

Number: WG34264



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Proposed amendments to the Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014

Date of issue: 22 February 2018
Action required: Responses by 4 April 2018

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

Proposed amendments to the Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014

Overview This document invites views on proposals to amend the Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014.

How to respond Responses to this consultation should be e-mailed/posted to the address below to arrive by **4 April 2018** at the latest.

Further information and related documents **Large print, Braille and alternative language versions of this document are available on request.**

The consultation documents can be accessed from the Welsh Government's website at gov.wales/consultations

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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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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

Regulation 6 of the Education (Wales) Act 2014 (“the 2014 Act”) gives the Welsh Ministers the function of appointing members to the Education Workforce Council (“the Council”). The 2014 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 Education Workforce Council (Membership and Appointment) (Wales) Regulations 2014¹ (“the Regulations”), sets out the arrangements by which members of the Education Workforce Council are appointed.

Schedule 2 to the Regulations needs to be updated to ensure it captures all those who represent and/or are relevant to the seven categories listed in Schedule 2 to the 2014 Act.

It is intended that the amendments to the Regulations will come into force by August 2018 in order to appoint Council Members in December 2018 to operate from April 2019.

1. Background

1.1 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. 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.

1.2 The 2014 Act gives the Welsh Ministers the function of appointing Council Members. The 2014 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.

1.3 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.

2. How do I comment on these proposals?

2.1 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, to the address in this document.

3. Principles of appointment process

3.1 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

¹ http://www.legislation.gov.uk/wsi/2014/2365/pdfs/wsi_20142365_mi.pdf

merit.

3.2 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.

3.3 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.

3.4 In addition, the 2014 Act requires that all Members are to act as individuals and not to act as representatives for any organisation or body to which they may belong; or for any organisation or body that has nominated them.

4. Matters to be addressed

4.1 The current Council consists of fourteen members; all of which are appointed through a public appointment process by the Welsh Ministers. Of the fourteen members appointed by the Welsh Ministers, 7 are appointed from nominees of organisations listed in the regulations. Part 1 contains Trade Unions and Part 2 contains groups and organisations associated with the education workforce.

4.2 As you will be aware, Youth Workers, Youth Support Workers and Work Based Learning Practitioners were required to register with the Education Workforce Council as of 1 April 2017.

4.3 The 2014 consultation "*Proposed arrangements for the appointment of members of the Education Workforce Council*" recognised that when more categories of practitioners are added to Schedule 2 to the 2014 Act, the list of organisations who can make nominations may need to be changed and that there would be a requirement to consult further as and when that occurred.

4.4 The current Schedule is attached at Annex.

5. Details of proposed amendments

5.1 The Schedule of the Regulations needs to be updated to ensure it captures all those who represent and/or are relevant to the seven categories listed in Schedule 2 to the 2014 Act (as amended). Those categories are:

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

- Youth Workers/Youth Support Workers.
- Work Based Learning practitioners.

5.2 This consultation is specifically seeking suggestions from those organisations that represent the Youth Worker sector and Work based Learning Practitioners, in as to what organisations they consider should be added to Schedule 2 of the Regulations.

5.3 This will ensure that the organisations and bodies contained in that list are able to nominate members that will represent the Youth Support Worker, Youth Worker and Work Based learning sector.

5.4 The practical impact of the Regulations will still remain in place, these being:

- 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.

5.5 There will also be a requirement to amend Schedule 2, Part 1 to merely reflect name changes of Trade Unions.

5.6 The Welsh Government continues to believe that identifying new Council members from both nominations and direct public appointments ensures that the Membership of the Council truly reflects all categories of practitioners to be registered with the Education Workforce Council.

6. Impact of our approach

6.1 The costs and benefits of a change to a public appointments process was considered as part of the process of preparing the 2014 Act Impact Assessment. There are no cost implications associated with this amendment to the Regulations.

6.2 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: Schedule 1 – Organisations entitled to nominate persons for appointment to the council

PART 1

- 1. National Union of Teachers (Cymru).**
- 2. National Association of Schoolmasters Union of Women Teachers (Cymru).**
- 3. Association of School and College Leaders.**
- 4. Professional Association of Teachers.**
- 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 the Union.**
- 12. Aspect Group of Prospect Union.**
- 13. Wales TUC Cymru.**

PART 2

- 14. Colleges Wales.**
- 15. Y Coleg Cymraeg Cenedlaethol.**
- 16. Association of Directors of Education in Wales.**
- 17. Welsh Local Government Association.**
- 18. Confederation of School Governors Associations in Wales.**
- 19. The Church in Wales.**
- 20. The Catholic Education Service.**
- 21. Higher Education Wales.**
- 22. Universities Council for the Education of Teachers.**
- 23. Welsh Independent Schools Council.**
- 24. Wales Association of SACREs.**
- 25. Federation of Small Businesses.**
- 26. Wales Council for Voluntary Action.**