

Welsh Government

## Consultation Report - Summary of Responses

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

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## Introduction

### The Regulation and Inspection of Social Care (Wales) Act 2016

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) was passed by the National Assembly for Wales on 24 November 2015 and received Royal Assent on 18 January 2016. It provides the statutory framework for the regulation and inspection of social care services and reforms the regulation of the social care workforce, including the establishment of Social Care Wales (SCW) – the workforce regulator.

The implementation of the 2016 Act was introduced over three phases:

- **Phase 1 (2016/17)** included regulations relating to the new system of workforce regulation required and these came into force on 3 April 2017. Alongside these, SCW developed the rules and procedures to govern the process of workforce registration and regulation which it has operated since 3 April 2017.
- **Phase 2 (2017/18)** included regulations and statutory guidance relating to the requirements and standards expected of service providers and Responsible Individuals in domiciliary support services, care home services, secure accommodation services and residential family centre services. It also included workforce-related regulations around the delineation of travel and care time, extension of the register to domiciliary care workers and the limitation of zero hours contracts. These came into force in April 2018.
- **Phase 3 (2018/19)** included regulations and statutory guidance relating to the requirements and standards expected of service providers and Responsible Individuals within voluntary adoption agencies & adoption support agencies; fostering services; adult placement services; and advocacy services. These regulations came into force in April 2019.

### Registering the social care workforce

In April 2018, regulations came into effect allowing SCW to open the workforce register on a voluntary basis to domiciliary care workers. This was done in order to provide a two year period for SCW to work with the sector to understand and prepare for registration requirements, ahead of mandatory registration from 2020.

We propose to do the same for adult residential care workers from 2020 ahead of mandatory registration from 2022. We will continue to review and consider whether there are additional groups within the social care workforce who should be registered.

Registration of the workforce will help to achieve the aim of raising the profile and status of social care workers so that social care becomes a positive career choice, where people are valued and supported responsibly.

## **Registering social care providers with Care Inspectorate Wales**

The Welsh Ministers have the function of regulating care and support services in Wales. Care Inspectorate Wales (CIW), the service regulator, carries out this function on behalf of the Welsh Ministers. The 2016 Act established a revised set of processes for registering service providers. This includes the requirement to register in Wales when services are delivered in Wales and the processes associated with the application, variation and cancellation of registration.

Anyone wishing to provide a regulated service in Wales must make an application to register with CIW under the new legislation. Some of the information to be included in the application for registration is set out on the face of the 2016 Act, under Section 6. This includes the services to be provided, the places at, from or in relation to which the services are to be provided, the designation of a Responsible Individual in respect of each such place and each such individual's name and address.

*The Regulated Services (Registration) (Wales) Regulations 2017* (The "Registration Regulations"), made under Sections 6(1)(d) and 6(2) of the 2016 Act, sets out further information required in an application, as well as the form of an application. The draft Registration Regulations were subject to a full public consultation in 2016. The Regulations came into force on 1 February 2018 when the process of re-registering all care home services, domiciliary support services, residential family centres and secure accommodation services in Wales began.

During the re-registration of services under the 2016 Act, the inspectorate identified a gap in relation to the individuals it can request information from in order to make an informed decision about the fitness of those seeking to run a regulated service.

As such the intention is to amend the Registration Regulations to require the directors, trustees and members of boards or committees (other than a Local Authority or Local Health Board) to provide, as part of the application to register, additional information to CIW about any previous applications to register under the 2016 Act, the Care Standards Act 2000 and any other applications or registrations in relation to a regulated service elsewhere in the UK.

The information that will be required is consistent with that already required of individuals and organisations seeking registration under paragraphs 13 to 22 of Schedule 1 of the Registration Regulations, plus the information required of responsible individuals under paragraph 23 of that Schedule.

We also intend to use the regulation making power under Section 9(9) of the 2016 Act to vary the evidence which CIW, on behalf of the Welsh Ministers, must have regard to when deciding whether a person is fit and proper to be a service provider. The new evidence would include whether any of the directors, trustees and members of boards or committees of the organisation seeking registration as a service provider have either committed the offences outlined in section 9(4) of the 2016 Act or have been responsible for, contributed to or facilitated misconduct or

mismanagement in the provision of a regulated service for the purposes of section 9(6) of that Act.

## **What was the consultation about?**

As part of implementing the Regulation and Inspection of Social Care (Wales) Act 2016 views were sought on the following areas:

- i. Mandating the registration of all domiciliary care workers from April 2020. This places a requirement on providers of domiciliary support services that they must employ workers from 1 April 2020 who are registered with Social Care Wales, or if new employees, ensure that they are registered with the workforce regulator within six months of their employment;
- ii. Opening the workforce register on a voluntary basis to social care workers employed or engaged under a contract in care home services provided wholly or mainly for adults and residential family centres from 2020 ahead of the mandatory deadline in 2022. This mirrors the approach taken in introducing the registration of domiciliary care workers to help manage the registration process and allow the workforce regulator to engage with the sector. The Welsh Government will work with Social Care Wales (SCW) to ensure that we learn from the experience of extending registration to domiciliary care workers;
- iii. Amending the Registration Regulations to require the key decision makers of any applicant organisation (such as directors, trustees and members of boards or committees) that is not a Local Authority or Local Health Board to provide information to CIW about their previous applications to register and registrations of a regulated service in the UK as well as relevant identifying information. This is the information currently required in paragraphs 13 to 23 of Schedule 1 of the Registration Regulations; and
- iv. Using the regulation making power under Section 9(9) of the 2016 Act to vary the evidence which CIW, on behalf of the Welsh Ministers, must have regard to when deciding whether a person is fit and proper to be a service provider. The evidence would include whether any of the directors, trustees and members of boards or committees of the organisation seeking registration as a service provider has either committed the offences outlined in section 9(4) or has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision of a regulated service for the purposes of section 9(6).

## **Consultation details**

The consultation ran for twelve weeks from 26 July to 16 October 2019 and in accordance with Welsh Government policy, the consultation documents were published bilingually on the Welsh Government's website.

The consultation document was available in bilingual standard format and contained a response form which could either be submitted via email or in hard copy. All versions of the consultation were made available on the following web page –

<https://gov.wales/implementation-regulation-and-inspection-social-care-wales-act-2016>

<https://llyw.cymru/rhoi-deddf-rheoleiddio-ac-arolygu-gofal-cymdeithasol-cymru-2016-ar-waith>

We are grateful to all of those stakeholders that took the time to respond to our consultation and have carefully considered each of the submissions we have received.

