

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

Title of proposal:	Amendment to the Regulation and Inspection of Social Care (Wales) Act 2016 to enable all childcare and play workers, working in the childcare sector, to be treated as social care workers.
Official(s) completing the Integrated Impact Assessment (name(s) and name of team):	Workforce Policy team
Department:	Early years childcare and play division
Head of Division/SRO (name):	Ruth Conway
Cabinet Secretary/Minister responsible:	Minister for Social Care (Minister for Mental Health and Early Years)
Start Date:	September 2022 Updated November 2023 and March 2024

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

Overview

The Welsh Government's vision¹ is to develop a skilled childcare and play workforce, highly regarded as a profession and career of choice, with a clear aim of ensuring children from all backgrounds have the best start in life.

Social Care Wales

Social Care Wales (SCW) is a high-profile strategic Welsh Government sponsored body focused on taking action to build confidence, seek improvement and support the development of the social care and early years and childcare workforce.

Their vision is: *To make a positive difference to care and support in Wales for children, adults and their families and carers*

SCW is Welsh Government's strategic partner² in supporting the childcare and play workforce in Wales, a role they have undertaken for a significant number of years.

As an expert in early years and childcare matters, it takes the lead in developing the workforce and ensures crucial underpinning arrangements that meet the sector's needs, such as apprenticeship frameworks and quality training provision, are in place.

Their work means they:

- Develop and review national qualifications based on evidence³ and engagement and host the qualifications framework for those working in early years and childcare.
- Set clear national standards⁴ so that the workforce has the knowledge and skills to protect, empower and support them.
- Work with others to ensure that support best meets the needs of the workforce.
- Develop and share best practice resources⁵ with the workforce.

Context and current position

➤ **Remit of SCW**

¹ [Childcare, play and early years workforce plan | GOV.WALES](#)

² [Social Care Wales | Home - Social Care Wales](#)

³ [Qualifications Wales / Reform of qualifications in health and social care in Wales following review](#)

⁴ [National safeguarding training, learning and... | Social Care Wales](#)

⁵ [Early years and childcare resources | Social Care Wales](#)

SCW's remit is developed and agreed on an annual basis predicated on the understanding that their role encompasses support for **all** those working in the early years and childcare sector.

Working in close partnership with national organisations e.g. [Cwlwm](#), [Play Wales](#) and [Children in Wales](#) they ensure their work benefits the workforce on many fronts with the specific expertise⁶ of other bodies drawn on where necessary. Detail of the support they offer is set out in Appendix A

➤ ***The Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA)***

From April 2017, the Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA) afforded new powers to SCW to lead the improvement of social care and childcare in Wales. This meant that they would be recognised as the sector skills council body supporting both employers **and** practitioners working in the early years and childcare sector. The advent of this Act was understood to not only recognise but to strengthen the remit of SCW in their support of **all** those working in the early years and childcare sector.

Their strengthened role is acknowledged in Welsh Government's [10-year childcare play and early years workforce plan](#) with the understanding that the Act provided legal confirmation - namely that childminders and providers of day care would be recognised as Social Care Workers.

However, following more detailed exploration into the wording of the Act, it was determined that the wording of RISCA **does not** provide the full and clear legal basis for this accepted and strengthened remit - namely, where a day care provider is an organisation, only **the responsible individual** who is registered under Part 2 of the Measure could be categorised as a Social Care Worker. This means that even though SCW's role in supporting providers/managers and workers is clear and predates RISCA, the full coverage of the role they undertake is not reflected in the Act. This IIA therefore focusses on amendments to RISCA to allow regulations to be made specifying that childcare workers are to be treated as social care workers, and to provide a clearer legal basis for the support SCW provide to the childcare workforce. As a Welsh Government sponsored body, discussions have taken place with SCW and they are supportive of this amendment to RISCA.

➤ ***Programme for Government***

The [Programme for Government](#) commitment regarding expanding childcare provision to all 2 year olds in Wales, as well as the commitment to grow Welsh-medium provision, depend on the sector being sustainable and on there being a sufficiently sized and

⁶ [Focus on play - childcare providers and practitioners by Play Wales - Issuu](#)

[Early Years \(childreninwales.org.uk\)](http://childreninwales.org.uk)

qualified workforce so that parents and families are able to access the provision they require, to be able to work/train.

SCW's work as an expert body with significant experience in supporting the sector, is fundamental to this and they require a clearer legislative basis to be able to continue to and expand support to all in the workforce.

