

Report for: INFORMATION



Contains Confidential or Exempt Information	NO - Part I
Title	Application of the English language requirements for public sector workers
Responsible Officer(s)	Terry Baldwin, Head of HR
Contact officer, job title and phone number	Terry Baldwin, Head of HR, 01628 796992
Member reporting	
For Consideration By	Employment Panel
Date to be Considered	18 October 2016
Implementation Date if Not Called In	N/A
Affected Wards	None

REPORT SUMMARY

Part 7 of the Immigration Act 2016 creates a duty to ensure all public sector workers in a 'customer facing' role can speak fluent English to an appropriate standard. A statutory Code of Practice has been published whereby the council must have regard to this code when fulfilling statutory duties. This report summarises the council's responsibilities with regard to the Act.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Application of the Regulations will ensure that customer facing staff communicate effectively with residents.	October 2016 onwards

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Employment Panel:

- i. Note and endorse the requirements placed on the council by Part 7 of the Immigration Act 2016 and the statutory Code of Practice on the English language requirements for public sector workers and endorses the action plan.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

1.1 The new requirements have been reviewed and an action plan developed, see Appendix A. The key points of the Code of Practice are detailed in this report and a copy of the Code is in Appendix B.

Defining customer facing roles

1.2 The code covers all staff working in customer facing roles including fixed term, apprentices, agency workers and self employed contractors. Customer facing roles are defined as those for whom speaking to members of the public is a regular and intrinsic part of the role.

1.3 The council is required to determine all roles that fall into this category and HR have undertaken an initial assessment to identify roles that are customer facing, see table 1. This information has been sent to Service Areas and schools to review and confirm.

Table 1: Examples of roles and suggested customer facing status

Job role	Comments	Customer facing
Customer Services Assistant	Receives incoming calls from the public, answers questions, gives information and advice.	Yes
Teaching Assistant	Supporting pupils in class.	Yes
Administration Officer	Range of administrative tasks supporting a team, role is internally focussed and only occasionally receives external calls from members of the public.	No
Administration Officer	Range of administrative tasks supporting a team, provides the team with first point of contact support for calls from members of the public.	Yes
Parking Officer	Regular contact with members of the public, when patrolling parking areas.	Yes
Payroll Assistant	Regular contact with staff, occasional contact with external organisations.	No
Library Assistant	Provides information, help and support to access resources to the public/pupils.	Yes
Highways Operative	Part of a team, with occasional interaction with members of the public.	No
Social Worker	Works with case load of clients.	Yes
Environmental Health Officer	Delivers services to customers, residents and businesses.	Yes
Highways Engineer	Manages allocated projects, with some very limited with external organisations, members of the public.	No
Planning Officer	Manages a case load of applications, with regular contact with the public, businesses and professional organisations.	Yes
Cover Supervisor	Oversees a class in the absence of the teacher, supports pupils with allocated work.	Yes
Accountancy Technician	Part of a team, with occasional interaction with members of the public.	No

Definition of the standard of English language fluency

- 1.4 The council must determine the standard of English language fluency required for its customer facing roles. Using the guidance in the Code of Practice, the intention is that all customer facing roles can demonstrate 'The ability to converse at ease with the public, answer questions and provide advice, including the use of specialist terminology relevant to the job role/profession and where necessary for an extended period of time.'

Assessment of language competence

- 1.5 The Code of Practice identifies the following as some ways in which competence can be assessed such as:
- Competently answering interview questions in English.
 - Possession of a relevant qualification for the role attained as part of education in the UK or fully taught in English by a recognised institution abroad.
 - Passing an English spoken language competency test or possession of a relevant spoken English qualification at the minimum level specified in the Common European Framework of Reference for Languages (CEFR).

The council intends to ensure that applicants are assessed thoroughly, but fairly and that non native speaking applicants are not disadvantaged. The possession of a relevant qualification for the role as specified in the person specification will be assessed at the shortlisting stage. Competence in the English language will then be assessed at interview.

Requiring applicants to evidence the passing of a competency test or possession of a spoken English qualification, may exclude applicants who can competently speak English to the council's standard, but who have not taken a test or possess a relevant qualification. If it becomes apparent, through future interview and selection processes, that a competency test or qualification are required, the council will identify and then administer a suitable test as part of the recruitment process.

Job accountabilities

- 1.6 Job accountabilities for roles that are customer facing will be updated and the standard of fluency required added to person specifications.

Recruitment processes – assessment of competence

- 1.7 The council has historically assessed applicants' language skills at the interview stage, this will continue.

Assessment of existing staff

- 1.8 The new requirement applies to new and existing staff. The council must satisfy itself that existing staff meet the standard of English fluency set. The intention is to notify staff of this new requirement, although there is no requirement to test existing staff instantly. However it is possible that managers may identify through normal performance management processes individuals who do not meet the standard. If this issue is identified the HR Business Partner team will provide support to the manager and employee in addressing concerns through developing a remedial action plan.

