



## New burden assessment pro forma

In advance of discussions with others, or as part of these discussions, the lead department should complete the pro forma below (this can be tailored to the specific policy where appropriate but should cover the same information).

As highlighted in the guidance, these issues should be discussed with Communities and Local Government at the earliest possible stage, and the pro forma can be revised as the assessment is taken forward. The signed off pro forma should be sent to Communities and Local Government.

**If this is a first assessment, departments must complete those fields in bold to provide a sufficient level of reassurance that the requirements of the Cabinet are being met. The remaining fields must then be completed when policy is more developed. Section 20 requires departments to state when a full assessment will be completed.**

<b>Details of the proposal – please answer in area provided below question</b>	
<b>Q1</b>	<b>Name of Lead Department.</b>
A1	Cabinet Office
<b>Q2</b>	<b>Working level contact details in lead department.</b>
A2	Name: Amy Rogers  Team: Workforce Strategy and Inclusion Team, Cabinet Office  Telephone: 07710 854 125  E-mail: <a href="mailto:amy.rogers@cabinetoffice.gov.uk">amy.rogers@cabinetoffice.gov.uk</a>
<b>Q3</b>	<b>Name of policy/Duty/expectation.</b>
A3	We are delivering a Government manifesto commitment to help ensure the safe and high quality deliver of public services by ensuring that they are provided to an appropriate standard of fluency in English, or in Wales, English or Welsh.  This policy will be implemented as part of the Immigration Bill 2015-16 (Part 7) and will be supported by a statutory Code of Practice. The new duty will require public authorities to ensure that members of their staff working in public-facing roles are able to speak English to a necessary standard.  In the Code and this document, a public sector worker is determined to be

	<p>'public-facing' if as a regular and intrinsic part of their role, they are required to speak to members of the public in English, or in Wales in English or Welsh. This is described in Part 7 of the Act as a 'customer-facing role' and defined in section 77(7) of the Act.</p> <p>The Code of Practice is intended to support public authorities to comply with this new duty, whilst ensuring minimal burden. It provides principles and examples, which public authorities can consider when fulfilling their legal duties and obligations. The Code is not intended to prescribe the process for every type of public-facing role and is not a definitive statement of the law.</p>
<b>Q4</b>	<b>Description of the policy objective.</b>
A4	<p>It is a clear priority for the Government to ensure public services are delivered to a high standard in spoken English. The Government believes that the public have the right to expect that all those with whom they interact, within the sphere of public services, will have the language abilities required to respond to their needs.</p> <p>Part 7 of the Immigration Bill 2016 will safeguard and assure citizens, so they feel there is no language barrier standing in the way of their access to core public services or that their safety is put at risk.</p> <p>During the consultation process, experts and representative groups, such as the Equality and Human Rights Commission, have confirmed their view that the duty is a proportionate means of achieving a legitimate aim.</p>
<b>Q5</b>	<b>Stage proposal is at (e.g. initial draft, consultation document, Cabinet clearance, etc.). If first draft, please state when update will be submitted.</b>
A5	This is the final draft of the New Burdens Assessment. A first and second draft was submitted.
<b>Q6</b>	<b>Brief expected timeline of the forthcoming key stages, including committee clearance.</b>
A6	<ul style="list-style-type: none"> <li>• 10 November 2015, the Public Bill Committee approved that the legislation underpinning this duty should stand part of the Immigration Bill. It was introduced into the House of Lords in early December 2015.</li> <li>• 13 October 2015, Home Affairs Committee (HAC) clearance to publish the draft Code of Practice for consultation. This coincided with the second reading in the House of Commons. The consultation was live for a period of eight weeks, closing 8 December 2015.</li> <li>• 19 February 2016, Government Response published on gov.uk <a href="https://www.gov.uk/government/consultations/language-requirements-for-public-sector-workers">https://www.gov.uk/government/consultations/language-requirements-for-public-sector-workers</a></li> <li>• March 2016, report stage and Third Reading in the House of Lords.</li> <li>• May 2016, a draft Code of Practice, alongside the Impact Assessment and Equality Statement, will be published following Royal Assent.</li> <li>• October/November 2016, Part 7 of the Immigration Bill commences and Regulations made that will bring the statutory Code of Practice under Part 7 into</li> </ul>

