

NursingDirect

POLICY NUMBER: **86**

POLICY TITLE: **GOOD LANGUAGE COMPETENCY & GOOD PRACTICE GUIDANCE**

WHO MUST ABIDE BY THIS POLICY? **ALL AGENCY STAFF**



GOOD LANGUAGE COMPETENCY & GOOD PRACTICE GUIDANCE

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This policy was written in line with the NHS employer's "Good Practice Guidance for Employers" July 2014

The Health Service Circular1 (HSC) issued by the Department of Health in June 1999 makes clear that effective communication is a fundamental element in the delivery of high quality healthcare services.

It is essential that everyone involved in the delivery of services has the required level of English language competence to enable them to undertake their role effectively, assure the delivery of safe care and enhance the patient experience.

At Nursing Direct our responsibility is to ensure that any individual they employ or contract is fit to practise.

We do not accept that registration with a professional regulator alone is no guarantee of an individual's competence in English language or its usage. Any assessment of fitness to practise should include seeking assurances of their ability to communicate with colleagues and patients alike. This is consistent with ethnicity and disability discrimination laws.

The assessment of language competence prior to appointment offers protection for patients, employing organisations and prospective employees. While language competence testing in itself will not establish aptitude for effective communication, it does provide a useful baseline to build on.

Nursing Direct will ensure that their recruitment processes do not unlawfully discriminate or contravene the Equality Act 2010. To avoid discrimination employers must treat all job applicants in the same way at each stage of their recruitment process. Further guidance may be found on the Equality and Human Rights Commission website:

www.equalityhumanrights.com/advice-and-guidance/guidance-foremployers/recruitment/

It should also be noted that this guidance does not specifically address the issues that might arise when assessing a person's competence in relation to British Sign Language (and other sign languages). We acknowledge that this is a recognised language in some communities and that employers must ensure equal opportunity when recruiting people who use British Sign Language (and other sign languages) and that reasonable adjustments are made. Further guidance is available on the Equality and Human Rights Commission website:

www.equalityhumanrights.com/publications/your-rights-publications/

ROLE OF THE PROFESSIONAL REGULATORY BODY

Regulatory bodies set professional standards to which all registrants must comply.

These include the requirement for each healthcare professional to communicate effectively with patients and fellow members of staff.

Regulatory bodies also assess the suitability of an individual for registration in order for them to become eligible to practise within a particular profession.

Registration by a regulatory body alone does not guarantee that the registrant has the clinical or language skills to perform a particular role. Employers remain responsible for assuring that the individual applying for the post has the necessary clinical and linguistic skills as part of the recruitment process.

Requirements for registration differ depending on whether applicants are:

- UK nationals
- Nationals from the European Economic area (EEA)*
- Swiss nationals who, since 1 June 2002, benefit under European Law
- Individuals with European Community (EC) rights
- International graduates.

For certain categories of professionals, regulatory bodies cannot assess the level of language competence.

*A list of countries holding EEA status can be found in annex 1.

See annex 2 for a list of the regulatory bodies, their contact details and the language requirements

UK NATIONALS

UK nationals are not required by their regulatory body to demonstrate evidence of English language knowledge. Employers must satisfy themselves that any potential employee has the required level of communication skills for their role.

EEA NATIONALS (INCLUDING SWISS NATIONALS AND INDIVIDUALS WITH AN EC RIGHT)

Individuals who have the right to have their qualifications accepted under European legislation are entitled to register with an appropriate regulatory body, providing they meet the required minimum standard for their particular profession.

These categories of professionals are exempt from any routine assessment for language competency before registration. The exemption from assessment for language competency before registration does not apply to EEA or Swiss nationals who apply for:

- Registration with the Health and Care Professions Council (HCPC) as a speech and language therapist and declare that English is not their first language.
- Registration with the General Medical Council (GMC) if a language assessment is needed to make a decision about the individual's fitness to practise.

