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Welsh Government  
Consultation – summary of responses

## New registration categories for the Education Workforce Council

Proposals to add to the categories of those required to register with the Education Workforce Council – second consultation on draft statutory instrument

March 2023

## Overview

This report presents a second summary of the views and perspectives held by respondents with regard to some inconsistencies in the current registration requirements of those working with our young people.

## Action required

This document is for information only.

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

## Contact details

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## Additional copies

This summary of responses and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [New registration categories for the Education Workforce Council: second consultation on draft statutory instrument | GOV.WALES](#)

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## Introduction

1. Those working in education and youth work are at the core of helping children and young people be safe, learn and thrive in Wales. The Welsh Government seeks to positively reinforce the professionalism of this vital workforce. We have consulted twice on our proposals to address some inconsistencies in the current registration requirements of those working with children and young people in Wales.
2. The second consultation ran between 9 December 2022 and 17 February 2023. The Welsh Government is grateful to everyone who took the time to provide their views on the draft statutory instrument, which includes the proposed fee and subsidy structure.
3. It is our plan to introduce the new legislation later this spring. The EWC is undertaking preparatory work to introduce the new categories of registration. This includes a programme of engagement with employers and prospective registrants to explain the new legal requirements.
4. These proposals support the work to review the current arrangements for regulating independent schools in Wales. The review seeks to identify the necessary changes to the relevant independent school regulations to reflect current Welsh Government policy. The changes will ensure they safeguard and protect the wellbeing of learners in independent schools.
5. A range of views were received from 29 responses. This document summarises the key themes from the responses.

## How does registration currently work?

6. As an independent statutory regulator, the Education Workforce Council's (EWC) role is to protect the public. It does this by maintaining a register of education practitioners (the Register). People falling into the following categories are currently required by law to register:
  - Qualified school teachers and learning support workers delivering specified services in maintained schools
  - Teachers providing education in further education institutions
  - Learning support workers providing specified services in further education institutions
  - Work-based learning practitioners providing work-based learning practitioner services for or on behalf of a work-based learning body
  - Qualified youth workers and youth support workers delivering youth development services on behalf of a relevant body (a local authority, a governing body of a school, a further education institution, or a voluntary body).
7. The register is available to the public via the [EWC's website](#). Currently, the EWC has approximately 85,000 registrants.

## **What was the proposal for change?**

8. The draft Order added the following new categories:
  - Independent school teacher
  - Independent school learning support worker
  - Independent specialist post-16 institution teacher
  - Independent specialist post-16 institution learning support worker
9. The draft Order also proposed the following amendments to the current registration categories:
  - School teacher - extended to ensure all heads of maintained schools, who may or may not have teaching responsibilities, are required to register.
  - Youth worker - extended to include paid qualified youth workers (with provisional registration for those working towards qualified youth worker status) in any setting in Wales.
  - Youth support worker - extended to include paid qualified youth support workers (with provisional registration for those working towards qualified youth support worker status) in any setting in Wales.
10. The draft Order also updated the list of youth work and youth worker qualifications and imposed duties on the EWC to prepare and maintain the list.

## **Summary of responses**

11. The consultation received 29 responses from a cross-section of society, including the public, trade unions, regulatory bodies and various representative bodies, mostly within the education sector in Wales.
12. A total of 13 responses were provided where no name or organisation was given, or where the respondent asked for their response to be treated anonymously. Wishes expressed by respondents to remain anonymous have been respected throughout this summary report. A list of respondents is provided at Annex A.

## **Staff working at independent schools**

13. There was good support for the addition of new categories to require persons to register as a school teacher or learning support worker at independent schools.
14. There were 25 responses to Question 1 – Do you agree that the draft Order accurately reflects the proposed additional registration categories for independent schools? Of these, 60% of respondents agreed and 12% did not agree with the proposals. In addition, 12% were unsure.
15. Some respondents were concerned that the Order does not go far enough to ensure all relevant staff in independent schools must register. In particular, it was felt that those in leadership roles as well as the headteacher should be included.

