

## **Guidance for managers**

### **English - speaking staff in customer-facing roles**

#### **Background**

1. The government, under part 7 of the Immigration Act 2016, has introduced this statutory Code. The Code is a requirement within the public sector, for all staff in customer-facing roles, to be able to communicate fluently, in English. This is called the “**fluency requirement**”.
2. This guidance document provides information on the following:
  - The new English fluency requirement;
  - The action managers will need to take to comply with the new requirements, including identifying roles affected and setting standards;
  - How a manager should measure this in the recruitment process;
  - What ongoing support, training and help can be provided to existing employees;
  - The process and actions for a manager following a complaint about English fluency;
  - Equality and diversity considerations.
3. This guidance document should be read in conjunction with the recruitment policy.
4. The requirement applies to permanent staff as well as temporary workers, apprentices, agency temps, contractors, self-employed contractors. The fluency requirement does not extend to workers employed directly by another private or voluntary sector provider of a public service. The fluency requirement also applies to maintained schools and academies.

#### **The new requirement**

5. All employees in customer-facing roles are required to be able to communicate fluently with members of the public, in English. Customers include anyone who is using, interacting or receiving a service provided by the council such as a service user or client.
6. Employees are not required to speak only in English to customers. If an employee speaks another language fluently and the customer speaks a second language and it would make better sense to communicate in that language, that is also acceptable.

#### **Customer-facing roles**

7. A customer-facing role is one in which an employee is required to have regular contact with customers of the council and this is an intrinsic part of their role. This can include face-to-face contact and telephone conversations.

8. Managers are required to identify which roles within their team are customer-facing which would require the employee to meet the English fluency requirement by considering:

- The business need for interaction with the public;
- The frequency and form of this interaction;
- Service quality and the responsiveness expected from the public;
- The proportion of the role requiring fluent English;
- The nature of the role.

Examples of those in customer-facing roles are potentially:

- An employee working in the customer services team who regularly speaks to the council's customers by phone or face-to-face;
- An employee working in the communications team who fields questions from the public;
- A solicitor whose role involves speaking with the public;
- An employee working in the complaints team who liaises regularly with the public;
- A social worker working directly with the public;
- A passenger assistant providing assistance to members of the public;
- An employee in the revenues and benefits team providing advice and guidance to the public;
- A member of staff in the recruitment team liaising regularly with members of the public;
- An employee providing advice to the public about child adoptions;
- A centrally-employed teacher who is working with the members of the public and pupils;
- A receptionist at the hubs;

(This list is not exhaustive.)

Roles requiring occasional interaction with the public are not included within the duty. This would include:

- Some support/advisory/managerial roles which are primarily involved in providing internal services or communications within the council or roles where interaction with members of the public is primarily email based so that employees in these roles are not required to have regular spoken interactions with the public.

9. Managers are required to ensure that the requirement for the role to have contact with the public and English fluency is included in the employee's role description.

### **Standards**

10. Managers must ensure that members of staff in customer-facing roles are able to speak fluent English, whatever their nationality or origins. The fluency requirement applies in respect of existing staff as well as to new recruits.

11. Managers are required to consider what standards of English fluency are required for each customer-facing role. They will need to consider the nature and extent of the spoken communication which is necessary for the performance of the role and they will need to ensure that any level of fluency requirement matches the demands of the role in a proportionate way.
12. The manager is able to take the following factors into account when considering what standard of fluency is required for a particular post:
  - The topic of spoken interaction;
  - The frequency of spoken interaction;
  - Whether communication is likely to include technical or specialist vocabulary;
  - The typical duration of spoken interaction;
  - Whether communication is repeated in or supplemented by, written material provided to the customer/member of the public;
  - The significance of the spoken interaction to service delivery.
13. There may already be standards in place which require a fluent level of English in order to carry out the role, e.g. teachers. The new regulations should not change this and should not result in a higher standard of English fluency being required.

#### **Definition of fluency**

14. Fluency relates to a person's language proficiency and their ability to speak with confidence and accuracy, using accurate sentence structures and vocabulary. The employee should be able to choose the right kind of vocabulary for the situation at hand without much hesitation. Employees should be able to listen to the customer and understand their needs. They should be able to tailor their approach to each conversation appropriate to the customer, responding clearly with fine shades of meaning, even for complex situations.
15. The fluency requirement does not relate to accents, regional or international, dialect, speech impediments or the tone of conversations (tone of conversation may however be relevant to other types of complaints e.g. rudeness)
16. Once the manager has decided on the level of language proficiency for a post they should decide on how this will be expressed in the role description for the post. They may choose to require language qualifications or use descriptors for the level of language proficiency required e.g. 'the ability to converse at ease with customers and provide advice in accurate spoken English is essential for the post'.