Directive 2005/36/EC – the recognition of professional qualifications sets out the rules and procedures which apply to individuals who wish to practise in an EU country other than where they qualified. The European institutions have been reviewing the Directive and agreement of the new rules was reached by the members of the European Parliament in October 2013. The revised Directive will make changes to language controls which means that in the future language competency could be checked by regulators for European health professionals seeking professional registration in the UK. These changes are unlikely to be implemented in the UK before 2015 (the UK government has two years to incorporate the revised Directive into UK law and ensure its subsequent implementation). Until then the 2005/36/EC Directive will remain in force. Further information on when language testing can be required (for example where language skills are part of the qualification) can be found in the European Commission User Guide Everything you need to know about the recognition of professional qualifications in paragraphs 64 and 65.

The European Commission website contains a guide which details the exemption. This is referenced in the Code of Conduct approved by the group of coordinators for the Directive 2005/36/EC on the recognition of professional qualifications. For more information visit:

http://ec.europa.eu/internal_market/qualifications/directive_in_practice/index_en

From 25 June 2014, new rules and regulations came into effect to give the GMC the ability to refuse to grant a licence to a doctor who cannot demonstrate they have the necessary knowledge of English. They have the power to require doctors to undergo a language assessment if this is needed to make a decision about their fitness to practise. The GMC have updated Good Medical Practice, to include an explicit duty that all "doctors must have the necessary knowledge of the English language to provide a good standard of practice and care in the UK."

INTERNATIONAL GRADUATES

Individuals who have trained and qualified outside the EEA must satisfy UK regulatory bodies of their knowledge of English.

They may provide evidence attesting to their linguistic competence in a number of ways.

Several of the health professions regulatory bodies require those who have qualified outside the EEA to obtain a pass in International English Language Testing System (IELTS).

Where IELTS is required, the regulatory body sets the minimum score required in each section of the test and an overall average score that must be attained for registration purposes. Further information on English language proficiency levels can be found in **Annex 2**.

These only test a minimum level of proficiency, therefore employers must still satisfy themselves that an individual is suitable for the specific role they will be undertaking.

CHALLENGES AGAINST DECISION TO RECRUIT

All individuals have a right to seek feedback on any decisions made by a prospective employer not to recruit them. It is therefore strongly recommended that employers work in partnership with unions and their human resource department to develop a fair and consistent process to manage any such feedback. All applicants should be informed of these rights in writing as part of the recruitment process.

OUR ROLE AS AN EMPLOYER

The HSC 1999/137 outlines the responsibilities of any employer or organisation providing staff to health services to assure themselves that each employee or contractor has the appropriate language competence to undertake their specified post. While inclusion on the register of a professional regulatory body indicates that a person is fit to practise in a profession generally, employers have an additional duty to ensure that each individual, whether in a regulated profession or not, is competent to carry out safely and effectively the specific duties of the role appointed to, including establishing suitability of language competence – ‘fit for purpose’ rather than ‘fit to practise’.

In the case of EEA nationals, employers must ensure that they comply with the European Directive 2005/36/EC. Article 53 of the Directive states that migrants should ‘have a knowledge of languages necessary for practising the profession in the host member state’.

Employers should be prepared to accept a range of evidence. For example, the applicant may be a fluent English speaker because they have lived, worked and/or studied in an English-speaking environment.

This does not wholly rule out the use of tests, but employers must not systematically test all applicants from the EEA. For example, making all applicants sit the same test, even though they may be able to demonstrate their competence in other ways, is not permitted.

Employers may request that the applicant provides evidence of English language competency where there is any doubt about their ability to communicate clearly with patients or fellow members of staff, for example where English is not their first language.

Decisions by the employer about what evidence it requires to be satisfied about the applicant’s English language knowledge must be made on a case by case basis and be proportionate in all the circumstances, depending on the work the individual is going to undertake.

This guidance does not specifically deal with the handling of communication concerns about an employee. If, after appointment, it becomes apparent that an individual’s communication skills in English are not at an appropriate level to undertake the specific role, it is the responsibility of the employer to implement measures to support that individual. Where the problem persists and there is significant risk identified or a particular incident has occurred causing great concern, it may be appropriate to initiate an investigation in accordance with the local capability or disciplinary procedure.

