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Welsh Government

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PUBLICATION

The draft Education Workforce Council (Additional Categories of Registration) (Wales) Order 2023: impact assessment

An assessment of 'The draft Education Workforce Council (Additional Categories of Registration) (Wales) Order 2023'.

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What action is the welsh government considering and why?

The Education Workforce Council (EWC) is the independent statutory regulator for the education workforce in Wales. The EWC is required to maintain a register of education practitioners (the Register) and to allow the public access to that Register. The Register lists everyone registered with the EWC (registered persons) and is available to the public via the EWC's website. There are currently approximately 85,000 registered persons across the following categories:

- school teachers
- school learning support workers
- further education teachers
- further education learning support workers
- work based learning practitioners
- qualified youth workers
- qualified youth support workers

The Welsh Government is considering whether to require the EWC to regulate additional categories of professionals and include them in the register.

Overview of proposals

There are gaps in the current registration requirements which mean the level of professional regulation differs across the education workforce, even when individuals are carrying out very similar roles. It is our intention to strengthen the safeguarding of children and young people, together with increasing the professionalism of the workforce. Therefore, in addition to the current categories of registrants, the draft Order provides a requirement for the senior leader,

teachers and learning support workers, at independent schools and independent special post-16 institutions (ISPIs) to register. The draft Order also updates the maintained school teacher category to ensure that all headteachers are required to register, whether or not they have a teaching role.

The draft Order amends the provisions relating to youth workers and youth support workers to require qualified youth workers and youth support workers paid to deliver youth work in any setting to register. The draft Order also requires those working towards a youth worker or youth support worker qualification and paid to deliver youth work in any setting provisionally register.

Independent schools

There are currently just over 80 registered independent schools in Wales. This number is fairly equally split between mainstream schools and those providing for children and young people with additional learning needs (ALN) or special educational needs (SEN). The age range catered for varies, with some schools accepting children and young people up to 18 years while others will provide for specific age ranges. There is also significant variation in their size; the smallest is registered for a maximum of four learners and the largest a maximum of 1,500 learners.

The latest data shows there are just over 10,000 pupils in the independent sector in Wales. These schools employ approximately 850 teachers and 1,200 support staff. Under existing legislation there is no requirement for independent school teaching staff to be registered with EWC. It is for this reason, the Children's Commissioner for Wales and the Independent Inquiry into Child Sexual Abuse (IICSA) recommended that staff in independent schools should be required to register with the EWC.

The **Independent Inquiry into Child Sexual Abuse** (<https://www.iicsa.org.uk/reports-recommendations/publications/inquiry/final-report/executive-summary>) (IICSA)

found that “historically, inadequate measures were in place to protect children from the risk of being sexually abused – sometimes there were none at all;” There have been measures in place in Independent schools to protect children but these must now be strengthened through this draft Order. Therefore, it is urgently important that, in Wales we address the gap in registration for the workforce in Independent schools to ensure that children and young people are further protected.

Youth workers and youth support workers

The Interim Youth Work Board's report (published on 16 September 2021) recommended “that the Welsh Government should revise existing legislation to ensure that all those working in youth work services in Wales must register with the EWC”.

The Interim Youth Work Board believes implementing this recommendation will address “a fundamental safeguarding issue arising in relation to youth work services, thus ensuring that all youth work in Wales takes place in safe and secure environments” and will “help to improve standards within the youth work sector by ensuring that all youth workers are registered and qualified to work with young people”.

Independent special post-16 institutions

Currently, there are no requirements for some staff in independent special post-16 institutions (ISPIs) to register with the EWC. This means they are not subject to the same level of professional regulation as others in the education workforce carrying out similar work.

Long-term

There are two main long-term benefits of introducing these extra groups to the register. The first is to ensure all children, young people and staff benefit from the additional safeguards of professional regulation. This will provide a route for individuals or organisations to raise concerns and have those concerns investigated independently.

