Ministers to issue Strategies, guidance and standards which will set out future policy. The Delegated Powers and Law Reform Committee (DPLRC) [published its report on the Bill on 23 April 2024](#).

### *‘Have regard’ duties*

The DPLRC’s report commented on the provisions where the Scottish Government is seeking powers to issue guidance to which certain public bodies must ‘have regard’. These are on the topics of—

- Designating areas of linguistic significance
- Generally, on duties relating to the Gaelic language
- Gaelic language plans
- Gaelic education
- promoting, facilitating, and supporting the use of the Scots language and developing and encouraging Scots culture
- Scots language education

The powers to issue guidance on these topics have no accompanying Parliamentary procedure. The DPRLC questioned whether the guidance is intended to “assist or direct” public bodies. If the guidance is intended to “assist”, DPLRC asked why there is a ‘have regard duty’; and, if the guidance is intended to direct, why there is no parliamentary procedure.

The Government’s view is that—

“The guidance proposed under each of the sections referred to above is intended to assist local authorities (in the case of provisions relating to Areas of Linguistic Significance) or public authorities (in the case of the other sections mentioned) in complying with their duties. The essential characteristic of guidance is that it is advisory rather than directory and does not impose legally binding duties. The guidance will therefore not be of legislative character and as such it would not be appropriate to attach parliamentary procedure to the powers to issue guidance. We consider it appropriate for authorities to be required have regard to the guidance when making a relevant decision, in order to consider how that guidance may be relevant to the exercise of their functions. There are many legislative examples of a duty to have regard to guidance.”

DPRLC described the effect of a ‘have regard’ duty in its report—

“Making guidance subject to a “must have regard to” requirement places those to whom it applies under a statutory duty. Whilst this does not amount to an obligation to comply, if a person to whom such guidance was directed were to disregard it and were challenged, they would need to be able to show that they had at least given adequate consideration to the guidance and that, if they decided not to follow it, they had justifiable reasons for not doing so. The guidance has statutory status and legal consequences flow from that.”

DPLRC recommended—

“The Committee notes that, whilst it is not uncommon for guidance to be subject to a ‘must have regard to requirement’, whether that is appropriate will depend on the circumstances and the nature of the guidance proposed. In this instance, it appears the nature of the guidance is to assist rather than direct. The Committee therefore draws all of the guidance-making powers to the attention of the lead committee to consider whether, in the circumstances, it is appropriate and necessary to give the guidance to be issued legal force by making it subject to a ‘must have regard to’ requirement.”

## *Directions*

The discussion in the DPLRC’s report provides useful additional context as to the Government’s intentions in relation to directions.

### Directions relating to duties about the Gaelic language

#### Section 7(2)

The DPLRC reported—

“Scottish Government notes that the power may be required where there is a need to rectify a situation as a matter of urgency. For example, where a public body operating with a bilingual Gaelic English logo or branding, when refreshing or redesigning that branding, omits the Gaelic element in error or oversight. In such cases, the Scottish Government considers that it may be of assistance to the public authority to have a direction in place to authorise and require the rectification at pace.”

### Directions relating to Gaelic language plans

#### Section 9(6)

The DPLRC reported that the Government acknowledges that “the circumstances in which this power could be used may be quite remote and limited” and that the Government “will consider streamlining the range of direction-making powers as the Bill proceeds”.

## Directions in relation to standards for Gaelic Education Section 12(5)

The Scottish Government gave the following hypothetical example of how these powers may be used:

“Where, for example, an authority has been providing GME primary education for a number of years and has pupils from its authority area who are reaching the age when they will transition to secondary school yet the authority has not planned for secondary provision and continuity for those pupils, a direction making power may be a helpful intervention to ensure that the necessary actions are taken in time to make arrangements for the impacted pupils to continue their learning through their chosen medium. A direction in this circumstance could relate to a standard to consider whether posts are Gaelic desirable or Gaelic essential or could relate to a standard on workforce planning to understand the capability of existing workforce in relation to language.”

## Directions to education authorities relating to Gaelic education Section 14(2):

DPLRC’s report stated—

“The Scottish Government has provided an example in which an authority provides information and advertising about education available in its area through letters or social media campaigns. A direction could be used to ensure that Gaelic Medium Education options available are appropriately highlighted. However, it acknowledges that this could instead be covered by clear standards or guidance.

The DPLRC stressed that “delegated powers should only be taken where necessary, and fully justified” and noted that the Government plans to consider this matter further.

### *Other powers*

The DPLRC explored other powers the Bill would create or amend, such as creating Gaelic language standards, standards relating to Gaelic education, and standards relating to Scots language education. It was broadly content with the Parliamentary procedures attached to these powers.

## Annexe B

# Comhairle nan Eilean Siar response to the call for views

Comhairle nan Eilean Siar (CnES), the local authority for the area with the highest percentage of speakers of Gàidhlig per head of population, welcomes the Scottish Languages Bill. The Bill is a much appreciated and needed opportunity to strengthen the position of Gàidhlig as one of Scotland's languages. Ultimately, its impact will depend on its implementation in terms of secondary legislation, commitment, support and provision of sufficient funding. Good as it is that Gàidhlig and Scots have both been awarded official status, the designation is largely symbolic and will do little to promote the development and survival of the languages in and of itself.

As the Bill is framed in very general terms and contains no concrete language rights, tightening and strengthening of legislation is required. Future enforcement of policy and plans in relation to Gàidhlig will not be possible unless obligations and rights are set out clearly, from the outset, in terms of legislation, regulation, timelines and guidance, with measurable, preferably SMART targets.

The mechanism by which public authority Gàidhlig Language Plans derive from overarching Strategy and Standards (including Education) and how they will deliver on the concept of Areas of Linguistic Significance (ALS) must be stipulated clearly in the Bill. Reducing bureaucracy and duplication related to planning, monitoring and especially the reporting processes should be a high priority in order to maximise focus on delivery and best use of limited resources.

The use of weak terminology in the Bill such as 'authorising, require, having regard' in relation to the Government's role and responsibilities as the overseer of the implementation process of Gàidhlig strategic plans should be reviewed.

New duties imposed on Scottish Government and education authorities to 'promote, facilitate and support Gàidhlig-medium education and Gàidhlig learners' are a positive development. However, the Bill requires strengthening in relation to education if the underlying challenges of teacher recruitment and retention, the right to Gàidhlig medium education (GME) and expansion of current provision in areas of increasing demand are to be addressed strategically and effectively. As it stands, the Bill will not achieve these outcomes.

Clarity is also required in the Bill on whether GMPE provision will be provided in new areas in which GME ELCs are established.

Important as it is, Education by itself will not guarantee the future of Gàidhlig as a living, developing, widely used language. Accordingly, the main emphasis of the Bill should be directed towards reviving Gàidhlig in community settings. A positive development from the initial stages of discussion about the Bill is that the term ‘Gàidhealtachd’ has been replaced by ‘Areas of Linguistic Significance (ALS)’.

It is good that the ALS designation is sufficiently flexible to include both rural Gàidhlig heartlands and urban areas. There is however the inherent danger of alienating areas which have a critical mass of Gàidhlig speakers but in which less Gàidhlig is spoken pro-rata if areas with very small populations, but a higher pro-rata percentage of Gàidhlig speakers, are designated as ALS. This is especially true of a local authority such as Comhairle nan Eilean Siar. It is concerning that the National Gàidhlig Plan 2023-28 makes mention of plans being developed for “3 key Gàidhlig communities” when little is known about how communities were identified for this purpose. Does this mean that these areas will automatically become the first ALS, with all the benefits that such a designation entails? If that is the case, there seems to have been a lack of transparency in the process and it is questionable whether it is appropriate for this to be happening in tandem with the formulation of the current Bill.