Where the individual is registered with a statutory regulatory body, the employer has a duty to inform the regulatory body in cases where an individual does not meet the required professional standards. Referral should be considered where an employer has assessed an individual as being unsuitable for a role due to poor communication skills. If the situation meets the criteria set by the regulatory body, any individual registrant can be assessed through the fitness to practise route if there is potentially a risk to the care of patients.

Trusts appointing medical locums and other agency staff will need to ensure that their agreements with contractors include a service provision and quality obligation to supply employees who have the required level of communication skills to carry out the role.

ROLE OF THE HOME OFFICE, UK VISAS AND IMMIGRATION

Certain groups of non UK/EEA individuals, who are applying to gain entrance to the UK to live, work or study will also have to

demonstrate their English language competence to the UK Visas and Immigration to the level in force at the time of their application. This is subject to change and employers can find more details on the Home Office website:

www.ukba.homeoffice.gov.uk/

HOW CAN APPLICANTS MEET AN ENGLISH LANGUAGE REQUIREMENT?

There are a number of ways an applicant could meet and evidence an English language requirement:

- Be a national of a majority English speaking country or have worked in an organisation/institution where English was the primary language used.
- Pursued part of their education in the UK.
- Hold a degree or relevant educational qualification that was taught in English by a recognised institution abroad.
- Lived in a multi-lingual household in which a relative or a carer used English as their primary form of communication.
- Pass an English language competency test (examples of these have been listed within the ‘English language tests’ section below).

NATIONAL OF A ‘MAJORITY ENGLISH SPEAKING’ COUNTRY

The Home Office has issued a list of majority English speaking countries as outlined below:

Antigua and Barbuda
Australia
The Bahamas
Barbados
Belize
Canada
Dominica
Grenada
Guyana
Jamaica
New Zealand
St Kitts and Nevis
St Lucia
St Vincent and the Grenadines
Trinidad and Tobago
United States of America

Further guidance can be found on the Home Office website at:
www.ukba.homeoffice.gov.uk/workingintheuk/tier2/general/eligibility/pointsassessment/englishlanguage/

EDUCATION TAUGHT IN ENGLISH

Where an applicant has not completed an external assessment but holds an academic qualification equivalent to the level required for the post that has been taught or researched in English, they could provide this as evidence of their English language competence.

The UK National Academic Recognition Information Centre (UK NARIC) is the national agency responsible for providing information and advice about how qualifications and skills from overseas compare to the UK’s national qualification frameworks. They will provide an individual with a letter of comparability for employers to use in the selection process.

Where the qualification has been taken in one of the majority English speaking countries, as listed above, employers may wish to accept this evidence of the qualification being taught in English.

Nursing Direct may wish to request a copy of the original qualification certificate and/or a UK NARIC confirmation letter to verify the detail from the individual. Employers must always verify the individual’s identity and confirm the individual’s nationality as part of the recruiting process.

ENGLISH LANGUAGE TESTS

There are a range of external assessment tools available to determine English language competency. Some of the main ones have been included below; however this list is not exhaustive:

- International Speaking and Listening (IESOL) Diploma: City and Guilds
- International English Language Testing System (IELTS): Cambridge English Language Assessment
- ELKEN test in Practical English Proficiency: The Society for Testing English Proficiency (STEP)
- Test of English as a Foreign Language (TOEFL) – Electronic test: Educational Testing Service
- Test of English for International Communication (TOEIC): Educational Testing Service
- Europass – self assessment language passport: Council of Europe
- Many universities run language courses or may be able to provide a service to meet your individual needs, based on the level of competency individuals might need to carry out the roles and responsibilities of the job being offered.

Individuals from outside the EEA who make an application under tiers 1, 2 and 4 of the points-based immigration system will be required to demonstrate their English language ability. They will therefore need to provide evidence that they have passed an appropriate test listed by the Home Office:

www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/new-approved-english-tests.pdf

Many of the statutory health regulatory bodies have adopted the use of IELTS as the most appropriate tool to assess potential workers for the health care setting. EEA applicants are not required to pass IELTS to gain registration but employers will still be obligated to ensure they are satisfied that the individual has the relevant communication skills to carry out their role.

