



Llywodraeth Cymru  
Welsh Government

## **Employing and supporting supply teachers in a school environment**

Enquiries about this document should be directed to:  
Workforce Strategy Unit  
The Education Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ  
Tel: 0300 0604400  
e-mail: [SupplySupport@gov.wales](mailto:SupplySupport@gov.wales)

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## Who can teach in a maintained school?

The position on who may carry out teaching work in maintained schools or non-maintained special schools is set out in statutory regulations. This information note aims to summarise the current position in order to provide general guidance, but it does not provide a definitive interpretation of the regulations.

The Education Workforce Council (EWC) is the regulatory body for the education profession in Wales. Requirements for practitioners to be registered in the category or categories of registration for the work they undertake are set out in The Education Wales Act 2014 and the Education Workforce Council (Main Functions) (Wales) Regulations 2015 (the Functions Regulations) as amended. <http://www.legislation.gov.uk/cy/wsi/2016/6/note/made>

[http://www.legislation.gov.uk/wsi/2016/6/pdfs/wsi\\_20160006\\_mi.pdf](http://www.legislation.gov.uk/wsi/2016/6/pdfs/wsi_20160006_mi.pdf)

Teachers with Qualified Teacher Status (QTS) currently working or intending to work as qualified school teachers in maintained schools and non-maintained special schools in Wales in must be registered with the EWC in the category of **school teacher**.

The Functions Regulations sets out who can undertake the 'specified work' - ie. Teach, in a maintained school or special school in Wales. Specified work is defined in Regulation 17 as undertaking any of the following activities:

- (a) Planning and preparing lessons and courses for pupils;
- (b) Delivering lessons to pupils,
- (c) Assessing the development, progress and attainment of pupils; and
- (d) Reporting on the development, progress and attainment of pupils.

As well as qualified teachers other persons in certain limited circumstances may also carry out specified work. The requirements which have to be satisfied by persons who are not qualified teachers are set out in schedule 3 of the Functions Regulations. These are summarised as:

- (i) Existing teachers of nursery classes and at nursery schools who are not qualified teachers but were permitted to be employed as teachers and were employed before 1 September 1982;
- (ii) Persons with special qualifications or special experience who are not qualified teachers may carry out specified work in respect of any art or skill or in any group of subjects where special qualifications or experience are required to do so.
- (iii) Overseas trained teachers who have successfully completed a programme of professional training for teachers in any country outside the United Kingdom for a period of up to two years.
- (iv) Trainees on initial teacher education courses undertaking a course with an accredited institution in Wales or England may carry out specified work under the supervision of a qualified teacher during any period of practical teaching experience;

- (v) Qualified further education teachers teaching vocational courses under the local curriculum who hold qualifications required under the Further Education Teachers' Qualifications (Wales) Regulations 2002;
- (vi) Persons undertaking employment based teacher training (for example the Graduate Teacher Programme) until they successfully complete or cease to undertake the training;
- (vii) Additionally persons who are not qualified teachers and are not mentioned in (i – vi above) may carry out specified work provided the following conditions are met:
  - They are doing so in order to assist or support the work of qualified teachers or other teachers in the school nominated by the head teacher;
  - They are subject to the direction and supervision of those qualified teachers or nominated teachers, in accordance with arrangements made by the head teacher;
  - The head teacher is satisfied that they have the skills, expertise and experience required to carry out specified work.

In deciding whether persons covered in (vii) above have the necessary skills, expertise and experience required to undertake specified work, head teachers should have regard to the standards for HLTAs and related guidance and guidance about contractual matters relating to learning support workers. Such staff must not provide services or support the provision of services unless they are registered with the EWC under section 3A in the category of 'school learning support worker'. A school learning support worker is a person who is employed, not as a qualified teacher, but to assist or support the work of qualified teachers or nominated teachers in the school.