The rationale and responsibility for, and obligations and benefits associated with ALS designation need to be clarified as a matter of urgency. Leaving the process undefined as it stands currently in the Bill will lead to unhelpful debate and divisions across Gàidhlig communities.

Advising and supporting ALS as key delivery mechanisms for community-based Gàidhlig development should be specified as one of Bòrd na Gàidhlig’s main duties in the Bill. It should be tasked with ensuring that all public and statutory bodies are working within an overall strategic plan for Gàidhlig within each ALS and collaborating effectively towards achieving aims in an efficient and cost-effective manner.

This approach should also be adopted on a national scale, with a named body or individual tasked with coordinating strategic development and collaboration between organisations such as Education Scotland, SQA, SFC, GTCS, SDS, Stòrlann, as well as all local authorities which deliver GME and GLE, and which, in Councils such as Comhairle nan Eilean Siar, have long-standing and active commitments to support the language in all aspects of official and community life.

The reality for local authorities is that funding for Gàidhlig has “remained relatively static since 2010/11.” The Scottish Languages Bill is being introduced at a time when even the most supportive of local authorities are having to consider reducing spending on Gàidhlig markedly. Numerous, vague references to costs e.g. “not wholly new,” “not specific,” and the statement such as that “no additional spend is anticipated” contained in the Government’s

Financial Memorandum are therefore unhelpful and extremely worrying. The additional duties, obligations and responsibilities, of which there will undoubtedly be many, are yet to be clarified in relation to implementing the Bill and, like all meaningful commitments, they will come at a cost. Any funding that is provided ought to be aligned to wider strategic planning initiatives at a local level, with measurable outcomes.

The proposal to transfer responsibility for developing a national Gàidhlig Language Strategy from Bòrd na Gàidhlig to Scottish Government is welcome as it will increase the status of the guidelines but the process should be implemented sooner rather than 2028 as proposed. The role currently envisaged for Bòrd na Gàidhlig in assisting bodies to formulate plans and then monitoring their enforcement is an unenviable one, unless the Government's commitment to addressing non-compliance is strengthened through the Bill. This could be mitigated by the appointment of an independent Commissioner whose function would be to ensure effective implementation and compliance of Gàidhlig policy and planning. However, having a well thought out and effective system of support, with transparent performance measurement and management, operating between Scottish Government and Bòrd na Gàidhlig would be our preferred option.

Local authorities, especially those in which Gàidhlig is still widely used, have a responsibility to lead and support communities and organisations within their geographical area. They should seek to ensure that the language not only survives, but develops across a much wider range of economic, educational, social and cultural contexts, in meaningful ways. Agreeing shared goal and strategic approaches to growing bilingual capacity amongst the workforce and wider community to deliver services and events, are central to this, and should be a main focus of the requirements for Area of Linguistic Significance designation.



## Highlands and Islands Enterprise response to the call for views

### Information about your organisation

Please add information about your organisation in the box below:

HIE is a Non-Departmental Public Body, funded by and answerable to the Scottish Parliament and Scottish Government. The Agency was created by an Act of Parliament in 1990 with the function of 'preparing, concerting, promoting, assisting and undertaking measures for the economic and social development of the Highlands and Islands'. We work as a multi-functional regional development agency serving the population of the Highlands and Islands of Scotland with a core remit which integrates economic and community development.

Part 1 – Chapter 1 of the Bill

### **What are your views on these proposals? Is there anything you think should be added or taken away from this part of the Bill?**

Please provide your response in the box provided.:

We welcome the legal status being given to Gaelic; this is a significant milestone for the Gaelic language.

We welcome the maintenance of a supportive and promotional role being outlined for Bòrd na Gàidhlig and would welcome the opportunity to work with them especially in engaging with our mutual ambitions and clients.

The Bill suggests a refined structure of roles, responsibilities, monitoring and evaluation which is welcome to ensure all parties are aware of these and the opportunities afforded to them with the language. Within this there are references to standards and putting duties on public bodies. What these would entail is not specified and greater clarity of these areas would be appreciated and that they will consider fit with respective strategies, budgets and activities too. We would welcome greater emphasis on the partnership as noted in paragraph 42 of the Policy Memorandum.

The designation of "areas of linguistic significance" allows a collective and collaborative approach to development and regeneration and provides strong alignment with broader place-based initiatives for community resilience around any geographically defined areas, driven by statistical evidence of Gaelic competency/use in communities. We would welcome a collective approach to consider these areas and support them, building on the Community Planning Partnership, Regional Economic Partnership, the Short Life Working Group on the Economic and Social Opportunities for Gaelic and COHI work. Designations should be kept flexible for review around census periods and HIE experience shows that communities are able to self-identify in the natural definition of their community.

We recognise that Gaelic language planning does need to be integrated into a place-based approach and support for this may be required in informing the technical processes as well as sharing good practice and guidance. There is no information on what support (guidance or financial) would be given to designated areas in the

development of their plans, nor implementation. Given the challenging times for public funding, clarity on this would be welcomed by the communities.

In order for these areas to thrive, there are many wider contributory considerations in addition to Gaelic which are required for the communities and therefore the language to flourish, including factors such as housing availability, transport connections and digital connectivity. Acknowledgement of this within the Bill would be welcome.

We would welcome more collaboration to deliver against the opportunities and ambitions of the Gaelic Strategy across the public sector. For reference, the pilot initiative is for the whole of Uist rather than South Uist.

## **Part 1 – Chapter 2 of the Bill**

### **What are your views on these proposals?**

Please provide your response in the box provided.:

While Education is not part of HIE's core remit, the Education System is a key contributor, influencer and delivery agent in the workforce of the future. We would encourage an assessment of the curriculum to ensure that the skills required by the Gaelic Workforce are developed through education opportunities.

We would also endorse that application of Gaelic is incorporated into other subjects such as care, hospitality, music, business studies, geography, modern studies and history.

When referring to the Duty to Promote Gaelic Education, we would recommend this includes relevance to the economy and application in other subjects in addition to promotion as a language.

The Education system should reflect the skills, abilities and establish the foundation for a workforce that can grasp and develop the economic and social opportunities within Gaelic, whether it be through Gaelic specific disciplines or an appreciation of how Gaelic can contribute and benefit other roles and sectors.

The provision should also reflect the economic priorities of the geographic area it serves to ensure the workforce can directly supply and meet the needs of the area.

## **Part 2 – Chapter 1 of the Bill**

### **What are your views on these proposals?**

Please provide your response in the box provided.:

We welcome the provision of official status to Scots in Scotland. We would also recommend recognition of the associated dialects including Shetlandic, Orcadian and Doric. This is a significant milestone for the Scots Language and its protection, support and development.

We welcome the development of a Scots language strategy and a collaborative approach to understanding and developing the opportunities and ambitions associated with this.

We would also welcome the provision of information on good practice and guidance for public bodies in relation to promoting and supporting the Scots Language and the development of Scots culture.

We would recommend sharing practice and lessons learnt from the development of the Gaelic Language to this context.

## **Part 2 – Chapter 2 of the Bill**

### **What are your views on these proposals?**

Please provide your response in the box provided.:

While Education is not part of HIE's core remit, similarly to Gaelic, we would encourage an assessment of the curriculum to ensure that the skills required by the Scots Workforce are developed through education opportunities and the application of Scots is incorporated in other subjects.

### **General views on the Bill**

The Bill's key aims are to promote Gaelic and Scots across Scotland.