➤ **Key principles of the proposal to amend the wording of RISCA**

As currently described within section 79(3)(d)(ii) of the 2016 Act, 'a provider of day care for children' only covers a person who is the service provider. This does not include their staff. The practical effect is that childcare and play workers do not fall within the legal definition of a 'social care worker', regulated under the 2016 Act.

The role of SCW as a strategic partner of the Welsh Government, has historically seen them providing support to **all** those working in the childcare sector.

The purpose of the proposed amendment is to allow regulations to be made specifying that childcare workers are to be treated as social care workers, and to provide a clearer legal basis for the support SCW provide to the childcare workforce. Furthermore, whilst legally there is no distinction between persons who work/are employed within daycare and play settings (play settings being included within the meaning of day care in section 19 of the Measure) in practice the support provided by SCW has not extended to persons working within play settings (play workers). It is proposed that any regulations made in accordance with the amendment will formalise the support currently provided by SCW to the sector and ensure that this is provided to the sector as a whole (including play workers).

Our proposal therefore aims to protect and continue the role of Social Care Wales in respect of all childcare workers, to ensure that SCW can equally provide this support to play workers, and to resolve a legal ambiguity.

As such, the proposed action is to take steps to amend s.79 (3) which would allow regulations to be made categorising childcare and play workers as Social Care Workers. This would include those workers who provide care within childcare and playwork settings (not those in administration or other roles within settings) and are employed through a variety of contractual arrangements (permanent, fixed term, zero hours etc as well as agency staff and those who volunteer at settings).

This amendment would make it clear that childcare and playwork workers are included in the 'social care worker' definition which for childcare workers they are already accepted to be. The proposed amendment will give SCW a clear legislative basis for their ongoing work with the childcare workforce, this will also mean that their work could increase in scope- to support playworkers. This amendment will provide a clear mandate for SCW to carry out its functions and will cement their support for the sector as a whole.

Although the change to RISCA will enable SCW to support play, the shape and extent of that support is to be determined by Welsh Government in partnership with relevant sector partners bearing in mind available funding.

Officials will look to explore all potential options with a view to developing a sustainable and cost-effective approach to support the childcare and playwork workforce, utilising existing knowledge and experience in the playwork sector.

Welsh Government is currently considering professional registration of the childcare and playwork workforce. It is worthy of note that this proposal is not being sought in relation to this. A working group has been convened to progress work on this area and a consultation has now closed (7 March 2024) seeking views of the sector. The amendment to RISCA is unrelated to this work and is solely intended to provide a clearer legal basis for SCW's work.

➤ **Five ways of working**

The proposal seeks to support all those in the childcare and playwork sector and bring benefits to children and families in the **long term**. The proposal recognises that investment in the development of a highly skilled childcare and play workforce, and funding for SCW ensures that the sector is able to support children and their families so they can fully meet their potential.

Through the focus on recognising all childcare and play workers as social care workers, we are taking important steps to ensure they can all be supported by the body which has expertise and experience in so doing for many years. SCW plays a key role in ensuring the workforce is equipped to protect children from harm and thus **prevent** negative experiences. Support for SCW ensures the development of a highly skilled workforce necessary for the provision of good quality childcare and play. Their work in ensuring the necessary infrastructure for qualifications, assessment and certification means that staff can be supported to develop and progress.

Officials have **engaged** and sought **involvement** from key stakeholders including Play Wales, Clybiau Plant Cymru Kids' Clubs, the Education Workforce Council and Social Care Wales, setting out what the opportunity presented by the amendment and what the proposal may and may not enable to happen subject to full consultation. In general, there was support for the amendment in providing a clearer legal basis for SCW to support the childcare and playwork workforce. Stakeholders understand that the support that will be offered will be subject to further conversations with them and dependent on available funding.

In proposing this amendment, there is a recognition that work to support the sector would continue in a **collaborative** way.

As the proposal will look to remove legal ambiguity and extend support to playwork, this supports our ambitions to address **inequality**⁷ in the future. The proposal will help us move forward in considering issues such as job security and enabling people to reach their full potential.

As this is also seen to be a supportive factor in the growth and sustainability of the sector, it will thus contribute towards realising the well-being goal relating to **creating a**

⁷ [FGCW Equalities-Report E-UPDATED.pdf \(futuregenerations.wales\)](#)

sustainable foundation for future generations to build on and will also work towards the **well-being goals relating to a prosperous and a more equal Wales**.

