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PUBLICATION

New registration categories for the Education Workforce Council: second consultation on draft statutory instrument

We want your views on proposals for amending the categories required to register with the Education Workforce Council.

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Summary

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 consulted in March 2022 on our proposals to address some inconsistencies in the current registration requirements of those working with children and young people in Wales.

2. The Welsh Government is grateful to everyone who took the time to provide their feedback on our proposals. This second consultation seeks specific views on the draft new statutory instrument, including the new proposed fee and subsidy structure. It is our plan to introduce this new legislation in spring 2023.

3. We have been careful to analyse the potential impacts on the education and youth work workforce in Wales to ensure there is parity, regardless of where they work. You are invited to comment on the robustness and accuracy of our analysis through this consultation.

4. The consultation response form allows you to give us your opinions and thoughts. You are welcome to comment on all or some of our proposals.

How does registration currently work?

5. Registration is a licence to practise a particular profession. The range of regulated professions in the UK is extensive and growing. Examples include the legal profession, the health and social care sectors, accountancy, engineering and architecture.

6. Registration means the public can be reassured the people working in a particular profession are suitably qualified, their knowledge and skills are kept up to date and their conduct and competence is of an appropriate standard.

7. 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)

8. The register is available to the public via the **EWC's website** (<https://www.myewc.wales/en/>). Currently, the EWC has approximately 85,000 registrants.

9. As is the case with all other regulated professions, persons registered with the EWC benefit from being able to demonstrate they are part of a profession of high status and standing, with specific entry requirements and expectations of conduct and competence .

10. This means the public can be confident those on the Register can demonstrate they have the skills, knowledge and character to safely and effectively carry out the duties required of their profession. The EWC's Code of

Professional Conduct and Practice sets out the key principles which the public can expect.

11. In addition to the benefits of professionalism and public trust, those registered with the EWC have access to a range of support and professional development opportunities. Currently these include access to training and jobs through Educators Wales, access to events, good practice guides and online books and research journals, plus the Professional Learning Passport which supports registrants to capture, reflect upon, share and plan their learning. Via the regular newsletters and updates, they also have the opportunity to shape policy by responding to consultations and surveys and joining working groups.

12. The EWC must investigate when it is alleged a registered person is guilty of unacceptable professional conduct, serious professional incompetence or has been convicted of a **relevant offence** (<https://www.legislation.gov.uk/anaw/2014/5/section/27/enacted>). An investigation can lead to a disciplinary order, which can in the most serious cases result in removal from the register.

13. The responsibility for ensuring only registered practitioners are employed to undertake the work specific to their category of registration lies with the employer or agency, as well as the practitioners themselves.

What do we want to change?

14. The consultation we carried out earlier in 2022 set out the gaps in the current registration requirements. These gaps mean the level of professional regulation differs across the education workforce, even when individuals are carrying out very similar roles. For example, a teacher working at a maintained school must register with the EWC, whereas a teacher doing a virtually identical job at an independent school does not.

15. Our aims in making these changes are to:

- strengthen the safeguarding measures in place to protect learners and staff
- provide parity for those working in similar roles
- ensure a level of professionalism across all parts of the education sector
- set expected behaviours across the sectors
- provide staff across the education sector access to a range of training and development tools provided through the EWC
- provide a route for individuals or organisations to raise concerns and have those concerns investigated independently

16. The summary of responses published in October 2022 showed overall support for the proposals to create additional categories or amend current categories of registrants. As a result, new categories for teachers and learning support workers in independent schools are included in the draft Order.

17. In our initial consultation, we stated that headteachers at maintained schools are required to register with the EWC even if they have no teaching commitment at the school. However, in the course of our work, we have been made aware that there is no requirement set out in the legislation for headteachers of maintained schools to register if they do not provide the specified work that a teacher does. However, they can register if they wish to provide the specified work and, in practice, currently all headteachers of maintained schools register in the school teacher category.

18. We need to ensure all safeguarding measures are in place, now and for the future. Therefore, the draft Order updates the school teacher category to include headteachers in non-teaching roles. The draft Order also includes principals in non-teaching roles within independent schools.

19. The consultation responses also helped us find a way forward to update the list of youth worker and youth support worker qualifications. It also confirmed to us that we should not be requiring the registration of volunteers. Paid unqualified

youth workers and unqualified youth support workers will not be required to register, and further stakeholder engagement will be undertaken to develop a clear definition of youth work.

