

## A Guide to the Fluency Duty

### 1. Introduction

Herts for Learning Ltd. has a duty, under the Immigration Act 2016, to ensure that its employees in customer facing roles speak fluent English (or Welsh or English in Wales) to an appropriate standard, so that a high quality service can be provided to the public. This is known as the 'fluency duty' and it applies to all public sector staff who regularly interact with the public in customer facing roles.

### 2. What is 'Fluency'?

'Fluency' relates to a person's ability to speak the language – can they choose the right kind of vocabulary for the situation without a great deal of hesitation? Are they able to listen to their customer and understand their needs? Are they able to speak at ease with customers and provide appropriate advice?

The fluency duty is not intended to discriminate directly or indirectly against a person on the grounds of race or disability and does not relate to regional or international accents, dialects, speech impediments or the tone of conversations.

The fluency duty doesn't mean that employees must only speak English. Where appropriate, staff can make use of any language skills they have to communicate with customers who speak other languages. The fluency duty can also be met by the provision of a sign language interpreter.

### 3. What do Managers need to consider?

Managers should familiarise themselves with the [English Language Requirement Code of Practice](#), as they will need to determine which roles fall within the definition of 'customer facing' and the appropriate level of fluency required for the role. The level of fluency must be proportionate and appropriate for the role.

This will mean that all Job Outlines for your business area, recruitment requests raised or business cases involving restructuring must state the requirement for fluency for such roles. You will need to highlight fluency requirements to the Company HR team where appropriate, so that this is a factor considered during any suitable alternative employment matching exercise undertaken as Part of Herts for Learning's redeployment process.

When recruiting to customer facing roles, managers must be mindful that assessments to determine the applicant's level of fluency must not be discriminatory and must be relevant to the role.

#### 4. Existing employees

Existing employees should not be required to complete an English test, however, if it is deemed by you that the employee does not meet the standards, they must receive appropriate support and training which must be provided during the employee's working hours.

You should speak with the Company HR team who can provide advice based on the individual learning and development needs. Whilst they might suggest a range of resources, often the best way to improve language skills is by talking with someone else who is fluent in the language. The Company HR team will be able to support you with the following resources, many of which employees will be able to access of their own accord:

- A wealth of free online resources available to help support fluency development. It would therefore be recommended that where concerns are identified, managers should consider the following support to be discussed during 1:1 supervisions to help resolve the concerns informally. Recommending increasing social exchange via social media channels, for example discussions boards and Yammer.
- Listening to Language podcasts online.
- Accessing free online resource inclusive of:
  - Language MOOCS (Massive Open Online Courses)
  - Use of Apps designed to support business professionals in improving grammar, pronunciation and vocabulary.
  - BBC Learn English suite of online resources
- One of the best ways to improve language skills is to converse with native speakers. Where appropriate Managers could offer one-to-one support with someone who understands the context of the role.
- More traditional face to face language classes may be available where further support is needed.

Managers should always talk to their employees about any concerns, initially on an informal basis, ensuring that they are aware of the expected standards. If concerns continue after incorporating the above recommended developmental resources, the Performance Management (Capability) policy will apply. Managers should contact the Company HR team [hfl.companyhr@hertsforlearning.co.uk](mailto:hfl.companyhr@hertsforlearning.co.uk) for support relating to the Performance Management (Capability) policy.

#### 5. Complaints

Any customer or member of the public receiving a service from Herts for Learning Ltd. is entitled to make a complaint. If a complaint is received about the standard of spoken English by a member of your staff, as the line manager you are required to deal with the complaint. Support and guidance is available from the Company HR team. When investigating any such complaint, you should first consider whether the role is covered by the fluency duty:

- Is interaction with the public a regular, intrinsic part of the role as described in the job outline?

- Is the complaint about the standard of spoken English, or is it actually about something which is not covered by the duty such as dialect, accent, manner or tone of communication, origin, nationality or disability?

If the complaint is not covered by the fluency duty, or there is reason to believe that the complaint was vexatious, you do not need to consider the complaint in relation to the fluency duty. If there are other aspects to the complaint, you will need to respond to these. If the complaint is vexatious, you should also consider how you can provide appropriate support to staff to ensure that they are protected from such complaints in the future.

If the complaint is covered by the fluency duty, you will need to speak to the member of staff concerned.

Take into consideration:

- the nature of the role including the extent of interaction with the public – as defined in the job outline
- the topic of the spoken interaction
- the level of service quality and responsiveness expected by the public for the type of communication
- the employee's account of the facts leading to the complaint

Remember that your decision about any action should be proportionate, it may be appropriate to incorporate some of the learning interventions detailed in Section 4 above. You will need to provide an appropriate response. Please liaise with the Company HR team to advice and support on arriving at a proportionate outcome.

## 6. Further Information and Advice

For further information please contact the Company HR team on [hfl.companyhr@hertsforlearning.co.uk](mailto:hfl.companyhr@hertsforlearning.co.uk)

Document Ends.