Please provide your response in the box provided.:

This Bill provides significant steps forward for the Gaelic and Scots languages and a framework under which the public sector can support the Scots and Gaelic communities to strive for development. Working within this framework efficiently, effectively and with communities and practitioners will be critical in the success of what the Bill sets out to do. Partnership approaches are key to this and how these will be set out, integrated and monitored would provide greater future evolution of the delivery against the strategy. This could link both delivery of the strategy, the delivery of organisational plans and also partnership initiatives such as Faster Rate of Progress.

A key factor in the implementation of the provisions of the Bill will also be the enabling of communities to build language regeneration, revival and planning as part of a place-based process. How this will be carried out and the ambitions and opportunities threaded through these and an opportunity afforded to the wider public sector to deliver on these aspirations, for example, through the provision of housing or economic opportunities does need further consideration. For Gaelic and Scots languages to thrive in communities it will be important to ensure that all community needs can be met and that Agencies tasked with delivery are adequately resourced to do so.

## **Orkney Island Council response to the call for views**

Orkney has very little connection to the Gaelic language. For nearly one thousand years, Orcadians spoke Norn and since then have spoken the Orcadian language variant of Scots or English. Orcadians have never spoken Gaelic as part of a larger cultural movement. Only 217 Orcadians reported they had any Gaelic skills in 2011. We believe that this Bill does not consider the different cultural and historical ties of the Northern Isles. In an attempt to promote and support the Gaelic language and culture, we are concerned that this may unintentionally result in the dilution of Orkney's significant linguistic history.

This part of the Bill confers essential responsibilities to the Bord na Gaidhlig despite recent reports that the Bords' budget will likely be cut in the coming years. These responsibilities would require OIC to proactively report to the Bord na Gaidhlig within 15 months of a Gaelic Language Plan being published and to publish an annual report on the implementation of the Gaelic Language Plan in Orkney. OIC is concerned that this would be a significant commitment of time and resources when, ultimately, Gaelic is not a priority for the local community nor for the education authority. Additionally, as the Gaelic Language Plan and Gaelic Language Strategy have yet to be published even in draft form, we are uncertain as to just what the Scottish Government is asking us to commit to.

This is a consistent concern throughout the Bill, as large sections of the content of the National Languages Bill are yet to be decided and would create secondary legislation. Due to this, OIC cannot appropriately comment on areas that give Scottish Ministers more powers to put duties on public bodies to "promote, facilitate and support Gaelic" as there is not detail in this Bill as to what the promotion, facilitation and supporting of Gaelic would actually mean on the ground. There are multiple references to an unpublished Gaelic Language Plan and Gaelic Language Strategy, but again, there are no details. This section would allow Scottish Ministers to direct public bodies without further consultation or Parliamentary scrutiny.

Where the Bill does mandate consultation processes, there are significant shortcomings. The Scottish Government have repeatedly stressed that Gaelic education is part of a more significant cultural movement that can be felt out with the schools themselves. However, Section 12 (ss.4) does not include local authorities or local communities in the parties that must be consulted when preparing regulations. It does include the local education authority and multiple national organisations, but the local people should also have a say on whether Gaelic education is needed in their community.

Ideally, we would look to have the powers of direction removed from the Bill until there is more clarification as to what these powers may be used for. We would also require that the list of parties who must be consulted when creating new regulations or giving directions be expanded to include local authorities as a whole, as well as the wider local community.

## **Part 1 – Chapter 2 of the Bill**

### **What are your views on these proposals?**

Please provide your response in the box provided.:

We are pleased to see that Section 14 of the Bill does state that Ministers must consult with an education authority prior to giving directions to that authority. However, we again must request that other stakeholders in the community be consulted before any directions are given.

Section 16 of the Bill would make it a duty of the education authority to promote, facilitate and support Gaelic learner education and GME and have regard for the interests of Gaelic pupils and prospective pupils. The Orkney Islands Council Education Authority does not prioritise Gaelic as a language, instead having more regard for Orcadian in support of our own culture and heritage. Where the Education Authority fully appreciates the benefits of bilingual learning, it does not accept that Gaelic should be imposed and as such, there must be an opt out clauses on this bill to respect localised culture and heritage.

We are concerned by Section 25 which would allow Scottish Ministers to make Further and Higher Education grants subject to conditions for the purpose of enabling, encouraging or increasing participation in Gaelic higher education. We are cautious as to how these conditions may affect Council revenue streams and seek clarity on how wide ranging these conditions may be. We hope that Ministers would not include onerous conditions to their grants that would push Gaelic into the Orcadian education system, but without clarification that outcome is always a possibility. We would ask that Section 25 be given more detail, including clarification on which grants can be targeted by Scottish Ministers.

## **Part 2 – Chapter 1 of the Bill**

### **What are your views on these proposals?**

Please provide your response in the box provided.:

Orkney Islands Council is concerned as to whether differing language variants of Scots have been considered when creating this Bill. The Orcadian language variant (sometimes referred to as Insular Scots) is different from the Standardised Scots that has been used in the Scots translation of this Bill. Orkney's roots are Norn and this affects not just individual dialect words, but also sentence structures and syntax. Our concern here would be that a national Scots Language Strategy and a push for standardised education in or around Scots may unintentionally erase Orkney's unique voice.

The 2011 census, cited in the ICIA accompanying the draft Bill, reported that Orkney had one of the highest percentages of Scots speakers in the country, but these respondents are not necessarily speakers of Standardised Scots. Prior to the 2011 census, there was uncertainty as to whether Orcadians who spoke Orcadian at home should check the Scots-speaking box on the census. The 41% of Orcadians who reported to speak Scots at home is not so much

evidence of a Standardised Scots-speaking community in Orkney, but evidence of a thriving Orcadian language community which may be harmed by the promotion of a Standardised Scots language.

## **Part 2 – Chapter 2 of the Bill**

### **What are your views on these proposals?**

Please provide your response in the box provided.:

See responses above.

### **General views on the Bill**

#### **The Bill's key aims are to promote Gaelic and Scots across Scotland.**

Please provide your response in the box provided.:

Orkney Islands Council does believe that this Bill may be successful in its aim to promote Gaelic and Scots across Scotland. However, we do not agree that this goal that should include the Orkney Islands. In the current form of the Bill, while Gaelic and Standardised Scots may be promoted, this will come at the expense of the Orcadian language and culture. We are especially concerned that the interests of the Northern Isles have not been given due regard as required by the Islands (Scotland) Act 2018, and that the ICIA accompanying this Bill is entirely inadequate.

The ICIA reports that there has already been island consultation between August and December 2022 on commitments made by the Scottish Government which provided the basis for the provisions of the Bill. However, there has been no consultation on this Bill with regard to its impact on particular islands, as required by the Islands Act. If the Northern Isles had been properly consulted in the lead up to this Bill, there would have been an acknowledgement of the differing forms of Scots and of the varying language needs of the Scottish peoples.

The ICIA cites 2011 census data, incidentally now over a decade out of date, as justification that this Bill will disproportionately help islanders in general. However, for the reasons explained above, this is a fundamental misunderstanding and misinterpretation of the data.

Furthermore, the ICIA has not considered the additional costs and staffing pressures that the education authority would incur if pushed to include Gaelic. Unlike mainland schools, it is not feasible for Gaelic speaking pupils on an island to commute to a school out with the local authority area. This option is not therefore available to islands authorities.

## **Bòrd na Gàidhlig response to the call for views**

[Original response is in Gaelic and is followed by English Translation]

### Part 1 – Chapter 1 of the Bill

What are your views on these proposals? Is there anything you think should be added or taken away from this part of the Bill?

