



Welsh Government
Consultation – summary of response

Mandatory Registration of Adult Care Home Workers

Implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 –

- to mandate the registration of workers in care home services wholly or mainly for adults and residential family centre services from 1 October 2022 and placing a requirement on service providers to only employ and/or engage under a contract for services individuals who are registered with Social Care Wales (SCW).

April 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This document provides a summary of the responses received by the Welsh Government to our consultation:

WG43389 – Implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 to mandate the registration of workers in care home services wholly or mainly for adults and residential family centre services from 1 October 2022 and placing a requirement on service providers to only employ and/or engage under a contract for services individuals who are registered with Social Care Wales (SCW).

The consultation was published on 20 December 2021 and closed on 28 February 2022. This exercise received 30 responses from a range of stakeholder and interested parties.

Action Required

For information only.

Further information

Enquiries about this document should be directed to:

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Additional copies

This document can be accessed from the Welsh Government's website:
<https://gov.wales/implementation-regulation-and-inspection-social-care-wales-act-2016-0>.

Large print, Braille and alternate language versions of this document are available on request.

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Section 1

1.1 Introduction

The past eight years have seen the creation of a new legal framework for social services in Wales, with the passing of two landmark pieces of legislation. The overall aim has been to reform and consolidate social care law, in order to improve the well-being of people who need care and support and those who look after them.

The Social Services and Well-being (Wales) Act 2014¹ ('the 2014 Act'), which came into force on 6 April 2016, establishes a new framework that brings together and modernises the law in relation to most local authority social services in Wales.

The Regulation and Inspection of Social Care (Wales) Act 2016² ('the 2016 Act') received Royal Assent on 18 January 2016. It sets the new statutory framework for the regulation and inspection of social care services and reforms the regulation of the social care workforce in Wales. Therefore it replaces relevant systems previously put in place under the Care Standards Act 2000³.

Both Acts enable the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, together with the publication of statutory guidance and the issuing of codes of practice.

Implementation of the 2016 Act has been substantially undertaken within three overlapping phases:

- **Phase 1 (2016/17)** included regulations relating to the new system of workforce regulation required by the Act. These came into force on 3 April 2017. Alongside these, Social Care Wales developed the rules and procedures, which govern the process of workforce registration and regulation.
- **Phase 2 (2017/18)** saw new systems for registration of regulated services put in place and operated by Care Inspectorate Wales from April 2018. This phase also included regulations and statutory guidance relating to the requirements and standards expected of service providers and responsible individuals of care homes (including children's homes), secure accommodation for children, residential family centres and domiciliary support services. These came into force on 2 April 2018.

Links to all of the phase 1 and phase 2 regulations and statutory guidance can be accessed via the Social Care Wales Information and Learning Hub⁴:

- **Phase 3 (2018/19)** is the current phase and includes development of regulations and statutory guidance relating to the requirements and standards expected of service providers and responsible individuals of adoption services, fostering services, adult placement services and advocacy services. It is intended that these will come into force in April 2019.

¹ http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

² http://www.legislation.gov.uk/anaw/2016/2/pdfs/anaw_20160002_en.pdf

³ http://www.legislation.gov.uk/ukpga/2000/14/pdfs/ukpga_20000014_en.pdf

⁴ <https://socialcare.wales/hub/riscact-regulations>

1.2 The context for change

Regulation of services

Whilst the Care Standards Act 2000 set a good foundation for the improvement of the quality of social care, the speed of change within the sector and the development of new models of delivering care and support to those at most need across Wales quickly overtook it. In recognition of these changes, we identified both the need to avoid our regulatory arrangements becoming out of date and the need to support the provision of sustainable services.

The Social Services and Well-being Act 2014 set out to do this by placing the citizen at the heart of a new regulatory regime, with a new focus on the impact that services have on the individual, their families and carers. In order to ensure that the regulatory process was able to oversee this ambition, our reform of the regulatory system, driven primarily through the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”), rests on five key principles:

- responsiveness to the reforms introduced by the Social Services and Well-being (Wales) Act 2014⁵ (‘the 2014 Act’)
- ensuring citizens are at the heart of care and support
- developing a coherent and consistent Welsh approach
- tackling provider failure
- responsiveness to new models of service and emerging concerns over the quality of care and support services.

The regulators (Care Inspectorate Wales and Social Care Wales⁶) were also provided with renewed purpose and powers to oversee these new models of care and support and ensure that there was greater consistency, increased protection from abuse and exploitation, and greater exposure of sub-standard practices. In the delivery of services, we introduced the role of the Responsible Individual, which established a clear chain of accountability alongside a service providers’ board and the service manager. In respect of the workforce, this included flexibility for Welsh Ministers to require additional workforce groups to be required to join the workforce register. The register is an important means of making sure that social care workers are suitable to work in social care; and puts social care workers on a similar footing to other public service professionals such as those in health and teaching.