## Stakeholder Engagement

Two consultation events were held to present the draft proposals contained within the consultation to stakeholders. The first of these events was held in the Millennium Stadium in Cardiff whilst the second took place at the Catrin Finch Centre at Glyndwr University in Wrexham. A total of 20 interested parties from across the public, private and voluntary sectors attended these events, which sought to encourage stakeholders to respond and to enable those attending to:

- gain an overview of the draft legislative framework and key changes it will bring into effect;
- check their understanding of the proposals and seek clarity, if needed; and
- consider potential implications for their role and organisation.

The Welsh Government also used a number of other forums such as the Care Home Steering Group and National Provider Forum in which to ask questions of key sector stakeholders and answer any initial queries on the draft regulations or the policy direction.

## Next Steps

Following analysis and consideration of the consultation responses received, the Welsh Government will continue with the laying of the draft regulations presented in the consultation before the National Assembly for Wales for its consideration and debate at the end of January 2020.

However, we will be amending two sets of the draft regulations outlined in the consultation document to reflect the comments about ensuring consistency in the requirements for all agency staff to register with the workforce regulator, Social Care Wales. We will therefore include an amendment to insert the wording “or engaged under a contract for services,” in Section 35(2)(f) of the *Regulated Services (Service*

*providers and responsible individuals) (Amendment) (Wales) Regulations 2020* after the words “where a person is employed, in a capacity other than as a manager and in the course of their employment the person provide care in connection with—“ and at Section 3(2)(b) of the *Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) (Wales) Regulations 2020* after the words “who in the course of their employment with a service provider, to provide care and support to any person in Wales in connection with - ” These regulations will come into force in April 2020.

With regards to the registration of service providers, the Registration Regulations will be amended and regulations will be created under section 9(9) of the 2016 Act to enact the changes proposed in this consultation. These changes will come into force in April 2020.

In consulting on these proposals we have identified the need to make a related change to the list of notifications in schedule 3 of the suite of regulations which place requirements on service providers and responsible individuals of all regulated services<sup>1</sup>, to ensure the regulatory requirements work effectively as a whole and as intended. The requirement on providers to notify CIW of any change in directors or partners once a service is registered currently only applies to companies and partnerships.

We propose to rectify this unintended omission by extending this requirement to include individuals which make up the main decision-making body of unincorporated bodies (such as trustees and committee members). As part of making this notification CIW intends to request information about the individual's history in running regulated services, as set out in paragraphs 13 to 23 of the registration regulations. This proposed change will allow CIW to maintain an effective overview of those running regulated services and will ensure consistency in the requirements placed on the range of organisations registered as service providers in Wales.

We will write to interested parties to consult them on this proposal to amend schedule 3 within the suite of regulations. This proposed change will ensure requirements placed upon different types of providers are consistent and CIW is able to maintain sufficient oversight of all service providers. The outcome of this engagement will be published in the Explanatory Memorandum to the amendment regulations.

## Overview of Consultation Responses

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<sup>1</sup> These are:

- The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulation 2017;
- The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019;
- The Regulated Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019;
- The Adult Placement (Service Providers and Responsible Individuals) (Wales) Regulations 2019; and
- The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019.

58 online responses were received, of which 9 were nil returns. Of those 49 that responded, 42 completed the standard template and 7 were received as standalone comments. Several responses were received during the consultation events and other forums (e.g. Care Forum Wales, National Provider Forum, Care at Home Steering Group, etc.) from members of groups that also provided a formal written submission. All of these responses have been taken into account in our overall analysis, although only formal written submissions have been included in the numerical tables below.

Where respondents provided a combined response on behalf of a number of other stakeholders (for example, a member organisation on behalf of its members), this has been taken into account as part of our qualitative analysis. However, for the purposes of counting responses this would be one submission.

The breakdown of responses, by sector, is as follows:

<b>Sector</b>	<b>No. of Responses</b>
Private	8
Public	15
Third Sector	4
Combination of the three above	3
Individual Citizen	19
Not known	9
<b>Total</b>	<b>58</b>

The breakdown of responses, by organisation type, is as follow:

<b>Organisation Type</b>	<b>No. of Responses</b>
Adult Nursing Home	1
Social Services Department	8
Adult Residential Care Home	5
Domiciliary Care Agency	2
Professional Body	2
National Health Service	2
Academic Institution	0
Inspection Body	1
Interest Representative Body	4
Domiciliary Care and Residential Care	4
Equipment Supplier	0
Partnership Forum	2

Individual or Not Known	27
<b>Total</b>	<b>58</b>

## Summary of Responses Received and Welsh Government Response

Question 1: Should agency workers be excluded from having to register as a domiciliary care worker?					
Agree	Tend to agree	Tend to disagree	Disagree	No response	Total
6	1	6	23	9	45

### Summary of the responses:

The majority of those who responded either disagreed, or tended to disagree with the suggestion that agency workers should be excluded from having to register as domiciliary care workers. The rationale provided was that all workers should meet the same requirements and be fit and able to deliver care to a set standard.

A number of those who responded argued that agency staff should also be subject to the same expectations and levels of qualifications and standards. One respondent stated that “...they should expect to be treated in every way like a domiciliary care worker – qualifications and registration...”, while a number of those who responded argued that it would “...provide assurance that all workers within social care are meeting the same standards and regulatory requirements as those in other settings...” and that employers, “...if they were to consider using agency staff would need the reassurance that they have staff who are deemed fit to work; the registration framework confirms this...”.

Three respondents stated that citizens in receipt of care should be able to expect a certain level of recognised professionalism regardless of who is providing the care and support.

Whilst agreeing with our proposals for professionalising the workforce and accepting the part that registration plays in safeguarding and accountability, one respondent felt that “...it would be more preferable to relax the mandatory registration for domiciliary care workers rather than exclude agency workers...” This was countered by another respondent who argued that they would like to see other aspects of the workforce – healthcare assistants in social care settings – registered to help ensure parity between health and social care.

However, there were some who felt that while registration was a good idea, that there were other matters that should be addressed alongside this in order to make

the work more appealing to more people. For example, better terms and conditions or fewer qualification requirements.

Although seven responses agreed that agency staff should be exempt from registration, five of these did not provide an explanation as to why. Where a rationale was provided, this tended to reflect a wider view that the domiciliary care workforce should not be subject to registration.

**Welsh Government response:**

After consideration of the responses, we intend to proceed with the inclusion of agency workers as part of the requirement to register with the workforce regulator, Social Care Wales.

With regard to suggestions we have received relating to the registration of other workforce groups, The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) provides flexibility for the inclusion of more of the workforce to be included onto the workforce register in the future and we will continue to monitor whether other parts of the care workforce should be subject to registration.

More broadly, we will continue to work with the sector to examine what further action could be taken to improve workforce terms and conditions.