Complaints

- 1.9 The Code sets out the procedure that ‘must be followed’ when a complaint is made by a member of the public, who considers that an employee has not met the required standard. The Corporate Complaints Procedure will be updated to state: ‘RBWM will investigate complaints made against its employees by members of the public who consider that the individual was unable to speak fluent English to an appropriate standard, as defined by Part 7 of the Immigration Act 2016’.
- 1.10 A complaint about an employees’ accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint about an employees ability to speak fluent English.

Agency workers and self employed contractors

- 1.11 The fluency requirement applies to agency workers and self employed contractors. All agencies and individuals employed will be advised of the council’s English language fluency standard. The council’s standard Consultancy agreement will be reviewed and updated to include a clause on English language fluency.

Voluntary or private sector providers of public services

- 1.12 As indicated in point 1.4 of the Code of Practice, the requirement does not currently extend to the voluntary or private sector in the provision of public services, although this may change at a later date.

Action plan and managers guidance

- 1.13 An action plan for HR, see Appendix B, has been created and will be implemented by December 2016. Also a guidance document for managers and schools has been developed and will be circulated, see Appendix C.

Option	Comments
Employment Panel notes the requirements placed on the council by the introduction of the Immigration Act 2016 and the statutory Code of Practice on the English language requirements for public sector workers and endorses the action plan. This is the recommended option.	This paper identifies what needs to be done to ensure compliance.
The action plan is not endorsed.	The council must take action to ensure it addresses its responsibilities under the Immigration Act 2016.

2 KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
The action plan is implemented	>30 November 2016	30 November 2016	18 November 2016	30 October 2016	30 November 2016

4. FINANCIAL DETAILS

Financial impact on the budget

4.1 None.

5. LEGAL IMPLICATIONS

5.1 Part 7 of the Immigration Act 2016 creates a duty to ensure that all public sector workers in a 'customer facing' role can speak fluent English to an appropriate standard. A statutory Code of Practice has been published and the council must have regard to this code when fulfilling their statutory duty.

5.2 The council must ensure that it implements the requirements in such a way that it does not contravene the Equality Act 2010. The proposed approach to implementation is intended to meet that requirement, although it is recommended that the approach be kept under review over the next year.

6. VALUE FOR MONEY

6.1 N/A.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 None.

8. RISK MANAGEMENT

8.1

Risks	Uncontrolled Risk	Controls	Controlled Risk
The council fails to implement the requirements of Part 7 of the Immigration Act.	High.	The action plan for HR is set out in Appendix B is implemented.	Low.
The council receives a challenge from a non native English speaker regarding their assessment process.	High.	The standard of spoken English and the assessment process is clearly identified and applied as part of the recruitment process.	Low.
The council fails to ensure complaints about the standard of English language in customer facing roles are addressed in accordance with the code of practice.	High.	The council's complaints procedure reflects the requirements set out in the code of practice.	Low.

9. LINKS TO STRATEGIC OBJECTIVES

9.1 The recommended approach strongly supports the council's objective of 'putting residents' first as it focuses on the need to ensure the experience of the resident in their interactions with the council is given the highest consideration.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 An EQIA was undertaken and identified the potential for discrimination on the grounds of race. The approach taken and action plan is designed to minimise the potential for this.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 Refer to action plan.

12. PROPERTY AND ASSETS

12.1 None.

13. ANY OTHER IMPLICATIONS

13.1 None.

14. CONSULTATION

14.1 The following groups have been consulted:

- Trade Unions.
- Head of Customer Services as corporate complaints lead.
- People Forum.
- CMT.

15. TIMETABLE FOR IMPLEMENTATION

15.1 The key dates are detailed in the action plan, see Appendix B.

16. APPENDICES

- Appendix A – Action plan.
- Appendix B – Code of Practice on the English language requirement for public sector workers.
- Appendix C – RBWM guidance for managers and schools.

17. BACKGROUND INFORMATION

17.1 None.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
	Leader of the Council			
Cllr L Targowska	Lead Member			
Russell O'Keefe	Strategic Director Corporate and Community Services	CMT 23/9/16		
Alison Alexander	Managing Director/ Strategic Director Adults, Children and Health	23/9/16	30/9/16	Throughout
Simon Fletcher	Strategic Director Operations and Customer Services	CMT 23/9/16		
N/a	Finance Partner			
	Cabinet Policy Officer			
R Khakinia	Lawyer, SLS	11/8/16	24/8/16	None
J Hurd	Head of Customer Services	24/8/16	31/8/16	None
People Forum		13/9/16		

REPORT HISTORY

Decision type:	Urgency item?
For information	No

Full name of report author	Job title	Full contact no:
Karin Zussman-Ward	Lead HR Consultant	01628796211