

Explanatory Memorandum to the Education Workforce Council (Registration Fees) Regulations 2017

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

Cabinet Secretary for Education Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education Workforce Council (Registration Fees) Regulations 2017. I am satisfied that the benefits justify the likely costs.

Kirsty Williams
Cabinet Secretary for Education
14 December 2016

1. DESCRIPTION

1.1 These Regulations prescribe the fee payable in connection with registration in the register established and maintained by the Education Workforce Council (“the Council”) from 1 April 2017 and revokes the Education Workforce Council (Registration Fees) (Wales) Regulations 2016.

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

2.1 None.

3. LEGISLATIVE BACKGROUND

3.1 Section 12(1), 13(1) and 47(1) of the Education (Wales) Act 2014 (“the 2014 Act”) allows the Welsh Ministers to make regulations in relation to the fees payable in connection with registration in the register established and maintained by the Council under section 9 of the 2014 Act (“the Register”). Section 13 of the 2014 Act also allows the Welsh Ministers to make regulations in relation to the supply of information to the Council by employers necessary in relation to registration. The affirmative procedure applies. Section 47(2) of the 2014 Act provides that a draft of these Regulations must be laid before the National Assembly for Wales and approved by a resolution of it.

3.2 A key feature of many professions is a requirement to register with a professional body that sets and maintains professional standards; retaining public confidence and demonstrating a shared commitment to professionalism. In terms of the education workforce, it is currently school teachers, further education (FE) teachers and learning support workers (LSW) either school or FE based who are required to be registered with the Council in order to work in a maintained school/FE institution in Wales.

3.3 Paragraph 2(1) of Schedule 2 to the 2014 Act gives the Welsh Ministers the power to add, amend or remove a category of registration. The Education Workforce Council (Registration of Youth Workers, Youth Support Workers and Work Based Learning Practitioners) Order 2017, will provide that a person may not deliver youth development services (i.e. work as a youth worker or youth support worker) for or on behalf of a local authority, further education institute (“FEI”), school governing body or a voluntary body unless registered within their relevant category. It will also create a voluntary registration system for those categories for persons providing youth development services on behalf of other bodies.

3.4 The Order also provides that a work based learning practitioner may not provide work based learning practitioner services for or on behalf of a work based learning body unless registered in the category of work based learning practitioner.

4. PURPOSE AND INTENDED EFFECT OF THE LEGISLATION

4.1 Under the 2014 Act, the Welsh Ministers have powers to set the registration fees for the Council (by virtue of section 12 of the 2014 Act). Whilst there is provision to enable Welsh Ministers to make regulations that would give this power to the Council (subsection 12(2) of the 2014 Act), it is anticipated that this will not take place until such time as the Welsh Government believes it is right and appropriate to do so. Any future transfer of the power to set registration fees to the Council will be subject to a full consultation at that time.

4.2 These Regulations are intended to set out the new registration fee payable for school teachers, FE teachers, school LSW, FELSW, youth workers, youth support workers and work based learning practitioners for the period 1 April 2017 to 31 March 2018 and all subsequent years.

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

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

4.5 For school teachers, FE teachers and both school and FE LSW the existing process for collecting the registration fee will continue. For the vast majority of these this will mean that the fee will continue to be paid through the 'Deducted at Source' (DAS) process - meaning that the fee is deducted by the employer directly from their salary. For most youth workers, youth support workers and work based learning practitioners the (DAS) process will also be implemented by the Council, with procedures employed to collect the annual registration fee starting in April 2017; and in March for each subsequent year.

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

5. CONSULTATION

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

6. PART 2 – REGULATORY IMPACT ASSESSMENT

6.1 The Welsh Government's preferred fee model for the Council is to utilise and redistribute the element of funding that is currently provided to local authorities in Wales to subsidise school teachers' registration fees. The purpose of this is to help meet the costs of registration for the wider workforce and to continue to reduce the fees paid by all education practitioners within Wales. The intention is to pay this funding directly to the Council to support its core functions, rather than into practitioners' pay. To implement the Welsh Government's preferred fee model an amendment to the School Teacher's Pay and Conditions Document (STPCD) was required.

