

Notice of Meeting

Personnel Committee

**Wednesday, 8th February, 2017 at
1.30 pm**

**in Committee Room 1 Council Offices
Market Street Newbury**

Date of despatch of Agenda: Tuesday, 31 January 2017

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Moira Fraser / Janet Giddings on (01635) 519045 / 519422

e-mail: moira.fraser@westberks.gov.uk / janet.giddings@westberks.gov.uk

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



To: Councillors Pamela Bale (Chairman), Dennis Benneyworth, Richard Crumly (Vice-Chairman), Carol Jackson-Doerge, Mollie Lock and Virginia von Celsing

Substitutes: Councillors Paul Bryant, Lee Dillon and Billy Drummond

Agenda

Part I

Page No.

1. **Apologies for Absence**
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 5 - 6
To approve as a correct record the Minutes of the meeting of the Committee held on 21st October 2016.
3. **Declarations of Interest**
To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).
4. **Statutory Pay Policy 2017 (C3122)** 7 - 24
Purpose: To seek agreement that the Statutory Pay Policy Statement be submitted to Council for approval for publication from 1st April 2017.
5. **English Fluency Policy (PC3216)** 25 - 48
Purpose: To propose the adoption of the English Fluency Policy and Guidance which sets out the Council's approach to meeting its obligations under Part 7 of the Immigration Act 2016.
6. **Date of Next Meeting**

Andy Day
Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.



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Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

PERSONNEL COMMITTEE

MINUTES OF THE MEETING HELD ON FRIDAY, 21 OCTOBER 2016

Councillors Present: Pamela Bale (Chairman), Paul Bryant (Substitute) (In place of Dennis Benneyworth), Richard Crumly (Vice-Chairman), Adrian Edwards (Temporary Substitute) (In place of Ian Morrin) and Mollie Lock

Also Present: Robert O'Reilly (Head of Human Resources) and Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Dennis Benneyworth and Councillor Ian Morrin

PART I

7. Minutes

The Minutes of the meeting held on 30 June 2016 were approved as a true and correct record and signed by the Chairman subject to the inclusion of the following amendments:

Item 6 (Review of Discretionary Compensation for Redundancy), page 5, fourth paragraph, penultimate line replace 'addition' with 'additional'.

Item 6 (Review of Discretionary Compensation for Redundancy), page 5, sixth paragraph, first line replace 'were' with 'was'.

8. Declarations of Interest

There were no declarations of interest received.

9. Appointment of the Council's Monitoring Officer (PC3178)

The Committee considered a report (Agenda Item 4) concerning the appointment of an interim Monitoring Officer for West Berkshire Council with effect from 01 November 2016.

Prior to the discussion on this item commencing the Chairman asked that the thanks of the Personnel Committee be conveyed to David Holling for all the advice and assistance that he had provided to Members during his time in office at West Berkshire Council. She commented that he would be missed.

Robert O' Reilly noted that as the current Head of Legal Services was retiring on the 31 October 2016 the Council was required to appoint a new Head of Legal Services. At West Berkshire Council this role traditionally also held the statutory role of Monitoring Officer. It had been agreed that the appointment of Head of Legal Services would be on an interim basis so that the possibility of a shared legal service with one or more other local authorities could be explored.

Following a recruitment process Sarah Clarke was offered the interim position of the Head of Legal Services with effect from the 01 November 2016. The Constitution then required the Personnel Committee to ratify her appoint to the role of Monitoring Officer.

Members supported the appointment and the proposal that the appointment be on an interim basis while the possibility of a shared service was looked into.

PERSONNEL COMMITTEE - 21 OCTOBER 2016 - MINUTES

RESOLVED that: Sarah Clarke be appointed as the interim Monitoring Officer for West Berkshire Council with effect from the 01 November 2016.

10. Political Restricted Posts Policy and Guidance (PC3199)

The Committee considered a report (Agenda Item 5) which set out revisions to the Politically Restricted Posts Policy and Guidance. The Policy would be approved by the Chief Executive under his delegated authority. Officers however felt that it would be useful for the personnel Committee to have an opportunity to comment on the policy before it was signed off.

Robert O' Reilly noted that under the Local Government and Housing Act 1989 as amended by the Local Democracy, Economic Development and Construction Act 2009 local authority employees in politically restricted posts were prevented from acting in a way that could bring their political impartiality into question.

Historically posts above scp 44 were designated as politically restricted. Restriction now depended on the duties the potholder fulfilled. Politically restricted posts would fall into two categories either 'specified' or 'sensitive'. Posts designated as sensitive could appeal against the designation of their role to the Governance and Ethics Committee.

Councillor Richard Crumly asked how the list of 'sensitive' roles had been derived at. The Head of HR confirmed that the issue had been discussed at a Corporate Management Team meeting and Heads of Service had provided HR with a list of roles they felt were appropriate to designate as politically restricted. Councillor Crumly asked if the Head of HR felt that there would be a lot of concern from Officers about this. Robert O' Reilly stated that he was not aware of any particular issues but that there was a review process in place that the employees could use.

Councillor Paul Bryant felt that the list was extensive and he was concerned that the authority's approach was too restrictive. Robert O' Reilly stated that he would discuss the approach with other Heads of HR when they met the following month.

Councillor Richard Crumly stated that HR should develop a document that employees would be required to sign if they were in agreement with the designation in order to avoid any potential conflict later on. Officers stated that this process would be used for existing employees. Where these posts were recruited to in the future the political restriction would be set out in the advertisements for the role (both internal and external advertisements) and the political restriction would form part of the employment contract.

Councillor Paul Bryant noted that on page 9 of 11 under reporting to the Head of Strategic Support it made reference to 'LGA Peer Review' and he was not familiar with that role. The Head of HR agreed to look into this.

RESOLVED that: the revised policy be noted.

(The meeting commenced at 2.00 pm and closed at 2.27 pm)

CHAIRMAN

Date of Signature

Statutory Pay Policy 2017 - Summary Report

Committee considering report:	Personnel Committee
Date of Committee:	08 February 2017
Portfolio Member:	Councillor James Fredrickson
Date Portfolio Member agreed report:	18 January 2017
Report Author:	Katie Penlington
Forward Plan Ref:	C3122

1. Purpose of the Report

- 1.1 To seek the recommendation of the Personnel Committee that the Statutory Pay Policy Statement be submitted to Council for approval for publication from 1st April 2017.