16. The Welsh Government agrees that the legislation should be clarified to ensure that all senior leaders in independent schools register. The final Order will therefore clarify this requirement, whilst ensuring that other members of staff – such as bursars, governors and business managers – will not be required to register as teachers.
17. There was also a concern about those staff employed to provide care and therapeutic services to learners in independent schools and whether they should register with the EWC. A proportion of these staff will be registered with Social Care Wales, and this will depend on the specific role that individuals undertake in their setting.
18. One respondent suggested the definition of a learning support worker should include those who may work in both the residential and educational setting within an independent school.
19. Individuals must register with the relevant regulator based on their roles and responsibility. It is recognised that some individuals may be required to register with both Social Care Wales (SCW) and also the EWC if they have more than one role or a role which combines both providing care in a residential setting and support in an education setting. Both SCW and the EWC provide advice on individual cases.
20. There was a concern about the registration of peripatetic and visiting music teachers who provide services in independent schools as independent school teachers. It was felt that these teachers should not be subject to the same fee as maintained and independent school teachers and instead there should be a separate category at a reduced fee.
21. One respondent commented about the importance of ensuring all relevant employees in independent schools are registered. The list of roles could be expanded to make this clearer.
22. It is not possible to provide absolute guidance for every circumstance and the requirement to register depends to a certain extent on the role being undertaken and the arrangements in place with their employer. The EWC provides helpful advice to all employers to ensure the right people are registered. It is incumbent on education settings and employers to ensure that all their staff, no matter their employment status or registration requirement, are suitable to work with young people and that all safeguarding guidance is followed.

### **Head teachers at maintained schools**

23. There was strong support for the clarification of the requirement for all headteachers at maintained schools to be registered.

24. There were 24 responses to Question 2 – Do you agree that the draft Order clarifies the requirement for all headteachers at maintained schools to be registered? Of these, 71% of respondents agreed and 8% did not agree with the proposals. In addition, 21% were unsure.
25. Whilst most respondents agreed that headteachers should be required to register in the category of school teacher (or independent school teacher for the independent school sector), some commented that the legislation should go further. There are other senior leaders who perform similar functions to headteachers or fulfil headteacher roles on a temporary basis who should also be covered by the new Order.
26. The Welsh Government agrees that the legislation should be clarified to ensure that all senior leaders in schools should register. The final Order will therefore clarify this requirement, whilst ensuring that other members of staff – such as bursars, governors and business managers – will not be required to register as teachers.

### **Youth workers and youth support workers**

27. There was overall support for the proposal to extend registration to all qualified youth workers and youth support workers paid to deliver youth development services for a relevant employer, including provisional registration for those working towards qualification.
28. There were 26 responses to Question 3 – Do you agree that the draft Order accurately reflects the proposed amendments for the youth work sector? Of these, 69% of respondents agreed with the proposals, 19% disagreed and a further 12% of respondents were unsure.
29. Of those who agreed with the proposed amendments, a number noted that the draft Order clearly sets out who will be required to register and were supportive more generally of the approach being taken. One respondent reiterated points raised during the first consultation on the importance of ensuring any further steps taken regarding registration of the workforce to consider the role of both the voluntary and statutory sector to avoid a ‘two tier’ system.
30. Other comments included emphasising the importance of ensuring any work on the definition of youth work and its application in further changes to registration requirements is aligned with terminology used in other contexts. This reinforces the need for the Welsh Government to undertake careful work with stakeholders to ensure there is a shared understanding across the sector and beyond of the purpose of youth work. Comments provided via this consultation will be fed into that work.