### Freagairt Bhòrd na Gàidhlig air Bile nan Cànan Albannach

Tha Bòrd na Gàidhlig a' cur fàilte air a' chothrom freagairt a chur air Dreachd Ìre 1 de Bhile nan Cànan Albannach. Nuair a thathar a' beachdachadh air an tagradh, bu toil le Bòrd na Gàidhlig iomradh làidir a thoirt air ar freagairt do mheòrachan ionmhais Bile nan Cànan Albannach. (Eàrr-ràdh 1)

Tha sinn a' cur air adhart ar beachd a-rithist gum feum stòrasan iomchaidh a bhith ann airson an reachdais ùir gus dèanamh cinnteach gun tèid atharrachadh a chur an sàs gu h-èifeachdach, cho math ri mhodail airson bun-maoineachaidh, a nì cinnteach gu bheil soirbheas na amas follaiseach aig an reachdas, agus e air a bhonntachadh air tasgadh. Às aonais seo chan eil e idir coltach gun tèid aig an reachdas air prìomh raon amasan a libhrigeadh, gu sònraichte atharrachadh mòr ann am poileasaidh agus obair, leithid a bhith a' toirt a-steach sgìrean cànan sònraichte. Tha fìor chunnart ann cuideachd gun sguireadh coimhearsnachdan a bhith a' gabhail pàirt ann am pròiseas nach aithnicheadh gu h-iomchaidh na dùbhlain a tha romhpa bho

latha gu latha, agus mar sin shìoladh earbsa agus com-pàirteachadh às, rud a bheireadh droch bhuaidh air leasachadh cànan.

Tha Bòrd na Gàidhlig a' cur fàilte air na prionnsabalan a tha air am mìneachadh san reachdas seo chun na h-ìre is gu bheil iad stèidhichte air frèam ionmhais is tasgaidh reusanta.

### **Pàirt 1, Caibideil 1: Taic dhan Ghàidhlig**

#### Earrann 1: Inbhe na Gàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 1 agus air an inbhe a tha a' tighinn às an reachdas seo. Tha e cudromach inbhe laghail na Gàidhlig a neartachadh agus sinn ag àbhaisteachadh na Gàidhlig ann am pròiseasan co-dhùnaidh a thaobh poileasaidh poblach na h-Alba.

#### Earrann 2: Uallaichean Bhòrd na Gàidhlig

Tha Bòrd na Gàidhlig a' tuigsinn nan ullachaidhean ann an Earrann 2 agus tha sinn den bheachd gu bheil na riathanasan a thathar a' cur air Bòrd na Gàidhlig

iomchaidh. Gu sònraichte, tha sinn a' cur fàilte air na h-iomraidhean air gèilleadh agus air a' chomas againn dèanamh cinnteach gu bheil ùghdarrasan poblach a' coileanadh an cuid dhleastanasan a thaobh na Gàidhlig.

Tha feum air modail structarail agus modail tasgaidh oir bidh feum aig na h-ullachaidhean ùra air stòrasan susbainteach ùra a bharrachd.

### **Earrann 3: Plana Corporra Bhòrd na Gàidhlig**

Tha Bòrd na Gàidhlig a' tuigsinn nan ullachaidhean ann an earrann 3 agus tha e den bheachd gu bheil na riatanasan a thathar a' cur air Bòrd na Gàidhlig iomchaidh.

Dh'iarramaid soilleireachadh air an dòigh-obrach gus dèanamh cinnteach gu bheil prìomhachasan aontaichte Bhòrd na Gàidhlig aig cridhe a' Phlana Chorporra dheireannaich.

### **Earrann 4: Sgìrean Cànain Sònraichte**

Tha Bòrd na Gàidhlig a' cur fàilte air an fhòcas air Sgìrean Cànain Sònraichte anns a' Bhile agus dh'iarramaid gun rachadh sgrùdadh iomchaidh a dhèanamh air an fhrèama airson leasachadh cho cudromach ann am poileasaidh Gàidhlig. Bu toil le Bòrd na Gàidhlig còmhraidh farsaing a bhith ann, ach bu mhath leinn dèanamh cinnteach gun neartaich reachdas suidheachadh na Gàidhlig anns na coimhearsnachdan sin. Thogamaid a' cheist cuideachd dè an ìre riaghaltais as iomchaidhe gus sgìre cànain sònraichte a shònrachadh, agus dè an t-àite a bhiodh aig a' choimhearsnachd fhèin sa phròiseas.

### **A' neartachadh choimhearsnachdan**

Tha fòcas air neartachadh leasachadh agus co-thaobhadh poileasaidh ann an coimhearsnachdan na prìomhachas do Bhòrd na Gàidhlig. Tha na prìomh bhuidhnean libhrigidh againn aig teis-meadhan na h-obrach sa choimhearsnachd, agus aig teas-meadhan libhrigeadh nam prìomhachasan nàiseanta a chaidh aontachadh ann am Plana Nàiseanta na Gàidhlig.

'S e briseadh-dùil mòr a th' ann gu bheil neo-sheasmhachd maoinachadh Bhòrd na Gàidhlig air fàgail gun robh a' bhuidheann feumach air àrdachadh maoinachaidh sealach gus Sgeama nan Oifigearan Gàidhlig a mhaoineachadh, sgeama le farsaingeachd de dh'oifigearan leasachaidh Gàidhlig stèidhichte sa choimhearsnachd gu sònraichte ann an sgìrean a bhiodh air am meas mar sgìrean cànain sònraichte. Mar thoradh air an àrdachadh sin a bhith air a thoirt air falbh airson 24/25, chaidh droch bhuidh mhòr a thoirt air an sgeama sin aig àm far a bheilear a' brosnachadh sgìrean cànain sònraichte mar fhuasgladh reachdail air na dùbhlain a tha mu choinneamh choimhearsnachdan Gàidhlig.



Feumar leasachadh air a stiùireadh leis a' choimhearsnachd a chur an comas mar raon prìomhachais. Aig an àm seo, Tha Bòrd na Gàidhlig ag obair air planaichean Gàidhlig coimhearsnachd ann an com-pàirteachas leis a' choimhearsnachd agus na prìomh bhuidhnean libhrigidh againn ann an 2 sgìre: ann an Uibhist agus ann an Leòdhas, far a bheil adhartas a' sealltainn miann coimhearsnachdan sealbh a ghabhail air leasachadh na Gàidhlig. Feumar leasachadh a thoirt air adhart ann am prìomh roinnean, a' coimhead air raon farsaing de dh'iomairtean a neartaicheas a' Ghàidhlig aig ìre coimhearsnachd. Ma tha frèam ionmhais is tasgaidh an lùib a bhith a' sònrachadh sgìre cànan sònraichte, leigeadh seo le coimhearsnachdan sealbh a ghabhail air an leasachadh agus prìomhachasan ro-innleachdail a thoirt air adhart anns an dòigh as fheàrr a dh'obraicheas dhan sgìre aca.

Ann an 1B(1) tha e ag ràdh “Faodaidh ùghdarras ionadail a bhith a' sònrachadh...”

Mar sin, tha roghainn aig an Ùghdarras Ionadail co-dhiù an sònraich iad Sgìre Cànan Sònraichte. Tha e soilleir gum biodh e feumail fòcas a mheudachadh agus bunait shoilleir de thaic dhan chànan a shealltainn ann an sgìrean leithid Comhairle nan Eileanan Siar, ach feumaidh sinn coimhead nas fhaide na seo agus faighneachd carson a bhiodh ùidh aig ùghdarrasan ionadail ann an Sgìrean Cànan Sònraichte. Bu chòir a' cheist seo a chur gu dìreach air ùghdarrasan ionadail, ach tha e soilleir gu bheil prìomh cheistean ann a thaobh culaidhean-brosnachaidh.

