

FORM FOR RESPONDING TO THE CONSULTATION ON DRAFT LANGUAGE REQUIREMENTS FOR PUBLIC SECTOR WORKERS CODE OF PRACTICE

Please use this form to respond to the consultation and send your completed form to englishlanguage@cabintoffice.gov.uk, or the address stated above, by 8 December 2015. Anyone may return a completed form to the above email or address, but it is primarily targeted at public authorities to whom the Code applies. Public authorities are also expected to consult widely with their staff and employee groups before completing their responses.

Name	Edward Tynan
Job Role	Policy Officer
Organisation	Health and Care Professions Council (HCPC)
Contact details	policy@hcpc-uk.org
<p>Q1: Is the guidance in the Code of Practice sufficient to help you meet the duties imposed on public authorities by Part 7 of the Immigration Act [2016] and set the necessary standard of spoken English? If not, please suggest what additions are necessary.</p> <p>Yes, the draft Code of practice on the English language requirements for public sector workers (the Code of Practice) does sufficiently help public authorities to meet their duties under Part 7 of the Immigration Act [2016]. We understand that the Code of Practice will apply to organisations like us, but we would welcome confirmation on this point. As an employer we already check the language competency of any applicant against the requirements of a particular job or role as part our recruitment processes. This issue is normally examined and assessed at interview stage by the relevant panel.</p> <p>The draft Code of Practice also places reasonable expectations on public authorities to take appropriate remedial action against an existing employee or new employee where the necessary standard of spoken English is not being met, to handle complaints in this area and wider compliance issues with the new requirement.</p>	
<p>Q2: Is the Code of Practice clear in its alignment with any existing legal obligations that you must adhere to, such as the Equality Act 2010 or Welsh Language (Wales) Measure 2011? If not, please suggest how it could be better aligned with those obligations or any others not already included.</p> <p>No. We would welcome further clarity on how the Code of Practice interacts with our existing obligations under the Welsh Language Act 1993 and Welsh Language (Wales) Measure 2011. We were recently the subject of a standards investigation by the Welsh Language Commissioner (the Commissioner) as part of the Welsh Government’s preparations to develop Welsh language standards which will be made applicable to us and other regulatory bodies. The Welsh Government is currently drafting these standards and there is still some uncertainty in relation to which standards we will eventually need to comply with. As a self-financing organisation which is based solely in London but operates on a UK-wide basis, we are concerned that the forthcoming new standards may not fully take account of our wider geographical remit and funding arrangements. Any new standards need to be reasonable and proportionate whilst building on the good progress achieved under our existing Welsh Language Scheme (the Scheme). For example, we</p>	

have not identified any job roles or posts where Welsh language skills would be an essential or desirable characteristic in a job description to date.

We are somewhat concerned about the UK Government's expectation in this area for a public authority located outside of Wales but having operations within Wales (for example, fielding calls to our Registration department from Welsh registrants). We would welcome further clarity on how 'public functions in Wales' in relation to the use of English or Welsh would be defined for a London-based organisation. The Code of Practice does differentiate in some areas about the expectation of public authorities located in Wales and those based outside of Wales (but operating on a UK-wide basis). However, this needs to be made more explicit. It is important that the Code of Practice continues to give sufficient discretion to public authorities to specify the level of English or Welsh fluency required for a particular job or role. It is particularly important that the Code of Practice will place an emphasis on English 'or' Welsh fluency as appropriate: 'Public authorities exercising functions in Wales must ensure that someone working for them in a customer-facing role speaks fluent English or Welsh, in line with the requirements of language schemes and the standards stipulated by the Welsh Language (Wales) Measure 2011.' (Code of Practice, p. 4)

Q3: Do you have an existing minimum language standard for your customer-facing workers? If so, please provide details and confirm if you are satisfied that your existing standard meets your obligations under Part 7 of the Immigration Act [2016].

Yes. Our oral and written communication requirements are robustly checked as part of our existing recruitment processes including at interview stage. For customer-facing roles this can include specifying the following criteria in the job description:

- A high level of written English and oral communication skills, including the ability to communicate professionally with customers from all backgrounds.
- Excellent oral and written communication skills, including the ability to communicate professionally with stakeholders from all backgrounds and convey information in the most appropriate format.

We believe that the current wording of Part 7 of the Immigration Act [2016] allows a public authority sufficient discretion over the minimum English language standard or fluency required for a particular customer-facing worker or role.

Q4: Do you have, or are you aware of, any existing best practice for establishing a necessary level of English or Welsh fluency that would be useful to reflect in the Code of Practice? If so, please give details.

We have no comment to make on this issue.

Q5: What would be the impact of extending the Code of Practice to voluntary and private sector suppliers that you contract with? Please explain your answer.

We have no comment to make on this issue. The majority of our contractors are England-based and should not have to comply with any Welsh fluency or language requirements.

