



# Immigration Act 2016

## 2016 CHAPTER 19

### PART 7

#### LANGUAGE REQUIREMENTS FOR PUBLIC SECTOR WORKERS

#### **77 English language requirements for public sector workers**

- (1) A public authority must ensure that each person who works for the public authority in a customer-facing role speaks fluent English.
- (2) In determining how to comply with subsection (1), a public authority must have regard to the code of practice under section 80 that is for the time being applicable to that authority.
- (3) A public authority must operate an adequate procedure for enabling complaints to be made to the authority about breaches by the authority of subsection (1) and for the consideration of such complaints.
- (4) In determining whether a procedure is adequate for the purposes of subsection (3), a public authority must have regard to the code of practice under section 80 that is for the time being applicable to that authority.
- (5) For the purposes of this Part a person works for a public authority if the person works—
  - (a) under a contract of employment with the public authority,
  - (b) under a contract of apprenticeship with the public authority,
  - (c) under a contract to do work personally with the public authority,
  - (d) in England and Wales or Scotland, as an agency worker within the meaning of the Agency Workers Regulations 2010 (SI 2010/93) in respect of whom the public authority is the hirer within the meaning of those regulations,
  - (e) in Northern Ireland, as an agency worker within the meaning of the Agency Workers Regulations (Northern Ireland) 2011 (SR 2011/350) in respect of whom the public authority is the hirer within the meaning of those regulations,
  - (f) for the public authority as a constable, or
  - (g) for the public authority in the course of Crown employment.

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- (6) In subsection (5) “Crown employment”—
- (a) in relation to England and Wales and Scotland, has the meaning given by section 191(3) of the Employment Rights Act 1996,
  - (b) in relation to Northern Ireland, has the meaning given by Article 236(3) of the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)), and
  - (c) includes service as a member of the armed forces of the Crown and employment by an association established for the purposes of Part 11 of the Reserve Forces Act 1996.
- (7) References in this Part to a person who works in a customer-facing role are to a person who, as a regular and intrinsic part of the person’s role, is required to speak to members of the public in English.
- (8) For the purposes of this Part a person speaks fluent English if the person has a command of spoken English which is sufficient to enable the effective performance of the person’s role.
- (9) This section applies in relation to a person who is working in a customer-facing role for a public authority when this section comes into force as well as to a person who begins to work in such a role after that time.
- (10) This section does not apply in relation to a person whose work is carried out wholly or mainly outside the United Kingdom.

## 78 Meaning of “public authority”

- (1) Subject as follows, in this Part “public authority” means a person with functions of a public nature.
- (2) A person is not a public authority for the purposes of this Part if, apart from this subsection, the person would be a public authority for those purposes merely because the person exercises functions on behalf of another public authority.
- (3) A person who exercises functions in relation to Scotland is a public authority for the purposes of this Part in relation to those functions only if and to the extent that those functions relate to a reserved matter.
- (4) In subsection (3) “Scotland” and “reserved matter” have the same meanings as in the Scotland Act 1998.
- (5) A person who exercises functions in relation to Wales is a public authority for the purposes of this Part in relation to those functions only if and to the extent that those functions relate to a matter which is outside the legislative competence of the National Assembly for Wales.
- (6) A person who exercises functions in relation to Northern Ireland is a public authority for the purposes of this Part in relation to those functions only if and to the extent that those functions relate to an excepted matter.
- (7) In subsection (6) “Northern Ireland” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.
- (8) The following are not public authorities for the purposes of this Part—
  - (a) the Security Service;

- (b) the Secret Intelligence Service;
  - (c) the Government Communications Headquarters.
- (9) The relevant Minister may by regulations amend subsection (8) so as to add, modify or remove a reference to a person or description of person with functions of a public nature.

## **79 Power to expand meaning of person working for public authority**

- (1) The relevant Minister may by regulations amend section 77 with the effect that a person who works for a contractor of a public authority is a person who works for the authority for the purposes of this Part.
- (2) In subsection (1) “contractor”, in relation to a public authority, means a person who—
- (a) provides a service to members of the public as a result of an arrangement made with a public authority (whether or not by that person), but
  - (b) is not a public authority.
- (3) For the purposes of subsection (1) a person works for a contractor if the person works—
- (a) under a contract of employment with the contractor,
  - (b) under a contract of apprenticeship with the contractor,
  - (c) under a contract to do work personally with the contractor,
  - (d) in England and Wales or Scotland, as an agency worker within the meaning of the Agency Workers Regulations 2010 (SI 2010/93) in respect of whom the contractor is the hirer within the meaning of those regulations, or
  - (e) in Northern Ireland, as an agency worker within the meaning of the Agency Workers Regulations (Northern Ireland) 2011 (SR 2011/350) in respect of whom the contractor is the hirer within the meaning of those regulations.

## **80 Duty to issue codes of practice**

- (1) The relevant Minister must issue a code or codes of practice for the purposes of section 77.
- (2) A code of practice must include provision about the following matters—
- (a) the standard of spoken English to be met by a person working for a public authority to which the code applies in a customer-facing role;
  - (b) the action available to such a public authority where such a person does not meet that standard;
  - (c) the procedure to be operated by such a public authority for enabling complaints to be made to the authority about breaches by the authority of section 77(1) and for the consideration of such complaints;
  - (d) how the public authority is to comply with its other legal obligations as well as complying with the duty in section 77(1).
- (3) A code of practice may make such other provision as the relevant Minister considers appropriate for securing that a person who works for a public authority to which the code applies in a customer-facing role speaks fluent English.
- (4) A code of practice may make provision in relation to—
- (a) all public authorities,

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- (b) particular descriptions of public authority, or
- (c) particular public authorities.

- (5) But the relevant Minister must ensure that there is at all times a code of practice in force which applies to each public authority.
- (6) A code of practice may make different provision for different purposes, including different provision for different public authorities or descriptions of public authority.

## **81 Procedure for codes of practice**

- (1) In preparing a code of practice the relevant Minister must consult such persons as the relevant Minister thinks appropriate.
- (2) Before issuing a code of practice the relevant Minister must lay a draft of the code before Parliament.
- (3) A code of practice comes into force in accordance with provision made by regulations made by the relevant Minister.
- (4) After a code of practice has come into force the relevant Minister must publish it in such manner as the relevant Minister thinks appropriate.
- (5) The relevant Minister may from time to time review a code of practice and may revise and re-issue it following a review.
- (6) References in subsections (1) to (4) to a code of practice include a revised code.

## **82 Application of Part to Wales**

- (1) Subsection (2) makes provision about the application of this Part in relation to—
  - (a) a public authority that exercises functions only in Wales, and
  - (b) a public authority that exercises functions outside Wales and in Wales, to the extent that it exercises functions in Wales.
- (2) In the provisions of this Part listed in subsection (3) references to English are to be read as references to English or Welsh.
- (3) Those provisions are—
  - (a) section 77(1), (7) and (8), and
  - (b) section 80(2)(a) and (3).

## **83 Interpretation of Part**

In this Part—

“contract” means a contract whether express or implied and, if express, whether oral or in writing;

“public authority” has the meaning given by section 78;

“relevant Minister” means the Secretary of State or the Chancellor of the Duchy of Lancaster;

“Wales” has the same meaning as in the Government of Wales Act 2006.

**84 Crown application**

This Part binds the Crown.