### **Culaidhean-brosnachaidh**

Dè a' chulaidh-bhrosnachaidh a th' ann airson a bhith a' sònrachadh Sgìrean Cànan Sònraichte? Leis nach eil gealltanais ann a thaobh stòrasan airson cur an gnìomh a' Bhile, feumar aithneachadh gur dòcha gun roghnaich ùghdarrasan ionadail gun a bhith gan sònrachadh mar thoradh air dìth stòrasan aig an àm seo, a bharrachd air dìth soilleireachd air na bhiodh sònrachadh den t-seòrsa a' ciallachadh an da-rìribh. Bidh dùil am measg choimhearsnachdan gum bi barrachd gnìomhachd agus gun tèid barrachd a chosg air leasachadh mar thoradh air an t-sònrachadh seo.

### **Roghainneil**

Leis gu bheil inbhe mar sgìre cànan sònraichte roghainneil, dh'fhaodadh e a bhith na bhriseadh-dùil do choimhearsnachdan ionadail agus gum bi iad a' faireachdainn nach eil iad air an riochdachadh, ma tha iad airson a bhith nan sgìre sònraichte ach nach eil an t-ùghdarras ionadail a' gabhail ris a' phròiseas. Tha Bòrd na Gàidhlig den bheachd gum bu chòir còir a bhith aig coimhearsnachd sònrachadh iarraidh agus gum bu chòir aghaidh a thoirt air seo anns a' Bhile.

#### Earrann 5: Ro-innleachd na Gàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air ro-innleachd na Gàidhlig a bhith air a chur an àite Plana Nàiseanta na Gàidhlig. Leis gun tèid a h-ullachadh le Ministearan na h-Alba, bidh fòcas agus inbhe nàiseanta aice agus bu chòir gum bi i air a h-amalachadh ann an raon nas fharsainge de dh'amasan poileasaidh nàiseanta.

Tha 2A (3) ag ràdh, "Ann a bhith ag ullachadh ro-innleachd na Gàidhlig feumaidh Ministearan na h-Alba dreachd ro-innleachd fhoillseachadh agus co-chomhairle a chumail leis an fheadhainn a tha iad a' meas iomchaidh." Tha Bòrd na Gàidhlig den bheachd gum bu chòir riatanas a bhith ann co-chomhairle a chumail le Bòrd na Gàidhlig agus le coimhearsnachdan air feadh na h-Alba, a bharrachd air buidhnean iomchaidh eile, gus dèanamh cinnteach gu bheil a' cho-chomhairle cho èifeachdach 's a ghabhas.

Mar phuing bheag ach cudromach, chanamaid gu bheil am facal Nàiseanta a thaobh a' Phlana Nàiseanta làithrich a' sealltainn gur e plana a th' ann airson leasachadh air feadh na h-Alba. Tha e cudromach gum bi an ro-innleachd a' gabhail a-steach coimhearsnachdan uile na h-Alba agus gu bheil i air a h-aithneachadh mar sin.

#### Earrann 6: Bun-inbhean Gàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air na faclan sa Bhile gum bi cumhachd aig Ministearan na h-Alba riaghailtean a dhèanamh agus bun-inbhean agus riatanasan a shònrachadh co-cheangailte ri adhartachadh agus comasachadh cleachdadh na Gàidhlig a bhuineas do dh'ùghdarrasan poblach iomchaidh.

Dh'iarradh Bòrd na Gàidhlig barrachd fiosrachaidh mu shusbaint nam bun-inbhean agus nan riaghailtean. Feumaidh an reachdas a bhith soilleir air dè na bun-inbhean agus riaghailtean air a bheilear a' toirt iomradh agus dè na sgìrean air am bi iad a' toirt buaidh. Mar eisimpleir, ciamar a bhios modail nam bun-inbhean a' buntainn ri Sgìrean Cànan Sònraichte? Bhiodh Bòrd na Gàidhlig airson raon farsaing agus in-ghabhalach de dh'inbhean agus de riaghailtean fhaicinn, le meòrachadh air a dhèanamh air cur an gnìomh agus air amalachadh èifeachdach.

Tha Bòrd na Gàidhlig cuideachd a' cur fàilte air mar a bhios na trì eileamaidean de ro-innleachd cànan, inbhean agus planaichean cànan Gàidhlig a' tighinn còmhla gus dèanamh cinnteach gum bi adhartas agus cunbhalachd ann am brosnachadh na Gàidhlig ann an Alba. Bheir e ùine gus siostam bun-inbhean coileanta amalaichte a chruthachadh agus feumaidh dòigh-obrach gu math sònraichte a bhith ann gus dèanamh cinnteach gu bheil tuigse nas soilleire agus nas mionaidiche air mar a thathar an dùil gun tèid seo a choileanadh.

Tha feum ann cuideachd air modail tasgaidh gus a bhuileachadh, oir bidh feum air tuilleadh planadh buidhne agus air modail gèillidh sònraichte do na riatanasan a bharrachd a thaobh dearcnachadh agus aithris.

#### Earrann 7: Dleastanasan ùghdarrasan poblach buntainneach

Tha Bòrd na Gàidhlig a' cur fàilte air an dòigh-obrach a chaidh a ghabhail agus air comas Mhinistearan na h-Alba an dà chuid stiùireadh agus àitheantan a thoirt do bhuidhnean poblach. Bidh seo na phrìomh mheadhan nuair a thathar a' dèiligeadh ri neo-ghèilleadh agus mì-mhìneachadh sam bith air na riatanasan a chuirear air buidhnean.

#### Earrann 8: Aithisgean air ro-innleachd na Gàidhlig, bun-inbhean agus dleastanasan

Tha Bòrd na Gàidhlig a' tuigsinn cho cudromach 's a tha e a bhith ag aithris air an ro-innleachd, bun-inbhean agus dleastanasan agus tha iad a' cur fàilte air an riatanas a bhith ag aithris do Phàrlamaid na h-Alba.

Coltach ri earrann 6, tha feum air modail tasgaidh airson buileachadh, oir bidh feum air barrachd planadh buidhne agus air modail sònraichte de ghèilleadh ri riatanasan a bharrachd a thaobh sgrùdadh agus aithris.

#### Earrann 9: Planaichean Gàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air earrann 9. Tha sinn den bheachd gun cuir na h-atharrachaidhean a thaobh planaichean cànan, bun-inbhean agus ro-innleachd na Gàidhlig barrachd uallach obrach air a' bhuidhinn. Feumar stòrasan gu leòr a bhith ann airson an eòlais agus nan daoine a tha a dhìth gus an obair seo a dhèanamh gus am bi com-pàirteachadh, dearcnachadh agus aithris èifeachdach ann.

#### Earrann 10: Aithris air còraichean is uallaichean fearainn: bithear a' toirt feart do thaic don Ghàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air an aithris seo agus sinn ag aithneachadh gu bheil Gàidhlig agus cùisean fearainn dlùth-cheangailte ann an iomadh coimhearsnachd Gàidhlig agus gu bheil beachdachadh den t-seòrsa seo cudromach.

#### Part 1 – Chapter 2 of the Bill

What are your views on these proposals?

Please provide your response in the box provided.:

#### Caibideil 2: Foghlam

Tha Bòrd na Gàidhlig a' cur fàilte air an earrann a thaobh foghlam ann am Bile nan Cànan Albannach a chionn 's gu bheil e a' leabachadh foghlam Gàidhlig ann

an reachdas foghlaim nàiseanta. Tha a bhith a' cur ghnìomhan Gàidhlig ann an Achd an Fhoghlaim na cheum cudromach airson a bhith ag àbhaisteachadh foghlam Gàidhlig agus tha e a rèir a' phrionnsabail bhunaitich gum bi Alba a' toirt seachad foghlam ann an dà chànan, an dàrna cuid tro mheadhan na Beurla no tro mheadhan na Gàidhlig.