**The role of HLTA and qualified teacher is not interchangeable. Employers are responsible for ensuring that any person undertaking specified work is doing so in full compliance with the specified work requirements set out in the Education Workforce Council (Main Functions) (Wales) Regulations 2015.**

EWC Guidance for Employers Employing School Teachers and School Learning Support Workers

[http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi\\_mr3t9LDTAhVEAsAKHUCGB3sQFggpMAA&url=http%3A%2F%2Fwww.ewc.wales%2Fsite%2Findex.php%2Fen%2Fdocuments%2Fregistration%2F2-the-guidance-on-the-registration-of-school-teachers-and-school-learning-support-workers&usq=AFQjCNHEIL4-t\\_YJ3K8AKDVzTgOxUIF3bA](http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi_mr3t9LDTAhVEAsAKHUCGB3sQFggpMAA&url=http%3A%2F%2Fwww.ewc.wales%2Fsite%2Findex.php%2Fen%2Fdocuments%2Fregistration%2F2-the-guidance-on-the-registration-of-school-teachers-and-school-learning-support-workers&usq=AFQjCNHEIL4-t_YJ3K8AKDVzTgOxUIF3bA)

The Welsh Government is only able to offer guidance on the interpretation of the regulations.

April 2017

## Qualified teachers and teaching work

The Welsh Government has provided advice on a number of occasions to schools and supply agencies, on who can work as supply teachers for absence cover and on both short term and long term contracts.

All individuals offered to schools to cover **teaching posts** are required by law to have **Qualified Teacher Status (QTS)** and to be **registered as a qualified teacher with the Education Workforce Council (EWC)**.

The requirements which need to be met by persons to be recognised as qualified teachers in Wales (and who therefore have QTS) are set out in the School Teachers' Qualifications (Wales) Regulations 2012.

<http://www.legislation.gov.uk/wsi/2012/724/contents/made>

The position on who may carry out teaching work in maintained schools or non-maintained special schools in Wales is also set out in statutory regulations. These are the Education Workforce Council (Main Functions) (Wales) Regulations 2015.

<http://www.legislation.gov.uk/wsi/2015/140/contents/made>

Under these Regulations, Part 3, Regulation 15 sets out the requirement to be qualified in order to teach and Regulation 17 details the activities – known as **specified work** - which a qualified teacher can undertake.

These are;

- (a) Planning and preparing lessons and courses for pupils;
- (b) Delivering lessons to pupils;
- (c) Assessing the development, progress and attainment of pupils; and
- (d) Reporting on the development, progress and attainment of pupils.

Supply agencies need to make Head teachers or Governing Bodies – where appropriate – aware if individuals are being sent to schools to cover Teaching Assistant or Cover Supervisor roles without QTS, that their duties should be restricted accordingly. Schools need to be equally clear on their responsibilities when clarifying the role of these individuals in the classroom.

For further advice on whether an individual holds QTS and is registered appropriately, you can contact the Qualification and Registration Team at the Education Workforce Council by emailing [registration@ewc.wales](mailto:registration@ewc.wales)

**Further advice on the requirements that need to be met by individuals in order for them to be recognised as a qualified teacher in Wales (therefore hold QTS) can be obtained from Workforce Strategy Unit at the Welsh Government, by emailing**

[SchooolsandYoungPeopleWorkforceUnit@wales.gsi.gov.uk](mailto:SchooolsandYoungPeopleWorkforceUnit@wales.gsi.gov.uk)

September 2017

## Safeguarding requirements

The Welsh Government's 2015 guidance ***Keeping Learners Safe*** provides advice on employers' duties with regard to safeguarding. This includes guidance within a supply context. A link to the guidance and the easy read version is attached here: <http://learning.gov.wales/resources/browse-all/keeping-learners-safe/?lang=en>

The guidance requires employers to ensure that they operate safe recruitment procedures and ensure that appropriate checks are carried out on all new staff and volunteers who will be working with children. This includes undertaking relevant disclosure and barring checks as required by the Disclosure and Barring Service. Schools need to be satisfied that the temporary staff member (however sourced) has the necessary documentation in place and must see the evidence before the staff member commences their role.

