

## **The Education Workforce Council (Registration Fees) (Wales) Regulations 2016**

The Explanatory Memorandum has been prepared by the [Education and Public Services Group](#) of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and under Standing Order 27.1.

### **Minister's Declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education Workforce Council (Registration Fees) (Wales) Regulations 2016. I am satisfied that the benefits outweigh any costs.

*Huw Lewis*

Minister for Education and Skills

1 October 2015

## **1. DESCRIPTION**

1.1 These Regulations prescribe the fee payable in connection with registration in the register established and maintained by the Education Workforce Council (“the Council”) from 1 April 2016 and revoke the Education Workforce Council (Registration Fees) (Wales) Regulations 2015.

## **2. MATTERS OF SPECIAL INTEREST TO THE CONSTITUTIONAL AND LEGISLATIVE AFFAIRS COMMITTEE**

2.1 None.

## **3. LEGISLATIVE BACKGROUND**

3.1 Section 12(1) and 47(1) of the Education (Wales) Act 2014 (“the Act”) allow the Welsh Ministers to make regulations in relation to the fees payable in connection with registration in the register established and maintained by the Council under section 9 of the 2014 Act (“the Register”). Section 36 of the Act also allows the Welsh Ministers to make regulations in relation to the supply of information to the Council by employers. The affirmative procedure applies. Section 47(2) of the Act provides that a draft of these Regulations must be laid before the National Assembly for Wales and approved by a resolution of it.

3.2 The Act reconfigured the General Teaching Council for Wales (‘GTCW’); extended the remit of the body; and composition of its membership, in order to create the Council.

3.3. A key feature of many professions is a requirement to register with a professional body that sets and maintains professional standards; retaining public confidence and demonstrating a shared commitment to professionalism. Of the education workforce, it is currently only school teachers and FE teachers who are required to be registered with the Council in order to teach in a maintained school/ FE institution in Wales.

3.4. The Act gives a power to the Welsh Ministers to make regulations requiring FE learning support workers; and school learning support workers to register with the Council. This will take place as of 1 April 2016 and will continue to help to improve and maintain high standards of teaching and the quality of learning in Wales by regulating and supporting the wider education workforce.

3.5. It is anticipated that Youth Workers and Work Based Learners registration will be phased in from April 2017.

## **4. PURPOSE AND INTENDED EFFECT OF THE LEGISLATION**

4.1 Under the Act, the Welsh Ministers have powers to set the registration fees for the Council (by virtue of section 12 of the Act). Whilst there is provision to enable Welsh Ministers to make regulations that would give this power to the Council (subsection 12(2) of the Act), it is anticipated that this will not take place for at least 3 years, or until such time as the Welsh Government believes it is right and appropriate to do so, given the phased implementation of registration for the wider education workforce. Any future transfer of the power to set registration fees to the Council will be subject to a full consultation at that time.

4.2 These Regulations are intended to set out the new registration fee payable for school teachers, FE teachers, school learning support workers and FE learning support workers for the period commencing on or after 1 April 2016 and ending on 31 March 2017 and all subsequent years.

4.3 Regulation 4 sets out the annual fee payable for registration with the Council for all four categories of registrants. Provision is also made under this regulation for the registration fee to be subject to a subsidy. That subsidy is to be set by the Welsh Ministers and published on the Welsh Government website.

4.4 Regulation 6 provides that an employer must, on request by the Council, supply the Council with the information set out in Schedule 2 in cases where they employ a person required to be registered.

4.5 For school teachers and FE teachers, the existing process for collecting the registration fee will continue. For the vast majority of teachers this will mean that the fee will continue to be paid through the 'Deducted at Source' (DAS) process - meaning that the fee is deducted by the employer directly from their salary. For most FE learning support workers and school learning support workers the (DAS) process will also be implemented by the Council, with procedures employed to collect the annual registration fee starting in April 2016; and in March for each subsequent year.