<b>Question 2: Should volunteers be excluded from having to register as a domiciliary care worker?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
17	10	13	6	12	58

**Summary of the responses:**

The majority of those who responded either agreed or tended to agree that volunteers should be excluded from having to register as domiciliary care workers.

One argument offered by a number of those who responded was that as volunteer roles are often supervised, and as they are required to be DBS checked before they can join the organisation as a volunteer, that this provides adequate safeguarding. Comments included, “...as long as volunteers are [DBS] checked, they should only need to register if they then proceed to any employment as all other workers [are required to do]....” and “...volunteers having DBS checks is sufficient...” and “...this would depend on the level of care being given; this would depend on the level of the DBS undertaken...”.

It was felt that there should be a way of supporting volunteers to register if they have a desire to do so and that this could be something that would support more individuals to become employed in the social care sector.

Some of those who responded highlighted that volunteers are often expected to complete the All-Wales Induction framework. They felt that where volunteers are trained to a similar standard as their colleagues, they should be treated in the same way in terms of registration.

Two of those who responded felt that volunteers, who are unpaid and are often driven solely by a desire to help others, would be unlikely to want to pay a registration fee. These respondents felt that volunteers should not be discouraged from offering their time by being made to do so.

Some of those who responded argued that volunteers generally undertake non-caring roles (i.e. companionship, reading to, shopping for, doing laundry, etc.), and therefore they should not be required to register. For example, “...we wouldn't expect volunteers to undertake certain registerable tasks e.g. personal care...” and “...[volunteers] contribute by working on more general tasks, non-specific tasks, should not need to be registered in the same way...”

Some of those who responded felt it would be “...unrealistic to expect unpaid volunteers to undertake qualifications and register...” as they did so to help others without remuneration for their time and care. One respondent stated that “...regulators need to be careful about placing increasing barriers to enabling communities to support each other...” while another felt that “...the nature of volunteering is that it is not contracted but a choice...” which should not be blocked through regulation.

For those who felt that volunteers should be included in the register, this was in some cases connected with a view that it could pose a safeguarding risk to the individual requiring care and support. For example, one respondent stated that “...if they are to have hands on, they need to be registered, experienced, and qualified...” or “...to protect vulnerable people registers should be in place...” and “...if volunteers are performing intimate personal care, or domiciliary care tasks, they should also be required to registered with a regulator...”. This suggests that whilst there is an acceptance that volunteers can play a useful role in delivering care and support, there was a strong feeling that this should not be at the expense of ensuring that those receiving the care are exposed to potential harm.

Two respondents queried whether the question related to “volunteers” or those employed through the direct payments route, as personal assistants. In this instance both felt that personal assistants delivering care and support in the same vein as domiciliary care workers should be registered.

### **Welsh Government response:**

There were mixed views on whether volunteers should remain exempt from registration. We intend to subscribe to the majority view and do not intend to bring

volunteers into the scope of workforce registration and would not wish to put unnecessary barriers in the way of people that wish to volunteer their time. Additionally, many volunteers provide a type of support that falls outside of the definition of care and support outlined in the 2016 Act. We recognise that volunteering might be the first step into a career in domiciliary care but feel that the requirement to register and work towards a qualification in order to volunteer and gain experience could also act as an unnecessary barrier to this career path.

Importantly, the Regulated Services (Registered Providers and Responsible Individuals) (Wales) Regulations 2017 also places clear requirements on providers of regulated services with regard to volunteers working at their services. This includes ensuring that they are fit to work at the service, are of suitable integrity and good character, and have the qualifications, skills, competence and experience necessary for the work they are to perform.

We will continue to consider additional activities to develop and support a coherent social care workforce.

<b>Question 3: Should we require the dual registration of professionals who are employed by a domiciliary support service to carry out activities connected with their professional registration, if they are already registered with another workforce regulator?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
11	9	12	14	12	58

### **Summary of the responses:**

There were mixed responses to this question. However, a small majority either disagreed, or tended to disagree, with the suggestion that dual registration should be required for professionals who are employed by a domiciliary support service to carry out activities connected with their professional registration, if they are already registered with another workforce regulator.

Several of those who responded argued that requiring dual registration in all cases would increase the burden on staff in terms of the time taken to initiate and maintain registration, as well as the increased associated costs, “...*The dual registration of professionals is unnecessary, and time consuming and costly...*”. Concerns were raised that necessitating dual registration would deter people from joining the social care sector which would exacerbate the existing recruitment challenges faced, “...*one professional registration should suffice, the cost and requirements of someone having to hold multiple registrations would deter people from working in the sector...*”

Some respondents specifically mentioned nurses registered with the Nursing and Midwifery Council (NMC). Under the current proposals outlined in the consultation,

this professional group would be exempt from dual registration. Several responses were in agreement with the proposed exemption, stating, *“...we wouldn't want qualified nurses to have to register with SCW given that they are already registered with the NMC and are qualified at much higher level than the level 2 social care qualification...”* Concerns surrounding the recruitment and retention of registered nurses in social care was raised as one reason, *“...this could provide a disincentive for nurses to join or continue working in social care settings...”*

One respondent felt that the duplication arising from dual registration could pose problems in scenarios such as investigating fitness to practice concerns. If certain standards and processes were shared by two regulators then this might pose *“...the risk of inconsistency or contradiction across these shared functions, which could result in long delays to investigations and incompatible standards and requirements”*. Others felt that closer working between regulators, and the alignment of standards and qualification requirements would improve the process for both employers and employees, thus negating the need for dual registration, *“...employers should be able to access all workforce regulators to check their validity...”*, with one respondent going so far as to state *“Some professional registrations should entitle the registrant to automatic inclusion on the social care register.”*

Amongst those who disagreed or tended to disagree with dual registration, there was still an acknowledgement of the vital role that registration plays in safeguarding the public, *“...citizens should have the professional care and support that they need, and registration helps formalise that professional support...”* and a recognition that it *“...depends on the nature and relevance of the professional qualifications [held by an individual]...”* as well as the experience gained during a career when determining what extra learning and development an employee must undergo to complete specific activities.

Amongst those who agreed or tended to agree with the principle of dual registration, one respondent stated two specific practical examples of when this would be beneficial; when individuals work in more than one country (e.g. England and Wales) arguing that they should be required to register with the workforce regulators in those countries; and when individuals work in different settings (e.g. education and social care). Another response also highlighted the importance of considering the role that the individual is intending to play within domiciliary care and its equivalence to the role they are regulated for, *“...assuming that because someone meets their professional registration standard does not mean they automatically are fit to work in a domiciliary care setting.”*

Respondents felt that *“checks”* were important for several reasons; to safeguard service users by enforcing accountability and ensuring protocols are in place for raising concerns, to *“uphold the professionalisation of the workforce...”*, and to provide clarity for everyone involved. Despite agreeing with dual registration, the barriers it poses such as fee duplication were acknowledged, with one respondent stating *“...we must work to overcome this...”*

## Welsh Government response:

After careful consideration, we do not intend to require dual registration of professionals *unless* their role is significantly different from their registered profession. For example, if a nurse is acting predominately in a managerial role or general domiciliary care role and not in a nursing capacity, we *will* expect them to register with Social Care Wales.