The EWC maintains a register of those teachers who hold QTS and are suitably qualified to work as teachers in maintained schools in Wales. The EWC register records whether a teacher is subject to any restrictions, is barred from practising or is subject to an EWC disciplinary order. Schools and supply agencies have access to the EWC register to check that teachers and learning support staff are registered as part of their pre-employment checks.

In its guidance for employers – ***'School Teacher Registration Guidance for Employers (Local Authorities, Schools and Private Supply Teaching Agencies), April 2015'*** – the EWC highlights the legal requirement placed on schools, local authorities and supply agencies to ensure that they employ workers who are registered with the EWC in the appropriate category(s). It is important both schools and agencies undertake the necessary checks and should not automatically assume that the other has done so.

Supply agencies need to ensure that temporary staff members are aware of the named person within the school who is responsible for safeguarding, in case an issue arises whilst they are at the school. The Welsh Government's guidance ***Safeguarding children in education: handling allegations of abuse against teachers and other staff*** may be relevant, <http://learning.gov.wales/resources/browse-all/allegations-of-abuse-against-teachers/?lang=en>

### Key questions for supply agencies to consider

- Have you met your legal obligations and ensured that all supply staff have undergone the appropriate pre-employment and safeguarding checks before entering a school and that there are proper supervision arrangements in place?
- Are supply staff made aware of the school's child protection policies and appropriate contacts and procedures should a safeguarding issue arise?
- Have you complied with legal requirements in relation to the use of EWC registered appropriately qualified staff to cover absences?

June 2017

## Agency worker regulations and supply teachers

The Welsh Government has provided this document as a brief guide to the Agency Worker Regulations 2010 (AWR) and the terms and conditions of employment for supply teachers by an agency, as set out in the AWR. To note the AWR applies to England and Wales and is published by the Department for Business, Energy & Industrial Strategy

[http://www.legislation.gov.uk/ukxi/2010/93/pdfs/ukxi\\_20100093\\_en.pdf](http://www.legislation.gov.uk/ukxi/2010/93/pdfs/ukxi_20100093_en.pdf)

The term 'agency worker' applies to a supply teacher engaged and deployed to a school by a commercial agency and paid by the agency, not directly by the school.

The Regulations do **not** apply to a supply teacher introduced to a school by an agency when the school then issues an employment contract directly; teachers part of a local authority (LA) 'list' arrangement and employed and paid by the authority or a school; or those engaged and employed by a school directly. The Regulations also define that a teacher's right to be paid equally does not apply to agency workers who have a "permanent contract of employment" with the agency (known as the Swedish Derogation).

In accordance with the AWR, the "hirer" refers to the legal entity to whom the worker is supplied and who is responsible for the supervision and direction of that worker.

In foundation schools, voluntary aided schools and foundation special schools, the hirer is the school's governing body; in community schools, voluntary controlled schools, community special schools and maintained nursery schools, the hirer is either the local authority or the school's governing body; in independent schools the hirer is the proprietor of the school. The hirer is a matter of fact to be determined in each case and depends on to whom the worker is supplied and who supervises and directs that person's work.

If an agency supply teacher moves to a school where a different LA or a different governing body is the hirer, the qualifying clock resets to zero. If an agency supply teacher is working before and after a school closure (such as a summer holiday) and is, for example, 6 weeks into a qualifying period for equal treatment, the qualifying period would pause at the end of one term and start again at the beginning of the next so long as the agency worker returns to the same job with the same hirer.

Part 2, Regulation 5 of the AWR sets out the rights determining that after a 12 week qualifying period, teachers should be provided with the same basic terms and conditions as if recruited directly by the hirer. Therefore, after 12 weeks, a teacher should be paid the same pay rate as if employed directly by a school which follows the provision of the School Teachers Pay and Conditions Document (STPCD). An agency supply teacher can move between schools, where the same local authority is the hirer, without stopping the clock on the 12 week qualifying period unless it is a substantively different role.