4.6 Regulation 7 requires an employer who has been notified by the Council to deduct any such fee from the salary of every registrant within their relevant category; and regulation 8 requires the employer to remit it to the Council within 14 Days of the fee being deducted from the teacher's salary, together with details identifying the person.

4.7 These Regulations also revoke the Education Workforce Council (Registration Fees) (Wales) Regulations 2015.

## **5. CONSULTATION**

Details of consultation undertaken are included in section 7 within the RIA below, and progress to Part 2.

## **6 PART 2 – REGULATORY IMPACT ASSESSMENT**

6.1 The Welsh Government's initial aim was to redistribute the element of funding that is currently provided to Local Authorities in Wales to subsidise school teachers' registration fees, to help meet the costs of registration for the wider workforce. The intention of this funding is to continue to reduce the fees paid by all education practitioners within Wales and would have been paid directly to the Council to support its core functions, rather than into practitioners' pay. This approach would have required an amendment the School Teacher's Pay and Conditions Document (STPCD).

6.2 School teachers' pay and conditions are currently non-devolved; and remain the responsibility of Department for Education in England. Pay and conditions for teachers in maintained schools in Wales and England are set out in the School Teachers Pay and Conditions Document ("STPCD"). That is a statutory document published in September for the start of each academic year and given legal effect by an Order made by the Secretary of State.

6.3 However, the £33 subsidy that teachers in Wales currently receive in their pay to subsidise the Council's registration fee has remained in the STPCD for the academic year 2015–16. This was due to the fact that the Department for Education could not meet the Welsh Government's timetable for the removal of the £33 subsidy from the STPCD in time to meet our deadline for laying the appropriate regulations. As a result, teachers working in maintained schools will continue to receive through their pay, the subsidy of £33 towards their registration fee.

6.4 As the Welsh Government was unable to directly re-distribute the subsidy that is currently provided to school teachers, a slightly different fee model was required, in order to ensure that the Council raises sufficient funds; all of which was set out in the Welsh Government consultation "*Registration fees for the education workforce in Wales*" (issued in July 2014) and the subsequent Government response (issued on 2 March 2015)<sup>1</sup>

6.5 The fee model we are implementing will still maintain one of the lowest fee levels of all the registration bodies.

## 7. OPTIONS

### Option 1: Do Nothing

7.1 If we were to do nothing, it would not be possible to set a fee structure for the Council for 2016. The establishment of the Council was a Programme for Government commitment, which is vitally important if all education practitioners are to be part of a professional body that sets and maintains professional standards.

### Cost

7.2. There would be no new cost implications from this option. The existing regulations (Education Workforce Council (Registration Fees) (Wales) Regulations 2015) would remain in place and no registration fees would be collected from learning support workers. In this scenario, the level of fee income received would not be sufficient to meet the Council's funding requirement.

### Benefits

7.3 There would be no benefits from this option.

### Option 2: Make the Legislation

7.4 The introduction of these draft Regulations will implement the new registration fee payable for school teachers, FE teachers, School learning support workers and FE learning support workers for the period commencing on or after 1 April 2016 and ending on 31 March 2017.

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<sup>1</sup> <http://gov.wales/consultations/education/registration-fees-for-the-education-workforce-in-wales/?status=closed&lang=en>

## Cost

7.5 The fee has been set according to three principles. These are:

- **Sustainability:** The fees to be paid by registrants must be at a sufficient level to ensure that the EWC has a sustainable level of funding to enable them to undertake their statutory and core functions.
- **Proportionality:** Any level of fee for registration must be proportionate to the levels of earnings of practitioners, to ensure that all those required to register are able to do so.
- **Cost Effectiveness:** Any proposed model must be cost effective in terms of administration costs to employers and the EWC for the practical application of the collection of the fees.