	force.
<b>Q7</b>	<b>What the proposal requires local authorities to do, and how this differs from what they are doing now. If there is no difference, why is the new power/duty/ expectation being made?</b>
<b>A7</b>	<p>The responsibilities of Local Government bodies will not fundamentally change with the introduction of this duty. Consultation has confirmed that hiring candidates with good communication skills for public-facing roles in public service delivery is common practice amongst local authorities and most already assess communicative competence at interview. Local authorities therefore largely expect existing staff to already meet the required standard of spoken English for public-facing roles.</p> <p>Authorities also stated that aligning the duty to existing processes would be straightforward. Complaints in relation to the duty could be considered as part of existing complaint regimes and local authorities advised that most complaints about the duty would likely be secondary to another issue regarding the provision of a council service or function.</p> <p>In legislating, it is the intention of the Government that consistency is improved and best practice shared. The duty should be simple to comply with. Nothing is required of anyone already fluent in English. The aim is to bring the rest of the public sector into line with those leading the way on English language standards.</p> <p>The duty requires local authorities to ensure that their staff in public-facing roles, whatever their nationality or origins, are able to speak fluent English, to the standard necessary for the effective performance of their role. Local authorities must determine the appropriate standard of spoken English to be met by their public-facing staff, the appropriate complaints procedure to follow (should a member of the public consider that the authority has not complied with the duty) and the appropriate forms of remedial action that may be taken if a member of staff falls below the standard required. The Code of Practice sets out considerations local authorities need to take into account when deciding how to comply with this new legal duty. Local authorities must:</p>

- 1) make members of the public and public-facing staff aware of the duty, by signposting the complaints process and explaining to staff the possible actions that may be taken if their ability to speak English is found to be insufficient.
- 2) set a required standard of English spoken language proficiency for public-facing roles.
  - Each public authority must carefully consider the nature and extent of the spoken communication that is necessary for the effective performance of every public-facing role.
  - For those public sector members of staff in public-facing roles that are already subject to a required language standard, it is not anticipated that public authorities will impose any higher standard in fulfilling the duty than is already required.
  - Local authorities must make clear in adverts and job descriptions the necessary standard of spoken English required for the sufficient performance of the public-facing role.
- 3) satisfy themselves that an individual has the required level of spoken English for the role they will be undertaking.
  - Where language skills have been legitimately set as an essential requirement for the role, applicants may need to be assessed on their English-speaking ability, either through a formal test or as part of the interview process. Public authorities can, but are not required to, specify a minimum academic qualification. Public authorities should be prepared to accept a range of evidence of language ability.
  - It is not envisaged that existing members of staff will need to be tested. Where staff are clearly fluent, no further action is necessary.
- 4) ensure existing selection and appointment practices refer to compliance with the duty and note that those responsible for evaluating candidates need to understand the language provision.
  - Local authorities should brief interview panel members on the language requirements for the role and give them an objective method of evaluating candidates against clear criteria set out in the role specification.
  - Each local authority will need to review HR policies and practices to ensure that they reflect the duty and provide clear compliance with existing legislation.
- 5) provide effective means for the public to make complaints.
  - This includes establishing complaints procedures; using existing channels

	<p>where appropriate and updating complaints policies as necessary.</p> <p>6) implement measures to support staff in public-facing roles who are found to not demonstrate the necessary level of spoken English to enable the effective performance of their role.</p> <ul style="list-style-type: none"> <li>• Following a legitimate complaint, public authorities should consider providing training or re-training to support staff who need to meet the necessary standard.</li> <li>• Members of staff must be given a reasonable opportunity to develop their command of the necessary level of spoken English.</li> </ul>
<b>Q8</b>	<b>Expected date the policy impacts on local authorities. If implementation is to be phased in, please give estimated dates for each phase.</b>
A8	As part of the consultation, we actively sought views from authorities to establish an appropriate transitional timeline for implementing the duty. Consequently, the Government Response has committed to commence Part 7 of the Immigration Bill six-months from the date of Royal Assent. This should be October/November 2016.
<b>Q9</b>	<b>Is an impact assessment being completed? If this shows that the policy impacts on the private sector in the same way with no disproportionate impact on local authorities, contact the Communities and Local Government New Burdens Team to confirm that the new burdens rules do not apply in this case - this does not mean there are no Local Government finance matters that might need to be addressed.</b>
A9	<p>An Impact Assessment has been completed and can be found on gov.uk.</p> <p>A final Impact Assessment will be published after Royal Assent.</p> <p>The duty will not initially extend to private or voluntary sector provider of a public service. However, the legislation includes a power to extend the duty to cover providers of contracted-out public services. The Government is minded to do so within this parliament.</p>
<b>Estimated costs/savings</b>	
<b>Q10</b>	<b>Has the proposal been appraised in accordance with HM Treasury Green Book principles? What was the outcome of the appraisal?</b>
A10	An appraisal has been conducted in accordance with HM Treasury Green Book principles. Evidence gathered through the consultation with local authorities suggests that the legislation will lead to an estimated one-off implementation cost of ~£170k, covering local authorities in England.
<b>Q11</b>	<b>Best estimate of reasonable costs and savings involved for local authorities for each individual year. Please give breakdown <u>by financial year</u> and state whether costs are revenue or capital.</b>

