

PUBLIC SECTOR DUTY - ENGLISH LANGUAGE REQUIREMENT POLICY

1. Who this policy applies to

1.1 This policy applies to all employees of Nottingham City Council on permanent or temporary contracts; those employed within maintained schools; casual workers, consultants, agency workers, apprentices and any other workers who are not employees of the Council who are engaged to work for the Council in a customer-facing role.

2. Policy

2.1 The Council has a statutory duty under Part 7 of the Immigration Act 2016 to ensure all colleagues who are engaged to work in a customer-facing role speak fluent English. This means that they must have a command of spoken English which is sufficient to enable the effective performance of their role. This fluency applies in respect of existing colleagues as well as to new recruits. The Council will also take into account its obligations under the Equality Act 2010 when considering this duty.

2.2 For a colleague whose first language is a signed language and who is in a customer-facing role, the fluency will be met by the provision of a sign language interpreter who speaks English to the necessary standard of fluency as required by the duty on the English language requirement for public sector workers. (See [Section 4](#) for more details).

2.3 Customer-facing Roles

2.3.1 Colleagues who, as a regular and essential part of their role, as defined in their job description, are required to speak to citizens in English either face-to-face or by telephone are considered as working in a customer-facing role. Customer-facing roles would include, but are not limited to the following illustrative examples:

- A colleague working in customer service, receiving calls and fielding queries from citizens would be viewed as operating in a customer-facing role, as they will have regular telephone and face-to-face interactions with the public.
- A teaching assistant required to communicate with pupils to support their learning, would be viewed as operating in a customer-facing role.

2.3.2 Jobs that require occasional interaction with the public and are not an essential part of their role, are not considered customer-facing roles and are therefore outside the scope of this policy. An example of these would include, but are not limited to:

- A street cleaner for the purposes of this duty would not be viewed as being in a customer-facing role as their main duties do not require regular interaction with members of the public.
- A clerical officer or IT technician providing internal support within the Council would not be viewed for the purposes of this duty, as being in a customer-facing role as they are not required to communicate with members of the public over the telephone or face-to-face on a regular basis.



- 2.3.3 When determining whether a role is customer-facing or not, managers should consider the following aspects of the work involved:
- Is there a business need for interaction with the public;
 - What is the frequency and form of this interaction;
 - What is the level of service quality and responsiveness expected by the public;
 - What is the proportion of the role which would require spoken interaction with members of the public;
 - What is the nature of the role; and
 - Is English the primary language required for the role?
- 2.3.4 Colleagues working in a customer-facing role can, where appropriate, make use of any language skills they have to communicate with citizens who speak other languages.

3. Recruitment

- 3.1 An assessment of job applicant's verbal communication skills will form part of any application and interview process for all customer-facing roles. Job applicants should have the ability to fulfill all spoken aspects of the role with confidence through the medium of English.
- 3.2 Some customer-facing roles are already subject to a language standard. For example, Teachers in local authority maintained schools are appraised annually against the Teachers Standards, where they must 'demonstrate an understanding of and take responsibility for promoting high standards of literacy, articulacy and the correct use of standard English, whatever the teacher's specialist subject.'
- 3.3 All job applicants and colleagues will be treated in the same way, and reasonable adjustments in relation to job applicants and colleagues with disabilities that affect their verbal communication will be considered.
- 3.4 Job applicants and colleagues in a customer facing role, as defined under this Policy, will be expected to be able to effectively communicate verbally with citizens and ensure key information is understood by both parties.
- 3.5 **Casuals, Agency Workers and Self-Employed Contractors**
- 3.5.1 Casual workers who are offered a customer-facing assignment will be appropriately assessed and interviewed to confirm they meet the required standard. If a casual worker is unable to meet the standard of spoken English necessary for the role, the manager would need to address this in accordance with this Policy and consider whether the assignment can continue.
- 3.5.2 Agency workers are not employed by the Council and the terms on which they are engaged depend on the contract between the employment agency and the Council



and their own arrangements with the employment agency. Managers wishing to engage the services of an agency worker will ensure agency workers are appropriately assessed and, where applicable, interviewed to confirm they meet the required standard.

- 3.5.3 If an individual agency worker is unable to meet the necessary standard of spoken English required for the role, the manager can consider terminating the agreement with the employment agency for their engagement in accordance with the terms of the contract between the employment agency and the Council. (See [Agency Workers Policy and Procedure](#)).
- 3.5.4 Self-employed contractors work for the Council in accordance with the terms of a services contract. The terms of the contract will determine the steps which the Council can reasonably take should the individual fail to meet the necessary standard of spoken English fluency required for a customer-facing role.

