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Consultation Document

Proposals for the disciplinary functions of the Education Workforce Council and a new code of professional conduct and practice for registrants

Date of issue: **6 October 2014**

Action required: Responses by **1 December 2014**

Proposals for the disciplinary functions of the Education Workforce Council and a new code of professional conduct and practice for registrants

Overview	This document invites views relating to the disciplinary functions for the Education Workforce Council and a new code of professional conduct and practice for registrants.
How to respond	Responses to this consultation should be e-mailed/posted to the address below to arrive by 1 December 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 General Teaching Council for Wales (Disciplinary Functions) Regulations 2001, SI 2001 No. 1424 (W.99).</p> <p>The General Teaching Council for Wales Code of Professional Conduct and Practice for Registered Teachers.</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 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 and renames the General Teaching Council for Wales (GTCW); extends the current remit of the body; and amends the composition of its membership in order for it to become the Education Workforce Council (“the Council”).

The Act confers disciplinary functions on the Council in relation to those persons required to register with them. The Act also gives a number of powers to the Welsh Ministers to make provision in relation to specific matters connected with the disciplinary functions of the Council. This consultation seeks comments on disciplinary provisions which are related to the Council’s core duty of investigating cases; linked to professional conduct, serious professional incompetence and/or where a registrant has been convicted of a relevant offence.

The consultation also seeks comments on a new Code of Professional Conduct and Practice that has been developed for the Council – ensuring that that the new Code is appropriate for registrants.

1. Background

- 1.1 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 its membership, in order to create the Education Workforce Council (‘the EWC’). It is proposed that the Council’s new functions will be introduced during Spring 2015, in time for the establishment of the EWC from 1 April 2015.
- 1.2 The Act gives a power to the Welsh Ministers to make regulations requiring Further Education (FE) teachers; FE learning support workers; and school learning support workers to register with the EWC. 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.
- 1.3 The EWC 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 school teachers will continue without interruption. 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.
- 1.4 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.
- 1.5 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.
- 1.6 Although the Welsh Government has identified professions that will initially be required to register (under Schedule 2 to the Act), this does not preclude the future registration of other groups such as WBL and Youth Workers who also provide a valuable contribution to the education and training of our children and young people. The Act therefore, creates a framework that will enable us to add new categories of registration in the future, if and when appropriate; and subject to the agreement of the National Assembly for Wales.

2. Aims of the Education Workforce Council

2.1 The aims of the Education Workforce Council are to:

- contribute to the improvement of standards of teaching and the quality of learning in Wales;
- maintain and improve standards of professional conduct amongst teachers and others in the education workforce who support teaching and learning.
- maintain public trust, confidence and to safeguard the interests of learners, parents and general public.

3. Introduction

3.1 The Welsh Government believes that suitability to practice and disciplinary responsibilities are core functions of a professional regulatory body and that it is the role of the professional regulatory body, rather than government, to uphold the profession's standards of conduct and competence. This has been a core function of the current GTCW.

3.2 It is vital that we have effective arrangements in place to tackle serious professional misconduct, professional incompetence; ensuring those practitioners whose behaviour is unacceptable are no longer employed to teach or support learning.

3.3 The Council will continue to perform disciplinary functions in relation to teachers in maintained schools. As set out in the Act (under section 26), the Council must carry out such investigations as it considers appropriate in cases where –

- it is alleged that a registered person -
 - is guilty of unacceptable professional conduct or serious professional incompetence, or
 - has been convicted (at any time) of a relevant offence, or
 - it appears to the Council that a registered person may be so guilty or have been so convicted.

These matters together essentially help to inform whether somebody is fit to practice.

3.4 The Act also makes provision for the Council to undertake investigations in relation to practitioners from within the wider educational workforce, who will be required to register with the Council in a phased manner from 2015 onwards. Such cases will be referred to the Council using similar routes to those cases currently referred to the GTCW, which are:

- **employers** – where they cease to use a registered practitioner had he or she ceased to provide those services, on grounds of unacceptable professional conduct; professional incompetence or conviction of a relevant offence;
- **agents** – where they terminated arrangements, or might have terminated arrangements with a practitioner had he or she not terminated them, on the grounds of misconduct, professional incompetence or conviction of a relevant offence;
- **the police** – teachers and learning support workers are 'notifiable occupations'. This means that if a practitioner is convicted or cautioned for a criminal offence whilst they are registered, it will be reported to the Council; or