The introduction of a series of secondary legislation⁷ paved the way for the mandatory registration of domiciliary care workers and adult care home workers. Registration provides greater public protection through ensuring that workers operate to a professional Code of Practice and ensuring that only those who are competent and qualified can deliver care and

⁵ http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

⁶ Care Inspectorate Wales was (until January 2019) the Care and Social Services Inspectorate Wales. Social Care Wales was (until April 2016) the Care Council for Wales.

⁷ Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017; Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2018; and Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020

support. It can also provide the users of social care services with greater confidence that workers are part of a professional workforce with the skills and knowledge to deliver quality care and support to the people of Wales.

1.3 This consultation

The consultation, which ran from 20 December 2021 to 28 February 2022⁸, sought views on:

The draft Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022, ('the draft Regulations'), which:

- place a requirement on providers of adult care home and residential family centre services to ensure that employees who provide care and support to any person within the service are registered with SCW within six-months of commencing their employment; and
- place a requirement on providers of these services to ensure that any individuals engaged under a contract for services who provide care and support to any person within the service are registered with SCW within six-months of the date that they are first engaged under a contract for services.

30 responses were received to the consultation and we are grateful to all those who provided a response to our consultation. Some of these responded using the online form and answered only using the agree/tend to agree/ tend to disagree/disagree buttons without providing a narrative. However, all responses have been considered equally and we have responded to the comments received. A list of respondents is attached at Annex A.

A summary of the responses, together with the Welsh Government's analysis and conclusions can be found at Section 2.

1.4 Consultation events

A single online consultation webinar was held jointly with Social Care Wales (SCW), which discussed the Welsh Government proposals about the mandatory registration of adult care home workers and residential family centre workers; and SCW's proposals on changes to its registration processes. The event aimed to encourage stakeholders to respond and to enable those attending to:

- gain an overview of the draft legislation and key changes it will effect;
- check their understanding of the proposals and seek clarity, if needed;
- consider potential implications for their role and organisation; and
- consider a new route to registration for all social care workers, using employer assessment of skills and attributes;

⁸ <https://gov.wales/implementation-regulation-and-inspection-social-care-wales-act-2016-0>

- a review, with Care Inspectorate Wales, of the length of the pre-registration period which had temporarily been extended to 12 months; and
- a reduction in the number of hours of Continuing Professional Development (CPD) over three years from 90 to 45 hours.

The event was hosted by Social Care Wales on 15 February via Zoom and was attended by 94 people and included representation from a range of public, private and third sector organisations and representative bodies of service providers.

Only those consultation responses recorded at the event relating to the draft Regulations outlined at para. 1.3 will be included in this report.

1.4 Next steps

Following procedural advice from Welsh Government Legal Services, the Welsh Ministers have agreed that the draft Regulations as consulted upon will be laid before the Senedd Cymru in July 2022 in a single statutory instrument. This will be entitled “The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022.

The regulations will be subject to the affirmative procedure. If passed by the Senedd Cymru in July 2022 they will come into force in October 2022.

It is our intention that the statutory guidance will come into effect at the same time as the Regulations in October 2022.

Section 2

2.1 Summary of responses received and Welsh Government response

In some cases, issues raised were repeated across a number of consultation questions. To avoid repetition, we respond to those issues only once in this document.

Note: Due to rounding, some percentages may not add up to 100% overall.

A regulation requiring service providers to employ adult care home workers, or residential family centre workers registered with Social Care Wales [Annex A]

Question 1: Are the draft regulations sufficiently clear and comprehensive to effectively inform individuals that they are required to register with Social Care Wales as adult care home workers, or residential family centre workers?

| Agree | Tend to agree | Tend to disagree | Disagree | Not specified |
|-------|---------------|------------------|----------|---------------|
| 14 | 11 | 1 | 1 | 3 |
| 47% | 37% | 3% | 3% | 10% |

Summary of responses

The overwhelming majority of responses felt that the draft Regulations were clear and comprehensive about what they sought to deliver and effectively informed those workers and their employers who will be required to register with the workforce regulator, Social Care Wales (SCW) by October 2022. Some responses felt that the Regulations highlighted the importance of the roles and provided parity with other workforce groups who were already required to register.

However, some responses, whilst agreeing with the principles and objective of the Regulations did raise some questions about them. One respondent felt that whilst the Regulations sought to require adult care home workers to register it did not require workers in supported living services to do so. They sought greater clarity about which roles were to be required to register. Two responses argued that it was unclear whether nurses in care homes would be required to register with SCW, which would lead to them having to dual register and additional fees with the Nursing and Midwifery Council. This would put undue pressure and financial costs upon these nurses, which was unfair. There were also concerns that nurses who take on managerial roles in social care also face similar dual registration problems, which could put some off from undertaking these roles. Another respondent queried whether agency workers were included in the Regulations and if workers that live and work mainly across the border are required to register with SCW.

Some questioned the timing of the registration of adult care home workers during the pandemic and whether the message about the deadline and need for registration will be heard over the ongoing pandemic. Some felt that clear and concise operational guidance from SCW, together with continued support, was needed to help employers and employees to understand and to complete the registration process. One respondent felt that the language of the Regulations was too “legal” in their terminology and would therefore be hard

for ordinary people to understand; whilst another response argued that whilst some providers understood the Regulations, this was different from compliance with them.

