

Fluency Duty

St Bernard's Catholic Grammar School

In November 2016, the Government introduced a statutory code of practice on English language for public sector workers. This code, which is entitled Code of Practice on the English language requirements for public sector workers, details requirements for public sector employees, who work in a public-facing role, to be able to speak English fluently in England. The aim of the code is to help public authorities to meet their legal obligations under part 7 of the Immigration Act 2016 and so provide higher quality services to the public.

This fluency duty applies to all public authorities as defined in section 78 of the aforementioned Act and therefore applies to St Bernard's CGS as a maintained school.

Definitions

Meaning of 'fluent'

For the purpose of the duty, 'fluent' means that the member of staff has a command of spoken English which is sufficient to enable the effective performance of their role. They need to possess the ability to speak English with confidence and without hesitation, using accurate sentence structure and vocabulary, in a manner appropriate to the situation at hand.

'Public-facing roles'

These are roles where speaking to the public, which includes the students at our school, is a planned, regular and intrinsic part of the role. This contact could be in person or on the telephone. The code of practice includes further guidance which employers can use to assess each role.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/573013/english_language_requirement_public_sector_workers_code_of_practice_2016.pdf

Standard of competence required

When assessing the required level of spoken English, the Common European Framework of Reference for Languages (CEFR) provides useful descriptors of different fluency levels, split into three main levels:

- A Beginner – levels A1 and A2.
- B Intermediate – levels B1 and B2.
- C Advanced – levels C1 and C2.

It is important that in schools at least a minimum threshold level is met for all public facing workers. For those posts where a greater level of fluency and interaction is required, it is recommended that the level required of school staff is not below the CEFR level B1.

The code of practice contains a list of factors to be considered when determining the standard required for each job, recognising that there will be a need for different levels of fluency, dependent on the person's level of interaction with the public, and outlines approved minimum spoken language qualifications that might be appropriate.

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The duty applies to all employees, be they existing staff or future recruits.

- Teachers
There is no requirement to assess teachers in maintained schools for fluency, because they are subject to a language standard through appraisal against the Teacher Standards.
- Agency staff
Supply agencies are to be made aware of the duty and ensure they are aware of the standard of English required and only send personnel with that level of competence.
- Other staff
There are a number of non-teaching roles in our school that fall under this duty eg teaching and learning assistants, office staff, lunchtime supervision staff, café staff and others who regularly communicate with students and/or parents and/or members of the public as part of their role. The probability is that the vast majority of existing non-teaching staff already demonstrate that they meet the fluency duty, but there may be cases where a fluency issue can occur.

Action list

Existing workforce:

- Identify and agree in consultation with the Governing Body and the school's HR advisors which roles in the school come within the compass of the duty. Where appropriate, representatives on the staff of recognised professional associations or trade unions should also be consulted on the roles to be included.
- Decide upon the level of fluency required for each role and define these. (See Section 2.3 to 2.11 of the code of practice.)
- Decide whether it is sufficient to say that an existing non-teaching employee has already proven their level of fluency in the job. If this is the case, record this in a formal way. No further action is needed.
- If there is concern as to the fluency skills of any serving employee, consider how to assess these in a fair way.

Remedial action

Where an employee is found to be struggling to meet the agreed fluency standard, some training and assessment of fluency should be included in the employee's targets as part of the appraisal procedures. Any staff affected should be given reasonable support, opportunity and time relative to their needs to meet the necessary standard of spoken English fluency.

Should the member of staff concerned not make sufficient improvement, it may be necessary to adjust their role, perhaps by reducing the frequency or complexity of contact with the public, or by moving the person to a job that does not involve the need for fluency.

If these measures fail, it may be necessary to initiate the school's capability procedures, which could lead to dismissal. Also, the school might have to consider action that could lead to dismissal, if a member of staff unreasonably refuses to undertake the necessary training to improve their fluency to the agreed standard.

Before taking remedial action, such as training or redeployment, the school will bear in mind that it is unlawful to discriminate against someone on the grounds of race. The code of practice sets out schools' obligations as public bodies under the Equality Act 2010 and the Public Sector Equality Duty 2011. Regard to these duties will be had in all circumstances to avoid discriminatory conduct towards public-facing staff and to ensure that people from different nationalities and backgrounds are treated the same as people with an English or Welsh background.

Recruitment of new staff

The school will consider how they will enable required candidates to demonstrate fluency during the recruitment and interview process. Again, all applicants will be treated in the same way, to avoid any breach of the Equality Act or the Public Sector Equality Duty.

- Job advertisements and job descriptions will make reference to the standard of English required and state that this will be assessed as part of the selection process.
- The English fluency requirement will be included in the person specification of the post and the standard of English required with an appropriate descriptor will be included.
- The interview process will contain ways of measuring a candidate against the fluency standard expected. Interview panel members will be provided with an objective method of evaluating candidates against clear criteria set out in the role specification.

Complaints procedure

If a member of the extended school community or a member of the public wants to complain about the lack of fluency of a member of staff, this should be done so via the General Complaints policy, which is found on the school's website.

It should be noted that under the Equality Act 2010 and the Public Sector Equality Duty 2011, if the school receives a complaint in relation to the fluency duty, it will automatically reject that complaint if it relates to race, nationality, ethnic origin or disability.

Agreed by Leadership Committee 3rd June 2020

Next Review: Summer 2022