4. **Sign Language Interpreter**

- 4.1 When the duties under this policy are met by the provision of a sign language interpreter, the interpreter should be registered with the National Registers of Communication Professionals working with Deaf and Deafblind People (NRCPD). Registration will satisfy the Council that the level of language proficiency will be met, as NRCPD Registrants will be highly skilled in a signed language like BSL, ISL or ASL and hold a second language that can be another signed language or a spoken language. One of those languages must be native to the UK and Ireland. If it is impossible, after a determined effort, to engage an NRCPD Registrants, the Council will make sure the communication and language professional holds at least the qualification(s) required for NRCPD registration. Details of the Council's current contract can be found in [local suppliers](#) on the Intranet.

5. **Responsibilities**

5.1 **Managers**

- 5.1.1 Should make customer-facing colleagues aware of this new duty and explain the possible actions which may be taken if their proficiency in spoken English is found to be insufficient.
- 5.1.2 To be aware that an employee's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint under this Policy.
- 5.1.3 Ensure existing recruitment and selection practices facilitate compliance with the fluency duty and inform those responsible for evaluating candidates of the spoken language requirements for the role in question in each case.
- 5.1.4 All job applicants will be treated in the same way at each stage of the recruitment process (save for any reasonable adjustments required for disabled applicants).



- 5.1.5 Make clear in new adverts and job descriptions the necessary standard of spoken English required for the sufficient performance of the customer-facing role; and ensure consistency when advertising for similar types of customer-facing roles
- 5.1.6 Ensure managers who are responsible for evaluating candidates understand the spoken language requirements for the role and interview panel members should be provided with an objective method of evaluating candidates against clear criteria set out in the Job Description and Person Specification.

6. **Training**

- 6.1 It may become apparent during the course of a colleague's employment, either because of a complaint received by a member of the public or as a result of performance management, that an employee who works in a customer-facing role does not meet the necessary standard of spoken English.
- 6.2 Measures to support employees in customer-facing roles, who are found to not demonstrate the necessary standard of spoken English, will be available in order for them to develop their spoken language proficiency within a reasonable period of time. Managers should contact the HR Casework Team for advice on how to support the employee in meeting the required standard. The Learning and Development Team can signpost managers to training and resources available.
- 6.3 The line manager will meet the cost of training through their sections budget and paid time off will be given to colleagues undertaking such training.

7. **Re-deployment**

- 7.1 If the employee does not meet the necessary standard of spoken English, adjustments to their role may be considered, such as reducing the frequency of communications with the public where possible. Consideration could also be given to redeploying the individual to a non-customer facing role. (See *Redeployment Policy* for information on redeployment, and [Pay Policy](#) for information on pay protection).

8. **Dismissal**

- 8.1 Colleagues will be given a reasonable opportunity to meet the necessary standard of spoken English. A manager could consider dismissing an employee on the basis that they are not capable of fulfilling their duties, or they refuse to engage in any supportive process, for example if they have:
- unreasonably refused to undertake training aimed to bring them up to the necessary standard for their role; or
 - not been able to attain the standard of fluent English required for the role within a reasonable amount of time, after reasonable training opportunities have been provided; or
 - if no other suitable post without customer-facing duties can be made



available for that individual.

8.2 Prior to dismissal, the manager must ensure all other usual policies and procedures have been followed in order to give the employee the opportunity to meet the required standard of spoken English. The employee will also have the opportunity to appeal against any dismissal. Managers should only consider dismissal after considering all reasonable alternatives and where appropriate, seek advice from the HR Casework Team.

8.3 For assistance in the management of these cases, managers should speak to the HR Casework team and follow the procedures as set out in the [Performance Management Policy](#) and [Disciplinary Procedure](#).

9. Complaints Procedure

9.1 If a member of the public feels that a customer-facing colleague has insufficient proficiency in spoken English for the performance of their role they can make a complaint to the Council which will be dealt with under the Council's complaints procedure, under 'Have your say'. (See the Council's [Comments, Compliments and Complaint's Procedure](#) for more information)

9.2 A complaint about an employee's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint under this Policy.

10. Linked Policies and Procedures

10.1 The Public Sector Duty – English Language Requirement Policy interacts with several other policies and procedures including but not exclusive to the:

- [Recruitment Policy and Guidance](#)
- [Redeployment Procedure](#)
- [Pay Policy](#)
- [Performance Management Policy](#)
- [Disciplinary Procedure](#)
- [Agency Workers Policy](#)
- [Comments, Compliments and Complaint's Procedure](#)
- [Reasonable Adjustments Policy and Guidance](#)



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Author	Sheena Yadav-Staples
Organisation	Nottingham City Council

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