Of those responses that disagreed that the Regulations were clear and comprehensive, one respondent felt that greater clarity on how these would be implemented at an operational level, including requiring information on what roles are required to register. Another response felt it was important to communicate the new regulations along with registration timelines and the reasons for registration and its benefits to current and potential care home and residential family centre workers in accessible formats and through a number of communication channels.

Welsh Government response

The majority of responses felt that the Regulations are clear and concise.

We have stated throughout the development of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) that we would be requiring domiciliary care and adult care home workers to register with Social Care Wales (SCW). Our aim has been to professionalise the workforce and help raise the public profile of, and confidence in, the social care workforce.

In response to the queries about greater clarity of what roles are required to register, SCW already provides clear details on the registration process on its registration webpage, which can be found at <https://socialcare.wales/registration/how-to-apply>.

We recognise that some workers deliver direct care and support to individuals, as defined by section 3 of the 2016 Act, within supported living settings. Such services are normally provided by a domiciliary support service that would be registered with Care Inspectorate Wales (CIW). Employees within that service are domiciliary care workers and would be required to be registered with Social Care Wales. We would similarly expect workers delivering direct care and support in services that are registered as adult care homes or residential family care services to register with SCW.

The need to avoid dual registration where healthcare professionals (e.g. nurses, pharmacists, etc.) work within social care was also raised during the consultation on registration of domiciliary support workers. We agree that dual registration of these professionals should be avoided where they are delivering nursing care and support as the main function of their role within the social care setting. The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017⁹ provide that where a person is employed or engaged under a contract for services to work as a nurse or a registered professional, there is no requirement for that person to be registered with SCW. SCW already works closely with other regulators to ensure that there are clear lines of responsibility where healthcare professionals are delivering care and support in their professional capacities within social care settings. In this instance, nurses or other healthcare professionals would be regulated by their professional regulator or body (i.e. the Nursing and Midwifery Council, Healthcare Professionals Council, General Medical Council, etc.). This will reduce any confusion of which regulator will oversee any training requirements, continuous professional development or any investigations into misconduct or

⁹ Regulation 35(11)

malpractice that might be required. However, where the healthcare professional takes on a management role that mainly oversees the day-to-day running of the service and is not practising their profession or has limited practise, we will expect them to register as a manager with SCW as other managers are required to do. This is to ensure that SCW can ensure that the manager complies with section 84 of the 2016 Act on “Appropriately qualified” persons and satisfies the criteria of having an appropriate qualification or training as approved by the regulator. The Welsh Government will continue to work with SCW to ensure that we avoid the duplication of registration with other professional bodies and regulators and identify whether there are further opportunities to provide greater clarity on registration of workers in multi-service settings.

In response to the query regarding agency workers, as the Regulations have stated, we expect all workers – whether directly employed or employed under contract – to be registered if they are delivering care and support in an adult care home or a residential family support service. Whilst agency services are not required to register with Care Inspectorate Wales, as they supply workers to other services, we expect these workers to be registered as if they were employees of the adult care home or residential family support service within which they are being contracted to provide cover. Service providers who engage agency workers must satisfy themselves that the worker(s) is registered with the workforce regulator.

Mandatory registration for adult care home and residential family care service workers was originally planned to be introduced from April 2022. In response to the pandemic, Welsh Ministers delayed the planned introduction of mandatory registration by six months to October 2022. SCW is currently consulting on the pre-registration requirements for all workers to help streamline the process and ensure that more workers can join the register ahead of the deadline. Whilst the pandemic has had a significant impact upon the registration process, we have already seen workers in adult care homes and residential family care services beginning to join the register. Alongside its work to support the workforce through the pandemic, SCW has held a series of online seminars and workshops to help employers and employees to understand the registration process and how to complete it. These services will be continued throughout the year and the Welsh Government will work with the regulator to ensure that these services can continue and support the workforce to register by the October deadline.

| Question 2: Are the attached draft regulations sufficiently clear and comprehensive to implement the mandatory registration of adult residential care workers and residential family centre workers? | | | | |
|---|---------------|------------------|----------|---------------|
| Agree | Tend to agree | Tend to disagree | Disagree | Not specified |
| 15 | 10 | 2 | 0 | 3 |
| 50% | 33% | 7% | 0% | 10% |

Summary of responses

The majority of responses agreed that the Regulations were sufficiently clear and comprehensive to implement the mandatory registration of adult residential care workers and residential family centre workers. Some respondents recognised that this furthers the

drive for professionalization of the workforce, recognising the skills and hard work of the workforce and raising the profile of the sector. However, a large number of responses (13) did not elaborate on why they agreed or tended to agree with our proposals.