#### **Use of fluency descriptors, language qualifications and/or tests**

17. Where a particular standard of spoken language ability has been legitimately set as an essential requirement for the role, applicants may need to be assessed on their English speaking ability, either by a test and/or as part of the interview process.
18. Managers should be prepared to look at a variety of ways of assessing ability. This may include:

- A specific qualification;
- Competently answering interview questions in English;
- Passing an English-speaking test.

19. The Common European Framework of Reference for Languages (CEFR) provides a useful descriptor of fluency levels. The table below provides a reference point by describing four levels of spoken interaction and fluency. Managers can use this table as a reference but can also use any other criteria as they feel appropriate when deciding on the level of language proficiency for a role. Please contact your HR adviser for further support. It is important that roles which are similar are treated in consistent way.

Common European Framework of Reference (CEFR) Certificate	Level	Descriptor
C2	Proficient	Can express him/herself spontaneously and very fluently. Can take part effortlessly in any conversation or discussion and has good familiarity with idiomatic expressions and colloquialisms. Can produce clear, smoothly-flowing, well-structured descriptions or arguments in a style appropriate to the context and with a logical structure which helps the recipient to notice and remember significant points.
C1	Advanced	Can express him/herself fluently and spontaneously, almost effortlessly without much obvious searching for expressions. Can formulate ideas and opinions with precision and relate his/her contribution skilfully to those of other speakers. Can give clear, detailed descriptions of complex subjects. High degree of accuracy; errors are rare.
B2	Upper intermediate	Can interact with a degree of fluency and spontaneity and take an active part in discussion in familiar contexts, accounting for and sustaining his/her views. Can give clear, detailed prescriptions on a wide range of subjects related to his/her field of interest. Can explain a viewpoint on a topical issue giving the advantages and disadvantages of various options.
B1	Intermediate	Can connect phrases in a simple way in order to describe experiences and events. Can briefly give reasons and explanations for opinions and plans. Can enter unprepared into conversation on topics that are familiar, of personal interest or pertinent to everyday life (e.g. family, hobbies, work, travel and current events).

20. Managers may choose to require that a specific qualification is required and to a certain level, in order to perform the role where this is proportionate to the role. [The UK National Academic Recognition Information Centre](#) (UK NARIC) provides

information and advice about how qualifications and skills from overseas compare to UK national qualification frameworks. Further advice on qualifications is available from Learning in Wiltshire. Where qualifications are a specified requirement for the role they should not be below CEFR Level B1. General English qualifications such as GCSE English are not acceptable evidence of a qualification in spoken English, as spoken English does not form part of that assessment process.

21. When the fluency duty is met by the provision of a sign-language interpreter, the interpreter should be registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD). For further details please refer to the [fluency code of practice](#) .

### **Recruitment to roles where fluency is required**

22. Managers are required to ensure that the role description specifies that the successful candidate must possess an adequate level of English to perform the role and should give an indication of the level/standard of proficiency or qualification required.
23. Managers must ensure that when recruiting for new customer-facing roles candidates are able to communicate fluently in English. Managers may ascertain this through a variety of ways, for example, a first stage telephone interview; or by assessing their level of fluency through a mock telephone scenario; or requiring a specific qualification as outlined in the section above
24. All applicants must be asked the same questions and be treated equally during the process. This means if there is a requirement to carry out a test to measure the candidate's level of English then this must be applied to all candidates.
25. The manager must ensure that all those involved in the recruitment process understand the level of English fluency required for the role and have an objective means of assessing candidates against the criteria set out in the role description.

### **Support for current employees**

26. Managers should satisfy themselves that existing members of staff and applicants have the appropriate level of fluency for the role they are undertaking. Where an existing member of staff is clearly fluent to the necessary standard for the role no further action is required.
27. Where it is identified that an existing employee does not have a sufficient level of spoken English fluency to meet the requirements for their role, the manager will need to take the appropriate action to support the employee. This may become apparent through a complaint or as a result of performance management e.g. regular 121s.
28. Managers are required to consider appropriate training or retraining to support the employee to meet the fluency requirement. Employees should be given the opportunity to meet the required standards within a reasonable time frame. Support may be provided as part of the [improving work performance policy](#) as appropriate.