31. There were 24 responses to Question 4 – Do you agree that the amendments made to Schedules 1 and 2 of the Education Workforce Council (Registration of Youth Workers, Youth Support Workers and Work Based Learning Practitioners) Order 2016 present an accurate list of youth worker and youth support worker qualifications (including equivalent qualifications across the UK and relevant historical qualifications)? Of these, 54% of respondents agreed, 17% did not agree with the proposals. In addition, 29% were unsure.
32. Most respondents did not comment on the detail of the list of qualifications, which was to be expected. However, a number of respondents are supportive of the proposal to remove the Level 2 qualifications from the Order as they do not confer youth support worker status, and the inclusion of a ‘saving’ provision for those registrants who currently hold such qualifications to continue to be required to register for a period is also welcomed.
33. Some respondents have emphasised the importance of ensuring sufficient support is in place to develop the workforce, particularly those who can work through the medium of Welsh. A number of respondents have noted their frustration that the list of qualifications will remain within the Order rather than be held elsewhere as originally intended. As noted in the consultation document, detailed consideration of this proposal led to the conclusion that paragraph 2 of Schedule 2 to the Education (Wales) Act 2014 does not allow the Welsh Ministers to change where the list is held.

### **Independent special post–16 institutions**

34. There were 22 responses to Question 5 – Do you agree that the draft Order accurately reflects the proposed new registration categories for Independent Special Post-16 Institutions (ISPIs)? Of these, 41% of respondents agreed and 14% did not agree with the proposals. In addition, 45% were unsure.
35. One respondent commented that the Order should make it clear that only those senior leaders who are leaders of education and/or training should be required to register with EWC to avoid including senior leaders who have no direct responsibility for the delivery of teaching or training within the institution.
36. The Welsh Government agrees that the legislation should be clarified. The final Order will therefore clarify this requirement, whilst ensuring that other members of staff who do not undertake relevant role will not be required to register as teachers.
37. One respondent suggested the definition of a learning support worker should include those who may work in both the residential and educational setting within an independent specialist post-16 institution.
38. Individuals must register with the relevant regulator based on their roles and responsibility. As with staff in independent school settings, it is recognised that some individuals may be required to register with both Social Care Wales (SCW) and the EWC, depending on the nature of their role. Both SCW and the EWC provide helpful advice to employers on this matter.



## **Fee structure**

39. There was support from the majority of respondents for the proposed fee structure.
40. There were 24 responses to Question 6 – Do you agree with the proposed fee and subsidy structure for the proposed new registration categories? Of these, 63% of respondents agreed and 25% did not agree with the proposals. In addition, 13% were unsure.
41. As with the first consultation, whilst acknowledging the importance of registration, some respondents asked what they will get for their registration fee. Details of the benefits of registration for each sector are provided on the EWC's website.
42. There was some confusion as to how the subsidies work and how individuals pay for their registration. Details of how this works in practice can be found on the EWC's website.
43. There were different views presented as to whether staff in independent schools should be subject to the same subsidies as those in the maintained sector. Some respondents welcomed the parity, whilst others felt only the maintained sector should be subsidised.
44. Clarification of the additional number of people who will now be required to register, and the number of additional fitness to practice proceedings that may be expected was sought. Given the uncertainty about the number of individuals in the youth work sector, an estimate of 3,000 was given in the consultation document. The estimated additional number of registrants is closer to 1,900. The Welsh Government acknowledges that the estimate of 18 additional fitness to practice proceedings provided in the Explanatory Memorandum was too high. Based on its extensive casework experience, the EWC estimates the increased number of registrants would result in 2-3 additional fitness to practise referrals per year.

## **Analysis of the impact of the changes**

45. Most respondents who answered this question were content with our analysis of the potential impacts of the proposed changes.
46. There were 23 responses to Question 7 – Do you agree with our analysis of the potential impacts of the proposed new registration categories? Of these, 57% of respondents agreed with the proposals 30% did not agree and 13% were unsure.
47. There was agreement that whilst imposing a fee for registration to individuals is never likely to be welcomed, the benefits to learners and public confidence in the system outweighed the financial costs.