However, some did explain that, whilst they agreed or tended to agree, they felt that flexibility might be needed to meet the already tight timescale because of Covid-19 recovery, recruitment issues and poor IT infrastructure in the social care sector, particularly as we are still in the grip of the pandemic. Some outlined that clarity around the roles required to register and the definitions of care and support in plain English would remind employers and employees and help ensure the right staff are registered. These points were also expressed by the two responses who tend to disagree with the Regulations, arguing that greater clarity was needed on what roles were required to register. These responses explained that greater clarity should be provided in order to avoid the duplication of registration with two regulatory bodies; and ensure that workers working in multi-service environments (i.e. where care and educational services are provided in the same setting) are clear on whether they are required to register. One response felt that the problem of regulating the social care sector should be addressed in a manner that encourages integration rather than entrenching a lack of integration.

Whilst accepting the Regulations were clear, one response felt that the registration of these workers would simply be a barrier to attracting and recruiting people to the sector in a time when there is already well-documented recruitment and retention problems. Another felt that the length of time it took to complete the induction framework needed to be modified and simplified to help reduce the recruitment pressures.

Welsh Government response

The majority of responses found the draft Regulations were clear and comprehensive to implement the mandatory registration of adult care home and residential family centre service workers.

We remain committed to raising the profile of social care work as a profession and to working with the sector to continue to raise standards of practice and conduct. We remain confident that registration can help to build public trust and confidence in the workforce; confidence that registered social care workers follow an agreed Code of Professional Practice. Registration also helps social care workers to demonstrate that they have the skills and knowledge to be a social care worker and it gives workers greater access to the range of training and development tools through SCW. More information on the benefits of registration is available on the Social Care Wales website at <https://socialcare.wales/registration/why-we-register#section-280-anchor>. In terms of the deadline for registration, SCW has a robust process in place to administer the exercise and to communicate with the sector of the need for registering their staff by the October 2022 deadline. SCW is ready to support the sector and help employers and employees to understand and go through the process and we have mentioned the help and assistance available on their website in our final paragraph in answer to Question 1.

Question 3: *Should any guidance be provided to support adult residential care providers and residential family centre services in complying with this regulation? If so, what guidance do you think would be required?*

| Agree | Tend to agree | Tend to disagree | Disagree | Not specified |
|-------|---------------|------------------|----------|---------------|
| 20 | 4 | 1 | 2 | 3 |
| 67% | 13% | 3% | 7% | 10% |

Summary of responses

It is clear that the vast majority of respondents felt that some simple guidance on how to register should be provided to employers to help them and their staff complete this process. Some felt that more support for employers and employees was needed to help complete the process – i.e. more workshops, a Frequently Asked Questions (FAQ) sheet, a flow chart, on training requirements for registration and the standards that workers are expected to abide by. One felt that, whilst not for the guidance, some examples of what an “exceptional circumstance” might look like from both the service regulator, Care Inspectorate Wales, and the workforce regulator, Social Care Wales, could help employers and employees understand what support they could receive and when. One called for a single repository for all of the guidance, as many would make reference or provide links to other guidance held elsewhere.

Many of those who provided further explanation to their agreement felt that the guidance on the regulations should be open, clear and easy to read for all levels so that there can be no misunderstanding but also provide greater reassurance for families and service users. A similar call for an FAQ sheet for the regulations was also made to the Welsh Government.

Several responses called for clear guidance on who is required to register, including whether there was flexibility for occasional workers, voluntary staff or those on sub-contracts and those providing occasional care and support in their roles. Some felt that the wording of the Regulations was ambiguous and could be open to interpretation on this point. One also called for the inclusion in the statutory guidance on regulation 35(8) on the registration of nurses, which would provide clarity on this issue and whether student nurses were required to register as it was not specifically included anywhere-else. They argued that, because of the need to encourage nurses to work in social care, removing the requirement to register for all student nurses might be a good incentive.

Two respondents felt that any published guidance should be clear and consistent with SCW’s proposed changes to the registration process announced on 8 February¹⁰.

One response that disagreed that any further guidance was required was of the strong opinion that the requirements for registration were clear enough and that stronger penalties were needed for those failing to comply with them. The remaining responses that disagreed or tend to disagree did not provide a detailed explanation as to why they felt this way.

¹⁰ <https://socialcare.wales/resources/consultation-on-changes-to-registration>

Welsh Government response

The majority of responses called for clear and concise guidance, including some form of easy to read guidance on the registration process, including a Frequently Asked Questions (FAQs) document, a flow chart and the training requirements for registration. We will work with SCW to determine whether the current resources fulfil these requests and consider developing additional resources, where needed, to help employers and employees. We will also work with the service and workforce regulators, Care Inspectorate Wales and Social Care Wales, to discuss whether it is possible to provide examples of “exceptional circumstances” in respect of their registration processes.

We will review the statutory guidance for service providers and responsible individuals on meeting service standard regulations for care home services; domiciliary support services; secure accommodation services; and residential family centre services to reflect these draft Regulations.