(a)	<b>Overall <u>additional</u> total costs to local authorities for each year.</b>														
A(a)	<p>Below is the cost profile over five years. All costs are revenue.</p> <table border="1" data-bbox="284 293 1452 371"> <thead> <tr> <th>Year</th> <th>2016</th> <th>2017</th> <th>2018</th> <th>2019</th> <th>2020</th> <th>5 year total</th> </tr> </thead> <tbody> <tr> <td>Familiarisation cost</td> <td>£170,000</td> <td>£0.00</td> <td>£0.00</td> <td>£0.00</td> <td>£0.00</td> <td>£170,000</td> </tr> </tbody> </table> <p>It is the Government's view that the new duty will not constitute a significant financial burden on local authorities. The majority of feedback we received from local authorities, either written or in consultation meetings, suggested that local authorities already have set communication criteria for public-facing roles and assess spoken language at interview. As authorities were confident that almost all of their existing public-facing staff would meet the necessary standard of spoken English, it is expected that the number of legitimate complaints would be minimal. Therefore, remedial action, such as training, re-deployment or dismissal, which can carry a significant associated cost, have not been taken into account in this assessment. The costs of remedial action for the wider public sector are outlined in the published Impact Assessment.</p> <p>Five councils confirmed in writing that they did not anticipate any staff to not speak fluent English and the little data we received on current complaint levels specific to spoken English ability supported this, reporting between zero and two complaints per year.</p> <p>A more detailed summary of consultation responses can be found in Q13.</p>	Year	2016	2017	2018	2019	2020	5 year total	Familiarisation cost	£170,000	£0.00	£0.00	£0.00	£0.00	£170,000
Year	2016	2017	2018	2019	2020	5 year total									
Familiarisation cost	£170,000	£0.00	£0.00	£0.00	£0.00	£170,000									
i.	<b>Element attributable to 'one off' implementation costs.</b>														
A(i)	<p>Familiarisation is the only one-off cost that has been identified as a reasonable new burden. This will cover the time it takes HR professionals in local authorities to read, understand and implement the policy. The Code of Practice is intended to make this as quick and simple as possible, providing guidance and examples. The Government Response also encourages public authorities, where appropriate, to consider collectively developing common standards, in order to achieve greater consistency and to further minimise any burden. Where local authorities have a number of similar public-facing roles, common standards across the sector are encouraged. This could be developed in many ways, such as localised guidance, charters, memorandum of understanding or informal agreements.</p> <p>The table below outlines estimated costs associated with familiarisation:</p> <table border="1" data-bbox="284 1704 1423 1962"> <thead> <tr> <th colspan="2"><b>Familiarisation cost</b></th> </tr> </thead> <tbody> <tr> <td>Number of local authorities affected</td> <td>353</td> </tr> <tr> <td>Familiarisation time per LA: 2 HR staff, 30 mins a week each, over 6 months (26 weeks)</td> <td>26 hours</td> </tr> <tr> <td>Median pay (per hour)</td> <td>£14.63</td> </tr> <tr> <td>Overheads</td> <td>30%</td> </tr> <tr> <td>Estimated Cost</td> <td>£170,000</td> </tr> </tbody> </table>	<b>Familiarisation cost</b>		Number of local authorities affected	353	Familiarisation time per LA: 2 HR staff, 30 mins a week each, over 6 months (26 weeks)	26 hours	Median pay (per hour)	£14.63	Overheads	30%	Estimated Cost	£170,000		
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	<p>Implementation costs include:</p> <ul style="list-style-type: none"> <li>• Reading and understanding the new duty;</li> <li>• Cascading information and providing guidance to line managers and staff;</li> <li>• Updating existing recruitment practices, setting a standard of spoken English for public-facing roles and updating job descriptions for new roles accordingly;</li> <li>• Updating existing complaints regimes.</li> </ul>														
ii.	<b>Recurring costs element (for the first 3 years).</b>														
A(ii)	<p>We do not anticipate any recurring costs. This is supported by Hampshire County Council, who stated "the initial set up cost of updating policies, procedures, recruitment systems, information and training managers would be a potential burden, however once established the on-going burden would be minimal."</p> <p>Any on-going costs would be directly linked to complaints and remedial action, as a result of the authority receiving a legitimate complaint from a member of the public. However, authorities generally felt existing public-facing staff are likely to meet the necessary standard of spoken English, therefore it is not anticipated that on-going costs will be incurred.</p>														
