

Title: The Education (Specified Work and Registration) (Wales) Regulations 2004

Function: Guidance

Subject Category: Teachers' qualifications and work

Audience: Head teachers, Chairs of Governors, Local Education Authorities

Status: Strongly Recommended

Date of issue: 2004

Executive Summary: This guidance explains the Education (Specified Work and Registration) (Wales) Regulations 2004 (referred to in this document as 'the Regulations').

Part I deals with the context and content of the Regulations. Part II explores the system of supervision that is required to be established for support staff who undertake the 'specified work' in schools.

The key points covered in this guidance are:

- who can undertake the 'specified work' set out in Regulation 6 of the Regulations;
- how the Regulations seek to preserve the status of teachers and their lead role in promoting high standards of achievement; and
- the recommended format of a system of supervision.

As explained in this guidance, the Regulations allow both "qualified teacher(s)" and other teachers in certain categories to undertake teaching work. Support staff can work with most of the groups of these other teachers, known collectively as "nominated teacher(s)" - see paragraph 8 of Schedule 2 to the Regulations. For the purpose of this guidance, the term "teacher(s)" should be taken to include both "qualified teacher(s)" and "nominated teacher(s)".

PART I – The Regulations

Purpose of the Regulations

1. The underlying policy aim of the Regulations made under section 133 of the Education Act 2002 is to safeguard standards in the classroom and preserve the role, status and overall responsibility of teachers in schools.
2. The Regulations clarify the respective roles of teachers and other staff in schools, and specify circumstances under which certain kinds of staff – usually support staff – may carry out ‘specified work’ related to teaching and learning, including the requirements for appropriate supervision of support staff by a teacher (see paragraph 14). Such requirements are not intended to be bureaucratic and should build on existing arrangements where appropriate.
3. Support staff who do not undertake ‘specified work’ are not covered by these Regulations or by the requirement for a system of supervision by a teacher.
4. There are now more support staff employed in schools, working alongside teachers in a wide range of roles. For some time, there has been uncertainty about what duties and activities these support staff may or may not undertake. The Regulations and this guidance reflect the developments in the role of support staff highlighted in the National Agreement on Raising Standards and Tackling Workload signed on 15 January 2003 between the Welsh Assembly Government, the Department for Education and Skills, local government employers and school workforce unions (referred to in this document as ‘the National Agreement’). Both the Regulations and guidance carry the support of the signatories to the National Agreement, who were closely involved in their development.
5. The National Agreement refers to the use of higherlevel teaching assistants (HLTAs) to undertake an enhanced role in the classroom. These Regulations cover this group of support staff but equally apply to other adults who are currently undertaking ‘specified work’ at different levels or may do so in future.

6. The National Agreement states that teachers and support staff are not interchangeable and that each class or group for timetabled core and other foundation subjects and for religious education must be assigned a teacher to teach them. The fact that HLTAs may be working with whole classes for some of the time does not make them substitutes for a teacher
7. The School Teachers' Pay and Conditions Document 2003 places duties on head teachers to ensure, save in exceptional circumstances, that a teacher is allocated to every class or group of pupils; and on teachers to carry out the professional duties of a teacher with a view to promoting the effective use and development of the abilities and aptitudes of the pupils in any group or class for which they are the assigned teacher.
8. Nothing in this guidance overrides current employment law or regulations.
9. The Regulations and guidance will be kept under review by the Workforce Agreement Monitoring Group representing signatories to the National Agreement. The first such review will take place by early 2006.