2. Recommendation

- 2.1 That Personnel Committee recommends the policy statement attached as Appendix C be submitted for approval by Council for publication in accordance with s38 of the Localism Act 2011.

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** None
- 3.3 **Personnel:** None
- 3.4 **Legal:** None
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 Not applicable – this is a statutory requirement.

5. Executive Summary and Report

- 5.1 Section 38 of the Localism Act 2011 requires local authorities to publish an annual pay policy statement. The method of publication is at the discretion of the authority, but it is expected to comply with the principles set out in the Local Government Transparency Code. The statement must be approved by the full Council.
- 5.2 Council approved the annual publication of the statement, in principle, on 1st March 2012. This report seeks to obtain Corporate Board's recommendation that the 2016 statement be submitted to Council for approval, for publication with effect from 1st April 2017.
- 5.3 The statement should set out the policies in relation to:
- (1) Remuneration of its chief officers
 - (2) The remuneration of its lowest paid employees (and our definition and reasons for defining it)
 - (3) The relationship between the remuneration of its chief officers and those who are not chief officers
- 5.4 The definition of chief officers includes the Chief Executive, the Monitoring Officer, the Section 151 Officer, Corporate Directors, as well as those who report directly to any of these post holders. Thus, in West Berkshire Council, this definition would include all Heads of Service.
- 5.5 Chief Officer remuneration includes salary, bonuses, performance-related pay, fees or allowances (including as returning officer), benefits in kind, etc. The policy should also state how chief officer salary will be determined on appointment and any arrangements for payments upon leaving office.
- 5.6 The Pay Policy Statement for 2017 has been updated to reflect the increase to the Living Wage by the Living Wage Foundation to £8.45 per hour. The Council pays a 'living wage supplement' to corporate employees who would otherwise be paid less than £8.45 per hour.
- 5.7 A two year pay award came into effect from April 2016. The increase for spinal column points 6 to 17 from April 2017 will be between 3.4% and 1.3%, those on scp 18 to 49 will receive 1%.

6. Conclusion

- 6.1 The Pay Policy Statement attached as Appendix C should be published on the Council website with effect from 1st April 2017, to comply with our statutory duty under the Localism Act.

7. Appendices

- 7.1 Appendix A - Supporting Information
- 7.2 Appendix B – Equalities Impact Assessment
- 7.3 Appendix C –draft Statutory Pay Policy 2017

Statutory Pay Policy 2017 – Supporting Information

Background Papers:

- The Localism Act Nov 11, s38-43 (legislation.gov.uk);
- Openness and accountability in local pay: Guidance under section 40 of the Localism Act Feb 2012, and supplementary guidance Feb 2013 (CLG);
- Localism Act: Pay Policy Statement Guidance for Local Authority Chief Executives Nov 11 (JNC for Chief Officers)

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: n/a

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim:

MEC – Become an even more effective Council

The proposals contained in this report will help to achieve the following Council Strategy priority:

MEC1 – Become an even more effective Council

Officer details:

Name: Katie Penlington
Job Title: Human Resources Officer
Tel No: 01635 519325
E-mail Address: Katie.penlington@westberks.gov.uk

Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity.

Please complete the following questions to determine whether a Stage Two, Equality Impact Assessment is required.

Name of policy, strategy or function:	Statutory Pay Policy
Version and release date of item (if applicable):	2017
Owner of item being assessed:	Human Resources
Name of assessor:	Katie Penlington
Date of assessment:	6 th January 2017

Is this a:		Is this:	
Policy	Yes	New or proposed	
Strategy		Already exists and is being reviewed	Yes
Function		Is changing	Yes
Service			

1. What are the main aims, objectives and intended outcomes of the policy, strategy function or service and who is likely to benefit from it?	
Aims:	Publication of a policy statement, which sets out the Council's approach to paying its staff, to comply with legislation
Objectives:	See above
Outcomes:	Compliance with statutory duty
Benefits:	n/a

2. Note which groups may be affected by the policy, strategy, function or service. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this

Further Comments relating to the item:

3. Result	
Are there any aspects of the policy, strategy, function or service, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer: Publication of this Policy is a statutory requirement, it simply brings together information from policies and procedures that are subject to separate EIAs.	
Will the policy, strategy, function or service have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer: Publication of this Policy is a statutory requirement, it simply brings together information from policies and procedures that are subject to separate EIAs.	

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage 2 Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

4. Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Name: Katie Penlington

Date:

Please now forward this completed form to Rachel Craggs, the Principal Policy Officer (Equality and Diversity) for publication on the WBC web

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Pay Policy Statement – April 2017

Change History

Version	Date	Description	Change ID
1	April 2012	First publication	
2	April 2013	Second publication	
3	April 2014	Third publication	
4	April 2015	Fourth publication	
5	April 2016	Fifth publication	
6	April 2017	Sixth publication	



Contents

1. Purpose	3
2. Definitions used in this document.....	3
3. Pay Policy from April 2017	4
4. Pay ratios in the Council.....	6
5. Review.....	7
Appendix 1 - Pay scales; pay rates for all grades within WBC effective April 2017	8
Appendix 2 – additional payments scheme.....	10

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1. Purpose

1.1 This document covers the requirements to publish a pay policy statement under s38 of the Localism Act 2011.

1.2 Full Council has approved the Pay Policy Statement.

2. Definitions used in this document

2.1 **Chief Officers** (as defined in s43 of the Localism Act);

2.1.1 Chief Executive

2.1.2 Corporate Director (Communities)

2.1.3 Corporate Director (Environment)

2.1.4 Heads of Service

- Head of Legal Services (Monitoring Officer)
- Head of Finance and Property (Section 151 Officer)
- Head of Education
- Head of Human Resources
- Head of Strategic Services
- Head of Customer Services and ICT
- Head of Public Health and Wellbeing
- Head of Streetcare and Transport
- Head of Public Protection and Culture
- Head of Development and Planning
- Head of Children and Family Services
- Head of Prevention and Safeguarding
- Head of Adult Social Care
- Head of Commissioning

2.2 **Employees who are not chief officers**; all other employees (including those employed on a casual basis) employed directly by the Council.

This policy does not cover the remuneration of other 'workers' employed by the Council, as employees of agencies or as self-employed consultants.