6.2 School teachers' pay and conditions are the responsibility of Secretary of State for Education. Pay and conditions for teachers in maintained schools in Wales and England are set out in the STPCD. That is a statutory document published in September for the start of each academic year and given legal effect by an Order made by the Secretary of State.

6.3 In August 2016, the School Teachers Review Body (STRB) approved an amendment to the STPCD to remove section 28, which detailed the £33 allowance that teachers in Wales currently received in their pay to subsidise the Council's registration fee. Following this approval, the Cabinet Secretary for Finance and Local Government and the Cabinet Secretary for Education approved the transfer of £1million, with effect from 2017-18, from the Revenue Support Grant (RSG) to support the registration subsidy for all practitioners.

6.4 Since the necessary amendment to the STPCD has been made and the transfer of £1million out of the RSG approved, the Welsh Government will be implementing its preferred fee model as set out in the Welsh Government consultation "*Registration fees for the education workforce in Wales (2017)*" (issued on 27 June 2016) and the subsequent Government response (issued on 25 November 2016)¹

7. OPTIONS

Option 1: Do Nothing

7.1 If we were to do nothing, it would not be possible to set a fee structure for the Council for 2017. The establishment of the Council was a Programme for Government commitment, which ensures all education practitioners are to be part of a professional body that sets and maintains professional standards.

Cost

7.2 There would be a cost implication to the Welsh Government of approximately £100k from this option; the existing regulations (Education Workforce Council (Registration Fees) (Wales) Regulations 2016) would remain in place and no registration fees would be collected from youth workers, YSW and WBL practitioners.

¹ <https://consultations.gov.wales/consultations/registration-fees-education-workforce-wales>

7.3 The cost associated with this option relates to the expectation on the Welsh Government that it would continue with the existing subsidy rates for practitioners. The 2016 regulations set the registration fee at £49 per registrant; the new regulations will set the fee at £46 per registrant.

Benefits

7.4 There would be no benefits from this option.

Option 2: Make the Legislation

7.5 The introduction of these Regulations will implement the new registration fee payable for school teachers, FE teachers, both school and FELSW, youth worker, youth support workers and work based learning practitioners for the period commencing on or after 1 April 2017 and ending on 31 March 2018 and all subsequent years.

Cost

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

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

7.7 The fee model of charging for registration has to be fair and equitable across the whole workforce; recognising that salaries can vary greatly within different groups across the education workforce. It is based on grouping by profession and on the salary data derived, with the lower earning occupations contributing the least. Using such a methodology is the most cost effective method and will deliver considerable savings for those administering the fee collection, both at employers' level, and the Council itself. This will also contribute to keeping the fee rate to a minimum. The Welsh Government has considered a differentiated fees system based on salary scales; however, this kind of system proves to be extremely complex and would be an administrative burden to the Council and employers to manage, thus resulting in an increase in registration fees for all practitioners to cover the additional administrative costs.

7.8 Working on the basis that from 1 April 2017, there will be an estimated 73,100 registrants (35,000 school teachers, 5,000 FE teachers, 30,000 learning support workers [both school and FE], 1,100 youth workers [including youth support workers])

and 2,000 work based learning practitioners – all numbers are approximate)², registering with the Council. The Council will need to raise an estimated total of £3.4million, based on the above numbers, in order to carry out its core functions. This cost will be met by the workforce via their annual registration fee each year (if the number of registrants are less, the funding requirement would also be less). The funding requirement equates to an annual registration fee of £46 per registrant.

7.9 The Council has explored ways to streamline their services and reduce their operating costs further. For 2017-18 they identified operating cost savings of approximately £100k compared to 2016-17. The Welsh Government has considered what impact the overall operating cost will have on the education workforce and is satisfied that the benefits of registration to learner outcomes, outweighs the cost to practitioners. At the individual level (£46), the annual registration fee is not considered likely to affect recruitment or retention in the education workforce in Wales.