7.6 The fee model of charging for registration has to be fair and equitable across the whole workforce; recognising that salaries can vary greatly within different groups across the education workforce. It is based on grouping by profession and on the salary data derived, with the lower earning occupations contributing the least. Using such a methodology is the most cost effective method and will deliver considerable savings for those administering the fee collection, both at employers' level, and the Council itself. This will also contribute to keeping the fee rate to a minimum.

7.7 On the basis of 71,600 relevant employees (*37,000 school teachers, 7,400 FE teachers and 27,200 learning support workers (both school and FE)*<sup>2</sup> – all numbers are approximate), registering with the Council from 1 April 2016. The Council will need to raise an estimated total of £3.5 million each year in order to carry out its core functions (if the number of registrants is less, the funding requirement will also be less). This equates to an annual registration fee of £49 per registrant.

7.8 The Welsh Government is still proposing to redistribute the element of funding that is currently provided to Local Authorities in Wales to subsidise school teachers' registration fees to the Council. However, without the necessary amendment to the STPCD, this will be achieved through the actual fee that teacher's pay, in order to off-set against the greater subsidy of £33 that the school teachers will retain. This approach will help meet the costs of registration for the wider workforce. In practice, this means that the subsidy for the wider workforce will be routed through individual school teachers' fees, to the Council; rather than through the Welsh Government as a block of funding, if the STPCD had been amended. The actual fee contribution of school teachers for 2016 will still be £45 (the same as FE teachers), whether or not the STPCD was amended. The change to the STPCD would have merely streamlined the fee process for all those involved.

7.9 Widening professional registration to the education workforce in Wales will see an additional £1.6million (approximately, based on the number of registrants highlighted in paragraph 7.7) needed to be generated each year to cover the cost of regulating the workforce. This cost will be met by the workforce via their annual registration fees. The Welsh Government has considered what impact this will have on the education workforce

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<sup>2</sup> these figures were obtained during the passage of the Bill

and is satisfied that the benefits of registration to learner outcomes, outweighs the cost to practitioners. At the individual level, the annual registration fee is not considered likely to affect recruitment or retention in the education workforce in Wales.

7.11 The requirement for registration with the EWC is the same as those within any other regulatory body, such as the General Medical Council; Nursing and Midwifery Council and the Health and Care Professionals Council. Professionals in these sectors are also required to fund their own registration as a requirement of employment, with fees averaging between £80-120 per year. By comparison, registration with the EWC is considerably lower.

7.12 The two tables below show the comparison between the EWC's 2015-16 fee and the proposed 2016-17 fee.

**Table 1. EWC Registration fee payments in 2015-16**

Registration Categories	Number of Practitioners	Distribution of current fee			Aggregate distribution of current fee	
		EWC Fee	Practitioners Contribution	Subsidy	Practitioners Contributions	Subsidy Received
STPCD Teachers	30,000	45	12	33	360,000	990,000
Other teachers	7,000	45	45	0	315,000	-
FE Teachers	7,400	45	18	27	133,200	199,800
Learning Support	27,200	N/A	N/A	N/A	N/A	N.A
<b>Total</b>					<b>808,200</b>	<b>1,189,800</b>

**Table 2. Proposed EWC registration fee payments in 2016-17**

Registration Categories	Number of Practitioners	Distribution of proposed fee			Aggregate distribution of proposed fee	
		EWC Fee	Practitioners Contribution	Subsidy	Practitioners Contributions	Subsidy Received*
STPCD Teachers	30,000	78	45	33	1,350,000	<b>990,000</b>
Other teachers	7,000	49	45	4	315,000	(28,000)
FE Teachers	7,400	49	45	4	333,000	(29,600)
Learning Support	27,200	49	15	34	408,000	(924,800)
<b>Total</b>					<b>2,406,000</b>	<b>990,000</b>

**\*The additional fee collected from STPCD teachers will be used to fund the subsidy for the other groups of practitioners.**

7.13 The Welsh Government will top up any shortfall in funding (for financial year 2016-17 only) should the number of teachers in receipt of the subsidy be significantly less than anticipated; which would result in there being less money available to cover the re-distribution of the subsidy to the wider workforce. The Welsh Government is essentially

guaranteeing the Council an income of £49 for each registrant. The costs associated with this work will be met from the Teachers Development and Support BEL 4880, through the re-prioritisation of resources. It will not be possible to quantify a figure, until the Council have identified all the practitioners registered with them after 1 April 2016. There may not be a requirement to provide additional funding.