2.3 **Lowest paid employee**; minimum of grade A (SCP 6) on WBC pay scales plus a 'living wage supplement'; a total of £8.45 per hour. Notes on this definition are set out below;

2.3.1 Maximum Grade A is equivalent to scale point 6 of the NJC pay scale for Local Government Employees.

2.3.2 Any employee whose basic hourly rate on the WBC salary scale is below the 'Living Wage' calculated by the Living Wage Foundation receives a supplement to take the hourly rate up to £8.45 per hour.

2.3.3 Apprentices aged 16-18, may be paid on the age-related National Minimum Wage. The Apprentice NMW rate is not used. Apprentices have been excluded from this definition on the basis that they are in specific posts created for training purposes.

2.4 **Median salary;** £27,667 (full time equivalent). This is a measure of the 'average' salary for employees in the Council. It is defined as the 'midpoint' salary, such that there is an equal probability of falling above or below it.

2.5 **Mean salary;** £29,548 (full time equivalent). This is an alternative measure of the 'average' salary for employees in the Council. The arithmetic mean is defined as the sum of all the salaries divided by the number of salaries.

2.6 **Highest paid employee:** the Chief Executive is paid £136,100 plus £5,000 car allowance per annum = £141,100.

3. **Pay Policy from April 2017**

3.1 All jobs within the Council are paid on salary grades with five or more incremental points.

3.2 Job evaluation – employees below grade N

3.2.1 The Hay (Local Government) job evaluation scheme is used to establish the grade for each post relative to all other jobs within the Council. The job evaluation procedure is used to evaluate all new jobs and to re-evaluate existing jobs where there have been significant changes.

3.2.2 All jobs are assigned to a grade within the West Berkshire Council salary structure on the basis of the job evaluation score. The individual salary scale points are based on the National Joint Council for Local Government Employees (Green Book) salary scale.

3.3 Salary structure – employees on Grade N and above

3.3.1 Heads of Service are all paid on Grade N. They constitute the second tier of management and may be allocated new responsibilities as required to meet the needs of the Council at this level, within their grade. Heads of Service report to either a Corporate Director or the Chief Executive.

3.3.2 Corporate Directors are paid on the Corporate Director grade and the Chief Executive is paid on a specific grade for this post. All three may be allocated new responsibilities as required to meet the needs of the Council within their grade.

3.4 Salary on appointment – all employees

3.4.1 Appointments will normally be made to the minimum point of the grade. Managers may take into account the previous experience and skills of the employee to offer appointment above the salary minimum for the post.

3.5 Incremental progression – all employees

- 3.5.1 Each employee progresses through the grade band for the post by the award of one increment (or spinal column point (SCP)) on 1st April each year until the maximum of the grade band is reached, subject to six months service in the grade band (whether that band has been attained by appointment, promotion or regrading) and satisfactory performance in the job, as assessed at appraisal.
- 3.5.2 Any existing employee who is appointed to a new post within the Council whose salary, on 1st April, would otherwise be less than one column point in excess of the salary they would have received on that day in their old grade band, will be entitled to an increment on that day even if he/she has not been 6 months in the new post, subject to satisfactory performance.
- 3.5.3 An increment may be withheld if an employee is subject to formal disciplinary or capability procedures during the year leading up to the. An increment will be withheld if the employee's performance at appraisal is assessed as unsatisfactory.
- 3.5.4 An additional increment may be awarded in any one year to an employee, at the discretion of the Head of Service, on the grounds of special merit or ability, provided the maximum of the grade is not exceeded.

3.6 Additional payments – all employees

- 3.6.1 Additional payment may be made for additional hours, overtime, undertaking higher responsibilities, and for non-standard working arrangements such as stand-by or evening work, or for exceptional working conditions. See Appendix 2 for details.
- 3.6.2 Car allowance payments for new senior managers ceased to be paid from November 2007. Some senior employees who were already in receipt of such allowances continue to receive them on a protected basis whilst in post.
- 3.6.3 Essential car users (defined as those who travel at least 2,500 business miles per annum or for whom a car is essential for the performance of the job) receive an allowance.
- 3.6.4 All employees can claim expenses for essential business travel at the rate of the cost of public transport, or a mileage rate. Subsistence expenses may be claimed at the rates recommended by HMRC.
- 3.6.5 The Council does not operate a separate bonus scheme for its Chief Officers. No other charges, fees or allowances or remuneration are payable to Chief Officers in connection with their responsibilities. No fees for election duties are included in Chief Officer salaries, nor are any additional fees payable for such responsibilities.
- 3.6.6 There are no benefits in kind, such as private health insurance, payable to Chief Officers.

3.6.7 Chief Officers are eligible to join the Local Government Pension Scheme in the same way as other employees.

3.7 Severance arrangements

3.7.1 Chief Officers are subject to the same redundancy payment and pension arrangements as other employees. These are set out in the Council's [Employer Statement of Policy on Discretionary Compensation](#) and the [Employer Statement – Local Government Pension Scheme Discretions Policy](#).)

3.7.2 All redundancy or severance costs (including the cost of mandatory early payment of pension) of over £10k must be approved by the Executive.

3.7.3 An employee who has left the Council, with a redundancy or other severance payment under the discretionary compensation scheme, will not normally be re-engaged by the Council within two years of the termination date. In exceptional circumstances the Head of Human Resources may make a decision, after consultation with the Chief Executive, the Monitoring Officer, the Section 151 Officer, and the Leader and Shadow Leader of the Council, to authorise re-engagement where it is in the interests of the Council to do so. (See the [Re-Employment Policy](#).)

4. Pay ratios in the Council

4.1 It is the Policy of the Council to ensure that the ratio of the salary of the highest paid officer and the lowest paid officer is well below the 20:1 ratio recommended as a maximum in the terms of reference for the 2011 Hutton Review of Fair Pay in the Public Sector.

4.2 As at 1st April 2017, pay ratios within the Council stand as follows;

- Highest:lowest = 8.66:1
- Highest:median = 5.1:1

4.3 This is based on the following salary packages;

- Highest paid (maximum CX including car allowance) = £141,100
- Lowest paid (minimum grade A) = £16,302 (including living wage supplement)
- Median (average excluding car allowances) = £27,667

5. Review

5.1 This policy will be reviewed at least annually and more frequently if necessary to respond to any changes.

LOCAL GOVERNMENT PAY RATES - 1st April 2017

* denotes SCPs that fall below the living wage, so

receive a supplement to bring their pay up to £8.45 per hour.