We believe that it is important to require dual registration where professionals are employed to carry out activities that are *not* connected with their professional registration, and that this will provide adequate safeguards that will ensure social care workers are meeting the required Code of Practice for the role in which they are employed.

<b>Question 4: Should any guidance be provided to support domiciliary support services in complying with this regulation? If so, what guidance do you think would be required?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
38	4	1	4	11	58

## Summary of the responses:

The majority of respondents agreed that guidance should be provided to support domiciliary support services in complying with the regulations. Responses indicated that any guidance should be simple, concise and easy to find, that there should be *“simple guidelines to make the process easier”* and that *“...supportive, clear and encouraging language...”* should be used.

It was felt that guidance would be useful for a number of audiences including new entrants to the sector, current employees, employers/providers and agencies. A mixture of different formats were suggested to communicate the information such as visual, easy read, a handbook, web page, guidelines, and a helpline. However, one respondent felt that *“...it is not just guidance that is needed, but a series of offers of practical support from relevant bodies and agencies in Wales”*. This respondent set out a number of recommendations including a *“sector-wide workforce survey”* to capture baseline workforce figures prior to the mandatory registration of domiciliary care workers, and *“dedicated information sessions delivered by trade bodies and representative bodies...”*

Engagement with providers was a theme that was repeated by several of those who responded, with some expressing the view that not enough had been done to raise awareness of the regulations on a sector-wide basis, *“we are concerned that many providers will not be fully aware of their responsibilities under the regulations and would urge more engagement to be undertaken between SCW and CIW”*.

Suggestions to overcome this potential barrier included regular ongoing events with

employers and the development of a *'hard to reach plan'* to raise awareness among all providers.

Furthermore, respondents requested specific guidance on a wide range of topics such as training, education and continued professional development, the qualifications required to register and how to proceed if an employee does not hold the required qualifications upon commencement of employment. Other topics of interest included guidance on when dual registration would be required, how to supervise and manage volunteers, and how to deal with discrepancies between the regulations and employment law. Some respondents were also interested in receiving advice on the implications for the individual if they did not register by the deadline and for the employer if they employed a non-registered member of staff.

A small minority of respondents disagreed or tended to disagree that guidance surrounding registration would be useful, with one respondent stating that there had been *"ample guidance given it's just the implementation re required qualifications that is a problem."*

**Welsh Government response:**

We will give careful consideration as to what type of guidance might be helpful and work with Social Care Wales and Care Inspectorate Wales to consider how we might take this suggestion forward. This will include considering how any such guidance would fit alongside the information already available on the Social Care Wales and Care Inspectorate Wales websites.

<b>Question 5: Are the attached draft regulations and definitions sufficiently clear and comprehensive to effectively implement the voluntary registration of adult residential care workers and residential family centre workers?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
21	12	3	2	20	58

**Summary of the responses:**

The majority of respondents agreed or tended to agree that the draft regulations and definitions are sufficiently clear and comprehensive to effectively implement the voluntary registration of adult residential care workers and residential family centre workers, for example stating that *"...the language seeks to avoid jargon, and to set out intent and rationale pretty clearly"*. However, some of those who responded said that messages regarding annual registration fees and encouraging employees to register voluntarily needed to be made more prominent through engagement with stakeholders.

Amongst those who disagreed or tended to disagree, one of the most common reasons was that the language used within the draft regulations was “*not reader friendly or plain English*”. Others felt that their lack of clarity could lead to a lack of accountability.

Also, despite one respondent agreeing that the draft regulations and definitions were reasonably clear, a question was raised as to whether individuals employed in roles which involve interaction with residents (e.g. serving refreshments) but not direct care and support, would fall under the definition of an adult residential care worker or residential family centre worker.

### **Welsh Government response:**

Following careful consideration of the responses and of the regulations, we have concluded that no changes, for the purpose of clarity, will be made to the draft regulations. We will discuss the messages we have received in response to this question with Social Care Wales in order that they can be taken into consideration in communications surrounding the implementation of the registration requirements.

The regulations will not require the registration of staff that do not provide direct care and support, as defined in Sections 3(1)(a) and (d) of the 2016 Act, to residents of care homes for adults.

**Question 6: Do you think that two years lead-in time from 2020 for people to join the register voluntarily is sufficient to facilitate the mandatory registration of adult residential care workers and residential family centre workers by 2022?**

<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
20	10	6	3	19	58

### **Summary of the responses:**

The majority of respondents agreed or tended to agree that a two year lead-in time from 2020 to allow people to register voluntarily would be sufficient to facilitate the mandatory registration of adult residential care workers and residential family centre workers by 2022. Among this group of respondents, it was felt that two years would provide consistency with the lead-in time adopted for the registration of domiciliary care workers.

While some of those who responded said that they felt two years was sufficient time to facilitate mandatory registration, a view was also expressed that the start date for the two year time period could be delayed. It was felt that this would allow time for any lessons to be learned from the voluntary registration of domiciliary care staff,

*“...there should be lessons learnt from the home care experience where registration was delayed due to the turn-over rate of care staff.”*

This also reflected a concern that registration has had a negative impact on staff turnover in this sector, *“...we currently don't yet know how this registration process is going to affect staff turnover...”* Two respondents highlighted the anxiety, stress and uncertainty experienced by some employees and employers in light of the registration process, which they felt to be the main contributor towards recent staff attrition in domiciliary care. Some respondents therefore called for the opening of the register to be delayed or to be made more flexible to *“...enable adequate learning and impact analysis to take place before any extension of the compulsory scheme to residential workers”*.

Other respondents said that two years would be adequate where there is sufficient resource and infrastructure in place to manage the applications, and where *“...appropriate communication, support and guidance is undertaken...”*

Some respondents said that a balance needs to be struck between a long lead-in period which could *“...lead to complacency, and then a blockage of the system as the deadline looms”*; and a short lead-in period which might not allow individuals and providers sufficient time to prepare. One respondent said that a two year lead-in period may lead individuals to delay the registration process until the *“...last moment...”* as the deadline approaches. One respondent even felt that this could put patient safety at risk.