THE INTERNATIONAL ENGLISH LANGUAGE TESTING SYSTEM (IELTS)

IELTS measures the ability to communicate in English across four language skills –listening, reading, writing and speaking. It has been specifically developed for people who intend to study or work where English is the language of communication and is available in test centres in over 135 countries around the world.

Employers can specify the minimum academic and/or general scores required for a specific role. This enables prospective candidates to make informed decisions on whether to submit an application after completion of the IELTS test or on the basis of a previous IELTS test result.

Individuals will need to provide the prospective employer with documentary evidence of the test result. The certificate will show the applicant's name, the qualification obtained and the date of the award.

Further information about IELTS is available at:

www.ielts.org

EUROPA'S

The Council of Europe has developed a language passport, 'Europass', as part of the European language portfolio. It is a self-assessment tool that enables individuals to assess their proficiency in understanding, speaking and writing any European language and it provides a framework that can be used by employers for standardising and assessing required language skills.

See annex 3.

Using Europass, employers can define the required language proficiency in understanding, speaking and writing of English for a specific role. Individuals can be encouraged to complete a self assessment to estimate if they meet the required proficiencies for each of the specified aspects, thereby providing useful information on whether to submit an application for the specific role.

Employers can also make use of the framework during an interview process to assist in determining an individual's proficiency in understanding and speaking English.

Furthermore, if required, an employer may set a test to determine proficiency in English writing. As part of the selection criteria, employers can pre-determine the minimum level of proficiency required for each of the three aspects; understanding (listening and reading), speaking (spoken interaction and spoken production) and writing.

Further information about Europass is available at:

www.europass.cedefop.europa.eu

We have chosen to use Europass as our measuring tool for Nursing Direct staff proficiency at understanding (listening and reading), speaking (spoken interaction and spoken production) and writing.

Understanding listening and reading and writing will be tested at the completion of application in two stages

- The completion of an application pack with the interviewer
- Completion of two comprehension questions that will be on a separate Nursing Direct Application Process Form

The speaking and interaction will be judged by interviewers on the panel

APPLY TO NURSING DIRECT

We decide on testing on the following criteria

- Are you from and educated in the UK
- Are you working full time in the NHS and have taken a language test in the last 3 years
- Are you from a EEA Country in Annex 1
- From any other country

No testing is required but as a double check they will be interviewed face to face and application must be filled out with recruiter

They will give candidates a one page test to complete and on the reverse they will judge the understanding (listening and reading), speaking (spoken interaction and spoken production) and writing.

HOW TO MAKE THIS WORK

Employers may wish to consider setting up a flexible recruitment and assessment process:

- Assign an HR lead to look at recruitment systems, job descriptions and person specifications
- Set up a small group to involve recruiting managers, HR and staff side to look at selecting the evaluation method and determining appropriate levels
- Obtain sign off through local partnership forum or negotiating committee
- Incorporate in the recruitment and selection training programme information about language competency assessment, which includes knowledge about the rights of the individual, for example, European law
- Review language competence levels and evaluation methods annually to ensure they meet the minimum relevant competency and legal requirements.

FURTHER INFORMATION

As an employer we are aware that the European institutions have been reviewing the Directive on the Recognition of Professional Qualifications (Directive 2005/36/EC). The revised Directive will make changes to language controls which means that in the future language competency could be checked by regulators for European health professionals seeking professional registration in the UK. These changes are unlikely to be implemented in the UK before 2015 (the UK government has two years to incorporate the revised Directive into UK law and ensure its subsequent implementation). Until then the 2005/36/ EC Directive will remain in force.