- **any other person or organisation** – who wishes to make a complaint or referral about a registered practitioner’s conduct.
- 3.5 Consideration of these matters will allow the Council to form a view when deciding whether or not to make a disciplinary order. A disciplinary order may be a reprimand, conditional registration order, a suspension order or a prohibition order.
- 3.6 Disciplinary functions by a regulatory body are an important aspect of any professional registration regime. They enhance public confidence in the registered profession by helping to ensure that individuals maintain a minimum standard of professional conduct and competence and are suitable to being a member of the relevant profession.
- 3.7 The number of cases referred to the GTCW has historically been small (approximately 50 per year out of over 37,000 registered teachers). Furthermore, it is important to note that many cases received by GTCW in the past have led to no further action for the registered teacher concerned. This pattern is expected to continue for the Council and the wider education workforce. Where a case does proceed to a disciplinary hearing and a formal sanction is considered appropriate, this will not necessarily result in the registrant being removed from the Register. Possible sanctions which fall short of removal and allow a registrant to continue to practice will be a Reprimand or a Conditional Registration Order (such as a requirement to undertake further training).

Code of professional conduct and practice

- 3.8 The Code of Professional Conduct and Practice will set out the expectations for registrants in relation to their day to day behaviour and practice. It is intended to guide registrants’ judgement and decisions and inform parents, learners and the general public of the standards they can expect from practitioners.
- 3.9 The Code is not a definitive or exhaustive guide, however, failure to comply with the Code may call a practitioners registration into question. The Council has legal powers to investigate and hear cases of alleged unacceptable professional conduct, serious professional incompetence and criminal offences involving registered practitioners.

4. Overview of proposals

The establishment of a fitness to practice committee

4.1 The first proposal results from a request by the GTCW to replace the “Professional Conduct” and “Professional Competence” Committees with a “Fitness to Practice” Committee. The GTCW feels that having two separate committees to undertake this work is no longer necessary. Experience has shown that the work of these two committees can be efficiently and effectively carried out by a single committee, an approach taken by most other regulators.

Code of professional conduct and practice

4.2 The second proposal covered in this consultation is the consideration of a new Code of Professional Conduct and Practice for registrants. The Act sets out that the Welsh Ministers must prepare and publish a Code specifying the standards of professional conduct and practice expected of registered persons. The new Code is attached at Annex A for comment.

4.3 The Minister for Education and Skills announced, on 16 January 2014, the establishment of an Independent Expert Reference Group to advise the Welsh Government on the transition from the General Teaching Council Wales to the Education Workforce Council. The reference group has operated task and finish group. In addition to providing advice on operational issues, the group has also led on the development of the Code of Professional Conduct and Practice.

4.4 The first Code of Conduct and Practice will be published alongside the regulations on disciplinary proceedings. Following this first publication, future responsibility for reviewing and revising the Code will pass to the Council.

4.5 It is important that the existing arrangements and high standards for teachers are maintained; and that these are extended to cover the wider education workforce. The Code will set out the key principles and standards expected of all those required to register.

4.6 Provisions within the current regulations will be mirrored (The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001), where a committee may take into account any failure by a registered person to comply with the Code of Practice; and the (General Teaching Council for Wales (Functions) Regulations 2000), where the Council must make copies of the Code of Practice available free of charge to all registrants.

5. How do I comment on these proposals?

- 5.1 Specific questions are listed at Annex B and you are invited to provide answers to these questions or to comment in more general terms, in writing or in print, electronically or in hard copy to the address at the beginning of this document.

Annex: New code of professional conduct and practice

Background

The Education Workforce Council is the statutory, self regulating professional body for members of the education workforce in Wales. It seeks to raise the status of practitioners in education and training by maintaining and promoting the highest standards of professional practice and conduct, in the interests of both registrants and learners.

Purpose, scope and status of the Code

The draft Code primarily sets out the key principles of good conduct and practice for registrants in Wales. It is also intended to guide the judgements and decisions of practitioners; and to inform parents, learners and the general public of the standards they can expect from registrants.

The Code is not a definitive or exhaustive guide; however, failure to comply with the Code may call a person's registration into question. The Council has legal powers to investigate and hear cases of alleged unacceptable professional conduct, serious professional incompetence and criminal offences involving registrants.