Some of those who disagreed with the two year lead-in period felt that it was too short to accommodate the number of individuals involved and, *“...too complex a matter...”* to complete within the limited timeframe.

### **Welsh Government response:**

We accept that there is a fine balance to be found between giving workers sufficient time to engage with the process of registration before it becomes mandatory, and one which avoids introducing complacency into the system. However, we do not feel that a strong case has been made for a lead-in period that is either shorter, or longer than, two years.

We understand that registration is a new process for domiciliary care workers and are working closely with Social Care Wales to ensure that we apply any lessons learned from the registration of domiciliary care workers.

While we recognise that registration could cause some workers to leave the sector; we believe that by providing the right support and guidance to the workforce this risk can be minimised. We also believe that the benefits of professionalising the workforce through registration outweigh these risks. Registration will also provide us with improved workforce data which will allow us to monitor any future changes.

We have noted evidence from Scotland, where registration of the workforce is almost complete. This evidence suggests that the impact of registration on staff turnover have been minimal. We are also working with our stakeholders to deliver a number

of interventions aimed at improving recruitment and retention in the sector, for example the Social Care Wales campaign, “WeCare.Wales” which seeks to improve the attraction of people into the sector and provide a focus to recruit and retain workers through a series of case studies highlighting workers’ motivations for joining the sector.

**Question 7: Should we require the dual registration of professionals who are employed by a care home service for adults or in a residential family centre service to carry out activities connected with their professional registration (e.g. a nurse or occupational therapist), if they are already registered with another workforce regulator?**

Agree	Tend to agree	Tend to disagree	Disagree	No response	Total
10	3	12	15	18	58

### Summary of the responses:

Responses to this question were very similar in nature to the responses to question three, with a focus on the protection of clients and a feeling that the need for registration must be dependent on the particular job role.

Of the thirteen respondents that felt that dual registration should be a requirement, one stated that, *‘the more checks the better’*, while another respondent said that, *‘checks are vital to the welfare of clients’*.

Whether respondents agreed with dual registration or not, there was a degree of consensus that there should be a connection between the registration and the job role. A respondent that agreed with dual registration said that workers should nonetheless *‘remain within the remit of the role that they are employed and working in and being paid for’*, while another expressed that the skills required for one job are not always the same as would be required for another. A respondent that disagreed with dual registration said that, *‘the employee’s registration must be related to their primary role within the organisation’*. Another respondent said that, *‘if activities are connected to their professional registration there is no need for dual registration’*.

Where responses disagreed with dual registration, a view expressed was that the additional time and cost involved with dual registration was both unnecessary and a possible deterrent to working in the sector. There was also a concern that dual registration would introduce unnecessary duplication and complexity to the system. One response also stated that, *‘there needs to be a trust in allied workforce regulators’*.

## Welsh Government response

We agree with the concern that dual registration could introduce unnecessary complexity into the system. We also agree that registration should reflect the job role that a worker is paid to undertake. We believe that employers should be able to rely on the professional registration obtained through other regulators, and that this is important in order to maintain confidence in the whole system of workforce regulation. For this reason, we believe that those who are employed by a care home service for adults or in a residential family centre in the capacity of their regulated profession, should not need to register twice. Such professionals are already held accountable for their conduct by other workforce regulators such as the Nursing and Midwifery Council and the Health and Care Professionals Council, and those regulators will already be working to ensure that the system of checks undertaken is sufficiently rigorous as to avoid the need for duplication.

<b>Question 8: Should we extend the requirement to register as an adult residential care worker or in residential family centre worker to agency workers in these services?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
30	5	1	2	20	58

### Summary of the responses:

Responses were overwhelmingly in support of requiring agency workers to be registered. Some respondents expressed concerns about the creation of a 'two-tier' system in a scenario where agency workers were not required to register, while others emphasised the need for consistency across the sector to ensure that standards are maintained.

Of those that disagreed, this reflected an overall concern that registration of the workforce would make the sector less attractive to potential new recruits.

### Welsh Government response:

We have considered the responses and agree that consistency in the approach to registration will be important. We do not consider that there is a strong argument to exclude agency workers from registration. Therefore, we will extend the requirement to register as an adult residential care worker or worker in residential family centres to agency workers in these services, in line with the draft regulations.

Question 9: Should we exclude volunteers from having to register as adult residential care workers or workers in residential family centres?					
Agree	Tend to agree	Tend to disagree	Disagree	No response	Total
11	9	7	9	22	58

### Summary of the responses:

The majority of those that responded did not provide comments on this question. This means that a large proportion of responses that agreed or tended to agree with the question to exclude volunteers from the register did not explain their rationale for this.

However, one respondent explained that “...we wouldn’t expect volunteers to undertake certain registerable tasks (e.g. personal care)...” whilst another felt that it would be “...better to manage concerns over volunteers through the care provider’s policies and procedures, otherwise this risks adversely affecting community connections...” Both of these responses suggest that employers already actively manage the roles that volunteers play within their organisations and this includes limiting the nature of tasks undertaken by them.

One respondent agreed that volunteers should be excluded but felt that “...clear guidelines should be in place regarding what volunteers can and cannot do together with robust checks...”

Some argued that volunteers were a valuable resource that could be discouraged from working in the sector if made to register. In this case it was suggested that there should be an “...option to for volunteers to register, if they so wish, both in terms of recognising their input and also if they see it as a helpful pathway to eventual professional work in the care field.”

Of those who felt that volunteers should be required to register, many felt that they often undertook similar roles to their employed counterparts and should therefore be required to register in the same manner. One response felt that “...volunteers need to be treated the same as other workers, especially as they may be moving around a lot more than contracted workers...”. This was supported by another who felt that “...registration will protect service users and give a feeling of professionalism to volunteers...” whilst one respondent warned that there was an increased risk of “...creating gaps in the regulatory framework and false incentives for employers to place undue reliance on bank or voluntary staff...”

In analysing the responses, it is interesting to note that among both those that agree and those that disagree, there was clear consensus that the role of a volunteer needs to be clearly defined. If it is to assist but not provide personal care<sup>2</sup>, then it was felt that registration should not be required, but if it does include some form of

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<sup>2</sup> A definition of care is provided in the Regulation and Inspection of Social Care (Wales) Act 2016 at Section 3(1)(a)

personal care that registration should be required in the same way as other categories of social care workers.

**Welsh Government response:**

We are grateful for the comments we have received on this question but we have not seen a strong argument for changing the approach.

In promoting the professionalisation of the workforce we would not wish to create barriers to volunteers interested in working in the sector who play an important role in providing additional support for people. We believe that volunteers have a valuable role to play in the social care sector and that they should be supported to continue to make that contribution.