Question 4: *Is the statutory guidance for service providers and responsible individuals clear and concise to help employers in complying with this regulation? If not, what changes to the guidance are required?*

| Agree | Tend to agree | Tend to disagree | Disagree | Not specified |
|-------|---------------|------------------|----------|---------------|
| 13 | 11 | 1 | 2 | 3 |
| 43% | 37% | 3% | 7% | 10% |

Summary of responses

Whilst the majority of respondents agree or tend to agree that the guidance is clear and concise, many called for further guidance to be developed to support people through the process. Some called for links to be made to help those seeking to register understand the qualifications and specific standards registrants will be expected to meet and how they can get support to help them through the registration process.

Two responses that tend to agree with the guidance, asked whether examples of exceptional circumstances for registrants who are pregnant, on maternity leave or on sick leave might be included in the guidance and for flexibility to be built into the system to allow them an extension to complete the registration process. They also called for a pro-rata fee rate for those unable to work a full year due to work absence because of these situations. Both argued that service providers might be deterred from employing staff who are part-time because of the requirement to register within six months.

One response that replied that whilst they tend to agree that the guidance is clear and concise they asked for it to include some clarity in relation to Regulation 25 on “Respect and Sensitivity” and Regulation 25(2) about “...*having regard to relevant protected characteristics*” (of service users)..” They argued that the guidance does not specify what that would mean in practice and could provide an example for the need for equalities training for staff, or if not this what it means. The response also felt that explicit guidance in

respect of Regulation 42 was required, which refers to employers being required to offer an employee a choice of guaranteed hours after 3 months of employment.

One respondent who disagreed that the guidance was clear and concise felt that because of its length it was difficult to navigate and suggested that links should be included to the content page to allow readers to jump to specific areas. It argued that its members who were adult care home managers found it difficult to understand. It further argued that the guidance should provide a clear definition of care and support.

Welsh Government response

Guidance is available from SCW to help people through the registration process, the qualifications needed and link these up with the standards that they will be required to adhere to. Social Care Wales (SCW) has introduced three routes for existing adult care home workers to register, including a direct route for those with a Level 2 or 3 in health and social care (Diploma, QCF or NVQ) or equivalent; registration following completion of the Social Care Wales Principles and Values Award; or confirmed competence certified by their manager. Alongside this, SCW has opened up a consultation to discuss how to make the registration process simpler, to make it as easy as possible for people to work in the social care sector. The consultation was opened on 8 February and ran until 22 March¹¹.

The setting of registration fees is a matter for the workforce regulator. SCW consulted on the current fee structure into bring them in-line with those of other UK social care regulators. SCW has several ways to help workers spread the cost of the annual fee to minimise the impact, including monthly direct debits. SCW also works closely with employers and the workforce to look at individual cases and consider providing flexibility in its processes when and where necessary. We will discuss the suggestions regarding further variations to the fees with SCW.

The definitions of care and support are outlined in section 3 of the Regulation and Inspection of Social Care (Wales) Act 2016.

We will consider the points raised regarding the reference to '*...having regard to protected characteristics (of service users)*' and Regulation 42 as part of our planned review of the statutory guidance outlined in our response to Q3. We will also raise this with SCW.

¹¹ <https://socialcare.wales/resources/consultation-on-changes-to-registration>

2.2 Additional questions

Question 5: We would like to know your views on the effects that a regulation requiring service providers to only employ adult care home workers, or residential family centre workers registered with Social Care Wales would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English

Question 5i: *What effects do you think there would be?*

Summary of responses

A third of responses did not provide any comment on this question.

Of those that did respond to this question, several felt that the draft Regulations would not have any negative impact on the Welsh language, or result in it being treated less favourably than English. Some argued that the use of Welsh depended upon a number of factors, from location and confidence of employees to the need for such services in communities and service users. One respondent felt that despite encouraging the use of Welsh, there needed to build greater confidence amongst the workforce to use it with clients.

Some responses recognised that the strategic framework, “More than just words,” and the Active Offer were providing a firm basis for the delivery of Welsh language services, so long as this continued and were reflected in these registration proposals, they would have no adverse impact. The review of this strategic framework was welcomed and that a task and finish group had been established to develop a 5-year plan. Some also welcomed the fact that the materials and support services provided through Social Care Wales were bilingual, which helped reinforce the spirit of the strategic framework.

Some responses urged caution around placing additional requirements on services relating to the Welsh language at a time in which it is already facing extreme pressures.

However, there were some responses that felt that registration itself would force people out of the social care sector and place further pressures on recruitment and retention.

Welsh Government response

Most responses did not feel that these proposals would have an adverse impact upon the delivery of care and support services to those who wish to have these services provided through the medium of Welsh. The Welsh Government remains committed to support a greater level of recognition among social care service providers that the use of the Welsh language is not just a matter of choice but also a matter of need. We recognise that it is especially important for many vulnerable people and their families who need to access services in their first language, such as older people suffering from dementia or stroke who may lose their second language or very young children who may only speak Welsh. We

wish to encourage more use of the Welsh language and to build confidence within the public to ask for the delivery of care and support in the language of their choice; and for the workforce to use Welsh in their work.