Teachers at independent schools

20. A new category has been added to the draft Order to require persons to register in the category of independent school teacher if they provide any of the following “independent school teacher services” in or for an independent school in Wales:

- planning and preparing lessons and courses for pupils
- delivering lessons to pupils
- assessing the development, progress and attainment of pupils
- reporting on the development, progress and attainment of pupils
- having the senior leadership role in managing the school

21. This category is expected to include staff who carry out any of the following roles (this is not an exhaustive list):

- full-time teaching staff
- part-time teaching staff
- supply staff, procured through an agency or otherwise
- peripatetic teaching staff, for example music and sports teachers
- advisory teaching staff who spend a proportion of their time in a teaching capacity, involving direct unsupervised pupil contact
- home tutors who are employed by an independent school to teach learners unable to attend school on a regular basis
- any other staff who may have more than one role within a school, one of which includes teaching, for example houseparent, careers advisor, tutors

22. If a school is unclear which staff will be required to register, the EWC will

work with them to provide clarification.

Learning support workers at independent schools

23. The draft Order includes a second new category which requires learning support workers at independent schools to register. They will be required to register if they support the provision of the “independent school teacher services” (para 20 above) in or for an independent school in Wales.

24. This category is expected to include staff who carry out any of the following roles (this is not an exhaustive list):

- teaching assistant
- classroom assistant
- learning support assistant
- higher level teaching assistant (HLTA)
- special/additional needs assistant
- bilingual support assistant
- pastoral/welfare assistant
- support assistant
- tutors (residential and non–residential)
- early years assistants
- instructors
- cover supervisor
- technicians
- learning coaches

25. If a school is unsure which staff will be required to register, the EWC will work with them to provide clarification.

Headteachers in maintained schools

26. Currently headteachers of maintained schools are required to register if they fall within the category of 'school teacher', i.e., they are qualified teachers and provide the specified work. However, if headteachers do not carry out the specified work for school teachers there is no requirement for them to register with the EWC.

27. We know that in practice all headteachers register within the school teacher category. However, there is a risk for the future if the requirement to register does not capture them all. Therefore, we propose using this opportunity to amend the school teacher category to require all headteachers in a non-teaching role to be registered. This will include a headteacher who is responsible for leading the learning at the school, for example an executive headteacher, head of a cluster of schools or a proprietor.

Youth workers and youth support workers

28. The registration requirements have been extended to include qualified youth workers and youth support workers who are paid to deliver youth development services for a relevant employer. A relevant employer means a person who employs or otherwise engages persons to provide youth development services in Wales. This means that registration of youth support workers and youth workers would no longer be restricted to the relevant bodies that are listed in the 2016 Order. The amendments also enables provisional registration for those working towards such a qualification and required provisional registration for those eligible for provisional registration and who are providing youth development services for or on behalf of a relevant employer (unless they are providing the services as a volunteer).

29. In the initial consultation, we proposed to require registration of individuals who are employed to deliver youth work services but who do not hold a recognised youth worker or youth support worker qualification. This could include people who have worked in a setting for some time and worked their way to their current role but have not undertaken any youth work specific qualifications.

30. However, having analysed the responses from the last consultation and considered the matter in further detail, it is clear that more policy work would be needed to develop a definition of youth work for the purposes of registration of those who do not hold a recognised youth work qualification.

31. It is crucial that we get the definition right to avoid unintended consequences. Further stakeholder engagement will take place on this issue, separately to this consultation. This will be undertaken in the context of wider policy work around the Interim Youth Work Board's proposal to strengthen the legislative basis for youth work. The draft Order does not, therefore, impose registration requirements for unqualified paid youth workers and unqualified youth support workers at this stage. In the meantime, we are working with partners to identify how to raise awareness of good safeguarding practice across the sector and explore opportunities for upskilling the workforce in this regard.

32. For proportionality, with regards to individuals working towards a recognised youth work qualification, the draft Order restricts the requirement for registration to those who are working towards a qualification and employed to deliver youth work. This is because those who are also employed to deliver youth work may have more contact with young people. However, the draft Order enables other individuals, not employed to deliver youth work but working towards qualified youth worker or youth support worker status to provisionally register on a voluntary basis. This should increase equity of access to support and professional development offered by the EWC across that cohort.

