

## **Report to Joint Consultative and Safety Committee**

**Subject:** Information item: English Language Requirements for Public Sector Workers

**Date:** 21 February 2017

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### **1. Purpose**

This is an information item to report the management response to the change in law (from 22 December 2016) under Part 7 of the Immigration Act 2016 that requires all customer-facing roles within public bodies to be undertaken by employees with a sufficient command of the English language.

### **2. Background**

Appendix 1 is an extract of the Foreword and Introduction from the guidance document produced by the Government to assist organisations to put in place appropriate mechanisms to ensure compliance with the Act. The full Code of Practice can be found at;

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/573013/english\\_language\\_requirement\\_public\\_sector\\_workers\\_code\\_of\\_practice\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/573013/english_language_requirement_public_sector_workers_code_of_practice_2016.pdf) .

The purpose of the Act is to ensure that public sector organisations deliver services in an appropriate way to customers. The management response detailed below reflects the guidance given and delivers a mechanism to ensure both that the Council acts within the law and also that the changes to working practices are proportionate and appropriate to our organisation. The Code of Guidance puts an emphasis on the need to adopt measures that are “common sense” in nature. The arrangements to be applied are intended to be just that.

### **3. Changes to working practices**

The changes to be made to our working practices are as follows:

- The HR Team will apply the suggested guidance to include into all appropriate person specifications the statement, “The ability to converse with ease with members of the public and provide advice in accurate spoken English is essential for the post.” This will be tested at interview. No general customer-facing roles have been identified that would necessarily require testing to a higher level of competence or in a more thorough way than this. For a few technical/ professional roles that have the need for developed communication skills and which might be considered to be customer-facing, we would already test in a more structured way to ensure suitability for the post (for example, delivering a presentation).

- In future interview training for managers, the need to test this requirement will be covered but as a general principle the Code of Practice suggests that answering questions competently in English at interview is an acceptable method of testing.
- All current customer-facing jobs are likely to be occupied by people with a sufficient standard of spoken English (otherwise the issue would have been dealt with through existing procedures). In December, when the Act came into force, service managers were asked if there were any known issues with existing employees. At that time no concerns were highlighted.
- The Regulations do contain aspects other than those that are employee-related and in particular Section 4 deals with the complaints procedure and how complaints relating to the poor standard of spoken English might be recorded and reported. The managers responsible for monitoring complaints are alive to this requirement and appropriate monitoring and reporting will be built into our current arrangements.

The above “common sense” measures should provide a practical solution to the requirements made under the Act, however, should issues arise in the future then further review will be undertaken and additional measures can be considered if necessary. Many of the other local employers in our sector are applying a similar, low-key approach. The changes proposed are to “HR procedures” and not policies of the Council and as such implementation is straightforward and does not require consideration by the Appointments and Conditions of Service Committee.

#### **4. Financial Implications**

There are no financial implications .

#### **6. Recommendations**

It is recommended that the Joint Consultative and Safety Committee note this report.

**English language requirements for public sector workers**

## Foreword

The quality of public services in the UK is amongst the finest in the world and everyone in society wants our public services in the UK to be accessible and delivered to the highest standards possible.

To serve the public it is vital that those working in public-facing roles can communicate in English, or in Wales, English or Welsh, fluently; be it with patients in hospitals, with students in schools, or with members of the public receiving local authority services.

Part 7 of the Immigration Act 2016 delivers on our manifesto commitment to help ensure the safe and high quality delivery of public services by ensuring that they are provided to an appropriate standard of fluency in English, or in Wales, English or Welsh.

This Code supports public authorities to meet their obligations under Part 7 of the Immigration Act 2016. The Code sets out considerations public authorities will need to take into account when deciding how to comply with this new legal duty, without creating more red tape in the recruitment of public sector staff. The intention is clear: a common sense approach to meeting the public's reasonable expectation to be able to communicate in English, or in Wales, English or Welsh, when accessing public services.