Definition of 'specified work'

10. The Regulations specify the following activities:
 - a. planning and preparing lessons and courses for pupils;
 - b. delivering lessons to pupils. This includes delivery via distance learning or computer aided techniques;
 - c. assessing the development, progress and attainment of pupils; and
 - d. reporting on the development, progress and attainment of pupils.
11. In this list, 'pupils' includes work with individual pupils as well as groups and whole classes.
12. This list does not attempt to include all of the duties that may be required of classroom teachers (which are listed in Part XII of the School Teachers' Pay and Conditions Document). Instead, it contains the 'specified work' involved in the planning, preparation and delivery of lessons and the assessment of pupil progress. Omissions from the 'specified work' include:
 - a. the administrative and clerical tasks set out in Annex 5 of the School Teachers' Pay and Conditions Document 2003 including photocopying, record keeping and other administrative and clerical work, that have traditionally been carried out by teachers but that

teachers should not routinely be required to undertake from September 2003;

- b. tasks that often fall to head teachers (for example financial and premises management, procurement and sponsorship). These should also be transferred, where practicable, to senior administrative staff, business managers or site managers;
 - c. supervisory and pastoral activities that require behaviour management experience and, in some cases, counselling skills but that are not directly related to classroom teaching. These range from playground supervision and exam invigilation to elements of pastoral care. Schools will clearly need to ensure that any support staff who carry them out are suitably trained and monitored.
13. Also omitted are a number of duties that only qualified teachers will be expected to carry out in schools – for example, appraising the work of other teachers.

Persons able to carry out the ‘specified work’

14. There are, broadly, three groups of people that may carry out the ‘specified work’ set out in the Regulations (see paragraph 10 above). They are:

(A) Qualified Teachers

15. The Regulations require that only qualified teachers or people who satisfy certain requirements - listed in schedule 2 to the Regulations - may carry out specified work in a school. "Qualified teachers" are teachers who meet the requirements of the related Education (School Teachers' Qualifications) (Wales) Regulations 2004.
16. Regulation 7 replaces the existing requirement for qualified teachers to register with the General Teaching Council for Wales. It does not introduce any new requirement but arises because of the commencement of section 134 of the Education Act 2002 and the introduction of the new description of "specified work".

(B) Other Teachers

17. Previous legislation (The Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999) has allowed cases and circumstances in which other teachers ("unqualified teachers") may be allowed to teach in schools. The Regulations continue this approach, with the following groups able to carry out specified work in a school on the same basis as qualified

teachers. These people are not subject to the system of supervision outlined in Part II of this guidance but are subject to different arrangements:

- (a) **Existing unqualified teachers in nursery classes and at nursery schools** who were permitted to be employed as a teacher by previous 1982 Regulations and who were so employed immediately before September 1989.
- (b) **Instructors with special qualifications or experience.** An instructor may carry out the 'specified work' in a school provided that the LEA or Governing Body for the school to which he/she is appointed is satisfied that he/she has the relevant qualifications or experience or both. This means that the body which normally appoints staff in the relevant school, either the LEA or Governing Body, makes the necessary judgement as to the instructor's qualifications and experience. An instructor may only be appointed to teach if there is no qualified teacher, trainee on the Graduate Teacher Programme, Registered Teacher Programme or the employment based teacher training scheme available for that appointment.
- (c) **Overseas Trained Teachers** who have successfully completed a programme of professional training for teachers in any country outside the United Kingdom and which is recognised as such a programme of training by the competent authority in that country. Such teachers may only teach under this category for a maximum period of two years.
- (d) **Graduate teachers** who are trainees with an authorisation to teach on the Graduate Teacher Programme.
- (e) **Registered teachers** who are trainees with an authorisation to teach on the Registered Teacher Programme.
- (f) **Employment based teacher training scheme trainees.** The employment based teacher training scheme is being introduced by the related Education (School Teachers' Qualifications) (Wales) Regulations 2004 and enables a person to train to be a teacher whilst employed. This scheme will include the graduate and registered teacher programmes established under the previous 1999 Regulations. Specific provision is made allowing overseas trained teachers to be assessed against the qualified teacher status standards without further training.

18. People in categories (b)-(f) above, mentioned in paragraphs 3 - 7 of Schedule 2 of the Regulations, are collectively referred to as nominated teachers. Schools may find, in practice, that nominated teachers may need to be involved in the supervision and direction of support staff. This will be a matter for the head teacher, taking account of all the circumstances involved.