<u>Grade</u>	<u>SCP</u>	<u>Salary</u>
A	3	-
	4	-
	5	
	6*	15014
B	7*	15115
	8*	15246
	9*	15375
	10*	15613
	11*	15807
C	12*	16123
	13	16491
	14	16781
	15	17072
D	16	17419
	17	17722
	18	18070
	19	18746
	20	19430
E	21	20138
	22	20661
	23	21268
F	24	21962
	25	22658
	26	23398
	27	24174
	28	24964
	29	25951
G	30	26822
	31	27668
	32	28485
	33	29323
H	34	30153
	35	30785
	36	31601
	37	32486
	I	

		38	33437	
		39	34538	
K	J	40	35444	
		41	36379	
		42	37306	
		43	38237	
		44	39177	
		45	40057	
L		46	41025	
		47	41967	
		48	42899	
		49	45113	
		50	47361	
		51	49074	
M		52	50780	
		53	52504	
		54	53256	
		55	55291	
		56	57320	
		57	59350	
N		61	66190	
		62	67714	
		63	69996	
		64	72287	
		65	74558	
		66	76846	
		67	79126	
		68	81414	
		72	94087	
	Corporate Directors		73	96572
			74	99065
		75	101551	
		76	104040	
		77	106537	
	Chief Executive		127327	
			130253	
			133178	



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Appendix 2 – additional payments scheme

Criteria for making service related additional payments

5.2 The scheme provides for additional payments to be made where:

- There is a clear service need to resolve organisational and/or staffing difficulties;
- Other organisational responses (e.g. restructuring or re-allocation of work) will not overcome the difficulties;
- No other provision exists for payments to be made under WBC Conditions of Service;
- Costs can be contained within service budgets;
- The relevant Corporate Director is satisfied that payments are necessary and appropriate in all the circumstances.

If the above criteria apply, and other conditions and criteria are met (see sections below) additional payments may be made at the discretion of the Head of Service.

Payment for Exceptional Working Patterns

The normal working week will be the working week or regular work pattern defined in the contract of employment, normally based on any 5 named days out of seven.

Some jobs require regular working patterns which, because of service demands, are particularly disruptive to social or domestic life and these jobs may therefore present difficulties of recruitment and retention e.g. week end working, split duty or sleeping in.

Others may require acceptance of occasional severe disruption to regular work patterns which are not commonly acceptable under normal basic pay arrangements. Where there is clear evidence that such circumstances present service delivery problems, additional payments, based on a maximum of time and a third of basic pay may be made at the discretion of the Head of Service.

Payment for night work

Time and a third may be paid for night work undertaken between the hours of 10pm and 6am.

Payment for stand-by duty

For some jobs, where stand-by duty is a regular requirement, specific stand-by payments may be written into the employment contract. The Head of Human Resources or the relevant Head of Service will advise where these apply.

Where there is no contractual requirement or payment for stand-by duty, and stand-by duty is not reflected in the grading of the post, payment of one third of basic pay may be paid. Payment will be at the discretion of the Head of Service.

Payment for higher responsibility

WBC Conditions of Service provide for an employee, who for reasons other than annual leave of another employee, is called upon to undertake the duties and responsibilities of a higher graded post for a period of at least 4 weeks may, at the discretion of the Head of Service, receive an honorarium to reflect the additional duties and responsibilities.

In determining the appropriate level of additional payment, the Head of Service should take into account factors like:

- The difference between grading between the absent employee and the employee providing cover
- The duration of the period of absence
- The level of support provided to the covering employee
- Arrangements relating to the employee's normal duties;

Although not normally provided for in WBC Conditions, Heads of Service may, exceptionally, make additional payments to employees covering for absence resulting from annual leave. The above criteria are relevant in deciding to make payments in these circumstances, in particular, the duration of cover and the difference in grading.

Payment for Regular Overtime

Some jobs require regular overtime working that cannot, practicably, be compensated by time off in lieu. These jobs may be held by employees above the normal ceiling for overtime payment (scp32).

Where regular overtime is a feature of the job (e.g. regular requirement for attendance at evening Council and/or Committee meetings), the Head of Service may agree the payment of a flat rate allowance that reflects the regular nature of the demand and the normal basis for calculating additional payments (time and one third).

Payment for Exceptional Working Conditions

WBC job evaluation takes account of physical aspects of jobs where they are a regular feature e.g. heavy and awkward working conditions. Normal pay reflects the conditions of such jobs. However, in some jobs such conditions may occur only occasionally and will not, therefore, be reflected in grading.

In other jobs, employees may be required, from time to time, to work in particularly dirty or otherwise unpleasant circumstances.

Where job grading has not taken exceptional working conditions into account, additional payments may be made. Where the exceptional conditions extend over a period of time, payment of time and a third for hours worked in those conditions will be appropriate. In the case of a short, one-off situation, a payment for Other Exceptional Circumstances, as described below, may be paid.

Payment for Other Exceptional Circumstances

From time to time, other exceptional circumstances may arise that merit an additional payment e.g. short and unusual exposure to particularly unpleasant work conditions, reward for a sustained period of particularly heavy increased responsibility, or exceptional achievement. In such circumstances, an additional payment may be made. Although not a limit in truly exceptional circumstances, the normal ceiling of time and a third for

additional payments should be taken into account when determining an appropriate additional payment.

Payment for Emergency Operations Centre (EOC) work

Where the Emergency Operations Centre (EOC) is set up to respond to an emergency, staff carrying out EOC work will be paid as follows:

- All hours worked on EOC duties outside 0800 to 1700 Monday to Friday will be paid at £15 per hour.
- Full time employees working the day shift (8am to 4pm) will receive an honorarium payment of £30 for each day shift worked.
- Part time employees working extra hours on the day shift will be paid £15 per hour for each additional hour worked in addition to the £30 honorarium payment for each day shift worked.
- The hours paid will include the time it takes to come in and go home if the employee would not have had to make this journey in normal circumstances (for example travelling back in for a midnight start or travelling at weekends). However employees cannot claim 'petrol costs'.
- These payments are payable to all employees regardless of grade.

Where employees who have worked weekends, late or night shifts would prefer to take the extra hours they worked as time off in lieu (TOIL) rather than receive £15 per hour they should inform HR by email.