(b)	<b>Estimated specific and identified <u>savings</u> for each year - these must be additional to the annual savings authorities are expected to make and their treatment consistent with the appropriate HM Treasury guidance on efficiency.</b>														
A(b)	<p>N/A</p> <p>The overall aim of the duty is to create better and more efficient services for taxpayers by ensuring there is no language barrier standing in the way of citizens accessing core public services and that their safety is not put at risk.</p> <p>While some benefits could be monetised on a per case basis, we are unable to estimate the number of cases that are likely to occur in order to estimate the total monetised benefit in aggregate. We are also aware that the value of benefits would vary widely depending on the specifics of a case. Some of the proposed benefit is around public faith and confidence, which is also difficult to quantify.</p> <p>Further cost analysis of the benefits can be found in the final Impact Assessment.</p>														
(c)	<b>What are the direct and indirect impacts on local authorities pay and pensions costs?</b>														
A(c)	It is not anticipated that the legislation will have any impact on pay and pensions costs beyond the familiarisation costs outlined above.														
(d)	<b>Overall estimate of the Additional Cost to local authorities for each year.</b>														
A(d)	<p>As there are no specific cost savings, the additional cost is the same as Q11A(a).</p> <table border="1"> <thead> <tr> <th>Year</th> <th>2016</th> <th>2017</th> <th>2018</th> <th>2019</th> <th>2020</th> <th>5 year total</th> </tr> </thead> <tbody> <tr> <td>Familiarisation cost</td> <td>£170,000</td> <td>£0.00</td> <td>£0.00</td> <td>£0.00</td> <td>£0.00</td> <td>£170,000</td> </tr> </tbody> </table>	Year	2016	2017	2018	2019	2020	5 year total	Familiarisation cost	£170,000	£0.00	£0.00	£0.00	£0.00	£170,000
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	<p>These costs are to be considered as opportunity costs. This is under the assumption that familiarisation of the policy will be absorbed by a current member of staff, as opposed to a new member of staff being employed. This applies to all mention of 'additional cost(s)' throughout the document.</p>
<p><b>Discussion with authorities</b></p>	
<p><b>Q12</b></p>	<p><b>What discussions have taken place with local authority associations, e.g. with the LGA or LC? If there is no planned contact with local authorities through representative bodies, please explain why.</b></p>
<p>A12</p>	<p>As mentioned above, the consultation closed 8 December 2015. As part of the process, we actively engaged with one hundred and thirty-two different stakeholders, of which forty submitted formal written responses.</p> <p>We actively engaged with the Local Government Association (LGA), Trade Unions and local authorities to ensure that their views were taken into consideration when shaping the final Code of Practice and to identify any potential impacts. The LGA provided an aggregated response on behalf of local authorities and we received a further nine responses from local authorities directly.</p> <p>Furthermore, we attended several regional Local Government events in South East, South West, East Midlands and Yorkshire and the Humber.</p> <p>We are continuing to explore with the LGA the possibility of developing some common standards across authorities to avoid regional variances and to further minimise any burden of setting language standards.</p>
<p><b>Q13</b></p>	<p><b>Give a brief description of the authorities' views, particularly on costs and financing (note: there is no obligation to agree final finance assessments with them).</b></p>
<p>A13</p>	<p>Prevalent themes in the responses from local authorities were the scope of the duty (definition of public authority, public-facing role and what constitutes a legitimate complaint), ensuring consistency of standards across boroughs and the challenges of extending the duty to the private and voluntary sector providers. Impact on recruitment and social cohesion were also highlighted. All of these have been addressed in the Government Response and final Impact Assessment.</p> <p>With specific reference to costs, local authorities broadly agreed with our key categories - familiarisation, complaints and remedial action. Overall, evidence provided by authorities was anecdotal. Minimal or no data was included to substantiate actual required costs and statements were often inconsistent to warrant quantifiable assumptions. For example, some authorities stated that significant funds were needed in order to train their existing public-facing staff however, they also stated that no staff were expected to not meet the necessary standard.</p> <p>Consistently, familiarisation costs were considered essential for implementation, in</p>