7.14 The School teachers' subsidy for financial year 2016-17 will continue to be dependent on the annual reviews of the STPCD. As this document is determined by the Secretary of State, and remains the responsibility of the UK Government's Department of Education. It could however, potentially be amended at any point in the future, to remove the right of school teachers in Wales to receive the subsidy.

7.15 These regulations are not expected to impose additional administrative costs on the Council or employers.

### Benefits

7.12 Professional registration is a vital element of ensuring that public trust and confidence is maintained in the education workforce; as well as safeguarding the interests of learners, parents, carers and the public. In addition, professional registration helps to maintain confidence amongst the workforce itself. Option 2 will ensure that all those practitioners required to register during the second year of the Council, will benefit from the support and recognition of a professional body that upholds professional standards; contributing to the improvement of the standards of teaching and quality of learning in Wales.

7.13 A phased implementation of the registration of the wider education workforce has seen FE teachers (lecturers) become the first addition to the existing register of teachers from April 2015. This is one of a series of measures intended to help improve educational standards and attainment for the people of Wales and ensure that all members of the education workforce are deployed effectively. It will bring increased synergy through consistent, independent regulation across the workforce.

7.14 The New Deal for the Education Workforce is one such measure, focusing on two strategic objectives of an excellent professional workforce with strong pedagogy based on an understanding of what works; and secondly leaders of education at every level working together in a self improving system providing mutual support and challenge to raise standards in all schools.

7.15 The Welsh Government wants to ensure that, whichever career pathway practitioners take, they continue to develop and deepen their pedagogy and leadership skills through effective professional learning. This will be underpinned by new standards, professional learning opportunities, and a Professional Learning Passport.

7.16 The education workforce has changed rapidly in the last ten years. There is greater collaboration between schools and post 16 providers and through policies such as the foundation phase. It is therefore, no longer feasible to only require school teachers to register.

## **8. CONSULTATION**

8.1 The Welsh Government undertook a consultation on the “Registration fees for the education workforce in Wales”, between 18 July 2014 and 7 November 2014. The consultation set out proposals for the transitional registration arrangements for April 2015 – March 2016; and for the Council’s second year from April 2016 – March 2016.

8.2 A summary of responses is available at:

<http://gov.wales/consultations/education/registration-fees-for-the-education-workforce-in-wales/?status=closed&lang=en>

## **9. COMPETITION ASSESSMENT**

9.1 There are no market implications associated with the making of these draft regulations. It has no impact on business, charities or the voluntary sector.

## **10. IMPACT OF THE PROPOSED LEGISLATION ON DUTIES OF THE WELSH MINISTERS AS SET OUT IN THE GOVERNMENT OF WALES ACT 2006**

9.1 The Regulations are not considered to have any specific impact on the duties of the Welsh Ministers as set out in the Government of Wales Act 2006.

## **11. IMPACT UPON THE VOLUNTARY SECTOR**

11.1 The Regulations are not considered to have any specific impact upon the voluntary sector.

## **12. EQUALITY OF OPPORTUNITY AND WELSH LANGUAGE**

12.1 No issues relating to these duties are considered to arise from the making of these draft Regulations.

## **13. SUSTAINABLE DEVELOPMENT**

13.1 The aim of workforce registration is to improve the standards of teaching and the quality of learning in Wales, by ensuring that the wider education workforce are regulated and supported and that learners are supported by highly skilled and dedicated professionals.