*The Regulated Services (Registered Providers and Responsible Individuals) (Wales) Regulations 2017* also places clear requirements on providers of regulated services with regard to volunteers working at their services. This includes ensuring that they are fit to work at the service, are of suitable integrity and good character, and have the qualifications, skills, competence and experience necessary for the work they are to perform.

Therefore, we do not intend to register volunteers at this stage.

<b>Question 10: Should we also extend the proposals to avoid dual registration of professionals who are employed by a care home service for children to ensure consistency?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
22	8	2	4	21	57

**Summary of the responses:**

As with question 7 above, the majority of those who responded to this question either tended to agree, or agreed, that we should avoid the dual registration of professionals who are employed by a care home service for children to ensure consistency. Some respondents felt that *“...it makes sense to maintain consistency across the sector...”* Others felt that *“...each professional body has its own Code of Practice and mechanism for dealing with breaches...”* or that *“...one professional registration should suffice...”* One respondent said that they tended to agree but felt that it depended on whether the individual was *“...employed to carry out activities connected with their professional registration...”* This was echoed by another respondent which argued that *“...professional regulation requires professionals to ensure that they are working within the scope of practice they are trained for and should allow the regulator to take action if required even if misconduct occurs whilst practising in another professional role...”*

However, not all respondents agreed that a single professional registration was sufficient. One said that, “...*child and adult services should have a clear distinction between them and will therefore need to be registered separately...*” while another felt that “...*it adds another layer of protection for service users...*” However, one respondent said that “...*people should be registered with the appropriate body to enable them to undertake the role they are working in...*”

**Welsh Government response:**

As with our response to question seven above, we agree that registration should reflect the job role that a worker is paid to undertake. We believe that employers should be able to rely on the professional registration obtained through other regulators, and that this is important in order to maintain confidence in the whole system of workforce regulation. We also believe that it is important to maintain consistency across the setting.

<b>Question 11: Should we extend the requirement for agency staff employed by a care home service for children and a secure accommodation service to be included on the register to ensure consistency across the register?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
30	4	1	2	20	57

**Summary of the responses:**

The clear majority of responses to this question were in favour of registering agency staff in a care home service for children and secure accommodation services. Whilst there was a variety of reasons given for why this should be, the overarching view was that agency staff should be subject to the same rules as employed staff, and that the approach should be consistent. “...*learning the lessons from serious case reviews demonstrates the importance of a consistent approach in staffing registration...*” “...*importance of consistency in staffing and approach, and a common registration requirement for permanent and agency staff is an important baseline...*” “...*there is already an over reliance on using agency workers and this would provide a loophole for staff if they were exempt, thus making recruitment and retention even more problematic for providers...*” Some respondents argued that all of the workforce should be registered, and some felt that it was best for “...*the maintenance of standards and the protection of service users...*” and that “...*the same rule should apply to all settings...*”

Of those that disagreed or tended to disagree with the proposal, one respondent questioned the need for so many registers. Another argued that while only permanent staff should be required to register with the regulator, agency staff should be provided with some formal induction programme.

## Welsh Government response:

We have considered the responses and agree that consistency in the approach to registration is important. We do not consider that there is a strong argument to exclude agency staff employed by a care home service for children and a secure accommodation service from registration. Therefore, we will amend the draft *Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020* to include agency staff employed under contract to work in child residential care workers and those employed in secure accommodation.

**Question 12: Do you agree with the proposal to amend the Registration Regulations to require all directors, trustees and members of any organisation (including those managed by its members) seeking to register as a service provider, to provide CIW with information about any previous applications for registration or registrations they have held as service provider of any other regulated care service in the UK and relevant identifying information have held as service provider of any other regulated care service in the UK and relevant identifying information.**

Agree	Tend to agree	Tend to disagree	Disagree	No response	Total
28	5	4	1	20	58

## Summary of the responses:

The majority of respondents agreed or tended to agree with the proposal to amend the registration regulations to require directors, trustees and members of boards or committees of an organisation seeking to register as a service provider to provide CIW with information about any historic involvement in running regulated care services in Wales or the UK as a whole. This information is already required of individuals applying on behalf of organisations seeking to register as service providers but this does not currently apply in relation to the wider decision makers of that organisation.

One respondent said the proposal was “both appropriate and proportionate”. Another stated that “those making decisions at this level should also be accountable as they have a responsibility to ensure the people under their care are safe and well cared for with dignity and respect”. One respondent from the voluntary sector stated that “people who take up a trustee role must be subject to standards of behaviour and conduct consistent with the aims of the regulation”.

One respondent questioned whether the information would need to be provided up front or on a case-by-case basis and whether the person would need to undertake an assessment in order to be determined as “fit and proper”.

Of those who tended to disagree, there was some concern that including “members of committees” within the scope of people from whom CIW can request background information goes beyond those who have control over the service and amounts to a change in the definition of a “service provider”. One respondent was unclear about what additional information was being sought and another was concerned that it could have an impact on the inspection visits. The one respondent who disagreed did not provide supporting detail with their response.

### Welsh Government response:

The Welsh Government response to both questions 12 and 13 is set out below.

<b>Question 13: Do you agree with the proposal to use the regulation making power under section 9(9) of the 2016 Act to vary the evidence which CIW (acting on behalf of Welsh Ministers) should have regard to in deciding whether a person is fit and proper to be a service provider</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
23	9	2	1	23	58

### Summary of the responses:

The majority of respondents either agreed or tended to agree with the proposal to use the regulation-making power under section 9(9) of the Act to enable the information obtained from directors, trustees, members of boards and committees – as proposed in question 12 – to be included in the relevant considerations of whether a service provider is fit and proper.

One respondent stated that “ensuring that only fit and proper persons are allowed to register with Care Inspectorate Wales will help public perceptions on the quality of care”. Another stated that the information would “help with making a decision about whether someone is fit and proper to be a service provider”.

One respondent stated that CIW should take account of existing providers with a positive and long-standing record of service provision. Another suggested Welsh Government may wish to consider the Kark review of the fit and proper persons test in England which reported on the effectiveness of the fit and proper test for senior NHS staff.

Another respondent also felt it was important there is some guidance and support for those on boards and committees to ensure they understand their roles and responsibilities.

## Welsh Government response (to questions 12 and 13):

We welcome the feedback on these proposals and have considered the issues raised carefully. In relation to concerns that including members of committees within the scope of people from whom CIW can request background information goes beyond those who have control over the service, we believe this to be a misunderstanding of what is meant by members of committees in this context. Committee members will only be required to provide information if they represent the top tier of decision makers within that organisation and are acting in the same capacity as a board. For organisations with multiple tiers of governance which may have a board of directors and a management committee, for example, we would take a proportionate approach and only require information from the board of directors.