terms of amending HR, recruitment and complaint policies and procedures and informing line managers and staff of the new duty. Only four out of the ten responses provided calculations, with estimates ranging from “no additional costs” to £545,145. A consistent approach to calculating familiarisation was the number of HR staff multiplied by time spent implementing the policy. Again, the number of staff required varied from two to sixty-eight and estimated time-spent varied from forty-five minutes to fifty-six hours.

The cost of complaints was considered a minimal burden, with feedback suggesting that local authorities already have sufficient procedures in place. Six out of ten local authorities stated that current complaint levels were either non-existent or “few and far between”. Kirklees Council provided current data for language complaints reporting that “in terms of verbal fluency, the Complaints Manager probably hears about a case or two each year on average.” The remaining four responses did not make reference to current complaint levels. Three councils specifically said that they do not anticipate a rise in complaints and five chose not to comment. Two councils, however, believe that the duty could lead to a rise in vexatious complaints. However, the Code of Practice explains that complaints can only be made regarding the public authority’s compliance with the duty and that public authorities will not be obliged to respond to complaints that are vexatious, oppressive, threatening or abusive.

Remedial action was identified as a potential cost, if a legitimate complaint against a current member of staff was received. Consultation responses challenged our assumption that 90% of staff that do not speak sufficient English would be redeployed into non-public-facing roles and we have updated our assumptions accordingly.

As mentioned, cost of remedial action would only be required upon receiving a legitimate complaint. However, given the confidence of authorities that the majority of their public-facing staff are likely to meet the necessary standard and that they already have robust recruitment processes in place, the evidence supports our assessment that remedial costs do not constitute a new burden and that reasonable costs have been identified for familiarisation only.

Out of the ten formal responses received, five councils affirmed that they do not expect any of their staff to not speak sufficient levels of English, this was also reflected in the consultation meetings we had with Local Government. The aggregated LGA response and three individual council responses did not specifically reference the scope of the impact. Gosport council anticipated that 1% of public-facing staff may not hold the level of fluency necessary to meet a minimum standard.

Finally, seven councils formally confirmed that they already stipulate communicative criteria for public-facing job roles and conduct an assessment of spoken language at interview. The remaining three out of ten responses made no specific reference to current recruitment practices.

### **Providing the resources**

**Q14** If there are additional costs, has the lead department identified where the

	<b>funding for this new burden is coming from and agreed to fully fund them? Please give details.</b>
A14	Civil Service HR in the Cabinet Office will provide funding in full. The funds will be processed as an S31 grant.
<b>Q15</b>	<b>What costing evidence/analysis do you have/are you going to undertake to demonstrate that the funding is sufficient, and when will you be providing this?</b>
A15	The Analysis and Insight team in the Cabinet Office have undertaken a costing exercise based on the responses from the consultation and on public sector workforce data. The Government Response to the consultation provides more detailed analysis of evidence provided by local authorities.
<b>Q16</b>	<b>If costs are to be met by charging, do these cover the full additional costs, and do authorities have the freedom to determine the fee levels consistent with recovering reasonable costs?</b>
A16	N/A
<b>Q17</b>	<b>If your assessment is that the proposal will result in no additional costs being placed on local authorities, how will you ensure that this is the case?</b>
A17	N/A
<b>DCLG New Burdens Team Sign Off</b>	
<b>Q18</b>	<b>Have you shared your assessment with the New Burdens Team?</b>
A18	Yes
<b>Departmental Finance Director Sign Off</b>	
<b>Q19</b>	<b>Please state if this is a first or a final assessment of your proposal. If first please indicate when a final assessment will be submitted.</b>
A19	Final
<p><b>Certification that the estimated additional costs falling on local authorities has been assessed in accordance with the guidance on new burdens and that this will be fully funded. That to the best of finance director's knowledge the estimates are a true and fair assessment of the additional costs falling on authorities.</b></p> <p><b>Confirmation that their department is aware that if the proposed policy or initiative is implemented, there may be an independent post-implementation scrutiny carried out (paid for from within their department's existing resources) and that under or over-payments of grant revealed by the scrutiny may inform future decisions on funding.</b></p> <p><b>Signed: <i>Guy Lester</i></b></p> <p><b>Name: Guy Lester</b></p>	

**Date: 17 May 2016**

**Telephone number:**

**Address: 1 Horse Guards Road, London, SW1A 2HQ**

**Please send the form to the relevant Communities and Local Government contact.**

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For completion by the DCLG New Burdens Team:

Date received: ..... Reference number: .....