
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

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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>	

<p>services.’</p> <p>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.</p>	
<p>Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?</p>	<p>No</p>
<p>Please provide an explanation for your answer:</p> <p>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.</p> <p>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.</p>	

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](#).

<p>4. Identify next steps as appropriate:</p>	
<p>Stage Two required</p>	<p>No</p>
<p>Owner of Stage Two assessment:</p>	
<p>Timescale for Stage Two assessment:</p>	

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.