Staff who had booked annual leave but come in for a day shift should swap their leave to another day. If the EOC work occurs towards the end of an annual leave period, and as a result, there is a need to carry forward leave after the end of the leave year, the employee should agree this with his/her line manager. The employee will receive the £30 honorarium for each day shift worked.

English Fluency Policy - Summary Report

Committee considering report:	Personnel Committee
Date of Committee:	08 February 2017
Portfolio Member:	Councillor James Fredrickson
Date Portfolio Member agreed report:	22 December 2016
Report Author:	Katie Penlington
Forward Plan Ref:	PC3216

1. Purpose of the Report

- 1.1 To propose the adoption of the English Fluency Policy and Guidance which sets out the Council's approach to meeting its obligations under Part 7 of the Immigration Act 2016.

2. Recommendation

- 2.1 Personnel Committee is recommended to approve the English Fluency Policy and Guidance for use by West Berkshire Council.

3. Implications

- 3.1 **Financial:** Public authorities are required to meet the cost of training staff who do not reach the required standard of English fluency for their role, so that they can meet it, and enable staff to take time off work to undertake such training. Costs will be met by the Corporate training budget if required.
- 3.2 **Policy:** The proposed English Fluency Policy and Guidance sets out the Council's approach to its duties under Part 7 of the Immigration Act 2016.
- 3.3 **Personnel:** Those in public facing roles are required to have a level of fluency in spoken English appropriate to the job role.
- 3.4 **Legal:** Compliance with Part 7 of the Immigration Act 2016, and the Equality Act 2010.
Advice from Legal Services has been taken into account in writing this Policy and Guidance.
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

4.1 None.

5. Executive Summary

- 5.1 Part 7 of the Immigration Act 2016 came into force on 21st November 2016. It places a statutory duty on public authorities (including Councils and state funded schools to ensure that all public authority staff working in public facing roles speak fluent English to an appropriate standard for their role. The requirement is intended to assure citizens that there isn't a language barrier that might prevent them from contacting or using public services or that inadvertently might put them at risk.
- 5.2 To comply with the statutory duty Public Authorities must:
- Define which roles are public facing
 - Determine the appropriate standard of spoken English to be met by their public facing staff
 - Have an appropriate complaints procedure to follow should a member of the public consider that the required standard has not been met
 - Take remedial action if a member of staff falls below the required standard
- 5.3 The Government has published a statutory [code of practice](#) on 29th November 2016. This Code does not prescribe what public authorities must do but aims to assist them fulfil their legal duties. Public Authorities must also take account of their obligations under the Equality Act 2010.
- 5.4 The fluency requirement applies to all staff working in public facing roles for public authorities. This includes permanent and fixed term employees, apprentices, self employed contractors and agency temps.
- 5.5 The English Fluency Policy and Guidance sets out the Council's approach to the requirement, and offers practical guidance to managers.

6. Conclusion

- 6.1 Personnel Committee is requested to approve the English Fluency Policy and Guidance.

7. Appendices

- 7.1 Appendix A – Supporting Information
- 7.2 Appendix B – Equalities Impact Assessment
- 7.3 Appendix C – The draft English Fluency Policy and Guidance

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English Fluency Requirement – Supporting Information

1. Introduction/Background

- 1.1 Part 7 of the Immigration Act 2016 came into force on 21st November 2016. It places a statutory duty on public authorities (including Councils and state funded schools to ensure that all public authority staff working in public facing roles speak fluent English to an appropriate standard for their role. The requirement is intended to assure citizens that there isn't a language barrier that might prevent them from contacting or using public services or that inadvertently might put them at risk.
- 1.2 To comply with the statutory duty Public Authorities must:
- Define which roles are public facing
 - Determine the appropriate standard of spoken English to be met by their public facing staff
 - Have an appropriate complaints procedure to follow should a member of the public consider that the required standard has not been met
 - Take remedial action if a member of staff falls below the required standard
- 1.3 The Government published a [code of practice](#) on 29st November 2016. The Code does not prescribe what public authorities must do but aims to assist them fulfil their legal duties. Public Authorities must also take account of their obligations under the **Equality Act 2010**.
- 1.4 The fluency requirement applies to all staff working in public facing roles for public authorities. This includes permanent and fixed term employees, apprentices, self employed contractors and agency temps.
- 1.5 The draft English Fluency Policy and Guidance sets out the Council's approach to the requirement, and provides practical guidance to managers.

2. Supporting Information

- 2.1 The English Fluency Policy and Guidance (Appendix C)

3. Options for Consideration

- 3.1 Personnel Committee is requested to consider the English Fluency Policy and Guidance and approve it for use within West Berkshire Council.

4. Proposals

- 4.1 Personnel Committee is recommended to approve the English Fluency Policy and Guidance.

5. Conclusion

- 5.1 Personnel Committee is recommended to approve the English Fluency Policy and Guidance.

6. Consultation and Engagement

- 6.1 The trade unions have been consulted on the draft policy and guidance. Unison responded and where possible their comments have been reflected in the current draft document.
- 6.2 The Principal Policy Officer (Equality and Diversity) and Legal Services have been consulted in the writing of this Policy and guidance. Heads of Service will be consulted in identifying public facing roles in their services.
- 6.3 Strategic Support have amended the Council's Complaints Procedure to cover complaints about the English fluency of public facing staff.

Background Papers:

The draft Policy and Guidance is based on the Government's Code of Practice on the English language requirement for public sector workers. The Code does not prescribe what public authorities must do, but does provide principles and examples that public authorities can consider when fulfilling their legal duties and obligations.

Subject to Call-In:

Yes: No:

Wards affected:

n/a

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim:

MEC – Become an even more effective Council

The proposals contained in this report will help to achieve the following Council Strategy priority:

MEC1 – Become an even more effective Council

Officer details:

Name: Katie Penlington
Job Title: Human Resources Officer
Tel No: 01635 519325 or extension 2325
E-mail Address: Katie.penlington@westberks.gov.uk

Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	To approve the English Fluency Policy and Guidance for use within West Berkshire Council
Summary of relevant legislation:	<p>The purpose of this policy is to support the Council in fulfilling its statutory duty under Part 7 of the Immigration Act 2016. It is based on the Government’s Code of Practice on the English language requirement for public sector workers.</p> <p>The statutory duty requires the Council to ensure that workers in public facing roles, whatever their nationality or ethnic origins, are able to speak English with a level of fluency appropriate to the role they are undertaking.</p>
Does the proposed decision conflict with any of the Council’s key strategy priorities?	No
Name of assessor:	Katie Penlington
Date of assessment:	11/10/16, reviewed 23/01/17