Q6a: What will be the additional cost to your organisation to implement this duty? Please provide detailed estimates.

At this stage, based on our understanding of the requirements, we do not anticipate any additional cost involved in implementing this duty.

Q6b: From your perspective, would implementing this policy have a specific impact on the country, region or business sector which you operate in? Please explain your answer.

Yes. The Code of Practice does differentiate in some areas about the expectation of public authorities located in Wales and those based outside of Wales (but operating on a UK-wide basis and fulfilling the criteria of carrying out 'public functions in Wales'). However, this needs to be made more explicit particularly in relation to English or Welsh language provision for some customer-facing roles. We would also welcome further clarity on whether the HCPC will be designated as a public authority under the proposed Act.

Q6c: If you are a local government body, to what extent would this new duty constitute a New Burden for your organisation? Please explain your answer.

This question is not applicable to us.

Q7: How many workers will this new duty affect in your organisation? Please provide details such as employment status.

This duty could potentially be applicable to a number of our departments. We currently have approximately 240 employees (mostly on a permanent contract basis) who are all employed in our London office. However, arguably our most customer-facing departments include our Fitness to Practise (FTP) and Registration departments. Our FTP and Registration departments consist of some 90 and 55 employees respectively. However, these are only indicative figures and do not take account of employees who are employed in customer-facing roles in other departments such as Education, Secretariat, Communications, Policy and Standards and so on.

Q8: If complaints handling were to remain at the discretion of your organisation, what do you envisage as the basic process for enforcing it and for dealing with workers who do not meet the requisite language standards? Please provide details of your current process for dealing with complaints and escalation route from members of the public; any complaints data you currently publish, and the likely cost of expanding the process to include language-related complaints.

We believe that the new requirement – for ensuring appropriate levels of English language competency and fluency for our workers and complaints handling in relation to this – can be incorporated into our existing operations and processes. For example, if a member of the public complained about an existing employee's English language skills at present, this would be dealt with through our current complaints process. We are also content with the remedial action procedures for employees who are found not to have adequate English language competency or fluency as outlined in the Code of Practice. This would involve appropriate involvement by the employee's line manager and interaction with our Human Resources (HR) department to identify another suitable role and / or appropriate training to meet any shortfall.

We offer a complaints handling process as part of our existing customer service provision. We publish a specific feedback form that complainants can complete and submit to us. Our current process normally involves a complainant writing directly to our Service and Complaints Manager. The Service and Complaints Manager will log the concern and acknowledge receipt. The complaint is then passed to the relevant department which initially dealt with the complainant for investigation and response. For example, if a person called our Registration department and complained about a call including the level of English language competency and fluency of a Registration Advisor, one of our Registration department managers would follow this up by listening to the call in question

and assessing whether further action was required. If the complainant remained unsatisfied with the department's response they can request that this is reviewed by the Service and Complaints Manager. This stage can involve the complaint being passed back to the original department to try and resolve the concern or issue again. If after this review the Service and Complaints Manager is satisfied that due process has been followed and the complainant remains unsatisfied, they can subsequently request that their complaint is reviewed by the chief executive or a member of the executive management team (EMT). If the person handling the complaint found that the employee did not meet the appropriate standard of English, we would look to correct any error that may have come out of the situation and any resulting further action would be handled appropriately by our HR department. Further information on our complaints handling process is available here: www.hcpc-uk.org/aboutus/customerservice/

The Service and Complaints Manager presents a monthly report on all complaints for review by our EMT. In addition to this, we publish a biannual review of feedback and complaints received which is considered by our Council. The latest version of this report is available here: <http://www.hcpc-uk.org/assets/documents/10004E6FEnc10-Sixmonthlyreviewoffeedbackandcomplaints.pdfCustomerServiceUpdate.pdf>. We currently do not envisage any substantial costs for expanding or amending the above process to specifically include handling language-related complaints against employees. However, we may need to update the relevant guidance for complaints handling on our website to reflect this new requirement. We cannot comment on the possible costs for third party contractors' compliance in this area.

Consultation principles

This consultation is issued in line with Cabinet Office consultation principles. These can be found at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments or complaints about the consultation process, please address them to:

Karen West
Cabinet Office
Better Regulation Unit
Rosebery Court
Norwich
NR7 0HS

Email: karen.west@cabinetoffice.gov.uk

Handling of information from individuals

The information you send may need to be passed to colleagues within Cabinet Office or other Government departments, and may be published in full or in a summary of responses.

All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want your response to remain confidential, you should explain why confidentiality is necessary and your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. Contributions to the consultation will be anonymised if they are quoted.

Individual contributions will not be acknowledged unless specifically requested.

List of Organisations consulted on the policy to inform drafting of the Code of Practice

Department for Communities and Local Government

Department of Health

Department for Education

Ministry of Justice

Department for Work and Pensions

HM Revenue and Customs

Home Office

Ministry of Defence

Department for Transport