<https://www.gov.uk/government/publications/school-teachers-pay-and-conditions-2016>

The rights are set out in Part 2 of the AWR in two parts; Regulation 12, which applies from Day 1 and Regulation 6 which applies after 12 weeks:

**Day 1 Rights** – From day 1 of an assignment, the hirer must provide agency workers with equal access to collective facilities and amenities which are already provided for other employees eg:

- access to facilities e.g. canteen facilities, prayer room, staff common room, mother and baby room, etc;
- access to transport facilities e.g. local pick-ups;
- access to any car parking facilities;
- access to permanent vacancies.

**12 Week Rights** – After 12 weeks in the ‘same role’ with the ‘same hirer’, the agency is responsible for providing the same basic pay and conditions as an agency worker would have received if they had been employed directly by the school, eg:

- the basic pay rate (in accordance with the STPCD);
- pension contributions (as applicable);
- holiday entitlement (in accordance with the STPCD);
- paid time off for ante-natal appointments.

The AWR allow an exemption from equal treatment, as regards pay, where an agency can offer an agency worker a permanent contract of employment. This is referred to under Regulation 10, ‘Permanent contracts providing for pay between assignments’ and commonly known as the Swedish Derogation. In order for this exemption to apply the contract must provide that the agency continues to pay the worker between assignments when there is no work. Upon signing such a contract the worker is not, after 12 weeks in the same job, entitled to the same pay conditions (such as holiday pay) that would ordinarily be included if recruited directly by the hirer. An agency supply teacher that signs one of these contracts does still get the day 1 rights of access to facilities and vacancies. After 12 weeks they will also be entitled to equal treatment in relation to the duration of working time, night work, rest periods and rest breaks and annual leave (the right to time off). It is important for teachers to be made aware of the terms and conditions under which they are asked to work in order to be able to give full consideration to the options available to them.

The Welsh Government is only able to offer guidance on the interpretation of the regulations.

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## **Supporting supply teachers in a school environment from induction through to departure**

It is fundamental that all supply staff, or teachers on fixed term contracts however long their contract or placement at a school, should be provided with an induction to the school. They should be supported throughout their placement, receive feedback during and at the end of their placement and included in daily activities and school life.

In the case of teachers registered with supply agencies schools should work with commercial supply agencies to ensure that this practice is occurring across the board with every placement.

### **Induction**

All temporary staff should be provided with an information handbook, or information available via digital means, about the school and placement, where possible and appropriate prior to starting at the school.

This handbook should include the following as a minimum:

- Map of the school including location of relevant classrooms, staff rooms and toilets;
- Timetable(s) including break and lunch periods and a copy of the school calendar showing events, meetings and afterschool activities;
- Point of contact for supply staff, including contact details and any line manager/ head of department details;
- The school's safeguarding policy and the name, location and contact details of the named person who is responsible for safeguarding within the school;
- Written guidance outlining key policies, procedures and expectations - such as: behaviour management, schemes of work, marking and assessment, health and safety including information about Fire Drills and first aid, appropriate use of technology including mobile phones and social media;
- Details on access to IT systems, equipment and resources;
- Class information and registration, dismissal details - names of pupils in all classes to be taught, seating plans if possible and any pupil specific information including any ongoing risk assessments;
- Door codes and other security information including emergency evacuation procedures;
- Staff names, roles and contact details.

School leaders should be supporting all supply teachers throughout the duration of their placement by arranging:

- learning walks by senior staff
- mentoring by subject leaders
- informal mentoring by other teachers, for example, providing support, behaviour management
- Performance management opportunities
- Professional development support

## **Departure**

Prior to the departure and during the placement all supply teachers should receive feedback sessions during which:

- constructive feedback on the quality of the cover provided and individual's teaching can be given to the supply teacher
- feedback on their experiences of working within the school can be provided by the supply teacher.

Information obtained from feedback sessions can:

- assist in providing continuity of teaching and learning for the learners
- help supply teachers reflect on their practice and identify any professional learning needs and aid the development of strong working relationships. .

Where the recruitment has taken place through a commercial supply agency, feedback should also be provided to the agency.

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