Is this a:		Is this:	
Policy	Yes	New or proposed	Yes
Strategy	Yes/No	Already exists and is being reviewed	Yes/No
Function	Yes/No	Is changing	Yes/No
Service	Yes/No		

1. What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	This policy aims to support the Council in fulfilling its statutory duty under Part 7 of the Immigration Act 2016.
Objectives:	<p>To ensure that all workers specified in 2.1.1 of the Policy who perform public facing roles speak English to an appropriate standard for their role.</p> <p>To set out the Council’s approach to fulfilling its obligations under Part 7 of the Immigration Act</p> <p>To provide guidance to managers on the action that they need to take.</p>

Outcomes:	A clear statement of the Council’s Policy in this area, with guidance for managers to support them in implementing the policy and ensuring the Council fulfils its obligations.
Benefits:	To support the Council in meeting the Government’s objective to ensure that citizens are able to interact with all public services by ensuring that every worker in a public-facing role meets a necessary standard of fluent English and that this is maintained and enforced and so improve the quality, efficiency and safety of public service provision and ensure taxpayers’ confidence that they are receiving value for money.

2. Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.

(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this
Age		
Disability	<p>There is potential for discrimination against those whose speech is affected by a disability. However the Policy has been written to minimise this risk:</p> <p>The Policy states that reasonable adjustments will be made for employees with a disability.</p> <p>The Policy also makes it clear that fluency does not relate to disability.</p> <p>The Policy also makes it clear that fluency does not relate to speech impediments.</p>	
Gender Reassignment		
Marriage and Civil Partnership		
Pregnancy and Maternity		
Race	There may be an assumption that	

	<p>workers/applicants whose first language is not English may not be as fluent as those whose first language is English. However the Policy has been written to minimise this risk:</p> <p>The policy emphasises the need to comply with the Equality Act and to assess all employees in public facing roles equally. In relation to recruitment it states ‘all cases recruiting managers must ensure that all candidates are assessed regardless of their nationality and ethnic origin, and that evidence accepted is appropriate to the level of fluency required for the job.’</p> <p>The Policy also makes it clear that fluency does not relate to regional or international accents, dialects, speech impediments or the tone of conversations</p>	
Religion or Belief		
Sex		
Sexual Orientation		
Further Comments relating to the item:		

3. Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
<p>Please provide an explanation for your answer:</p> <p>The policy has been written to set out the Council’s approach to meeting its obligations under legislation (Part 7 of the Immigration Act); it has been based on the Government’s Code of Practice.</p> <p>The Government completed an Impact Assessment in respect of the English Fluency Requirement. Annex C of that document considers Equalities in respect of the requirement. This states:</p> <p>‘There is the potential risk that those with protected characteristics, particularly race and disability, may be put at some disadvantage compared to those not of that protected characteristic and/or that they may be exposed to directly discriminatory behaviour as a result of the implementation of the fluency duty. However, this is expected to be minimal. The fluency duty is a proportionate means of achieving a legitimate aim in that it will further ensure the quality, efficiency and safety of public</p>	

services.’

The proposed WBC Policy and guidance seeks to minimise the chance of unlawful discrimination. Point 3.2 sets out the Council’s commitment to meeting its obligations under the Equality Act. Section 7 of the Policy requires **all** workers and applicants for public facing roles to be assessed against a standard of English fluency that can be justified in terms of the requirements of the job. Point 3.2.3 specifies that reasonable adjustments will be made for those with a disability. 5.3 explains that fluency does not relate to accents, dialects, speech impediments, tone of conversation, origin or nationality. As long as managers implement the Policy as it is set out and in accordance with the guidance it should not result in inequality.

Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?

No

Please provide an explanation for your answer:

The English fluency requirement is intended to ensure that public authority workers in public facing roles have a command of English sufficient to enable the effective performance of their role.

Statements have been included in the Policy as specified in the previous answer, and in the guidance to address the potential for discrimination on grounds of disability or race.

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4. Identify next steps as appropriate:

Stage Two required No

Owner of Stage Two assessment:

Timescale for Stage Two assessment:

Name:

Date:

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.

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English Fluency Policy and Guidance

Document Control

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Revision due			
Author:	Katie Penlington	Sign & Date:	
Owning Service			
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Corporate Director (Community Services)	Sign & Date:	
Corporate Director (Children & Young People)	Sign & Date:	
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3			

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Contents

1. Purpose	3
2. Applicability	3
3. Policy	3
4. Defining public facing roles	4
5. Defining the level of English fluency required	4
6. Specifying the requirement in person specifications and advertisements	5
7. Assessment of fluency	5
8. Agency workers and contractors	5
9. Complaints from the public	6
10. Action where an employee does not meet the required standard of spoken English	6
11. Action where agency workers/contractors do not meet the required standard of spoken English	6
12. Implementation	6
13. Roles and Responsibilities	6
14. Failure to comply with WBC English Fluency Policy	6
15. Review	7
16. Guidance:	7
17. Examples of public facing roles	7
18. Assessing the level of English language proficiency	7
19. Complaints raised under the Council's complaints procedure:	8
20. Supporting an existing worker in attaining the required level of spoken English	8
21. Training/retraining:	8
22. Reasonable adjustments or redeployment	9
23. Dismissal	9
Glossary	10
Other Relevant Documentation	10

1. Purpose

- 1.1 The purpose of this policy is to support the Council in fulfilling its statutory duty under Part 7 of the Immigration Act 2016. It is based on the Government's [statutory Code of Practice](#) on the English language requirement for public sector workers issued under Part 7 of the Immigration Act 2016.
- 1.2 Part 7 of the Immigration Act came into force on 21st November 2016 and the Statutory Code was issued on 29th November 2016.
- 1.3 The statutory duty requires the Council to ensure that workers in public facing roles, whatever their nationality or ethnic origins, are able to speak English with a level of fluency appropriate to the role they are undertaking.
- 1.4 Personnel Committee has approved the English Fluency Policy.

2. Applicability

- 2.1 The English Fluency requirement applies to:
 - 2.1.1 All workers in public facing roles; both newly recruited and those in existing posts. This includes permanent and fixed term employees, apprentices, self employed contractors and agency staff.
- 2.2 It is the responsibility of each employee and other person mentioned in Section 2.1.1, their managers and recruiting managers to familiarise themselves with and adhere to this Policy.
- 2.3 Adherence to this Policy is a condition of working for the council or using its assets.
- 2.4 This Policy has had consultation with Heads of Service and Trade Unions and has been approved by Personnel Committee.