The information from the key decision makers of an organisation would be required up-front, at the point of registration. As such, these changes would not have an impact on inspection visits. These individuals would not need to undertake an assessment before being determined a fit and proper person. CIW will take the information about the professional background of these individuals into account when making an overall determination about the fitness of the provider.

CIW does not intend to amend its registration process as a result of the changes in legislation. However, these amendments will provide greater legal certainty and clarity about the requirements in relation to organisational officers.

In terms of guidance and support for those on boards and committees, the regulations which place requirements on service providers and responsible individuals of regulated services<sup>3</sup>, as well as the associated statutory guidance, already provide comprehensive information about the expectations on the service provider and the Responsible Individual for the service. CIW has also produced guidance about the registration process which can be found on its website at: <https://careinspectorate.wales/update-re-registration-guidance>.

We note the reference to the Kark Report, which reviews the fit and proper persons test for health service bodies in England. However the recommendations in the Kark Report go beyond the scope of this consultation.

In consulting on these proposals we have identified the need to make a related change to the notification requirements in schedule 3 of the suite of regulations

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<sup>3</sup> These are:

- *The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulation 2017* (which relate to care home services, domiciliary support services, secure accommodation services for children and residential family centres);
- *The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019*;
- *The Regulated Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019*;
- *The Adult Placement (Service Providers and Responsible Individuals) (Wales) Regulations 2019*; and
- *The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019*.

which place requirements on service providers and responsible individuals of all regulated services, to ensure that the regulatory requirements work effectively as a whole and as intended. The requirement on providers to notify CIW of any change in directors or partners once a service is registered currently only applies to companies and partnerships.

We propose to rectify this unintended omission by extending this requirement to include unincorporated bodies so that CIW is notified of changes to trustees and members of boards or committees of all regulated services in Wales. We will write to interested parties to consult them on this proposal to amend schedule 3 within the suite of regulations. This proposed change will ensure requirements placed upon different types of providers are consistent and CIW is able to maintain sufficient oversight of all service providers. The outcome of this engagement will be published in the Explanatory Memorandum to the amendment regulations.

<b>Question 14: Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
5	6	1	1	45	58

### **Summary of the responses:**

There were very few responses to this question. The majority of those who did respond either agreed or tended to agree that the proposals could have a positive impact on groups with protected characteristics. One respondent explained that in their view, as the majority of care workers are women, any plans to professionalise and upskill the workforce through improving terms, conditions, pay and job security would be of benefit to this group.

Respondents felt that the proposals would be of particular benefit to older people and disabled people given that these are the groups more likely to require care and support from the social care workforce. Other respondents echoed this, stating for example that “...*care workers under the registration process will receive quality training – impacting on care...*” and that the greater scrutiny afforded by the regulatory process will “...*safeguard the most vulnerable.*” It was suggested that a further group likely to benefit from the proposals are those with dementia as by providing training that focuses on recognising the condition and empathising with the individual this creates the opportunity for registrants to provide tailored care and support.

Despite a few respondents highlighting a potential positive impact on disabled people who receive care and support, one respondent felt the opposite for disabled people who are aiming to work in the social care sector. The respondent felt that people with a learning disability or autism could be unfairly disadvantaged by the

requirements to complete written exams/competencies and that this “...*may be seen as off-putting.*” for them. In order to mitigate this unintended consequence the respondent suggests alternative methods to assess the required competencies such as “...*in-work assessment, working interviews...*”

Respondents who did not provide an answer, or who felt there would be no impact on people sharing protected characteristics, or a neutral impact “...*registration for all paid staff will ensure equality and fairness...*” were categorised amongst the 44 ‘no responses’. Many of these respondents’ comments did not expressly answer the question asked or mentioned vulnerable groups within society rather than the protected characteristics stated within the law.

**Welsh Government response:**

Overall, we tend to agree that in relation to service users the proposals are likely to have a positive impact on certain groups, particularly disabled people, and women in the workforce. However we recognise that there is a risk that there could be negative impacts for certain groups of the workforce if accessibility, for example of training, is not considered at the implementation stage.

We did not receive many responses to this questions, however we will use the responses we have received to inform our assessment of the impacts on equality. We will also consider whether further proactive engagement with groups of people sharing protected characteristics would help inform our next steps.

The qualification routes already involve a degree of in-work assessment, however, we will discuss the concerns raised about accessibility of training with Social Care Wales.

<b>Question 15: Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
0	10	0	8	39	57

**Summary of the responses:**

Again, we received relatively few responses to this question. A small majority of people that responded tended to agree that the proposal could have a negative impact on people sharing with protected characteristics. The protected characteristics most frequently cited were sex (women), age (older adults), and disability.

Comments regarding the potential for the proposals to have a disproportionate negative impact on women reflected concerns about the cost of registration mainly falling on this group, “...many of whom [women] are low paid and may struggle to meet the costs...”. They also reflected a concern about the challenges of meeting the qualification standards within the required timeframe if working less than full-time. One respondent stated that 48% of the workforce work part-time hours, and given that that majority (82%) of the workforce are women, this might disproportionately impact upon working mothers.

Respondents also felt the proposals could have a disproportionate negative impact on older employees, which make up a large part of the workforce. We are aware that 48% of the commissioned service<sup>4</sup> workforce are aged over fifty and that 88% are female. Computer literacy was felt to be one potential reason for the negative impact because of the “*online element of registration...*” which could ultimately lead to a loss to the sector of older employees that have valuable experience but that are often less computer literate. It was also expressed that older workers may be “*less likely to want to undertake qualifications or to want to work longer hours to accommodate any additional learning activity.*” Another respondent also highlighted that “*the highest percentage of sickness absence occurs in staff who are the oldest...*” and that this time off from work may inhibit an individual from completing the assessments in time. Time off work was also mentioned in relation to individuals undergoing treatment for gender reassignment.

Disabled people were also felt to be at risk of being disproportionately disadvantaged by the proposals for some of the same reasons as those set out above such as the time taken to complete qualifications if absent from work due their disability. Another respondent mentioned the Engage to Change programme which supports disabled young people to join the social care sector. They argued that the requirement to undertake formal qualifications could be a barrier to those with learning difficulties or low levels of literacy.