Our “Cymraeg 2050: A million Welsh speakers” sets out an ambition to see the number of people using and enjoying speaking Welsh increase over time, securing the future of our unique language and ensuring it can be used throughout all aspects of our everyday life. The joint Social Care Wales and Health Education and Improvement Wales Workforce Strategy for Health and Social Care has Welsh language at its heart; and supporting Welsh language skills in the workforce forms part of the detailed action plans that are being developed underneath the strategy. We were also pleased to see that responses recognised that Social Care Wales is working as part of the recently established Welsh Government Task and Finish Group to develop a five-year work plan for “More than just words” following its recent evaluation. This work will include looking at ways to develop and support the Welsh language skills of the workforce and the effectiveness of the Active Offer, which seeks to provide a language choice to people receiving care and support without them having to ask for it. Social Care Wales has developed targeted materials as part of its WeCare.Wales campaign to promote a career in social care to Welsh language speakers; and established a Care Career Connector role in all seven regions who work with employability partners such as Careers Wales to promote careers in social care.

We recognise the demands the pandemic has placed on the social care workforce, and we have delivered a range of interventions to support the workforce during this period, including three workforce payments and a well-being package of support managed by Social Care Wales. We have also committed to improving terms and conditions for social care workers in Wales, recognising that creating a stronger and better-paid workforce is key to delivering the quality services we all want to see. We have started this process through the implementation of the uplift to the Real Living Wage from April 2022. The Social Care Fair Work Forum, a social partnership group that brings trade unions, employers and Government together is looking at how the definition of fair work should be applied for social care workers in Wales. It will, through collective discussions between these partners, set out what good working practices should look like in social care, including pay, working conditions, employee voice and training.

Question 5: We would like to know your views on the effects that a regulation requiring service providers to only employ adult care home workers, or residential family centre workers registered with Social Care Wales would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English

Question 5ii: *How could positive effects be increased, or negative effects be mitigated?*

Summary of responses

Almost two thirds of the responses did not answer this question.

Of those that did respond, several felt that more needed to be done to encourage the use of Welsh and increase the awareness of the “more than Words” strategic framework and the “Active Offer” of asking service users if they preferred to converse in Welsh and then delivering their services through this medium. One response argued that the registration process needed to be bilingual from the beginning to the end and that registrants supported to pursue their continued professional education in the language of their choice. They argued that by supporting registrants to use or learn Welsh you would increase opportunities for its use in services and confidence in staff.

A respondent, whilst agreeing with registration, argued that more support was needed to recruit and retain staff. They suggested that a 12-month delay to the process would help with this alongside greater funding to provide appropriate remuneration, training and support. The need for improved training initiatives and supporting tools to improve oral communication was also raised by another respondent, who argued the Government needed to invest in improving social care arrangements. The respondent also felt that investment in IT infrastructure for smaller care homes would help support continuous learning and development but this would require Welsh Government capital grants to help deliver on this concern. A further voice argued that a revision of the All Wales Induction Framework was needed to provide a simpler module (bilingually) to allow those in the workforce with learning difficulties or working part-time to complete them and register. They argued that the current module – whilst good – is too much for some staff to complete and register within the six-month deadline.

However, not all responses agreed with the current Welsh language requirements. One respondent felt it was time to remove Welsh language requirements, whilst another felt that financial inducements should be provided for Welsh language training, recruitment and retention.

Welsh Government response

The response above has outlined our commitment to the Welsh language and the actions that we are taking to reinforce this support.

Social Care Wales (SCW) is required to comply with the Welsh Language (Wales) Measure 2011, to create an environment where neither Welsh or English is treated more favourably than the other. SCW is corporately responsible for its successful compliance with the Welsh Language Standards set for it by the Measure. It monitors and reports on its compliance each year and is required to publish its reports on its website, which can be scrutinised by both the Welsh Language Commissioner and the public¹². SCW provides advice and support for the workforce and their employers in either English or Welsh languages. The regulator also provides all of its advice and guidance in both languages, as seen in the dedicated webpages on its website. The dedicated registration pages provide guidance and advice on areas such as why we register, the qualifications needed, registration fees, employer and employee responsibilities and the Codes of practice; and these are available for employers and employees to help them understand and complete registration. SCW will work with and support registrants to find ways to continue their Continued Professional Development through the medium of Welsh.

¹² <https://socialcare.wales/resources/adroddiad-blynyddol-safonaur-gymraeg-ar-gyfer-2020-21>

The Welsh Government is aware of the calls for the extension or a pause of the registration programme for 12-months to allow the sector to recover. We have provided a response to this point in Question 1 above.

Question 6: The Welsh Government is interested in understanding whether the proposals in this consultation document will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation?

Question 6i: *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?*

Summary of responses

Over a third of responses did not provide an answer to this question.