➤ **Benefits**

Those **representing the playwork workforce** lament the absence of a specific body to support playworkers and report that current arrangements are neither sufficient nor sustainable. This amendment as reported by key sector stakeholders and providers would result in those working in playwork feeling, over time, better **represented** and **valued**. In addition, work undertaken via the Ministerial Review of Play identified the need for certain sector skills council **functions to be better undertaken** for the sector. As playwork staff often have dual roles, providing both childcare and play opportunities, this amendment is seen to offer **consistency** to those workers.

In the short term, it would offer opportunities for access to **guidance/training/resources** available through SCW and for **inclusion** within the roll out of key initiatives such as SCW's All Wales Induction Framework.

The focus of SCW on both the childcare and play sector is also intended to help alleviate some recruitment and retention issues and therefore help settings be more **sustainable**

As one of the guiding principles of this proposed amendment is to ensure there is a body to support the ongoing development of all those who work in the childcare and playwork sector, then the children they care for or whose play they support will also benefit.

➤ **Impact**

The proposed change will remove ambiguity in the legal definitions set out in the Act and would provide confidence in extending support in specific areas of the sector – including playwork.

The impact of the proposed amendment would principally be on SCW.

While SCW's existing arrangements to support childcare workers would continue, their work could increase in scope. This would happen over time, with a transition from the current arrangements managed in partnership with SCW and other partners and within available funding. The proposed amendment, and the making of any future regulations specifying that childcare and playworkers be treated as social care workers would enable playworkers to be signposted to access more of the support and advice provided by SCW.

It is envisaged that at present this proposal would result in **no additional cost** in the short term - however there will be a need for ongoing discussions with SCW in relation to any increase in their support for play in future years.

A change to the definition could allow SCW to create a single qualification framework to replace the two lists that currently exist, thus simplifying entry into the sector. This would also allow SCW to promote and support sustainability within the playwork sector through their work on recruitment and retention. However, it is worth noting that the absence of a dedicated body to oversee the playwork qualifications framework and development of the playwork workforce has meant that PETC Wales has carried out functions relative to a body such as SCW. As such it is anticipated that they may feel that they should retain

some of the functions which should fall to SCW if playworkers are recognised as social care workers-collaboration in moving forward with this work will therefore be key.

Playworkers have often reported that they are a forgotten part of the sector, It is intended that a dedicated sole body would, over time, enhance the visibility of all those working in the sector which can also provide the necessary support to ensure the development, sustainability and growth of the sector as a whole.

Officials will look to explore all potential options with a view to developing a sustainable and cost-effective approach to support the childcare and playwork workforce, utilising existing knowledge and experience in the playwork sector.

➤ **Consultation**

A formal public consultation on primary legislative proposals has now taken place, over twelve weeks, between 17 August and 7 November 2022. Consultation responses have been analysed and a summary was published in June 2023. .

It is worth noting that consultation responses to **Chapter 6: Extending the definition of social care worker to include childcare and play workers** revealed a number of misunderstandings about the impact of the proposed change on the workforce and in particular the link between the proposed amendment and work currently underway to explore registration of the childcare and playwork workforce. However, it is also worth noting that the vast majority of respondents supported the proposal.

Further engagement will take place to ensure there is a clear understanding about the amendment, any implications and next steps.

Appendix A: Support provided by Social Care Wales

Attraction and recruitment	Development and delivery of the WeCare Wales Framework - this includes case studies showcasing those working in both childcare and playwork settings and high profile TV and social media campaigns encouraging people to enter the sector and valuing the workforce
	Establishment of an ambassador network encouraging entry to the sector
	Introduction to childcare training course
	WeCare Wales jobs portal Employers can advertise jobs at nil cost in both childcare and playwork settings
	Best practice guidance on recruitment
Qualifications	Development of a suite of national children's care, play, learning and development qualifications Expertise in relation to standardisation and quality assurance
	Development and host of the qualifications framework detailing the required/accepted qualifications for those working in early years and childcare
	Lead in responding to qualification queries and providing responses to challenges in qualification delivery.
	Co-lead (with Awarding body and Qualifications Wales) in review (interim and full) of qualifications and responding to review recommendations
	Development of a process for recognising international qualifications of those who would wish to work in the early years and childcare sector