In terms of service delivery, one respondent suggested that people with protected characteristic who receive care and support could be disadvantaged due to workers leaving the sector and therefore reducing “the availability of care and support”. A concern was also expressed that “*any increased cost incurred by service providers [as a result of registration requirements] may be passed on directly or indirectly. Therefore services may increase in cost, or may be reduced in availability...*”

### **Welsh Government response:**

We are grateful to the respondents who provided comments on this question. We recognise that there is a risk that the registration process could disproportionately impact on some groups of people that share protected characteristics, such as older people, women and disabled people, and will work with Social Care Wales to ensure that those risks continue to be identified and managed at the implementation stage. We recognise that any fee is likely to impact on more women than men, due to the

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<sup>4</sup> Social Care Wales Workforce Development Programme (SCWWDP) Workforce Data Analysis 2017  
[https://socialcare.wales/cms\\_assets/file-uploads/COM07006\\_SCWWDP\\_report\\_2017\\_internal\\_eng\\_Final-V2.pdf](https://socialcare.wales/cms_assets/file-uploads/COM07006_SCWWDP_report_2017_internal_eng_Final-V2.pdf)

make-up of the workforce. However, Social Care Wales has already consulted extensively on this and the requirement to pay a fee is consistent with other social care workforce registration requirements elsewhere in the UK. Social Care Wales also offers a variety of options aimed at assisting people to manage the payment. Social Care Wales is also working closely with service provider employers and employees to help provide comprehensive support in terms of understanding the registration process.

We are also working to promote greater diversity within the social care workforce. One of the vehicles for achieving this is the 'WeCare Wales' campaign.

We will use the responses we have received to inform our assessment of the impact on equality. We will also consider whether further proactive engagement with groups of people sharing protected characteristics would help inform our next steps.

<b>Question 16: We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on</b>					
<b>i) opportunities for people to use Welsh and</b> <b>ii) on treating the Welsh language no less favourably than English.</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
0	10	10	0	35	55

### Summary of the responses:

The majority of those who responded to this question did not make any additional comments.

Of those that did, the majority felt that the proposals would have a neutral or no impact on providing more opportunities for people to use Welsh in the workplace. Some argued that opportunities would be “...*unaffected as we follow the Welsh standards and it is law...*” or that “...*as long as information is provided consistently and at the same time in both languages then there should not be any negative effect...*” One said that a more proportionate approach to the language was needed as “...*a fact that some parts of Wales do not use the Welsh language as much as others. Areas which do use the Welsh language should be supported and not imposed on all the rest...*”

Some of those who responded argued that it was “...*already be difficult to find sufficient Welsh speaking workers for the sector to provide services through the language of choice of the person receiving care...*” further arguing that “...*if these measures were to reduce the number of Welsh speakers wishing to work in the sector as well as the workforce more generally, this could have an adverse effect of care provision through the medium of Welsh...*”

One respondent argued that employers had provided Welsh language courses to help staff learn and use Welsh in the workplace for over a decade and in some instances “...supported in house, during working hours, delivers staff to Centre, lessons in both English & Welsh. Always over-subscribed. Zero completers of any course at any level...” They argued that it was often seen as an exercise that had provided little reward.

One response felt that “...there is potential for staff whose first language is not English or Welsh to be adversely affected to complete the requirements within the timeframe...” another added that “...If your clients require other languages (any) it is incumbent for the Home to respond...” which was corroborated by another who felt that “...providers should provide the option to have a welsh speaker...”

<b>Question 17: What effects do you think there would be? How could we increase the positive effects, or mitigate the negative effects?</b>					
<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
0	0	0	0	38	38

### **Summary of the responses:**

There were very few respondents that answered this question.

Five respondents said that they felt that there would be no impact on the Welsh language. One stated that it was already a requirement to deliver services through the medium of Welsh and that it complied with this, so would not have any overall impact upon the delivery of services. Four other respondents felt that more should be done to encourage the use of the Welsh language rather than making it mandatory, with two of these suggesting that this should also include offering greater support for the sector through more accessible and cost effective courses for employers.

However, this view was countered by two other respondents who felt that the delivery of Welsh language based services should be on a need only basis and not a mandatory duty, as this placed an undue burden on employers particularly if there was no identified local need. Three further responses felt that provided that service providers met the needs of their clients, this should be sufficient to have no negative effects of the use of the Welsh language in the workplace or meeting requirements.

One of those who responded said that the only way to make an impact and change the status quo was to make Welsh language services compulsory. However, another respondent emphasised the need to avoid tick box exercises in relation to the Welsh language.

**Question 18: Please also explain how you believe the proposed policy could be formulated or change so as to have:**

- i. 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**
- ii. 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.**

<b>Agree</b>	<b>Tend to agree</b>	<b>Tend to disagree</b>	<b>Disagree</b>	<b>No response</b>	<b>Total</b>
0	0	0	0	40	40

### **Summary of the responses:**

As with Question 17 above, very few respondents chose to answer this question. Of those that did, whilst none of them completed the form to say whether they agreed or disagreed that there would be any effects, they did provide comments.

Five of these respondents simply stated that they had no comments to add on this issue, whilst a further five felt that there would be no impact (positive or negative) on the Welsh language proposed by our regulations. One respondent commented that it was unknown as to whether there would be any impacts.

One respondent reiterated that more courses were needed to encourage the use of the Welsh language. They felt that there could be greater support for the sector through the provision of more accessible and cost effective courses. Another argued this would help meet any local needs, but also that this requirement should only reflect direct need or seek to improve services and not simply tick a box. A further respondent argued that Welsh language policy guidance already provided enough information to help providers understand their legal requirements but welcomed the idea that greater support might be offered.

### **Welsh Government response (to questions 16, 17 and 18):**

We are grateful for the responses we have received to these questions. It is not our policy intent to place undue burdens on the social care sector, but ensure that where possible, Welsh speakers can access services that best support them.

We are taking forward a number of programmes of work aimed at increasing the number of Welsh speakers across Wales. These actions go beyond social care but are important in terms of considering the issues raised. *More than just words* is a strategic framework for Welsh language services in health, social services and social care. A review of *More than just words* indicated that much has been achieved against a number of the actions set for the delivery of services through the medium of Welsh and that there are pockets of good practice in Health and Social Care. Many of the next steps that flowed from the review of “*More than just words*” have

been set out in our strategy for the Welsh language, "*Cymraeg 2050*," and this will help to take forward our ambition to see the number of people able to enjoy speaking and using Welsh reach a million by 2050.

Whilst we are actively seeking to increase the number of Welsh speakers, both nationally and across our economy, this is being taken forward in a collaborative and pragmatic way. We are aware that many who have learned Welsh often feel a little less confident to use it in their workplace and so encouragement is needed to help them converse in Welsh with those that would find it easier to do so which has significant benefits for both parties.

However, we recognise that there is always more that can be done to support the recruitment of Welsh language speakers into social care and we will continue to focus our efforts on how this might be achieved.

In relation to workers whose first language is neither Welsh nor English, we note the challenges that could be faced in completing the registration process and will raise this in discussions with Social Care Wales regarding implementation.