This Code should be simple to comply with: nothing is required of anyone already fluent in English. The aim is to bring standards up to the best.

Part 7 of the Immigration Act 2016 is in force from 21<sup>st</sup> November and so relevant employers need to ensure that they comply with the duty set out in the legislation from that date. This Code is to be issued on 29<sup>th</sup> November 2016 and then promptly brought into force by Regulations under the Act.

**Rt Hon Ben Gummer MP**  
Minister for the Cabinet Office and Paymaster General

# Using the Code of Practice

## Status of the Code

The relevant Minister is required to issue a Code under Part 7 of the Immigration Act 2016 for the purposes of section 80 of that Act. It is a statutory Code. This means it has been prepared by the relevant Minister and s/he has laid a draft of it before Parliament. The Code contains practical guidance on the standards and practices expected of public authorities when complying with their legal duty under the Act.

This Code is not intended to prescribe the process for every type of public-facing\* role and it is not a definitive statement of the law. However, it provides principles and examples which public authorities can consider when fulfilling their legal duties and obligations.

## To whom this Code applies

This Code is aimed at public authorities defined in Part 7 of the Immigration Act 2016. It aims to assist public authorities in meeting their statutory duty under Part 7 of the Immigration Act 2016.

## How to use the Code

Public authorities must have regard to this Code when fulfilling their statutory duty under Part 7 of the Immigration Act 2016. Further references to that duty in this Code will be to the "fluency duty". The Code aims to provide assistance to public authorities to determine the necessary standard of spoken English (or English or Welsh in Wales) to be met by their public-facing staff, the appropriate complaints procedure to follow should a member of the public consider that the required standard has not been met and the appropriate forms of remedial action which may be taken if a member of staff falls below the standard required.

Although all staff in public-facing roles will be required to speak English (or Welsh) to the necessary standard, the fluency duty does not require public authorities to ensure that their public-facing staff speak only in English or Welsh to communicate with members of the public. Public authorities are free to provide guidance to their public-facing staff that they may where appropriate, make use of any language skills they have to communicate with citizens who speak other languages.

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\* In this Code, a public sector worker is determined to be 'public-facing' if as a regular and intrinsic part of their role, they are required to speak to members of the public in English, or in Wales in English or Welsh. This is described in Part 7 of the Act as a 'customer-facing role' and defined in section 77(7) of the Act.

This Code is made up of five sections:

- **Section 1** defines the scope of the Code.
- **Section 2** explains the appropriate ways in which public authorities can set a standard of spoken English (or Welsh) for public-facing roles.
- **Section 3** provides options for remedial action where staff do not meet the necessary standard of spoken English (or Welsh).
- **Section 4** outlines the complaints procedure that must be followed in respect of complaints raised by a member of the public under the fluency duty.
- **Section 5** provides guidance on compliance with other legal obligations.

### Examples in the Code

Examples included in this Code are intended simply to illustrate the principles and concepts used in the legislation and should be read in that light.

### Territorial Extent

The Code applies to all public authorities who are subject to the fluency duty. This is all public authorities in England and in relation to Scotland, Wales and Northern Ireland public authorities exercising functions relating to non-devolved matters.

Non-devolved matters means:

- reserved matters in Scotland, as defined by the Scotland Act 1998;
- matters which are outside the legislative competence of the National Assembly for Wales, as defined by the Government of Wales Act 2006; and
- excepted matters in Northern Ireland, as defined by the Northern Ireland Act 1998.

In Scotland, Wales and Northern Ireland certain public authorities will hold a dual function and deal with both devolved and non-devolved matters. Public authorities must comply with the fluency duty and take the Code of Practice into account in respect of all staff in public-facing roles dealing with relevant non-devolved functions, such as equality and standards officers.

Public authorities exercising functions in Wales must ensure that someone working for them in a public-facing role dealing with non-devolved matters speaks fluent English or Welsh and comply also with the requirements of language schemes under the Welsh Language Act 1993 and/or the standards stipulated by the Welsh Language (Wales) Measure 2011.