

Number: WG21923



Llywodraeth Cymru
Welsh Government

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Consultation Document

Proposed arrangements for the appointment of members of the Education Workforce Council

Date of issue: **9 May 2014**

Action required: Responses by **4 July 2014**

Proposed arrangements for the appointment of members of the Education Workforce Council

Overview	This document invites views on proposals to appoint members of the Education Workforce Council.
How to respond	Responses to this consultation should be e-mailed/posted to the address below to arrive by 4 July 2014 at the latest.
Further information and related documents	<p>Large print, Braille and alternate language versions of this document are available on request.</p> <p>The consultation documents can be accessed from the Welsh Government's website at www.wales.gov.uk/consultations</p> <p>Further information about the Welsh Government's Programme for Government can be found at www.wales.gov.uk/about/programmeforgov/?lang=en</p> <p>The Education (Wales) Act 2014</p> <p>The General Teaching Council for Wales (Constitution) Regulations 1999 (SI 1999/1619)</p> <p>The General Teaching Council for Wales (Constitution) (Amendment) Regulations 1999, SI 1999/3185 (W.43)</p> <p>The General Teaching Council for Wales (Constitution) (Amendment) Regulations 2003, SI 2003/389 (W.51)</p> <p>The General Teaching Council for Wales (Constitution) (Amendment) Regulations 2007, SI 2007/812 (W.69)</p> <p>The Education (Specified Work and Registration) (Wales) Regulations 2004, SI 2004/1744 (W.183)</p>
Contact details	<p>For further information:</p> <p>Nathan Huish Practitioners Standards and Professional Development Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ</p> <p>e-mail: ewc.enquiries@wales.gsi.gov.uk</p> <p>Tel: 029 2082 3039</p>

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Summary

The Education (Wales) Act 2014 (“the Act”) reconfigures the General Teaching Council for Wales (‘GTCW’); extends the current remit of the body; and amends the composition of the Council’s membership, in order to create the new Education Workforce Council.

The Act gives the Welsh Ministers the function of appointing Council members. The Act also gives the Welsh Ministers the power to make regulations relating to the eligibility of persons who can be appointed and the procedure for such appointments. The General Teaching Council for Wales (Constitution) Regulations 1999 (“the 1999 Regulations”), <http://www.opsi.gov.uk/legislation/wales/wsi1999/993185e.htm> as amended, sets out the arrangements by which members of the General Teaching Council for Wales are elected and appointed. The proposal is that the 1999 Regulations will act as a template for regulations relating to the appointment of members of the Education Workforce Council.

It is intended that the new regulations will come into force by late summer 2014 in order to appoint Council Members in readiness for the reconfigured body to operate from April 2015. Interim arrangements will be put in place, so as to ensure a seamless transition from the GTCW to the Education Workforce Council.

Arrangements for the appointment of members of the Education Workforce Council

1. Background

- 1.1 The Act enables a new requirement to be placed on Further Education (FE) teachers; FE learning support workers; and school learning support workers to register with the Education Workforce Council (the Council). This will help to improve and maintain high standards of teaching and the quality of learning in Wales by regulating and supporting the wider education workforce. The Act also enables the existing registration system for teachers to continue.
- 1.2 The Education Workforce Council (the Council) must have the skills, knowledge and expertise to support the wider education workforce if it is to become a key partner in delivering better coherence and support the agenda to drive up standards in teaching and learning. The Welsh Government will ensure that the existing registration system for teachers will continue without interruption, and without detriment to teachers. Effective teaching and learning is at the heart of education reforms in Wales. The quality of teaching practitioners and those who support them is a critical factor in determining the quality of teaching and learning and, subsequently, the outcomes for learners.
- 1.3 The options available to learners in Wales through policies such as 14-19 Learning Pathways and collaboration between schools and post-16 providers, have led to closer working of practitioners between different sectors. There has also been a rapid increase in the number of people supporting teaching and learning in the Foundation phase, with learning support assistants working in partnership with teachers to deliver the curriculum. This means that the structure and composition of the education workforce has changed significantly in recent years.
- 1.4 It is vital that all these different practitioners work together effectively; and are able to access well designed qualifications, support and development. Their professionalism; suitability and standards of conduct; training; and development, are key to their success. We want to ensure that we recognise the role of all those working to support teaching and learning as part of a single and coherent education workforce in Wales.
- 1.5 The intention is that the Council will become operative from April 2015, with a phased implementation plan for the registration of the wider education workforce. It is anticipated that FE teachers will be the first addition to the existing register of teachers, with FE and school learning support workers' registration to be phased in from April 2016.