ANNEX 1 – LIST OF EEA COUNTRIES

Austria	Latvia
Belgium	*Liechtenstein
Bulgaria	Lithuania
Cyprus	Luxembourg
Croatia (from July 2013)	Malta
Czech Republic	Netherlands
Denmark	*Norway
Estonia	Poland
Finland	Portugal
France	Romania
Germany	Slovakia
Greece	Slovenia
Hungary	Spain
Norway	Sweden
*Iceland	**Switzerland
Irish Republic	United Kingdom
Italy	

*Iceland, Liechtenstein and Norway are not members of the European Union (EU) but citizens of these countries have the same rights to enter, live in and work in the United Kingdom as EU citizens. These categories of professionals are exempt from any routine assessment for language competency before registration.

**Citizens of Switzerland (although it is not part of the EEA) should be treated in the same way as EEA citizens. These categories of professionals are exempt from any routine assessment for language competency before registration.

REGULATOR	LANGUAGE REQUIREMENTS	CONTACT DETAILS
General Medical Council (GMC)	<p>Requires an IELTS Academic overall score of 7.5.</p> <p>The score must be achieved in a single sitting of the test.</p> <p>The IELTS Test Report Form must be no more than two years old when submitted.</p> <p>Under certain circumstances the GMC will consider evidence other than an IELTS certificate.</p> <p>Further information can be found on the GMC website.</p>	<p>General Medical Council, Regent's Place, 350 Euston Road, London NW1 3JN</p> <p>www.gmc-uk.org gmc@gmc-uk.org</p> <p>T: 0845 357 8001</p>
Nursing and Midwifery Council (NMC)	<p>IELTS required score for overseas applicants is 7.0.</p> <p>The IELTS Test Report Form must be no more than two years old when submitted.</p>	<p>Nursing and Midwifery Council, 23 Portland Place, London W1B 1PZ</p> <p>www.nmc-uk.org advice@nmc-uk.org</p> <p>T: 0207 333 9333</p>
Health and Care Professions Council (HCPC)	<p>The English language proficiency standard required by the HCPC is IELTS score 7.0 with no single score less than 6.5, or the equivalent.</p> <p>This applies to all HCPC professions other than speech and language therapy, for which an IELTS score of 8.0, is required (with no single score less than 7.5)</p>	<p>Health and Care Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU</p> <p>www.hcpc-uk.org registration@hcpc-uk.org</p> <p>T: 0845 300 618</p>

	A1	A2	B1	B2	C1	C1	
LISTENING	I can understand familiar words and very basic phrases concerning myself, my family and immediate concrete surroundings when people speak slowly and clearly.	I can understand phrases and the highest frequency vocabulary related to areas of most immediate personal relevance (e.g. very basic personal and family information, shopping, local area, employment). I can catch the main point in short, clear, simple messages and announcements	I can understand the main points of clear standard speech on familiar matters regularly encountered in work, school, leisure, etc. I can understand the main point of many radio or TV programmes on current affairs or topics of personal or professional interest when the delivery is relatively slow and clear.	I can understand extended speech even when it is not clearly structured and when relationships are only implied and not signalled explicitly. I can understand television programmes and films without too much effort.	I can understand extended speech even when it is not clearly structured and when relationships are only implied and not signalled explicitly. I can understand television programmes and films without too much effort.	I have no difficulty in understanding any kind of spoken language, whether live or broadcast, even when delivered at fast native speed, provided I have some time to get familiar with the accent.	UNDERSTANDING

	A1	A2	B1	B2	C1	C1	
READING	I can understand familiar names, words and very simple sentences, for example on notices and posters or in catalogues.	I can read very short, simple texts. I can find specific, predictable information in simple everyday material such as advertisements, prospectuses, menus and timetables and I can understand short simple personal letters.	I can understand texts that consist mainly of high frequency everyday or job-related language. I can understand the description of events, feelings and wishes in personal letters	I can read articles and reports concerned with contemporary problems in which the writers adopt particular attitudes or viewpoints. I can understand contemporary literary prose.	I can understand long and complex factual and literary texts, appreciating distinctions of style. I can understand specialised articles and longer technical instructions, even when they do not relate to my field.	I can read with ease virtually all forms of the written language, including abstract, structurally or linguistically complex texts such as manuals, specialised articles and literary works	UNDERSTANDING