3. Policy

- 3.1 The Policy of the Council, set out in sections 3 to 15, aims to ensure that all workers specified in 2.1.1 who perform public facing roles speak English to an appropriate standard for their role.
- 3.2 In meeting the English language requirement the Council is also committed to fulfilling its duties under the Equality Act 2010 and will ensure that:
 - 3.2.1 The processes and methods used to determine whether a person has sufficient English fluency for effective performance of his/her role are fair and transparent.
 - 3.2.2 The Council will treat all workers and applicants from all nationalities and ethnic backgrounds in accordance with the Equality Act in employment and during the recruitment process.
 - 3.2.3 Reasonable adjustments will be made for applicants/employees with a disability.

3.3 Although all staff in public-facing roles will be required to speak English to the necessary standard, where appropriate, staff may make use of any language skills they have to communicate with citizens who speak other languages.

4. **Defining public facing roles**

4.1 A public facing role is defined under section 77 (7) of the Immigration Act 2016 as one that requires the job holder to speak to members of the public (either face to face and/or by telephone) as a regular and intrinsic part of their role.

4.2 Fluency relates to a worker's language proficiency and ability to speak with confidence and accuracy using accurate sentence structure and vocabulary.

4.3 Line managers are responsible for determining whether a role is public facing; in doing so they should consider:

4.3.1 The business need for interaction with the public

4.3.2 The frequency and form of the interaction

4.3.3 The level of service quality and responsiveness expected by the public

4.3.4 The proportion of the role which would require spoken interaction with members of the public

4.3.5 The nature of the role

4.3.6 Whether English is the primary language required for the role

5. **Defining the level of English fluency required**

5.1 Line managers will establish the level of English fluency required for each public facing role. This will vary from role to role. In determining the appropriate level line managers should consider:

5.1.1 The frequency of spoken interaction

5.1.2 The topic of spoken interaction

5.1.3 Whether communication is likely to include technical, profession specific or specialist vocabulary

5.1.4 The typical duration of spoken interaction

5.1.5 Whether the communication is repeated or supplemented by written material provided to service users

5.1.6 The significance of spoken interaction for service delivery

5.1.7 Whether a level of English fluency is already specified in standards determined by a professional body that the employee must comply with in order to practise their profession; for example the Teaching Standards for teachers.

- 5.2 The level of fluency required must be matched to the demands of the role to ensure a proportionate approach to the fluency duty.
- 5.3 English fluency does **not** relate to regional or international accents, dialects, speech impediments, the tone of conversations, origin or nationality.
- 5.4 For a worker whose first language is a signed language and who is in a public facing role, the fluency duty will be met by the provision of a sign language interpreter who speaks English to the necessary standard of fluency for that role. The sign language interpreter should be qualified as specified in section 2.14 of the [Code of practice on the English language requirement for public sector workers](#).
6. **Specifying the requirement in person specifications and advertisements**
- 6.1 Managers will ensure that where a role has been defined as public facing, this is defined in the job description and that the person specification contains an essential criterion such as:
- 6.1 'This role has been identified as public facing in accordance with Part 7 of the Immigration Act 2016, and therefore the ability to fulfil all spoken aspects of the role in confidence in English will be required. Conversing at ease with members of the public, providing advice and using any specialist terminology appropriate to the role is essential for the post.'
- 6.2 Job adverts will specify the English language requirement for public facing roles with similar wording
7. **Assessment of fluency**
- 7.1 All applicants for, and workers in, public facing roles must be assessed, not just those whose first language is not English. Care must be taken not to allow accent, dialect, origin or nationality to deflect from the individual's English language performance.
- 7.2 **Existing staff:** There is no need to formally test existing staff. Managers will assess whether existing members of staff in public facing roles meet the English fluency requirement as part of day to day and performance management. If any employee does not meet the requirement, steps will be taken in accordance with section 10 and the guidance section below.
- 7.3 **When recruiting:** Recruitment panels will assess English language competency at interview, through the competent answering of interview questions in English.
8. **Agency workers and contractors**
- 8.1 When placing a request with an agency for a worker to work in a public facing role, managers will specify to the agency the requirement for the worker to be able to fulfil all spoken aspects of the role with confidence in English. The selection process for agency workers will need to include a requirement that the agency undertake a specific assessment of their ability to speak English to the standard required for the role. This will help ensure that employment agencies only provide candidates who meet the necessary standard. No higher or lower

standard of spoken English should be applied to agency workers than applies to employees of the Council working in an equivalent role.

- 8.2 Managers will need to ensure that when procuring contracts, both the tender and the specification make clear the English fluency requirement for the contractor and their employees and/or subcontractors engaged in performing public facing roles for the Council, and the steps that will be taken if this requirement is not met, including the ability to terminate the contract.

9. **Complaints from the public**

- 9.1 Where a member of the public believes that a public facing Council worker is not sufficiently proficient in spoken English for their role they (or someone acting on their behalf) have the right to complain to the Council and have their complaint investigated via the Council's [Corporate Complaints Procedure](#).

- 9.2 Members of staff will be given an opportunity to respond to their manager regarding allegations made and will be kept fully informed at each stage of the complaints process. They will be given appropriate support throughout the process. Further information can be found in section 19 of the guidance below.

10. **Action where an employee does not meet the required standard of spoken English**

- 10.1 Where an employee is identified; either through day to day or performance management, or following an investigation under the Council's complaints procedure, as not having sufficient proficiency in English to fulfil their role satisfactorily, the matter will be handled under the Council's Capability Procedure.

- 10.2 Fluency issues will normally be handled informally in the first instance as specified in section 6 of the Capability Procedure, but where this approach has failed to resolve the matter, or where the lack of fluency is more serious, the formal stages of the Capability Procedure will be invoked.

- 10.3 Appropriate measures will be implemented to support employees attain the required level of spoken English within a reasonable timescale. Further information can be found in the guidance below.

11. **Action where agency workers/contractors do not meet the required standard of spoken English**

- 11.1 If an agency worker/contractor is identified; either through day to day management, or following an investigation under the Council's complaints procedure, as not having sufficient proficiency in English to fulfil their role satisfactorily, the Council will consider terminating the agreement with the employment agency/contractor for engagement of the worker in accordance with the contract between the agency/contractor and the Council. Advice should be sought from WBC Legal Services.