Several responses did not consider that the regulations would have a negative impact on those sharing protected characteristics but did not provide a supporting rationale. Most responses argued that professionalization of the workforce would create a level playing field for people of all abilities, as there would be an agreed standard for all workers. One response argued that the professionalising the sector and creating a parity of esteem with the NHS – i.e. career pathways, terms and conditions, responsibility differentials, etc. – would see attraction rates increase. One response hoped that this would create greater empathy/understanding to those sharing protected characteristics. Another argued that mandatory training should be available around recognising and respecting cultural beliefs should include an individual's dietary needs, as part of those beliefs.

One respondent argued that to ensure that the consultation had a positive impact was to ask those directly affected – i.e. those with protected characteristics, domiciliary care workers and adult care home workers – to understand how the proposals will impact them. It also pointed to the requirements placed on the Welsh Government to complete the necessary Impact Assessments. The response recognised that the registration of the workforce would help to gather systematic data on the demographics of the workforce, which could help to develop further policies that will tackle inequalities and measure progress.

However, several responses felt that there was a potential for the regulations to discriminate against older workers and those with learning disabilities who might not wish to complete or struggle with completing qualifications. One respondent argued that the question was irrelevant to the delivery of quality care, as the key question was whether workers turned up on time and learned to complete their job to help achieve the required qualifications. They argued that the issue of race, gender, etc. was not a factor.

Welsh Government response

The Welsh Government is completing all of the necessary Impact Assessments for this legislation, including the Regulatory Impact Assessment, Equality Impact Assessment and Socio-economic Impact Assessments. We engaged with a number of key stakeholders and representative bodies that work with those who share protected characteristics throughout the development of the 2016 Act and this informed the policy direction which is now being taken forward.

As part of their registration, social care workers are required to agree to and to follow the Code of Professional Practice for Social Care¹³, which sets out a list of statements that describe the standards of professional conduct and practice required of those employed in the social care profession in Wales. It provides individuals receiving care and support with an understanding of how a social care worker should behave towards them and what their employers should do to help those workers deliver that care. The Code states the need for workers to respect the views and wishes; promote the rights and interests of individuals and carers; ensure workers' actions promote equality, diversity and inclusion and that they act with integrity. Registration also supports a more consistent approach to learning and development, with an SCW agreed list of training requirements for social care workers. Registration will allow us to gather more data to help us understand the demographics of the workforce and respond to this in our policy development to help improve recruitment and retention; and deliver measures that improve the terms and conditions of the sector.

In respect to the registration of adult care home workers, there are currently three routes to registration. These include: registration with the required Level 2 qualification; confirmed competence; or registration following completion of the Principles and Values award. Those workers that register via the confirmed competence route should help minimise the impact on the groups outlined above and allowing them to register ahead of the mandatory deadline in October 2022. Confirmed competence permits managers to assess workers with three or more years' experience against the required competencies¹⁴ of that role and provide a signed declaration to confirm that their workers have demonstrated the knowledge and skills to deliver quality care. Workers who register through the confirmed competence route before October 2022 will not need a qualification to re-register but they will need to complete the required number of hours of post-registration training and learning.

SCW is currently consulting on proposals to streamline the registration process, removing the need for completing the Principles and Values Award and adopting a system similar to confirmed competence route. The new employer assessment route will follow a similar approach to the confirmed competence route where employers will provide assurance that the social care worker has met the required level of competence. Social care workers who use the employer assessment route to register will need to complete one of the qualifications listed in the qualification framework within the first (three-year) period of registration. This will help to streamline the process, allowing for more of the workforce to be added to the Register quicker and strengthening public protection. The Welsh Government will continue to work with the regulator on this issue.

¹³ https://socialcare.wales/cms_assets/file-uploads/Code-of-Professional-Practice-for-Social-Care-web-version.pdf

¹⁴ https://socialcare.wales/cms_assets/file-uploads/Confirmed-competence-for-adult-care-home-worker-registration.docx

Question 6: The Welsh Government is interested in understanding whether the proposals in this consultation document will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation?

Question 6ii: *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?*

Summary of responses

Nine responses did not provide any answer to this question.

Five responses did not think the Regulations would have negative impacts on people with protected characteristics.

Two responses felt that there needed to be a range of options available for current workers to be able to register with the regulator, rather than qualifications alone to reduce stress and anxiety.

One response felt that the £30 registration fee could be a deterrent to people joining the sector, as paying the fee upfront in one payment would be difficult for low-paid workers. It recommended that an instalment or a fee subsidy scheme and a means tested fee be introduced to provide a sliding scale for those employed either on part-time contracts or as students. The respondent also recommended that the six-month period to register from employment should be extended to 12-months for those who have been on long-term illness or maternity leave.

Another response called for more options to register than simply online services. A similar view was held by another respondent that the traditional workforce was drawn largely from people with low levels of academic success who could face disproportionate impact because of the qualification requirements.

A respondent suggested that applicants should have the option to register with more gender neutral titles, or to change their titles if they wish to.

Several responses felt that the compulsory registration of social care workers could have a negative impact on people sharing protected characteristics, particularly in relation to older people and people with learning disabilities. Two responses highlighted the need for consideration of the impacts of stress and anxiety of completing the process and the financial implications of registration fees; whilst another felt that the need to meet Continued Professional Development (CPD) requirements for registration renewal could increase anxiety and push people out of the social care sector.