## Related issues

48. Question 8 asked if any further changes to the legislation associated with registration with the EWC should be considered. In addition, Question 11 asked gave the opportunity for respondents to comment on any further related issues, not specifically addressed by the questions. There were comments from 16 respondents.
49. One respondent was concerned about private home tutors not being required to register with the EWC. Whilst tutors who are employed on a private basis by individuals would not register unless ordinarily captured by one of the registration categories (for example, a registered teacher who also works as a home tutor), home tutors who are employed by a local authority (for example, to teach children unable to attend school on a regular basis) must register in the school teacher category. Many private home tutoring companies do require their tutors to register as this provides additional assurance to parents about the suitability of a person tutoring their child.
50. Clarification of the Welsh Government's intentions behind allowing teachers to work as learning support staff without registration in that category was sought. The Welsh Government does not intend to allow any individual to work in any role that requires registration without registering in each relevant category. The final Order will be amended to clarify this position.
51. A request for unqualified teachers working in the maintained schools sector to be registered as teachers was made. Currently these individuals are registered as learning support workers since they are required to have qualified teacher status (QTS) to work as a teacher in the maintained schools sector. An argument for registering them separately was made, to address this 'anomaly'. The Welsh Government will consider this matter.
52. One respondent requested that the legislation governing which bodies are subject to the scrutiny of the Public Services Ombudsman for Wales (PSOW) be reviewed to include the Education Workforce Council. The remit of the PSOW is overseen by the Finance Committee of the Senedd. As such, the Welsh Government will not comment further on this matter in this document.
53. One respondent sought clarification on whether agency supply staff would be required to register with the EWC. This requirement has not changed and all agency supply staff must register. Further information can be found on the EWC website.

## **The Welsh language**

54. The consultation asked the following questions to establish views on the effect on and opportunities for use of the Welsh language:
- Question 9 – We would like to know your views on the effects that our proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?
  - Question 10 – Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.
55. Question 9 received 17 responses and 13 responses were received to Question 10. Most respondents did not consider the proposals would have any negative effects on the use of the Welsh language. One respondent was concerned about the number of Welsh speakers within the youth work sector and the need to ensure provision was available to support training through the medium of Welsh.

## **Welsh Government response and next steps**

56. The Welsh Government is grateful to everyone who took the time to respond to the consultation. As a summary document, not all the issues raised in responses will have been reflected fully, but each response has been considered carefully. Therefore, it is the intention to review the draft Order and publish the final Order for enforcement later in the spring.
57. The EWC has raised some issues with the Welsh Government concerning the legislation around fitness to practice panels. The additional registration groups, and the relatively small number of individuals who will form those groups, may make the constitution of panels problematic. The Welsh Government will work with the EWC on options to resolve this issue with a view to undertaking further consultation on any proposed changes.
58. The Welsh Government will also explore any additional, related issues raised in this consultation and decide if further changes are required in phase 2 of this work.

## **Annex A: List of respondents**

A total of 29 responses were received to this consultation. Of these, 11 respondents asked to remain anonymous and a further three replied anonymously. In addition to the private citizen who replied, those listed here are the people and organisations who gave their permission to publish their details.

Rocio Cifuentes MBE, Children's Commissioner for Wales

Alwyn Ward, Cyngor Sir Ceredigion

Sarah Lloyd-Davies, Estyn

Steve Drowley, Education Training Standards (ETS) Cymru

Elizabeth Brimble, Education Workforce Council (EWC)

Jane Morris, Gwasanaethau Governors Cymru Services

Andy Warnock, Musicians' Union

Neil Butler, NASUWT The Teachers' Union Cymru

Bethan Williams, Prince's Trust Cymru

Tim Opie, Principal Youth Officers' Group (PYOG) and Association of Directors of Education in Wales (ADEW), Welsh Local Government Association (WLGA)

Donna Crossman, South Wales Fire and Rescue Service

Mason Morgan, South Wales Police Youth Volunteer Scheme

Iona A. Davies, Undeb Cenedlaethol Athrawon Cymru (UCAC)

Paul Glaze, Council for Wales of Voluntary Youth Services