In addition to the regulatory changes covered by this integrated impact assessment, Welsh Government is also working to strengthen The Independent Schools Standards (Wales) Regulations 2003, **The Independent Schools (Provision of Information) (Wales) 2003**

(<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.legislation.gov.uk%2Fwsi%2F2003%2F3230%2Fcontents%2Fmade&data=05%7C01%7C1an.Thomas%40gov.wales%7Ceae1d189f894294682a08da8b49aa5f%7Ca2cc36c592804ae78887d06dab89216b%7C0%7C0%7C637975445752611479%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=kc550wKp%2BsSm1QcceoKfX2Oi0krcQq1m9ty3Tg9fqrY%3D&reserved=0>) and make **The Independent Schools (Prohibition on Participation in Management) (Wales) Regulations 2016**

(<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdocuments.hf.wales.gov.uk%2Fid%3AA12028312%2Fdocument%2Fversions%2Fpublished&data=05%7C01%7C1an.Thomas%40gov.wales%7Ceae1d189f894294682a08da8b49aa5f%7Ca2cc36c592804ae78887d06dab89216b%7C0%7C0%7C637975445752611479%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=K2R9cRWh2UcaEjafVTdhUvRAuQ12CSMn8HA276I9KSM%3D&reserved=0>) so as to help improve the quality of education and the welfare, health and safety of pupils in independent schools as well as enhancing the governance of independent schools in Wales.

The second is that our education, learning and teaching professionals will have

parity of professionalism, regardless of where they work. The behaviours expected for professionals will be set more widely across professionals in the education sector.

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.

It is anticipated that an extra 3,000 professionals will be required to register with the EWC if the proposals are carried out in their current form.

As these proposals will mean a legislative change, the costs and benefits of these proposals will need to be assessed in more detail. A draft regulatory impact assessment accompanies the draft Order.

Prevention

Our main aim is to strengthen the safeguarding of children and young people in the education sector. We want to ensure we can prevent safeguarding issues happening and prevent them escalating if they do occur. It is important to update the regulatory position in respect of those who work with children and young people.

Registration with the EWC means registrants must meet and uphold set standards. 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. An investigation can lead to a

disciplinary order, which can in the most serious cases result in removal from the register.

Preventing harm to children and young people and their families, is important for their future well-being.

Integration

Working with the Children's Commissioner for Wales and the EWC, we have put together these proposals to help remove some gaps relating to the safety of children and young people. Requiring these additional groups to register will further safeguard their physical and mental well-being, and therefore supports the Welsh Government's commitment, in the **Programme for Government** (<https://gov.wales/programme-for-government-2021-to-2026-html#section-73306>), to prioritise investment in improving mental health. In addition, improved safeguarding of children and young people directly contributing to objectives such as education reform, protecting vulnerable people and eliminating inequality.

Collaboration

We are grateful to the EWC for help identifying the gaps. The EWC has been key to our understanding of professional regulation, whether our proposals would be practicable and in ensuring that those affected are aware of the proposals. Ultimately, we have been working with those in the proposed registration categories and their representative bodies or workforce unions to understand the impact on them.

Secondary legislation is required to give effect to these proposals and so the Welsh Government is working closely with the EWC to consult with stakeholders. An initial consultation on the principles behind the proposals was

launched at the beginning of March and concluded in May 2022.

The proposed Education Workforce Council (Additional Categories of Registration) (Wales) Order 2023 (“the draft Order”) which would bring these proposals into force has been made available for consultation in autumn 2022. The draft explanatory memorandum and regulatory impact assessment for the draft Order will also be published for comment. Although the consultation is web-based, the Welsh Government and the EWC have contacted stakeholders directly, to let them know of the consultation launch and invite responses.

Involvement

It has been essential that key stakeholders have been involved in the development of the draft Order and we have taken time to discuss issues. These discussions have provided essential advice and enabled us to further understand the impact and practical implications of the policy. There has been a blend of ongoing discussion and formal consultation. The main stakeholders are supportive of the provisions sets out in the draft Order.

