

Explanatory Memorandum to the Education Workforce Council (Main Functions) (Wales) (Amendment) Regulations 2016

This Explanatory Memorandum has been prepared by the Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with 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 (Main Functions) (Wales) (Amendment) Regulations 2016 ("the Regulations").

Huw Lewis

Minister for Education and Skills

6 January 2016

1. Description

1.1 This statutory instrument amends The Education Workforce Council (Main Functions) (Wales) Regulations 2015 (“the 2015 Regulations”).

1.2 The Regulations set out the specified services and the criteria for providing those services by school learning support workers, working within a maintained school in Wales.

2. Matters of special interest of Constitutional and Legislative Affairs Committee

2.1. None.

3. Legislative background

3.1 The Education (Wales) Act 2014 (“the 2014 Act”) reconfigured and renamed the General Teaching Council for Wales (GTCW); extending the remit of the body; and the composition of its membership in order for it to become the Education Workforce Council (“the Council”). This took place on 1 April 2015, which was also the point at which the requirement for professional registration was extended to Further Education (FE) teachers, in addition to school teachers.

3.2 From 1 April 2016, the requirement for professional registration will extend to learning support staff. This means that in order to work as a learning support worker in either a school or FE setting in Wales, a person must be registered with the Council.

3.3 For FE learning support workers, section 16 of, and row 4 of Table 1 of Schedule 2 to, the 2014 Act sets out the definition of those persons captured by the term ‘further education learning support worker’. The 2014 Act does not define what is meant by school learning support workers. Instead, row 2 of Table 1 of Schedule 2 to the 2014 Act provides that the Welsh Ministers may make regulations providing that specified services may not be provided by a person in a school unless that person satisfied the requirements set out in regulations made under section 14(1)(a)(ii) of the Act.

3.4 The Regulations are made under powers conferred on Welsh Ministers by sections 14, 16 and 47(1) of the 2014 Act.

3.5 These Regulations are being made under the National Assembly for Wales’ Negative Procedure.

4. Purpose & intended effect of the legislation

4.1 The Regulations amend the 2015 Regulations so as to:

- make a minor correction to the definition of “serious professional incompetence”, substituting “level of incompetence” with “level of competence”;
- insert a new Part 3A which provides that school learning support workers must not provide the services set out in that Part 3A unless they meet the specified criteria. The specified criteria includes being registered with the Council in the register it maintains pursuant to section 9 of the 2014 Act, and;
- insert a new Part 4A which provides that a further education learning support worker may not provide services set out in section 16(2) of the 2014 Act unless the person is registered with the Council; pursuant to section 9 of the 2014 Act.

4.2 The Act provided that the GTCW was to continue to exist but was to be renamed the Education Workforce Council. The Council has the aim of contributing to improving the standards of teaching and the quality of learning and improving the standards of professional conduct amongst practitioners.

4.3 In February 2011, the then Minister for Education and Skills set out his agenda to raise standards of education in Wales. Through the Programme for Government, the Welsh Government committed to review the GTCW. This is part of a series of measures that will help to improve educational standards and attainment for the people of Wales; and ensure that wider education workforce practitioners work together more effectively.

4.4 The 2015 Regulations make provision in relation to a number of the Council’s functions. These Regulations amend the 2015 Regulations so as to insert a new Part 3A. The new Part 3A provides that school learning support workers must not provide the services set out in that Part 3A unless they meet the specified criteria. The specified criteria includes being registered with the Council in the register it maintains pursuant to section 9 of the 2014 Act (regulation 2(a) and (c) of these Regulations).

4.5 These Regulations further amend the 2015 Regulations so as to insert a new Part 4A. The new Part 4A provides that a further education learning support worker may not provide the services set out in section 16(2) of the 2014 Act unless that person is registered with the Council in the register it maintains pursuant to section 9 of the 2014 Act (regulation 2(d) of these Regulations).

Registration

4.6 Section 9 of the Act sets out the function of establishing and maintaining a register of practitioners; Schedule 2 to the Act sets out the categories of registration and the persons who fall within it.

4.7 A key feature of many professions is a requirement to register with a professional body that sets and maintains professional standards. The benefits to all education practitioners are that they will be recognised as a single and coherent education workforce. In addition, registrants will be seen as:

- part of a credible and valued workforce;
- having professional status, with specific standards for entry and continued membership of that profession; and
- suitable to be a member of the profession – maintaining public trust and confidence.

5. Consultation

The Registration of School Learning Support Workers with the Education Workforce Council

5.1 The consultation “Proposal for the registration of school learning support workers with the Education Workforce Council” ran for 12 weeks (1 April – 1 July 2015)¹ and sought the views of stakeholders on the proposed category of service providers within schools that will be required to be registered with the Council from 1 April 2016.

5.2 Views were sought from all bodies involved in the education fields including unions, local authorities, practitioners, education training providers, awarding bodies and national organisations and charities.

5.3 When asked if they agree with the proposal that a requirement to register will fall on service providers who carry out one or more specified activity defined under paragraph 6.13 of the consultation. Twenty (87%) out of the twenty three respondents agreed with the definition set out in the consultation, One respondent did not agree; and 2 either did not respond or did not give a definitive answer. It was interesting that many respondents simply agreed with the proposal and did not feel the need to provide supporting comments.

5.4 A summary of responses is available at:

<http://gov.wales/consultations/education/proposal-for-the-registration-of-school-learning-support-workers-with-the-ewc/?status=closed&lang=en>

¹ www.wales.gov.uk/consultations

6. Regulatory Impact Assessment

6.1 A Regulatory Impact Assessment has not been prepared as the Regulations do not impose any additional costs on business, employers or third parties.