

## Briefing for the Public Petitions Committee

**Petition Number:** [PE1796](#)

**Main Petitioner:** Màrtainn Mac a' Bhàillidh on behalf of Misneachd

**Subject:** Equality, Inclusion and the Gaelic language

Calls on the Parliament to urge the Scottish Government to review whether public bodies are complying with the Achd na Gàidhlig 2005 (Gaelic Language (Scotland) Act 2005) to ensure that the Gaelic language, and therefore linguistic diversity, is fully recognised and promoted in Scotland.

### Introduction

The petition mentions the Gaelic Language (Scotland) Act 2005 and, in the petition background information, the Education (Scotland) Act 2016, in relation to the promotion of Gaelic Medium Education (GME).

This briefing sets out the duties for public bodies under those Acts and provides additional information on the Bòrd na Gàidhlig, which was established by the 2005 Act.

### Gaelic Language (Scotland) Act 2005

The 2005 Act established the Bòrd na Gàidhlig and provided for the Bòrd to develop a National Gaelic Language Plan.

Sections 3 to 8 of the 2005 Act provide the process for the Bòrd to give notice to a public authority to prepare a Gaelic language plan.

A relevant public authority for the purposes of the 2005 Act (s10) is defined as:

- a Scottish public authority,
- so far as not falling within paragraph (a), a cross-border public authority (but only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters), and
- the Scottish Parliamentary Corporate Body.

When issuing a notice to a public authority to produce a Gaelic language (under S.3 of the 2005 Act), the Bòrd must have regard to:

- the National Gaelic Language Plan
- the extent to which:

- the Gaelic language is used by persons in relation to whom the functions of the authority are exercisable, and
  - in the Bòrd's opinion, there is potential for the authority to develop the use of the Gaelic language in connection with the exercise of those functions,
- any representations made to it in relation to the use of the Gaelic language in connection with the exercise of those functions, and
  - any guidance given by the Scottish Ministers.

Once a public authority has developed a plan, following a statutory notice to do so, the Bòrd can require the authority to report on the extent to which the authority has implemented the measures set out in the plan.

There are currently around 60 Gaelic language plans at various stages of development. The Bòrd request an annual report from each organisation that has produced a plan and seek to work closely with them on the plans' development and delivery.<sup>1</sup>

Should the Bòrd consider that a relevant public authority is failing to implement adequately measures in its Gaelic language plan, it may submit to the Scottish Ministers a report setting out its reasons for that conclusion. Scottish Ministers could then take either or both of the following steps:

- lay a copy of the report before the Scottish Parliament; and/or
- direct the authority in question to implement any or all of the measures in its Gaelic language plan by the date specified in the direction.

Under section 9 of the 2005 Act, the Bòrd must prepare and submit to the Scottish Ministers guidance in relation to the provision of Gaelic education and the development of such provision. [Current guidance was published in 2017.](#)

## **Education legislation**

The Education (Scotland) Act 2016 sets out a process for parents to request an assessment of the need for Gaelic medium primary education, how a local authority should do so, and the process that a local authority should undertake in deciding whether to make provision for Gaelic medium primary education.

Section 15 of the 2016 Act places a duty on all local authorities to “promote the potential provision of school education, “by means of Gaelic medium education and Gaelic learner education “in such manner as it thinks appropriate”. In doing so, the local authority should have regard to the Bòrd’s guidance in relation to the provision of Gaelic education.

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<sup>1</sup> Personal communication with the Scottish Government.

Very little of the curriculum in Scotland is statutory. One exception, under S.1 of the Education (Scotland) Act 1980, is, “the teaching of Gaelic in Gaelic-speaking areas”.

Section 70 of the 1980 Act also provides for a remedy and complaint mechanism should an individual believe that a local authority has, “failed to discharge any duty imposed on them [by any] enactment relating to education”. The Scottish Government has published [guidance on this procedure](#).

## **Bòrd na Gàidhlig**

Bòrd na Gàidhlig is an executive non-departmental public body, responsible through Ministers to the Scottish Parliament. As noted above, the Bòrd was established under the Gaelic Language (Scotland) Act 2005. It is the principal public body in Scotland responsible for promoting Gaelic development and providing advice to the Scottish Ministers on Gaelic issues.

The 2005 Act (s.1) provides for the following general functions of the Bòrd:

- (a) promoting, and facilitating the promotion of:
  - (i) the use and understanding of the Gaelic language, and
  - (ii) Gaelic education and Gaelic culture,
- (b) advising (either on request or when it thinks fit) the Scottish Ministers, public bodies and other persons exercising functions of a public nature on matters relating to the Gaelic language, Gaelic education and Gaelic culture,
- (c) advising (on request) other persons on matters relating to the Gaelic language, Gaelic education and Gaelic culture,
- (d) monitoring, and reporting to the Scottish Ministers on, the implementation of the European Charter for Regional or Minority Languages dated 5 November 1992 in relation to the Gaelic language.

The Act sets out that these functions are to 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”. The Bòrd should do this by:

- (a) increasing the number of persons who are able to use and understand the Gaelic language,
- (b) encouraging the use and understanding of the Gaelic language, and
- (c) facilitating access, in Scotland and elsewhere, to the Gaelic language and Gaelic culture.

## ***National Gaelic Plan***

The Bòrd has a duty (s.2 of the Act) to prepare a National Gaelic Language Plan which set out how it will fulfil its statutory duties. The current Plan covers the period 2018-2023.

The Plan set out the Bòrd's aim that, "Gaelic is used more often, by more people and in a wider range of situations". This is broken down under three headings: increasing the use of Gaelic; increasing the learning of Gaelic; and promoting a positive image of Gaelic. Perhaps the third heading is most relevant in relation to this petition. Under that heading, the Plan identifies the following priorities:

- Support for Gaelic from the Scottish Government, Parliament and wider political support
- Gaelic Language Plans implemented by public authorities (local authorities and public bodies)
- Promoting a positive image of Gaelic and raising awareness through:
  - Gaelic media and other media
  - Gaelic education at all levels, and
  - Gaelic arts
- Promoting the social, economic and cultural value of Gaelic
- Positive messages about Gaelic, bilingualism, and about diversity and inclusion.

The statutory process for the National Gaelic Language Plan is that the Bòrd consults and then prepares a plan which is approved by the Scottish Government.

In relation to Gaelic language plans, the national plan stated:

"In many cases, Scottish public authorities are taking important steps to support Gaelic in their areas and in line with their functions. Bòrd na Gàidhlig has a role to support and encourage this. The mechanism of Gaelic Language Plans enables partnership working between Bòrd na Gàidhlig and those public authorities.

"Gaelic Language Plans are found throughout Scottish public life. To date, over 50 Gaelic Language Plans have been developed and implemented by local authorities, public bodies, national parks, health boards, academic institutions and by the Scottish Parliament and Scottish Government, and some 20 others are being prepared.

"The impact of these is evident in the increased visibility of Gaelic in public authorities, in developing initiatives and projects which support increased learning and use of Gaelic as well as increased service delivery such as Gaelic medium education and Gaelic learner education."

**Ned Sharratt**  
**Senior Researchers**  
**6 March 2020**

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