(C) Other persons who may carry out specified work

19. These are support staff, who may undertake the 'specified work' subject to a number of conditions. These conditions, as set out in paragraph 10 of Schedule 2 of the Regulations, are as follows:

- i. the support staff member must carry out the 'specified work' in order to assist or support the work of a qualified or nominated teacher in the school;
- ii. the support staff member must be subject to the direction and supervision of a qualified or nominated teacher in accordance with arrangements made by the head teacher of the school; and
- iii. the head teacher must be satisfied that the support staff member has the skills, expertise and experience required to carry out the 'specified work'.

20. The category of "support staff", for the purposes of this guidance, ranges from teaching assistants, nursery nurses, librarians and other staff in schools such as technical support staff to, for example, business persons or members of the emergency services, who may from time to time engage with pupils e.g. the community police officer. It may be that these individuals undertake the 'specified work' for only a fraction of their time in school but, in doing so, they must meet the conditions set out in the Regulations (as repeated above). Where appropriate, this may be achieved through building on existing supervision arrangements within the school.

21. The practical effect of the Regulations is not to prevent support staff from undertaking the 'specified work', but to ensure that they do so within a proper system of direction and supervision by a teacher. The head teacher will determine how the system of supervision is provided and by whom.

22. Under the Regulations, a key responsibility of the head teacher will be to ensure that the support staff member has the skills, experience and expertise required to carry out the 'specified work'. 'Specified work' may cover a range of activities at different levels – including, for some support staff, work with whole classes. Where more demanding aspects of the 'specified work' are carried out by support staff, and particularly where they are working with whole classes, it is strongly recommended that the head teacher should have regard to the standards for HLTAs in determining whether those staff have the necessary level of skills and expertise.

Protecting the role and status of teachers

23. Teachers are highly skilled professionals whose expertise and judgement is essential to effective teaching. They make the leading contribution to teaching and learning, reflecting their training and expertise. Accountability

for the overall learning outcomes of a particular pupil will rest with that pupil's classroom/subject teacher and, to that end, the National Agreement states that each class or group for timetabled core and other foundation subjects and for religious education must be assigned a qualified teacher to teach them (subject to the unqualified teacher provisions in the Regulations mentioned in paragraph 17 above).

24. Teachers and support staff such as HLTAs are not interchangeable. The fact that HLTAs may be working with whole classes for some of the time does not make them substitutes for when pupils need a teacher, bringing the extra range, experience and complexity of understanding reflected in their greater professional training. The use of HLTAs to undertake 'specified work' is not intended to worsen pupil-teacher ratios but should improve pupil-adult ratios.
25. However, it is neither practical nor desirable for teachers to carry out all of the activities that are required to fulfil their overall responsibility of promoting high standards of achievement. There is a distinction between the role of the teacher and the kind of activities that appropriately trained and supervised support staff, such as HLTAs, could undertake. For example, "assessing the development, progress and attainment of pupils" could include anything from the formal assessment of coursework to marking and collating scores from a multiple-choice test. Clearly, the former is a more complex and demanding task that requires the skills of a teacher, while the latter could be delegated.
26. In deciding on the level of supervision needed, head teachers will therefore need to take account of both the skills, expertise and experience of the support staff member, and the level of challenge in the work being undertaken. They should also consider whether the support staff member has undergone relevant training.
27. The Regulations do not prevent support staff from undertaking more challenging activities. Teachers, using their professional judgement, are best placed to determine which activities can be delegated to support staff who have been identified as appropriately skilled by the head teacher. Accountability for the overall learning outcomes of a particular pupil will rest with that pupil's teacher.

PART II – Establishing a system of supervision

Defining a system of supervision

28. A system of supervision is required for each member of support staff who undertakes the 'specified work' set out in the Regulations. The system should not be bureaucratic and may build on existing arrangements where appropriate. It should include:

- b. which elements of the 'specified work' can be carried out by the particular member of staff (the job description);
- c. which teacher is responsible for supervising that work and how that supervision will be delivered (the supervision arrangements). As set out in paragraph 18 above schools may find, in practice, that people mentioned in paragraphs 3-7 of Schedule 2 of the Regulations (who will benefit from the contractual changes set out in the National Agreement) may need to be involved in the supervision and direction of support staff. This will be a matter for the head teacher, taking account of all the circumstances involved, including the conditions placed on employing instructors and based on their knowledge of the skills and experience of the nominated teacher or instructor.