KEY PRINCIPLES – professionalism and maintaining trust in the profession

Registrants :

- base their relationships with learners on trust and respect;
- have regard to the safety and well-being of learners in their care;
- work in a collaborative manner with colleagues and other professionals; and develop and maintain good relationships with parents, guardians and carers;
- act with honesty and integrity;
- be sensitive to the need, where appropriate, for confidentiality;
- take responsibility for maintaining the quality of their professional practice; and
- uphold public trust and confidence in the education workforce.

PROFESSIONAL CONDUCT

Registrants base their relationship with learners on trust and respect

Registrants I:

- follow policies, procedures and guidelines* on matters such as communication with learners, physical contact, behaviour management, inclusion, access and equality of opportunity;
- conduct their relationships with learners professionally and appropriately both in and out of the workplace;
- ensure that any communication with learners is appropriate, including communication via electronic media, such as e-mail, texting and social networking websites;
- be committed to providing equal opportunities for all learners, regardless of their age, gender, sexual orientation, disability, additional learning needs, race, religion or beliefs.

Registrants have regard to the safety and well-being of learners in their care

Registrants :

- comply with policies, procedures and guidelines* on matters such as child protection, educational visits or trips and their own professional and personal conduct;
- take all reasonable steps to ensure the safety and well-being of learners under their supervision;
- report any incident which may be perceived to breach the established boundaries between registrants and learners;
- contribute to the creation of a fair and inclusive environment by addressing discrimination, stereotyping and bullying;
- identify and address issues at all times that might impact on learner's welfare.

Registrants work in a collaborative manner with colleagues and other professionals; and develop and maintain good relationships with parents, guardians and carers

Registrants :

- behave professionally and with respect towards colleagues and other professionals;
- support and collaborate with colleagues and other professionals in matters concerning the education of learners;

- follow policies, procedures and guidelines* on communication with parents, guardians and carers, including those relating to sensitive areas such as attendance and exclusion;
- develop and maintain good relationships between home and learning institution, respecting the role of the parent, guardian or carer in a learner's education.

Registrants act with honesty and integrity

Registrants :

- comply with policies, procedures and guidelines* in respect of the use of workplace property, facilities, finance and ICT;
- handle finances and funds correctly, and use workplace property and facilities appropriately;
- conduct assessment and examination-related tasks with integrity and impartiality;
- ensure the accuracy of information prior to signing documents *;
- represent themselves, their experience, professional position and qualifications honestly.

Registrants are sensitive to the need, where appropriate, for confidentiality

Registrants :

- ensure communications with parents, colleagues and other professionals comply with policies, procedures and guidelines*;
- keep learners' personal/educational records secure;
- only disclose confidential information where it is appropriate to do so;
- comply with policies, procedures and guidelines* regarding the disclosure of learners information.

PROFESSIONAL PRACTICE

Registrants take responsibility for maintaining the quality of their practice

Registrants :

- adhere to the relevant standards for their role, if in place, and maintain high standards of practice in relation to leading and supporting learning; classroom and workshop management; planning; monitoring; assessment and reporting;

- engage in career long professional learning to keep their professional knowledge and skills up to date;
- maintain an up-to-date knowledge of relevant guidelines and educational developments in their particular role, and learning in general;
- reflect upon and evaluate their practice as part of their ongoing professional learning;
- be open, and respond positively and constructively, to feedback regarding their practice;
- seek support, advice and guidance where necessary and provide the same to other colleagues to support their professional learning.

*policies, procedures and guidelines include those issued nationally, by a school, college, local authority or diocesan authority

COMPLIANCE WITH THE LAW

Registrants uphold public trust and confidence in the education profession

Registrants :

- adhere to lawful standards of behaviour, in a manner in keeping with their position as a member of the education profession;
- not engage or incite others to participate in any criminal activity;
- be mindful of their position as role models to learners acknowledging that criminal behaviour may damage trust and confidence in them personally and the education profession as a whole;
- inform their current employer or agent of any “recordable” criminal offence.

Note: Where a registrant receives a conviction or formal caution for a “recordable” criminal offence, this offence is automatically referred to the Education Workforce Council by the police. The Council will consider such offences as to their seriousness and relevance to a registrant’s registration.

Publication and review

The Code of Professional Conduct and Practice for Registrants with the Education Workforce Council is available without charge and is published on the Council’s website.

The Code will be kept under review and updated as and when considered appropriate by the Council.