2. Aims of the Education Workforce Council

To contribute to the improvement of standards of teaching and the quality of learning in Wales;

To maintain and improve standards of professional conduct amongst teachers and persons who support teaching and learning; and

To maintain public trust, confidence and to safeguard the interests of learners, parents and general public.

3. Overview of proposals for the regulations

3.1 The Act gives the Welsh Ministers the function of appointing Council members. The Act also gives the Welsh Ministers the power to make regulations relating to the eligibility of persons who can be appointed and the procedure for such appointments. Such regulations can apply, (with or without modification), any Code of Practice that is concerned with appointments to public bodies; or to make other provision relating to any such Code.

3.2 Getting the appointments process right is a vital part of managing any public body, and an investment in its future. Therefore, it is proposed that the appointment process for all the Council's members will follow the established public appointments procedures.

3.3 Public appointment procedures are designed to ensure the appointment of the most suitable candidate available for the post; who is selected on merit, using fair, open, transparent and appropriate procedures. The procedures will follow the principles in the Code of Practice for Ministerial appointments for Public Bodies, produced by the Commissioner for Public Appointments.

3.4 This document sets out the Welsh Government's proposals for the appointment of Council members. The aim of this consultation is to seek views on those proposals.

4. How do I comment on these proposals?

4.1 Specific questions are listed in the response form and you are invited to provide answers to these questions or to comment in more general terms. This may be in writing, or in print; electronically; or in hard copy.

5. Principles of appointment process

5.1 It is the policy of the Welsh Government to promote and integrate equality of opportunity into all aspects of its business including appointments to public bodies. Applications are welcomed and encouraged from all groups ensuring that no eligible candidate for public office receives less favourable treatment on the grounds of age, disability, gender, marital status, sexual orientation, gender

reassignment, race, religion or belief, or pregnancy and maternity. The principles of fair and open competition apply and appointments are made on merit.

5.2 Public bodies, appointed by the Welsh Government, take decisions on a daily basis which affect every aspect of our lives. It is in all our interests, as citizens, that public bodies have members who are skilled, experienced and understand the communities they serve.

5.3 In fulfilling their new responsibilities in the appointments process, Council Members will be expected to demonstrate that they comply with all relevant legislation. This expectation also includes obligations arising from the Equality Act 2010 and the Public Sector Equality Duty. This duty requires public authorities to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- Advance equality of opportunity between people who share a protected characteristic and people who do not;
- Foster good relations between people who share a relevant protected characteristic and those who do not.

5.4 In addition, the Education (Wales) Act requires that all Members are to act as individuals; not to act as representatives for any organisation or body to which they may belong; nor for any organisation or body that has nominated them.

6. Matters to be addressed

6.1 The General Teaching Council for Wales (Constitution) Regulations 1999 <http://www.opsi.gov.uk/si/si1999/19991619.htm>, as amended, (the 1999 Regulations) provide for the constitution of the GTCW. The current Council consists of twenty five members; twelve are elected by their peers and thirteen members who are appointed through a public appointment process by the Welsh Ministers. Of the thirteen members appointed by the Welsh Ministers, nine are appointed from nominees of organisations listed in the Schedule to the 1999 regulations, and, as far as possible, four of those nine will have been nominated by organisations listed in Part 1 of the Schedule. The other four members are appointed directly by the Welsh Ministers.

6.2 The Welsh Government and the GTCW recognise that such a large membership is not sustainable moving forward. As a consequence, the Act provides that the membership of the Council will be 14 but that Welsh Ministers will be able to amend that number by Order. Appointed members will have the necessary skills and experience to perform their functions efficiently and effectively. Also, Welsh Ministers must secure that the majority of members are, or recently have been, registered persons.

6.3 The proposal is that of the 14 members, 7 would be directly appointed by the Welsh Ministers and 7 would be appointed by the Welsh Ministers having being nominated by organisations listed in the Schedule. It is proposed that the

organisations listed will be broken down into 2 parts: Part 1 contains Trade Unions; and Part 2 contains groups and organisations associated with the education workforce. Welsh Ministers will, so far as possible ensure that 4 of the 7 nominated members are persons nominated by organisation set out in Part 1 of the Schedule.