29. As part of this process managers should consider individual requirements and the nature of the training should, where possible, be agreed with the individual. Training and support may include:
- Listening to language podcasts;
  - Mobile language applications or other online resources;
  - Provision of an internal mentor or coach;
  - Supporting interaction and practice of language through conversation, 121s, study and social exchange with others;
  - Self-study and tutoring;
  - Courses and vocabulary training – there are many free courses and on-line or traditional language classes.
30. Where an employee is unable to meet the necessary standard of English fluency, the manager should consider:
- Reassessing the employee's duties enabling a reduction in spoken communications;
  - Redeployment to another non-customer facing role;
31. Where an employee has been provided with a reasonable opportunity to meet the required standard of fluency for the role but has not been able to achieve the required standards, dismissal may be considered in exceptional circumstances and as a last resort, for example, if:
- An employee has unreasonably refused to undertake training aimed to bring them up to the necessary standard for their role; or
  - An employee has not been able to attain the standard of fluent English required for the role within a reasonable amount of time, after reasonable training opportunities have been provided; or
  - No other suitable post without customer-facing duties is available for that individual.
32. Managers should not take action in relation to dismissal without referral and discussion with an HR case adviser. Dismissal should only be considered after all reasonable alternatives have been explored and following a fair process under the [improving work performance](#) disciplinary policies and any related appeal processes.

### **Complaints**

33. If a member of the public feels that a customer-facing employee has insufficient proficiency in English to perform their role, they may make a complaint. A complaint should be made to the complaints team by completion of the online complaints form. Refer to [complaints](#).
34. A complaint about the strength of an employee's accent, dialect, manner or tone of communication, origin or nationality, is not considered a legitimate reason for complaint under the English fluency requirements.
35. If an employee is the subject of a complaint they should be notified of the complaint and the action being taken in relation to it. They should be given the

opportunity to give their own account of the facts leading to the complaint as soon as practicable. The manager responding to the complaint should ensure that employees who are the subject of a complaint are kept fully informed at each stage of the complaints' process, that complaints are dealt with efficiently and brought to a timely conclusion.

- 36. The complaint will be assessed on its merits and against the necessary standard of English required for the post as set out in the role description.
- 37. If recommendations are to uphold the complaint the manager should take action to support the employee to meet the fluency duty as detailed in the section on support for current employees above.

**Equality and Diversity issues and concerns**

- 38. Managers must not discriminate against employees, agency workers, contractors or self employed contractors working for the Council, or members of the public in applying this guidance. The process and methods used to determine whether a person has command of spoken English for the effective performance of their role should be fair and transparent.
- 39. In applying the English fluency requirements particular care should be taken not to discriminate against anyone on the grounds of race or disability either directly or indirectly. In the event that a complaint is received about someone's English fluency this should not relate to a customer-facing employee's race, nationality, ethnic origin or disability.
- 40. Managers should ensure that people from certain nationalities or ethnic backgrounds are treated the same way as people with an English background in the recruitment process and whilst at work.
- 41. For employees who have a disability and who may be placed at a disadvantage by a policy criterion or practice the manager will consider reasonable adjustments. Where an employee's first language is a signed language, the fluency duty may be met by the provision of a sign language interpreter who speaks English to the necessary standard of fluency for that role.
- 42. Further information can be found in:
  - Equality and Diversity Policy
  - Via an HR case adviser.
  - Via the Government website – [Code of practice on English language requirement – public sector workers](#)

**English speaking requirements – action checklist for managers**

Current employees

Action required by managers	Date completed
Identify all customer facing posts which meet the spoken English fluency requirement	
Set the standard of spoken English fluency required for the performance of each role	

Identify members of staff currently in these roles – where staff are clearly fluent there should be no need for further action. Where concerns are identified managers should contact their HR case adviser for further advice.	
Ensure that all customer-facing staff in the team are aware of the spoken fluency requirement.	
HR will send all staff with work computers and a Wiltshire Council email address notification of the fluency requirement but employees may require clarification from their manager that they are directly affected by the fluency requirement. Managers of staff without computers will be required to send out a standard notification to affected staff.	
Ensure any performance issues relating to English fluency are appropriately managed and discussed with HR in advance.	
Ensure that any complaints from members of the public are investigated in accordance with the complaints procedure and support is provided to staff	

#### Recruitment

Action required by manager	
Ensure that adverts, job details and role descriptions are clear about the standard of spoken English which is required for the performance of the role.	
Make sure that the interview selection process is designed to sufficiently evaluate the required standard of spoken English specified for the post.	
Ensure that everyone on the interview panel is aware of this requirement and has an objective means of assessing this against the standards specified.	
Ensure that the means of assessment is consistently applied to all candidates (except where reasonable adjustments have been made for disabled applicant) and that a fair and transparent process is followed to adhere to the requirements of the Equality Act 2010.	