**Earrann 11: Dleastanas aig Ministearan na h-Alba foghlam Gàidhlig a chur air adhart is taic a thoirt dha**

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 11, gu sònraichte a bhith a' gabhail a-steach foghlam adhartach agus air an dòigh-obrach ro-innleachdail nàiseanta ùr a thathar a' moladh.

**Earrann 12: Cumhachd aig Ministearan na h-Alba gus bun-inbhean a stèidheachadh airson foghlam Gàidhlig ann an sgoiltean**

Tha Bòrd na Gàidhlig a' cur fàilte air an ullachadh ann an Earrann 12 a bheireadh cumhachd do Riaghaltas na h-Alba riaghailtean a dhèanamh a' suidheachadh bun-inbhean airson foghlam tro mheadhan na Gàidhlig agus foghlam luchd-ionnsachaidh na Gàidhlig. Dh'iarraimaid soilleireachadh air carson a dh'fheumar dèiligeadh ris na riatanasan a bharrachd ann an Earrann 18 san reachdas seo, a bharrachd air na rèiteachaidhean dearcnachaidh is ath-sgrùdaidh a th' ann mar ann an Achd Ìrean ann an Sgoiltean na h-Alba is msaa (2000) agus Achd an Fhoghlaim (2016).

Dh'iarraimaid cuideachd soilleireachd air mar a thèid co-dhùnaidhean sam bith a thaobh inbhean foghlaim a leabachadh sa phròiseas Ath-leasachaidh Foghlaim leantainneach.

**Earrann 13: Stiùireadh do dh'ùghdarrasan poblach air foghlam Gàidhlig**

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 13 a tha a' gluasad an dleastanas airson a bhith a' toirt seachad stiùireadh reachdail air foghlam Gàidhlig bho Bhòrd na Gàidhlig gu Riaghaltas na h-Alba.

**Earrann 14: Àithntean do dh'ùghdarrasan foghlaim a thaobh foghlam Gàidhlig**

Tha Bòrd na Gàidhlig a' cur fàilte air an t-soillearachadh ann an earrann 14.

**Earrann 15: Tha an dleastanas coitcheann gus foghlam a thoirt seachad a' gabhail a-steach foghlam Gàidhlig**

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 15 leis gu bheil e a' cuideachadh gus foghlam Gàidhlig àbhaisteachadh agus gu bheil e a rèir a' phrionnsabail bhunaitich gu bheil Alba a' toirt seachad foghlam ann an dà chànan, an dàrna cuid tro mheadhan na Beurla no tro mheadhan na Gàidhlig.

Earrann 16: An dleastanas gus foghlam Gàidhlig a chur air adhart nuair a thathar a' coileanadh uallaichean fo Achd an Fhoghlaim (Alba) 1980

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 16.

Earrann 17: A' roinn fiosrachaidh mu fhoghlam Gàidhlig

Bu toil le Bòrd na Gàidhlig soilleireachd iarraidh air an adhbhar airson Earrann 17.

A bheil seo gus dèanamh cinnteach gu bheil a' coileanadh a' ghnìomh gèillidh, mar a tha air a mhìneachadh ann an caibideil 1, agus gus an gabh aithris iomchaidh a dhèanamh air? No an tèid a chleachdadh gus an ro-innleachd Ghàidhlig fhiosrachadh?

Am biodh e mar dhleastanas air Bòrd na Gàidhlig an dàta a chumail agus a thoirt do dhaoine eile? Mas e seo an suidheachadh, dh'fhaodte gum bi buaidhean laghail is obrachail air a' bhuidhinn air am feumar beachdachadh.

Earrann 18: Planadh airson foghlam Gàidhlig a libhrigeadh

Chuireadh Bòrd na Gàidhlig dragh an cèill a thaobh nan ullachaidhean ann an Earrann 18. Ma tha sinn gu bhith a' leabachadh foghlam Gàidhlig anns an

t-siostam foghlaim, carson a tha dearcnachadh air libhrigeadh taobh a-staigh phlanaichean Gàidhlig? Tha a bhith a' cur a-steach (4A) agus (5)(ab) a' dol an aghaidh a' phrionnsabail a bhith a' leabachadh foghlam Gàidhlig gu h-iomlan ann an rèiteachaidhean reachdail airson foghlaim agus dh'iarradh Bòrd na Gàidhlig gun rachadh seo a thoirt às a' bhile.

Earrann 19: Dleastanas gus taic a thoirt do chothroman air foghlam tron Ghàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 19 agus a' cur fàilte air leudachadh air cothrom air foghlam Gàidhlig.

Earrann 20: Dleastanas sgìre-sgoile a stèidheachadh airson sgoiltean a tha a' solarachadh foghlam tron Ghàidhlig

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 20, a tha a' togail air a' mholadh làithreach anns an Stiùireadh Reachdail air foghlam Gàidhlig.

Earrann 21: Còmhdhail do dh'fhoghlam tro mheadhan na Gàidhlig: Achd nan Sgoiltean (Co-chomhairleachadh) (Alba) 2010 ga coileanadh

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 21.

Earrann 22: Measaidhean: an cumhachd gus cumhachan eadar-dhealaichte a stèidheachadh airson diofar sgìrean

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 22.

Earrann 23: Leudachadh gus am bi measaidhean a' gabhail a-steach tràth-ionnsachadh is cùram-chloinne

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 23. Leigidh seo le barrachd chloinne làn bhogadh fhaighinn sa Ghàidhlig bho aois nas òige.

Earrann 24: Dleastanas a bhith a' cumail co-chomhairle agus planadh a dhèanamh air lìbhrigeadh tràth-ionnsachadh agus cùram-chloinne

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 24.

Earrann 25: Dleastanas gus co-chonaltradh is planadh a dhèanamh a thaobh sheirbheisean tràth-ionnsachaidh is cùraim-chloinne

Tha Bòrd na Gàidhlig a' cur fàilte air na h-ullachaidhean ann an Earrann 25.

## **Bòrd na Gàidhlig response to the call for views – English Translation**

Bòrd na Gàidhlig's response to the Scottish Languages Bill

Bòrd na Gàidhlig welcome the opportunity to respond to the Stage 1 Draft of the Scottish Languages Bill. When considering our submission Bòrd na Gàidhlig would like to strongly reference our response to the financial memorandum of the Scottish Languages Bill. (Appendix 1)

We reiterate our belief that the introduction of new legislation must be adequately resourced to ensure the effective implementation of change, as well as a core funding model which will ensure that success is a demonstrable objective of the legislation as it is underpinned by investment. Without this it is difficult to envisage legislation being able to deliver on the key range of objectives, particularly major policy, and operational change such as the introduction of areas of linguistic significance. There is also a real danger that communities will disengage with a process that fails to adequately recognise the challenges they are facing on a daily basis, thereby eroding trust and engagement which will have serious consequences for language development.

Bòrd na Gàidhlig welcome the principles set out in this legislation to the extent that they are matched with a realistic financial and investment framework.

Part 1, Chapter 1: Support for the Gaelic language

### **Section 1: Status of the Gaelic language**

Bòrd na Gàidhlig welcome the provisions in Section 1 and the status that arises from this legislation. Strengthening Gaelic's legal status is important as we normalise consideration of Gaelic in Scotland's public policy decision-making processes.

