

# ***FLUENCY DUTY – GUIDANCE NOTES***

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## ***What is the Fluency Duty?***

The Fluency Duty is a statutory requirement for all public authorities to ensure that workers in customer-facing roles speak fluent English. It forms Part 7 of the Immigration Act 2016.

These guidance notes have been based on the Cabinet Office [Code of Practice on the English language requirement for public sector workers.](#)

## ***What is a Customer –Facing Role?***

A customer-facing role is one where a regular, planned and intrinsic part of the role, is the requirement to speak to members of the public in English either face-to-face or by telephone.

In determining whether a role is customer-facing as defined by the Act, the following should be considered:

- 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?
- Is English the primary language required for the role?

## ***Does this requirement only apply to employees?***

No, the application is much wider and a worker as defined by the Act applies to any individual working in a customer-facing role for the Council, whether permanent, fixed term, casual, an agency temp or a self-employed contractor.

It does not apply to workers employed by a private or third sector provider of a public service.

### ***What is meant by “Fluent”?***

For the purposes of the Act, “fluent” simply means that the worker has a command of spoken English which is sufficient to enable the effective performance of their role. It is for the public authority to decide the appropriate level of fluency for the role. The Code of Practice contains a list of factors to be considered when determining the standard required for each job.

- The frequency of spoken interaction.
- The topic of spoken interaction.
- Whether the communication is likely to include technical, profession-specific or specialist vocabulary.
- The typical duration of spoken interaction.
- Whether the communication is repeated in or supplemented by, written material provided to customers.
- The significance of the spoken interaction for service delivery.

The Code of Practice notes that “fluency does not relate to regional or international accents, dialects, speech impediments or the tone of conversations”.

### ***Be aware of the customer-facing roles you have in your team***

Remember the definition of customer-facing is roles for which spoken interactions with members of the public are regular and intrinsic to the role.

### ***Ensure recruitment documentation refers to the English language requirement, including the job advert and person specification.***

The following sentence should be included in all job adverts:

“This post is covered by part 7 of the Immigration Act (2016) and therefore the ability to speak fluent English is an essential requirement for the role”.

Person specifications should also list:

“As this post meets the requirements of the Immigration Act 2017 (part 7) the ability to converse at ease with members of the public and provide advice in accurate spoken English is essential for the post”.

The Request to Advertise form and Job Description templates have been updated by Human Resources to reflect this.

## ***Assess fluency of spoken English at interview***

Where the standard of spoken language ability has been legitimately set as an essential requirement for the role, applicants may need to be assessed on their English speaking ability generally as part of the interview process as this is the most common method used to assess communicative competence.

Remember:

Fluency is about language proficiency and the ability to speak with confidence and accuracy using correct sentence structures and vocabulary.

Fluency is not about accents, dialects, speech impediments or the tone of conversations.

Other points to note when assessing fluency:

- Root of the word “fluent” is “flowing”, does the speech flow?
- Do they make sense?
- Can you understand what they are saying?
- Can they get their point across?
- Is the grammar correct?
- Are they joining words and phrases together?

## ***Take any complaints from member of the public seriously.***

Members of the public have a right to complain about the level of fluency of spoken English of a worker. The member of public can expect for their complaint to be taken seriously and investigated thoroughly. The Council has an existing complaints process that should be followed.

## ***If any problems with existing employers are identified, they need to be dealt with advice from Human Resources.***

If an issue of the level of fluency of spoken English of an existing employee is identified the employee should be given support to improve their language skills. If after an appropriate length of time there is no improvement, the Council will first seek to redeploy the employee. If redeployment is not possible the Council may consider dismissal on the grounds of capability.

## ***Contacts and Further Information***

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## ***Policy Feedback***

Should you have any comments regarding this guidance, please address them to the HR Policy Feedback mailbox –

***HRpolicy@torbay.gov.uk***