Youth work qualifications

33. In the consultation held during spring 2022 we proposed to remove the list of youth worker and youth support worker qualifications from the Education Workforce Council (Registration of Youth Workers, Youth Support Workers and Work Based Learning Practitioners) Order 2016 and hold it elsewhere. The list sets out the youth worker and youth support worker qualifications approved by the Joint Negotiating Committee (JNC) for Youth and Community Workers. It therefore defines what is meant by a qualified youth worker or qualified youth support worker. Our intention was to enable updates to be made to it more quickly. The consultation responses were largely supportive of this proposal.

34. However, detailed consideration of this proposal has 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.

35. We remain keen to ensure that the list is kept as up to date as possible and have explored alternative ways of achieving this aim with the EWC and other key stakeholders. The draft Order subsequently imposes duties on the EWC to prepare and maintain a list of qualifications and to inform the Welsh Ministers on an annual basis of any changes they consider are required to the list in the Order.

36. We believe this will provide a structured approach to the updating of the list of youth worker and youth support worker qualifications in the Order. It will also assist the Welsh Government to identify the impact of the changes to the list held by the EWC, so that decisions can be made on what action is required. This should ensure the list is updated when necessary, so that individuals holding relevant approved qualifications can register at the earliest opportunity.

37. The spring 2022 consultation outlined that the Level 2 Certificate in Youth Work Practice, which is included in the 2016 Order, does not provide full youth

support worker qualification status. Discussions with our stakeholders and further consideration of how best to address this identified that the Level 2 Award in Youth Work Practice (also included in the 2016 Order), does not provide qualified youth support worker status either.

38. To strengthen the professionalisation of the youth work workforce we have decided to remove the Level 2 qualifications from the 2016 Order. We are aware that the inclusion of the Level 2 qualifications in the 2016 Order has caused some confusion about the qualification status of individuals awarded with these. To provide clarity and ensure the integrity of the list, the revised draft Order removes these Level 2 qualifications.

39. We know there are a number of people who hold these Level 2 qualifications, and that this will affect their eligibility to register. Of those individuals, some may be working towards a Level 3 qualification or above and would be required to provisionally register under the new proposals, and those who are not working towards such qualifications will not be able to register. However, despite the removal of the Level 2 qualifications from the order, those already registered with a Level 2 qualification continue to register in the category of youth support worker for two years from the commencement of the order (unless they enrol on a course that would require provisional registration).

40. This would allow time for any individuals not currently working towards a higher level qualification to consider their options and enrol on a course that provides eligibility for provisional registration (if they wished to do so). This proposal would also avoid a gap in registration for these individuals. In addition, we will work with our partners to ensure individuals are aware of the available routes to qualified status and encourage them to reach this point.

41. Other changes to the draft Order include the addition of approved historical equivalent qualifications. This means individuals holding such qualifications will be eligible to register. In addition, there are a couple of qualifications that are currently awaiting approval subject to completion of the relevant processes,

these will be added to the list in the final Order.

Staff working in post-16 education

42. The draft Order includes two new categories to require people to register if they work in an independent special post-16 institutions (ISPI). One category will include principals and teachers. The second category will include learning support workers.

43. When we made our original proposals earlier this year, we included the mandatory registration of:

- those who only deliver higher education courses at FE institutions
- principals and senior leaders (including Chief Executive Officers) in non-teaching roles in post-16 institutions and work-based learning organisations
- practitioners providing community-based adult learning for or on behalf of a local authority
- publicly funded work-based learning (WBL) providers who are not funded directly by the Welsh Government to deliver apprenticeship programmes

44. However, on further consideration we do not feel it is feasible to go further with these options currently. There is further work we must do to update the categories, which cannot be done within the timescale for this draft Order. In addition, it is not possible to establish who the WBL providers might be or how they are publicly funded, as there is no central repository for this information. This may be an area we consider in more detail in the future should the situation change.

Volunteers

45. The majority of responses to the consultation agreed with us that it would be unreasonable or inappropriate to require volunteers in the education sector to register with the EWC. Requiring such volunteers to register with the EWC would place them in a different position from volunteers across other sectors. It would limit the ability to attract informal and short-term support. Therefore, the draft Order does not contain a requirement for volunteers to register with the EWC.