### **Section 2: Functions of Bòrd na Gàidhlig**

Bòrd na Gàidhlig understand the provisions in Section 2 and consider the requirements being placed on Bòrd na Gàidhlig to be appropriate. In particular, we welcome the references to compliance and our ability to ensure that public authorities are fulfilling their obligations to Gaelic.

There is a requirement for a structural and investment model as new arrangements will require significant additional resource.

### **Section 3: Bòrd na Gàidhlig Corporate Plan**

Bòrd na Gàidhlig understand the provisions in section 3 and consider the requirements being placed on Bòrd na Gàidhlig to be appropriate.

We would request clarification on the mechanism to ensure that the agreed priorities of Bòrd na Gàidhlig are central to the finalised Corporate Plan.

### **Section 4: Areas of linguistic significance**

Bòrd na Gàidhlig welcome the focus on areas of linguistic significance in the Bill and would request that such an important development in Gaelic language policy and its framework should receive appropriate scrutiny. Bòrd na Gàidhlig would appreciate a wide discussion but would like to ensure that legislation strengthens the position of Gaelic in these communities. We would also raise the question which level of Government is the most appropriate to make the designation of area of linguistic significance, and the role of the community itself in the process.

### **Strengthening communities**

Focus on strengthening development and policy cohesion in communities is a priority of Bòrd na Gàidhlig. Our key delivery bodies are integral to the on-the-ground work, and delivery of the national priorities agreed in the National Gaelic Language Plan.

It is a major disappointment that the instability of funding to Bòrd na Gàidhlig has resulted in the organisation being reliant on uplift funding to fund the

Gaelic Officers scheme, a range of community-based development officers primarily in areas which would be considered areas of linguistic significance. The withdrawal of that uplift for 24/25 has resulted in that scheme being significantly impacted at a time where areas of linguistic significance are being promoted as a legislative solution to the challenges facing Gaelic communities.

A priority area must be the enablement of community-led development. Currently Bòrd na Gàidhlig are working on community Gaelic language plans in partnership with the community and our key delivery bodies in 2 areas, in Uist and in Lewis, where progress is demonstrating the desire within communities to take ownership of Gaelic development. There is a need to progress development in key areas looking at a wide range of initiatives which will strengthen Gaelic at a community level. If the designation of area of linguistic significance delivers a financial and investment framework then this should allow communities to take ownership of their development and drive strategic priorities in a way that works best for their area.

In 1B(1) it states that ,”A local authority may designate...”

Therefore, the Local Authority has a choice in whether they would designate an Area of Linguistic Significance. To increase the focus and demonstrate a clear basis of support for the language in areas such as Comhairle na Eilean Siar is clear, however we must look beyond this and ask why local authorities would seek to actively engage with Areas of Linguistic Significance. This question should be put directly to local authorities but key questions of incentivisation are evident.

## **Incentivisation**

What is the incentive for declaring an Area of Linguistic Significance? With the lack of commitment to resources in relation to implementation of the Bill, consideration must be given that local authorities may choose not to designate due to inability to resource at this current point, as well as a lack of clarity on what such a designation will mean in practice. The expectation amongst communities will be that such a designation will result in more activity and increased development spending.

## **Optional**

This optional nature of designation to area of linguistic significance status may lead to local communities being disappointed and consider themselves disenfranchised if they wish to be a designated area but their local authority is not engaging in the process. Bòrd na Gàidhlig believe that there should be a community right to request designation and that this should be addressed in the Bill.



## Section 5: Gaelic Language Strategy

Bòrd na Gàidhlig welcome the replacement of the National Gaelic Language Plan with the Gaelic Language Strategy. The national focus and status due to its preparation by Scottish Ministers should see an integration into a wider range of national policy objectives and this is a positive step forward.

2A (3) states that, “In preparing the Gaelic language strategy the Scottish Ministers must publish a draft strategy and consult such persons as they consider appropriate.” Bòrd na Gàidhlig believe there should be a requirement to consult with Bòrd na Gàidhlig and with communities across Scotland, as well as other relevant bodies, in order to ensure that consultation is as effective as possible.

A minor but important point, we would suggest that the use of the word National in relation to the current National Plan conveys that it is a plan for development across the whole of Scotland. It is important that the strategy is one which covers all the communities of Scotland and is recognised as such.

## Section 6: Gaelic language standards

Bòrd na Gàidhlig welcome the insertion that Scottish Ministers will have the power to make regulations and specify standards and requirements relating to promoting and facilitating the use of Gaelic which will apply to relevant public authorities.

Bòrd na Gàidhlig would request more information on the content of the standards and regulations. The legislation must be clear on what standards and regulations is referring to and what areas will be covered. For instance, how will the standards model apply to areas of linguistic significance? Bòrd na Gàidhlig would wish to see a broad and inclusive range of standards and regulations, where consideration has been given to the implementation and to effective integration.

Bòrd na Gàidhlig also welcome that the three elements of Gaelic language strategy, standards and Gaelic language plans will work together to ensure progress and consistency in the promotion of Gaelic in Scotland. An integrated comprehensive standards regime will take time to develop and must be very specific in its approach to ensure clarity of understanding and more detail on how it is anticipated that this will be achieved is necessary.

There is also a requirement for an investment model for implementation, as this will require additional organisational planning and a bespoke model of compliance with additional requirements on monitoring and reporting.

**Section 7: Functions of relevant public authorities**

Bòrd na Gàidhlig welcome the approach being taken and the ability of Scottish Ministers to issue both guidance and direction to public bodies. This will be a key mechanism when dealing with non-compliance and any misinterpretation of the requirements being placed upon bodies.

**Section 8: Reporting on Gaelic languages strategy, standards and duties**

Bòrd na Gàidhlig understand the importance of reporting on the strategy, standards and duties and welcome the requirement to report to the Scottish Parliament.

As with section 6, there is a requirement for an investment model for implementation, as this will require additional organisational planning and a bespoke model of compliance with additional requirements on monitoring and reporting.

**Section 9: Gaelic language plans**

Bòrd na Gàidhlig welcome Section 9. We believe that the changes relating to Gaelic language plans, standards and strategy will place an increased work requirement on the organisation. The expertise and people resource requirement required to undertake this work will have to be resourced adequately in order for effective and efficient engagement, monitoring and reporting to take place.

**Section 10: Land rights and responsibilities statement: regard to be had to supporting Gaelic**

Bòrd na Gàidhlig welcome the inclusion of this statement with an understanding that in many Gaelic communities Gaelic and land issues are closely related, and such consideration is essential.

**Chapter 2: Education**

Bòrd na Gàidhlig welcome the education section of the Scottish Languages Bill as it embeds Gaelic education in national education legislation. The insertion of Gaelic language activities into the Education Act is an important step forward for normalising Gaelic education and reflects the fundamental principle that Scotland provides education in two languages, either through the medium of English or through the medium of Gaelic.

**Section 11: Duty of Scottish Ministers to promote Gaelic education**

Bòrd na Gàidhlig welcome the provisions in Section 11, in particular the inclusion of further education and the proposed new national strategic approach.

**Section 12: Power for Scottish Ministers to set standards relating to Gaelic education**

Bòrd na Gàidhlig welcome the provision in Section 12 that would give the Scottish Government the power to make regulations setting standards for Gaelic medium and Gaelic learner education. We would request clarification on why the additional requirements in Section 18 need to be addressed in this legislation, in addition to the existing monitoring and review arrangements such as in the Standards in Scotland's Schools etc Act (2000) and the Education Act (2016).

We would also request clarity on how any decisions on education standards will be integrated into the ongoing Education Reform process.