6.4 The proposed Schedule is attached at Annex. This list is based on the Schedule to the 1999 regulations. As noted above, it is broken down into two parts.

7. Details of proposed amendments

7.1 The proposed Schedule is meant to capture all those who represent and/or are relevant to the four categories listed in Schedule 2 to the Act. Those categories are:

- School teachers
- Further Education teachers
- School Learning Support Workers
- Further Education Learning Support Workers.

7.2 However, it needs to be recognised that of those categories, only School teachers and FE teachers will be required to register from the start date of the reconfigured Council. Therefore, only those within those 2 categories will be capable of being registered persons. This is relevant because of the Welsh Ministers' duty to secure that the majority of the Council's members are, or recently have been, registered persons.

7.3 When more categories are added to Schedule 2 to the Act, the list of organisations who can make nominations may need to be changed and we will consult further as and when that occurs.

The practical effect of this proposal will be as follows:

- Welsh Ministers will appoint the 14 Council members
- All appointments will be made in accordance with the principles in the Code of Practice for Ministerial appointments for Public Bodies produced by the Commissioner for Public Appointments
- Welsh Ministers will appoint 7 members directly and 7 members from a list of nominations made by organisations listed in the Schedule to the new regulations
- As far as it is possible, the Welsh Ministers will ensure that of the 7 appointed from the nominated list, 4 will have been nominated from those organisations listed in Part 1 to the Schedule (i.e. trade unions)
- Welsh Ministers must secure that the majority of the Council's members (i.e. 8 or more) are, or recently have been, registered persons.

7.4 The Welsh Government believes that identifying new Council members from both nominations and direct public appointments will ensure that the Membership of the Council truly reflects all categories of practitioners to be registered with the Education Workforce Council.

8. Standards for council members and staff

8.1 It is vital that all council members and staff understand and demonstrate high standards of corporate and personal conduct. It is conventional practice for members of public panels to be asked to subscribe to a relevant code of conduct and also confirm that they understand the standards of probity required by public appointees outlined in the 'Seven Principles of Public Life'. Codes will clearly differentiate between personal and collective liability and the implications of failure to observe the relevant Code of Conduct. Whilst written guidance is vital, it is also important to ensure that these values and standards are embedded in the daily life of the Council. All council members are responsible for upholding these values and should challenge any actions or behaviour by other council members which do not reflect these principles.

9. Impact of our approach

9.1 The costs and benefits of a change to a public appointments process was considered as part of the process of preparing the Education (Wales) Bill Impact Assessment. The Welsh Government does not expect that the costs of these changes to the process of appointing council members and chairs would change significantly.

9.2 As a body delivering public functions the Council will be subject to the provisions of the Equality Act 2010 and the Public Sector Equality Duty. We do not anticipate that there will be any negative impact on equalities issues from the proposals in this consultation providing there are systems in place around council member appointments to ensure equality issues are considered and addressed. The Welsh Government has embedded this in our principles, good practice guidance and scrutiny process and throughout this consultation we seek feedback on potential equalities issues in these areas. These responses will form part of the analysis that informs our final policy development.

Annex: Proposed schedule for organisations entitled to nominate persons for appointment by the Welsh Ministers

Part One

1. National Union of Teachers (Cymru)
2. National Association of Schoolmasters Union of Women Teachers (Cymru)
3. Association of School and College Leaders
4. Voice
5. National Association of Head Teachers in Wales
6. Undeb Cenedlaethol Athrawon Cymru
7. Association of Teachers and Lecturers
8. University and College Union
9. UNISON
10. GMB
11. Unite Union
12. Association of Managers in Education

Part Two

13. Colegau Cymru / Colleges Wales
14. National Association for Special Educational Needs
15. Association of Directors of Education in Wales
16. Welsh Local Government Association
17. Wales TUC Cymru
18. Governors Wales (Confederation of School Governors Associations in Wales)
19. Roman Catholic Church in Wales
20. Church in Wales
21. Heads of Higher Education Wales
22. Universities Council for the Education of Teachers Cymru
23. Confederation of British Industry Wales
24. Parent Teacher Association UK
25. Institute of Directors
26. Welsh Association of Standing Advisory Councils on Religious Education
27. Association of Directors of Social Services in Wales
28. Wales Council for Voluntary Action
29. National Training Federation of Wales