29. It is inevitable that different members of support staff will undertake the 'specified work' to different levels, depending on their skills and experience. The level at which they are working should determine the level of supervision needed. For example, an inexperienced teaching assistant would require direct supervision and should not be left alone with a class, while an experienced teaching assistant who has undergone training and meets the national standards for higher level teaching assistants would not require the teacher assigned to that class to be present at all times.

30. For some support staff, particularly those involved in 'cover supervision', their work with pupils may be purely supervisory in nature and therefore may not involve elements of the 'specified work'. However, even 'cover supervision' may involve elements of the 'specified work' such as supporting pupils by answering questions about the work they have been set. It is recommended that, when in doubt, head teachers should include such staff in the formal system of supervision.

31. The head teacher should determine which of the activities within the 'specified work' fall within the competence of each member of support staff and should ensure that an appropriate arrangement for supervising those tasks is in place. The arrangements should not be bureaucratic and must be consistent with the objective of the National Agreement in making progressive reductions in teachers' overall workload.

32. For those undertaking the 'specified work' at a higher level, especially where this includes delivery of lessons to whole classes, it is strongly recommended that the head teacher should have regard to the standards for HLTAs and that they should take account of whether the individual has received training to meet those standards or has undertaken other training or qualifications of an appropriate standard such as Foundation Degrees for teaching assistants, the Specialist Teaching Assistant Course, and early years qualifications awarded by accredited bodies.

Establishing the system of supervision

33. Many of the support staff carrying out 'specified work' will already be employed by the school. Others may be newly appointed and as for all new support staff, the head teacher will need to ensure that the standard checks for anybody working in a school are carried out. These cover identity, academic qualifications, references, previous employment history and a criminal record/List 99 check. Given the nature of the work likely to be carried out by staff working regularly with children, it is strongly recommended that an enhanced disclosure, the same as required for teachers, is requested from the Criminal Records Bureau. Further information on carrying out pre-appointment checks can be found in National Assembly for Wales Circular No 34/02 (Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Sector) issued in October 2002. The head teacher will normally be expected to lead in making support staff appointments, and will need to work within the wider arrangements for staffing matters (see sections 54 to 60 of, and Schedules 16 and 17 to, the School Standards and Framework Act 1998).

34. In addition, the head teacher should ensure that each member of the support staff is aware of his/her responsibilities relating to health and safety and the duty of care towards the pupils. This could include the provision of training in first aid and the safe use of equipment within the school – of particular importance for those undertaking practical work with pupils. Other training, in behaviour management and in the use of physical contact and when and how restraint should be used, will also be appropriate. It is also important that the school's insurance policy covers the member of staff to a level appropriate for the work that they are undertaking and schools should liaise with their LEAs to ensure that this is the case.

The job description

35. For those support staff who are employed by or regularly work in the school, the head teacher should put together a job description including details of the 'specified work' that the member of support staff is expected to do. This will take account of the individual's experience, training and qualifications and the

particular needs of the school. For individuals, such as volunteers, who are not employed by the school, it will still be necessary for the head teacher to ensure that there is clarity about the work to be undertaken according to the experience and skills of the person involved.

36. Paragraph 8 (4) (b) of Schedule 2 of the Regulations suggests that head teachers may have regard to LEA/employer guidance on contractual matters when deploying staff to undertake 'specified work'. In drawing up job descriptions the head teacher should refer to advice and agreed job profiles provided by the LEA and the National Joint Council for Local Government Services. This may have implications for pay and grading. Community, voluntary controlled and community special schools must select an appropriate grade from those in use at the LEA. All schools should ensure that the pay and gradings selected for each job reflect the level of responsibility, expertise and skills required in that particular role.
37. Any revision of job descriptions of existing staff should normally be agreed between the head teacher and the member of staff, taking account of any requests for additional or refresher training the individual feels they need to fulfil their role. An extension of working hours must be by agreement. Taking on additional roles and responsibilities should not be compulsory but many staff may wish to do so with the necessary training and appropriate pay and grading.