**Section 13: Guidance to public authorities relating to Gaelic education**

Bòrd na Gàidhlig welcome the provisions in Section 13 which transfer the duty of providing statutory guidance on Gaelic education from Bòrd na Gàidhlig to the Scottish Government.

**Section 14: Directions to education authorities relating to Gaelic education**

Bòrd na Gàidhlig welcome the clarification in Section 14.

**Section 15: General duty to provide education includes Gaelic education**

Bòrd na Gàidhlig welcome the provisions in Section 15 as it helps to normalise Gaelic education and reflects the fundamental principle that Scotland provides education in two languages, either through the medium of English or through the medium of Gaelic.

**Section 16: Duty to promote Gaelic education in exercising functions under the Education (Scotland) Act 1980**

Bòrd na Gàidhlig welcome the provisions in Section 16.

**Section 17: Information-sharing about Gaelic education**

Bòrd na Gàidhlig would request clarification on the full purpose of Section 17.

Is this to ensure that the compliance function, as set out in chapter 1, is being met and can be reported on adequately. Or will it be used to inform the Gaelic strategy?

Would Bòrd na Gàidhlig be required to hold the data and provide it to others? If this is the case, there may be legal and operational impacts on the organisation which would have to be considered.

**Section 18: Gaelic education delivery planning**

Bòrd na Gàidhlig would express concern in relation to the provisions in Section 18. If we are embedding Gaelic education in the education system, why is the

monitoring of delivery within Gaelic plans? Inserting (4A) and (5)(ab) goes against the principle of embedding Gaelic education fully into the education legislative arrangements and Bòrd na Gàidhlig request that this is removed.

**Section 19: Duty to support access to Gaelic medium education**

Bòrd na Gàidhlig welcome the provisions in Section 19 and welcome the broadening of access.

**Section 20: Duty to establish a catchment area for schools providing Gaelic medium education**

Bòrd na Gàidhlig welcome the provisions in Section 20, which builds on the current recommendation in the Statutory Guidance on Gaelic education.

**Section 21: Transport to Gaelic medium education: application of Schools (Consultation) (Scotland) Act 2010**

Bòrd na Gàidhlig welcome the provisions in Section 21.

**Section 22: Assessments: power to make different provision for different areas**

Bòrd na Gàidhlig welcome the provisions in Section 22.

**Section 23: Extension of assessments to early learning and childcare**

Bòrd na Gàidhlig welcome the provisions in Section 23. This will enable more children to receive total immersion in Gaelic from an earlier age.

**Section 24: Duty to consult and plan on delivery of early learning and childcare**

Bòrd na Gàidhlig welcome the provisions in Section 24.

**Section 25: Conditions of grants to the Scottish Further and Higher Education Funding Council**

Bòrd na Gàidhlig welcome the provisions in Section 25.

Annexe C

## **Professor Wilson McLeod supplementary submission of 7 May 2024**

Thank you very much for giving me an opportunity to provide evidence concerning the Scottish Languages Bill on 1 May. There are two issues on which I would like to make additional points.

### **Official status and equal respect**

The committee asked a question concerning the value of a declaration of official status in the bill, but I did not have an opportunity to address this issue. In my view, such a declaration would be very valuable, even if it has no direct legal or practical ramifications. Granting official status to a language represents a powerful and resonant formal statement that the language is entitled to respect and value from the government and in public life more generally. This can have a wide range of positive outcomes and consequences for the language, even if these are not directly required by the statute.

In fact, the UK Government has for many years taken the position that Gaelic already enjoys official status in the UK by virtue of the recognition granted in existing enactments such as the European Charter for Regional and Minority Languages (see, for example, Hansard House of Lords Debates, 12 June 2003, vol. 649, col. 70 WA). In this sense, official status for Gaelic is not new, but an explicit declaration, as was given to Welsh in the Welsh Language Measure (Wales) 2011, would nevertheless be very helpful.

However, it would be more significant and useful if, alongside the declaration of official status, the principle of 'equal respect' between Gaelic and English were embedded more clearly in the bill. This principle was articulated in the 2005 Act but in an indirect and ineffective way. In the current bill, subsection 2(2)(c) provides that in relation to its duty to provide assistance to a public authority concerning the application of the 2005 Act to the authority, Bòrd na Gàidhlig ('BnG') must seek to give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the Gaelic and English languages should be accorded equal respect.

But this valuable principle does not appear anywhere else in the bill. It should be added to the following sections:

Subsection 5(3) (new subsection 2A(2) to the 2005 Act), in relation to the Scottish Ministers' Gaelic language strategy.

Subsection 6(2) (new section 2C to the 2005 Act), in relation to Gaelic language standards issued by the Scottish Ministers.

Subsection 7(2) (new section 2D to the 2005 Act), in relation to the duties of relevant public authorities concerning Gaelic language and culture.

Subsection 7(2) (new section 2E to the 2005 Act), in relation to guidance issued by the Scottish Ministers concerning the duties of relevant public authorities relating to Gaelic language and culture.

Subsection 3(5) of the 2005 Act (parts of which are already being amended by the Bill)

Thus, in relation to subsection 5(3) for example, there would be an additional requirement in relation to the content of the new national Gaelic strategy, that it 'must seek to give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the Gaelic and English languages should be accorded equal respect'.

## **The general definition of 'school education' in the Education (Scotland) Act 1980**

As written, the bill expands the general duties of education authorities in Scotland to make provision for Gaelic. This obligation would now extend to all authorities. This is a welcome and overdue reform. However, the evidence provided by the Scottish Government on 1 May and some statements in the Explanatory Note and Policy Memorandum on the bill are somewhat confusing on this point. It is important that the bill proceeds as written and not on the basis of the much weaker position articulated by the Scottish Government.

Section 15(2) of the bill amends section 1(5)(a) of the Education (Scotland) Act 1980, so that the phrase 'the teaching of Gaelic in Gaelic-speaking areas' is replaced by 'Gaelic learner education and Gaelic medium education'. This means that section 1 of the 1980 Act will now provide:

(1) Subject to subsections (1A) and (2A) below, it shall be the duty of every education authority to secure that there is made for their area adequate and efficient provision of school education and further education. . .

(5) In this Act—

(a) "school education" means progressive education appropriate to the requirements of pupils . . ., regard being had to the age, ability and aptitude of such pupils, and includes—

(i) early learning and childcare;

(ii) provision for special educational needs;

(iii) Gaelic learner education and Gaelic medium education.

The SPICe briefing for the bill explains (p. 32) that there is a contradiction between the text of the bill and the Explanatory Notes and Policy Memorandum on the other. The Explanatory Notes and Policy Memorandum suggest that the provision of Gaelic education will remain optional for local authorities, and this view was reiterated by Scottish Government witness Nico McKenzie-Juetten at the evidence session on 1 May. The Government's view of this language in section 1 of the 1980

Act, which is contradicted by the plain language of the bill as submitted, would strip it of any significance. Education authorities are already allowed to offer Gaelic learner education and Gaelic medium education. Gaelic learner education has thus been offered by some authorities outside the Gaelic-speaking areas since 1947 and Gaelic learner education has been offered by some authorities outside the Gaelic-speaking areas since 1985.

In my view, it is important that the bill proceed as written, so that the duty to secure 'school education' will henceforth extend to 'every education authority' and 'school education' will include 'Gaelic learner education and Gaelic medium education'. This would mean that all education authorities will be required to make some provision for Gaelic and will no longer have the option of not making any provision at all. Currently, this is the position for at least 11 authorities. Importantly, however, this duty is subject to qualifying language: provision should be 'adequate and efficient'. It might be argued that relatively limited provision could be deemed 'adequate and efficient' for some authorities.

I hope that these additional comments will be helpful to the committee.