12. **Implementation**

- 12.1 This Policy will be supported by the guidance set out in section 16 to 24 of this document.

13. **Roles and Responsibilities**

13.1 The overall responsibility for the English Fluency Policy within WBC rests with the Chief Executive.

13.2 All managers are directly responsible for implementing this Policy.

14. **Failure to comply with WBC English Fluency Policy**

14.1 This document provides staff and others with essential information regarding the English Fluency requirement and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:

- informal disciplinary processes
- formal disciplinary action in accordance with the Council's Disciplinary Procedure

15. **Review**

15.1 This policy will be reviewed to respond to any changes and at least every 3 years.

15.2 The Service responsible for reviewing and maintaining this Policy and guidance is Human Resources.

16. **Guidance:**

17. **Examples of public facing roles**

17.1 Examples of roles that do and do not meet the definition of public facing can be found in appendix A. This list is not exhaustive; each role should be assessed as described in point 3.3 of the Policy to see whether it is public facing.

18. **Assessing the level of English language proficiency**

18.1 In both recruitment and in day to day performance management managers should satisfy themselves that all workers in public facing roles, regardless of their nationality and ethnic origin, are sufficiently fluent in English to competently and confidently communicate with service users and other members of the public.

18.2 Managers cannot assume that employees/applicants holding certain English qualifications (e.g. GCSE English) are sufficiently fluent in English as these qualifications are not assessed orally.

18.3 Fluency relates to a person's language proficiency and their ability to speak with confidence and accuracy, using accurate sentence construction and vocabulary.

18.4 The level of English fluency required will vary according to job; some will require workers more complex conversations than others. However within the context of the job workers should be able to:

- 18.4.1 Be able to choose the right kind of vocabulary for the situation at hand without a great deal of hesitation
 - 18.4.2 Listen to the member of the public and understand their needs
 - 18.4.3 Tailor their approach to each conversation appropriately to the member of the public
 - 18.4.4 Respond to the member of the public clearly with fine shades of meaning, even in complex situations.
- 18.5 Managers should take care not to unlawfully discriminate either directly or indirectly through the level of English fluency required. Managers should ensure that people are treated in the same way in the recruitment process and whilst at work regardless of their nationality or ethnic background.
- 18.6 Some workforce groups are already subject to specific language standards or require specific qualifications e.g. the Teaching Standards for teachers. Where this is the case recruiting managers should not normally require applicants to have higher levels of fluency than those already required.
- 18.7 Recruiting managers should design careful interview questions to assess use and understanding of vocabulary relevant to the job and provide all applicants with an equal opportunity to prove appropriate levels of fluency. Careful records of answers should be kept.
- 18.8 Managers are not expected to test existing members of staff but should assess whether English fluency is sufficient for the role through normal performance management. Further advice can be sought from HR if they identify that an existing member of staff does not meet the level of English fluency required to perform their role to a satisfactory standard.
19. **Complaints raised under the Council's complaints procedure:**
- 19.1 When a legitimate complaint is received the employee's manager will assess the employee's English fluency against the necessary standard of English required for the role in question.
- 19.2 Members of staff subject to a complaint will be notified of the complaint and of action being taken in relation to it. They must be given the opportunity, as soon as reasonably practicable, to give their own account of the facts leading to the complaint and to respond to the allegations made.
20. **Supporting an existing worker in attaining the required level of spoken English**
- 20.1 The Council will use its Capability Procedure where an existing employee in a public facing role is found not to have the required level of English fluency. The aim will be to support the employee in attaining an appropriate level of English fluency for the role.
- 20.2 Fluency issues will normally be handled informally in the first instance as specified in section 6 of the Capability Procedure, but where this approach has

failed to resolve the matter, or where the lack of fluency is more serious, the formal stages of the Capability Procedure will be invoked.

20.3 The employee must be given the opportunity to meet the necessary standard within a reasonable timescale. Managers will consider what reasonable support measures can be implemented to assist the employee attain the required level of fluency as outlined in sections 21 and 22 below.

21. **Training/retraining:**

21.1 Training or retraining should be considered to support the employee to meet the requirements of the fluency duty.

21.2 Individual learning and development needs will be considered to determine the aspects of spoken communication competence that need to be addressed and where possible the nature of any training required should be agreed with the employee.

21.3 Means of providing support and training appropriate to the requirements for the role may include:

21.3.1 Listening to language podcasts

21.3.2 Mobile language applications

21.3.3 Providing an internal mentor or coach – especially useful as the mentor/coach should be someone who understands the context of the role and the vocabulary required

21.3.4 Online resources

21.3.5 Interactive language programmes

21.3.6 Language classes

21.4 Suitable training courses or qualifications must reflect the necessary standard of fluent English required for the role.

21.5 Where appropriate the costs of training will be met by the Corporate training budget and the employee will be allowed time off during working hours to attend the training.

22. **Reasonable adjustments or redeployment**

22.1 Reasonable adjustments to the role may also be considered, such as reducing the frequency of communications with the public, or supplementing spoken communication with written material.

22.2 Redeployment to a non- public facing role may also be considered

23. **Dismissal**

23.1 As a final resort, once reasonable opportunity has been given to enable the employee meet the English fluency requirement, the employee may be

dismissed **under the Capability Procedure**. This may occur where the employee has:

- 23.1.1 Unreasonably refused to undertake training aimed to bring them up to the required standard of fluency for their role
- 23.1.2 Not been able to attain the required standard after a reasonable amount of time and after reasonable training opportunities have been provided
- 23.1.3 No suitable redeployment opportunities to a post without public facing duties are available

23.2 Further information on the process for handling capability issues can be found in the Capability Procedure. Further advice can be sought from HR.

Glossary

*

Other Relevant Documentation

WBC Capability Procedure
HM Government Code of Practice on the English language requirement for public sector workers

Appendix A

Examples of public facing roles:

A customer services assistant receiving calls and handling queries from members of the public would be considered as public facing as the job holder has regular telephone and face to face conversations with the public.

Further examples will be identified once public facing roles have been identified.

Examples of roles that are not public facing

An ICT technician providing internal support within the Council would not be public facing as they do not have to communicate with members of the public either face to face or by telephone on a regular basis.

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