Welsh Government response

We have recognised and responded to a number of suggestions around the number of routes to registration as outlined in question 6i above. SCW's consultation on proposals to streamline the registration process also included a revision of the CPD requirements to recognise that practical experience is often as effective as studying and reduce the weight placed by the current system on formal learning and development.

As outlined in Question 4 above, the setting of the registration fees are a matter for the regulator. Several responses have made a number of suggestions with regard to fee setting including a means tested payment scheme, or a pro-rata registration fee for part-time workers, those on long-term sick leave or maternity leave. We will share these with SCW.

Social Care Wales provides a range of support for employers and employees to register, including face-to-face sessions to help complete the registration process. Anyone with concerns or problems with registering can call SCW's registration team for help and support by dialling 0300 303 3444 or writing to Social Care Wales, South Gate House, Wood Street, Cardiff, CF10 1EW or Unit 19, St. Asaph Business Park, Glascoed Road, St. Asaph, LL17 0LJ.

Question 7: We have asked a number of specific questions. If you have any related issues, which we have not specifically addressed, please use this space to tell us about them.

Summary of responses

Half of those that responded did not answer this question.

One response welcomed the 6-month grace period for registration for new workers, as this provided an opportunity for students to engage with domiciliary care providers to find opportunities for education and career paths.

Two responses welcomed professionalization but argued that staff wages needed to increase to reflect this drive. One respondent further argued that wages were paid at rates that were for unskilled workers and that the requirements being placed upon managers to assess workers was unacceptable as it would lead to increased workloads in a time when the sector was already under pressure. Two other respondents argued that the Welsh Government needed to understand the impact on the sector of the need for workers to complete the level 2 qualification. Whilst this requirement could be completed across the three years before registration renewal, for some this could still be a problem; and it was felt that it led to staff shortages as people left the sector, increased costs for employers and did not contribute to professionalization. They called for a formal evaluation of the impact of the level 2 qualification on professionalism, recruitment, retention, capacity and employer costs so that any findings and issues can be discussed with the sector to find solutions to avoid further destabilisation of the sector. Another response questioned the value of qualifications over experience.

One respondent argued that, whilst they supported professionalisation, the success of the registration process will depend upon the regulation of the induction training.

Three responses touched upon the need for clarity of the definition of the workforce required to register. One questioned whether outreach or day opportunity staff should be required to register; another highlighted a concern that some workers fell between the cracks and did not fit either as healthcare or social care and were therefore not being picked up by either side. Another response felt it right to register staff in specialist Further Education colleges who may provide care and support to individuals but argued they should be exempted from paying the registration fee.

Two further responses were concerned about the timing of registration on a pressurised sector, with one arguing that there seemed to be an inconsistency between the legislation and the regulator implementing support packages. The Regulations come into force from October 2022, whilst Social Care Wales said its support packages would be introduced from November 2022.

Welsh Government response

We recognise that there is a need to improve the terms and conditions of the social care workforce. In December, we announced £43.2m of funding to meet our Programme for Government commitment to pay social care workers in Wales the real Living Wage. We will commission an independent dynamic evaluation of the Real Living Wage rollout in the summer. We are also working in social partnership as part of the Social Care Fair Work Forum to look at what further steps could be taken.

In respect of Rehabilitation Officers for people with Visual Impairments (ROVIs), we do not have any immediate plans to register any further social care workforce groups but we will continue to keep under review whether to extend registration in the future.

Annex A – List of respondents

| No | Confidential Y / N | | Organisation / On behalf of |
|-----|-----------------------|---|---|
| 1. | | N | Park House Court Ltd. |
| 2. | Y | | |
| 3. | | N | Aneurin Bevan UHB |
| 4. | | N | Cardiff and Vale of Glamorgan Council |
| 5. | Y | | |
| 6. | Y | | |
| 7. | Y | | |
| 8. | Y | | |
| 9. | Y | | |
| 10. | | N | Vegetarian for life organisation |
| 11. | Y | | |
| 12. | | N | Hafod |
| 13. | Y | | |
| 14. | Y | | |
| 15. | Y | | |
| 16. | Y | | |
| 17. | | N | Blaenau Gwent and Caerphilly Workforce development |
| 18. | | N | Leonard Cheshire Cymru |
| 19. | Y | | |
| 20. | | N | RNIB Cymru |
| 21. | | N | Planning and Development, Social Services, Flintshire CBC |
| 22. | | N | Torfaen CBC |
| 23. | | N | Gwent Regional Partnership Team |
| 24. | | N | Nursing and Midwifery Council |
| 25. | | N | Royal College of Nursing |
| 26. | | N | Natspec |
| 27. | | N | National Provider Forum |
| 28. | | N | Care Forum Wales |
| 29. | | N | Equality and Human Rights Commission |
| 30. | | N | Association of Directors of Social Services Cymru |