	<p>Development and review of necessary underpinning arrangements for qualifications e.g., national occupational standards, and apprenticeship frameworks</p>
	<p>Development of the All Wales Induction Framework (AWIF) for early years and childcare stipulating this as a learning and development requirement for those coming to sector from outside Wales.</p>
	<p>Lead for a pilot transition pathway for recognition of qualifications from other related sectors e.g. education, health and social care and play.</p>
Support for managers/practitioners	<p>Facilitation of virtual manager hubs to support a range of issues e.g., implementation of the AWIF; advice on qualification issues; recruitment</p>
	<p>Digital e-learning modules on safeguarding, infection, prevention and control and AWIF</p>
	<p>Annual conference and festival of learning</p>
	<p>Recognition of the workforce via Accolades and Care Stars awards</p>
	<p>Health and Wellbeing Framework and care worker cards for the social care and early years and childcare workforce</p>
	<p>Peer support and wellbeing hubs</p>
	<p>Monthly newsletter outlining support and guidance/events etc</p>
Guidance and resources	<p>A range of best practice resources developed to support the sector including: support for first year as a manager; guidance for supervising and appraising well and CPD principles for the sector</p>

<p>National standards: Safeguarding</p>	<p>Social Care Wales have led on the delivery of national safeguarding training and learning standards for social care and early years and childcare These set out the expectations for knowledge, skills, attitudes and values for people working with adults or children at risk of harm, abuse or neglect.</p>
<p>Partnership work</p>	<p>Working in close partnership with other national organisations/policy officials, they contribute their expertise in relation to impact /roll out to the sector on key activity e.g., reducing restrictive practices framework.</p>

Children's Rights

As the proposed amendment outlined in Section 1 will seek to have a positive impact on the care and development of children, a full Children's Rights Impact Assessment has been completed at **Annex A**.

SECTION 8. CONCLUSION

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

We have engaged with our internal and external stakeholders to consider the proposed amendment, taking into account any potential long-term impacts on the quality and sustainability of childcare and playwork provision.

These have included Play Wales, PETC and Clybiau Plant Cymru Kids' Clubs who primarily represent playwork with some coverage of childcare settings; Social Care Wales on the implication for their continued and possible additional workload and the Education Workforce Council who oversee the education workforce.

8.2 What are the most significant impacts, positive and negative?

We consider the impacts of the proposal set out in Section 1 to be largely positive for the current and future workforce. The long-term goal of ensuring a sustainable, high quality and valued childcare and playwork sector remain in frame in seeking this amendment.

The sustainability of the childcare and playwork sector is a positive impact of the proposed change through the continued support of SCW, as a key part of the foundational economy it enables parents to return to work, increase their hours and support those working irregular hours.

Through existing SCW delivery, support for the development of the childcare and playwork workforce will be crucial in shaping life chances:

“The first few years of a child’s life are critical to laying the foundation for lifelong well-being. They determine how well children perform in school, how well they relate to others, and ultimately shape the adult they become”.

The proposal has been developed in recognition of the need to continue work to support and upskill the workforce to ensure that all in the workforce are included and continue funding for the body which support them. This will include work focused on

- *Encouraging and supporting people to enter and stay in the sector*
- *Showcasing and valuing the work of childcare and playwork providers in relation to the development of children*
- *Developing high quality bilingual resources for the ongoing professional development of the sector*

This amendment seeks to bring the playwork sector formally into the support offer provided by SCW to result in a whole childcare and playwork sector that feels included and looked after. This change will happen over time, within available funding and in consultation with key sector stakeholders such as Play Wales. High quality childcare and playwork provision can have a positive influence on a child’s development and help them develop to their full potential. Evidence suggests children from disadvantaged backgrounds benefit more from quality childcare and that it can help redress both developmental disadvantages and the attainment gap.

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

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

The proposed amendment will play an important part in supporting the general principle of the Well-Being of Future Generations (Wales) Act 2015, which is about making positive interventions now, in order to benefit people living their lives in Wales in the future.

The proposal contributes towards the Act's Well-being goals, in particular through its strengthening of existing SCW support to:

A prosperous Wales

- Supports the sustainability of the childcare and playwork sector as a key part of the foundational economy.
- Underlines the value the whole workforce brings in developing children and enhancing their life chances
- Supports the career development and future prospects of all those who make up the workforce which reduces the risk of poverty and assists economic growth
- Supports the whole workforce with continued investment to develop their skills levels and employment opportunities.

A more equal Wales

- Support for childcare and play provision ensures that all children can benefit from quality provision, thus reducing the gap between the least and most deprived in our communities; and
- In turn, childcare and play can have a positive influence on a child's emotional, social and cognitive development and help them develop to their full potential.
- Commits to developing the workforce to ensure both they and the children they look after can fully reach their potential

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

The proposed amendment has been subject to [consultation](#) and the vast majority of responses received were in favour of this amendment.

We will continue to engage with key sector bodies on the proposal so that we can ensure our best understanding of the impact of the amendment.