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

7.11 The two tables below show the comparison between the Council's 2016-17 fee and the proposed 2017-18 fee.

Table 1 – Council's registration fee payments 2016-17

Practitioner Group	Distribution of fee		
	Registration Fee	Subsidy*	Practitioner Contribution
STPCD Teachers	78	33	45
Other teachers	49	(4)	45
FE Teachers	49	(4)	45
School & FE LSW	49	(34)	15
WBL Practitioners	N/A	N/A	N/A
Youth Workers	N/A	N/A	N/A
YSW	N/A	N/A	N/A

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

² These figures were obtained during the development of the consultation "Registration fees for the education workforce in Wales (2017)"

Table 2 – Proposed Council's registration fee payments 2017-18

Practitioner Group	Est Reg Numbers	Distribution of fee			Aggregate distribution of proposed fee	
		Reg Fee	Subsidy*	Practitioner Contribution	Practitioner Contributions	Subsidy Received
School Teachers	35,000	£46	£1	£45	£1,575,000	£35,000
FE Teachers	5,000	£46	£1	£45	£225,000	5,000
School & FE LSW	30,000	£46	£31	£15	£450,000	930,000
WBL Practitioners	2,000	£46	£1	£45	£90,000	2,000
Youth Workers	1,000	£46	£1	£45	£45,000	1,000
YSW	100	£46	£31	£15	£1,500	3,100
Total					£2,386,500	£976,100

**All subsidies will be paid to the Council via the Welsh Government.*

7.12 In the unlikely event that the £1million set aside to subsidise the workforce is insufficient, due to significantly higher than expect registration numbers, the Welsh Government will top up any shortfall in funding to meet the actual subsidy cost. The Welsh Government is essentially guaranteeing the Council an income of £46 for each registrant. The costs associated with this work will be met from the Teachers Development and Support BEL 4880, through the re-prioritisation of resources. It will not be possible to quantify a figure, until the Council have identified all the practitioners registered with them after 1 April 2017. There may not be a requirement to provide additional funding.

7.13 The Welsh Government will work with the Council over the next three years to monitor practitioner registration numbers as well as the Councils operating costs. Any future changes to the Council's registration fee or the Welsh Government subsidy will form part of a full consultation.

7.14 These Regulations are not expected to impose additional administrative costs on the Council or employers.

Benefits

7.15 The education workforce has changed rapidly in the last ten years. There is greater collaboration between schools and post 16 providers and through policies such as the foundation phase. The Welsh Government therefore, recognises that it is no longer feasible to only require school teachers to register; and since 2015 has implemented a phased registration of the wider education workforce, which has seen a requirement for FE teachers, LSW in both school and FE setting; and from 1 April 2017 (subject to the approval of the National Assembly) youth workers, youth support

workers and work based learning practitioners joining the existing register of teachers.

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

7.17 This is one of a series of measures intended to help improve educational standards and attainment for the people of Wales and ensure that all members of the education workforce are deployed effectively. It will bring increased synergy through consistent, independent regulation across the workforce.

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

8. CONSULTATION

8.1 The Welsh Government undertook a consultation entitled “Registration fees for the education workforce in Wales (2017)”, between 27 June and 30 September 2016. The consultation set out 3 proposed fee models for registration with the Council from 1 April 2017 dependant on the STPCD being amended and the redistribution of the element of funding provided to Local Authorities in Wales to subsidise school teachers’ registration fees.

8.2 A summary of responses is available at:

<https://consultations.gov.wales/consultations/registration-fees-education-workforce-wales>

9. COMPETITION ASSESSMENT

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

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

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

11. IMPACT UPON THE VOLUNTARY SECTOR

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

12. EQUALITY OF OPPORTUNITY AND WELSH LANGUAGE

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

13. SUSTAINABLE DEVELOPMENT

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