The supervision arrangements

38. The National Agreement states that each class or group timetabled for a core and foundation subject and for religious education must have assigned to it a qualified teacher to teach it (subject to the unqualified teacher provisions in the Regulations mentioned in paragraphs 17 and 18 above). This teacher will be responsible for the progress of the pupils in the class/group which they have been assigned to teach over the course of the academic year. Such teachers may be assisted in their work by support staff, some of whom will carry out 'specified work'. All support staff who carry out 'specified work' must do so under the direction and supervision of a teacher (see paragraph 19). Having assigned a teacher to teach each class/group does not prevent other teachers from being deployed on the timetable to take that class/group for particular activities or lessons.

Supervision arrangements

39. Support staff who assist assigned teachers may have two distinct types of supervision:
- a. supervision of activities relating to teaching and learning; and

b.line management.

Supervision of activities relating to teaching and learning

40. Support staff undertaking specified work will be directed and supervised by a teacher. If they undertake this work with a number of classes/groups they are likely to be subject to the direction and supervision of several teachers. The nature of the direction and supervision may vary according to the level of 'specified work' undertaken.
41. Support staff who are less experienced and undertake only limited aspects of 'specified work' will require more close supervision and support from the teacher with regard to the materials to be used and the nature of the tasks they can undertake with pupils. Experienced support staff, with appropriate training and qualifications, may be given greater autonomy to identify suitable materials and manage tasks within the framework set by the teacher.
42. Supervision arrangements for all support staff undertaking activities to support teaching and learning should include time for teachers and support staff to discuss planning and pupil progress within the contracted hours of the support staff.
43. The head teacher may determine that a member of the support staff has the appropriate qualification or experience to be used to release a teacher for planning, preparation and assessment (PPA) time. In these circumstances, if difficulties arise the member of support staff should use the school's usual referral system in the same way as a teacher would in the case of an emergency. A teacher who is on PPA time must be treated as not available and their PPA time must not be encroached upon.

Line management

44. Line management of support staff is distinct from direction and supervision by a teacher for activities relating to teaching and learning. Line management covers the more general, day-to-day matters relating to the management of support staff. Whilst support staff may be supervised and directed by several teachers for work related to teaching and learning activities, they should have only one line manager.
45. It should not automatically follow that because teachers direct and supervise one area of support staff work they are required to undertake any aspects of line management of support staff.
46. It is recommended that support staff should be integrated into the school's appraisal arrangements. Line managers who co-ordinate the work of the support staff and provide support should undertake appraisal. Teachers who

direct and supervise support staff should provide feedback to the line manager on progress, to inform the appraisal process.

47. Regular review will also allow an assessment of the training and development needs of support staff so that they can develop professionally and improve the level of support that they can offer to qualified teachers.

Existing support staff

48. Many schools already use support staff, such as teaching assistants and nursery nurses, to undertake some aspects of the 'specified work'. It is expected that the grading, pay and conditions of such staff should reflect the high level of the work they are undertaking. Those who are already undertaking aspects of the 'specified work' may continue to do so, subject to the provisions in the Regulations. The head teacher must ensure that 'specified work' is subject to a system of supervision and that individuals have received the training appropriate to the level at which they are working. Where these staff have clear job descriptions and arrangements for their management, this should not require additional bureaucracy on the part of the school.

Extra-curricular activities led by support staff

49. The Regulations cover support staff who carry out the 'specified work' as part of the delivery of the school's curriculum, whether in school or away from the school. Such a regulated system of supervision is not required for extra-curricular activities. Schools will need to ensure that extra-curricular activities are of high quality and add value. The member of support staff undertaking these activities will need to be aware of their responsibilities for the health, safety and welfare of the pupils.