Officials have involved the following stakeholders to discuss the proposals and their impact:

- The Welsh Independent School Council (WISC)
- Natspec – the association for organisations which offer specialist further education and training for students with learning difficulties and/or disabilities aged 16 to 25
- Colegau Cymru Principals Forum (Principals of Further Education Institutions in Wales)
- Adult Learning Wales Partnership Network (Representatives of all Community based adult learning practitioners in Wales in Further Education Institutions and Local Authorities)
- Education Workforce Council

- Education Training Standards (ETS)
- The Children's Commissioner for Wales
- Interim Youth Work Board
- Principle Youth Officers Group
- Council of Wales for Voluntary Youth Services (CWVYS)

Where there have been issues that would impact them or those they represent, the Welsh Government has worked with stakeholders to ensure the legislation does what is required to improve safeguarding. Officials will continue to meet with practitioners and stakeholders as the legislation progresses to discuss its potential impact.

Most respondents to the formal consultation held in spring 2022 were supportive of the proposals to extend registration requirements or to amend them. Reasons for this included safeguarding, upholding professional status and improving/maintaining high standards of practice.

On the other hand, some individuals were against the proposals to register entirely for reasons such as opposing state interference with particular methods of teaching (i.e. the religious sector), negative impacts on specialist services (i.e. arts, music and sports sectors) and some expectations that there will be a requirement for those registered to gain a specific qualification.

We have engaged with specific groups to provide clarity on who would and would not be expected to register under the proposals. For example, we have worked with practitioners and their representative bodies to clarify that the proposals set out in the spring 2022 consultation looked to extend registration to those employed to deliver services to young people using youth work methodologies and approaches, rather than to every individual working with young people in any context. We are continuing to engage with current and future intended registered persons, the EWC and other relevant partners on the practicalities of the proposed new arrangements.

Conclusion

How have people most likely to be affected by the proposal been involved in developing it?

A formal consultation on the proposed additional registrant groups ran from March to May 2022, and a further opportunity to provide comments on the draft Order and fee structure is taking place in autumn 2022.

The consultations have been publicised with all relevant groups of the education sector and we have worked closely with stakeholders, including the EWC, the Children's Commissioner for Wales, and the former Interim Youth Work Board.

We have engaged extensively with our stakeholders throughout the development of these proposals and will continue to do so. The first consultation received over 300 responses. These helped us reshape some of the proposals. Responses to the second consultation will, likewise, help us to ensure our proposals are fit for purpose and fair.

What are the most significant impacts, positive and negative?

The most significant positive impact will be increased safeguards in place for all children and young people across all education sectors in Wales, by ensuring that all relevant practitioners are registered with the professional regulator. The registration of educators provides assurances to children, young people, parents and other professionals that employees are checked for suitability to register – through police and criminal records checks, disclosure of convictions and disciplinary proceedings against them.

It will also provide a clear and well understood route for individuals or organisations to raise concerns about the conduct of a registered individual and have those concerns investigated independently by an external professional body. In addition, through the inclusion of additional groups who will be required to register, the profession will be put on a more equal footing, no matter in which sector a person works. This provides an opportunity to maintain or drive-up professional standards across the education workforce, which would improve services for children and young and benefit society in the longer term.

The most significant negative impact is for those individuals who have not previously been required to register. The additional cost of registering may be considered by those who will be registered persons, as unpopular and unfair.

In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals?
- avoid, reduce or mitigate any negative impacts?

We are making this change in the law to protect our children and young people from harm. It will also ensure more practitioners have the confidence of the public because they can demonstrate they have the skills, knowledge and character to safely and effectively carry out the duties required of their profession.

We believe the negative impact of paying a fee is more than balanced by the positive impact of better safeguarding and driving up professional standards in the education workforce.

How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The EWC is the foremost organisation we have to help us with workforce planning. They have the data to help us understand what happens post implementation. Their continuous review and evaluation aided our change in this law.

Going forward, the EWC will continue to monitor numbers of registrants, including those entering the education sector as trainee practitioners. We will use the information provided by the EWC, together with feedback from practitioners, the bodies which represent them and other stakeholders, to ensure the legislation is sufficient to ensure the ongoing safety of children and young people.

This is the first phase of a programme of work to increase the professionalisation of our workforce in education and youth work. The second phase will take forward proposals to increase the registration categories for all youth workers, and staff in the post-16 sector. The feedback from this work in the first phase, will help build the work required for the second phase.

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