Fees and subsidies

46. Registration with the EWC comes with an annual fee for all registrants. This is set out in the Education Workforce Council (Registration Fees) Regulations 2017 at £46 per registrant. The Welsh Government subsidises the fee for registrants via a payment direct to the EWC. This subsidy means the fee payable by registrants is £45 or £15 dependent on the category of registration. Further information about the current fees is available on the [EWC's website \(https://www.ewc.wales/site/index.php/en/registration/registration-fees.html\)](https://www.ewc.wales/site/index.php/en/registration/registration-fees.html).

47. The Welsh Government believes that members of the education workforce in the maintained and independent sectors should be treated in the same way. This means applying the subsidy for teachers and learning support workers across both sectors in the same way.

48. We therefore propose to keep the annual fee at £46 for all registrants, including the new categories set out in our draft legislation. We are seeking your views on the fee and subsidy framework. Table 1 sets out the current framework and the proposed framework for the new categories.

Table 1: current and proposed fees and subsidies framework

Current registration category	Annual registration fee	Annual fee inc subsidy*
School teacher	£46	£45
School learning support worker	£46	£15
FE teacher	£46	£45
FE learning support worker	£46	£15
Youth worker	£46	£45
Youth support worker	£46	£15
Work based learning practitioner	£46	£45
New or amended registration category	Annual registration fee	Annual fee inc subsidy
Independent school teacher	£46	£45
Independent school learning support worker	£46	£15
ISPI teacher	£46	£45

New or amended registration category	Annual registration fee	Annual fee inc subsidy
ISPI learning support worker	£46	£15
Provisional youth worker	£46	£45
Provisional youth support worker	£46	£15

*some employers further subsidise or pay fees for their employees

Consultation questions

49. Thank you for taking the time to read this document and the associated draft Order. Please feel free to make any comment you wish. However, we would particularly welcome comments on any or all of the questions within the consultation response form. If you would like to add more, please make use of the space available in the form.

Question 1

Do you agree that the draft Order accurately reflects the proposed additional registration categories for independent schools?

Question 2

Do you agree that the draft Order clarifies the requirement for all headteachers

at maintained schools to be registered?

Question 3

Do you agree that the draft Order accurately reflects the proposed amendments for the youth work sector?

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)?

Question 5

Do you agree that the draft Order accurately reflects the proposed new registration categories for Independent Special Post-16 Institutions (ISPIs)?

Question 6

Do you agree with the proposed fee and subsidy structure for the proposed new registration categories?

Question 7

Do you agree with our analysis of the potential impacts of the proposed new

registration categories?

Question 8

Do you think there are any further changes to the legislation associated with registration with the Education Workforce Council (EWC) that should be considered?

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.

50. Please use the consultation response form to respond to the above questions.

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:

Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: Data.ProtectionOfficer@gov.wales
(<mailto:Data.ProtectionOfficer@gov.wales>)

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire

SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: **Information Commissioner's Office** (<https://ico.org.uk/>)

Further information and related documents

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

- **Education Workforce Council** (<https://www.ewc.wales/site/index.php/en/>)
- **The Independent School Standards (Wales) Regulations 2003** (<https://www.legislation.gov.uk/wsi/2003/3234/contents/made>)
- **The Independent Schools (Provision of Information) (Wales) Regulations 2003** (<https://www.legislation.gov.uk/wsi/2003/3230/made>)
- **Education (Wales) Act 2014** (<https://www.legislation.gov.uk/anaw/2014/5/contents/enacted>)
- **The Education Workforce Council (Registration of Youth Workers, Youth Support Workers and Work Based Learning Practitioners) Order 2016** (<https://www.legislation.gov.uk/wsi/2016/1183/contents/made>)
- **Additional Learning Needs and Education Tribunal (Wales) Act 2018** (<https://www.legislation.gov.uk/anaw/2018/2/contents>)
- **The Education Workforce Council (Main Functions) (Wales) Regulations 2015** (<https://www.legislation.gov.uk/wsi/2015/140/contents/made>)

The consultation documents can be accessed from the **Welsh Government's website** (gov.wales/consultations).

This document may not be fully accessible.

For more information refer to our **accessibility statement** (<https://gov.wales/accessibility-statement-govwales>).