

Explanatory Memorandum to the Education Workforce Council (Membership and Appointments) (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by the Department of Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education Workforce Council (Membership and Appointments) (Wales) Regulations 2014 (“the Regulations”).

Huw Lewis

Minister for Education and Skills

03 September 2014

1. Description

1.1. These regulations make provision in relation to the membership of the Education Workforce Council and the appointment of the chief officer to the Council. The Regulations also repeal the General Teaching Council for Wales (Constitution) Regulations 1999 as amended. The Regulations are made as a consequence of the Education (Wales) Act 2014 (“the Act”), which reconfigures the General Teaching Council for Wales (‘GTCW’); extends the current remit of the body; and amends the composition of the Council’s membership. The Act renames the GTCW the Education Workforce Council (“the Council”).

2. Matters of special interest of Constitutional and Legislative Affairs Committee

2.1. None.

3. Legislative background

3.1 The Act gives the Welsh Ministers the power to make regulations relating to the eligibility of persons who can be appointed as a member of the Council and the procedure for such appointments.

3.2 The statutory powers of the Welsh Ministers to make the Regulations are found in paragraphs 3, 4, 5 and 9 of Schedule 1 to the Act. The Regulations will follow the negative resolution procedure.

3.3 The General Teaching Council for Wales (Constitution) Regulations 1999, 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 to the 1999 Regulations. The other four members are appointed directly by the Welsh Ministers.

3.4 As part of the ongoing work on the transition from the GTCW to the Council, Public Services Management Wales (PSMW) were asked to work with the GTCW to look at their existing organisational structure and consider the changes that would be required to ensure that the reformed organisation was able to deliver the new requirements as efficiently and effectively as possible.

3.5 The subsequent PSMW Report, published in September 2013, recommended (with agreement from the GTCW) that the number of Council members be reduced, as such a large membership was not sustainable moving forward. The report also recommended that the Council members should be appointed before

the Council becomes fully operational in April 2015. This approach allows an appropriate period of time to shadow existing Council members and undertake the necessary training, with the intention of avoiding any hiatus between the current GTCW and the newly reconfigured Council.

3.6 The Act provides that the Council will have 14 members, with the Welsh Ministers able to amend that number by Order. In addition, the Act requires that all members 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.

3.7 Public bodies, appointed by the Welsh Government, take decisions on a daily basis which can affect every aspect of public life. It is therefore in the public interest that public bodies have members who are skilled, experienced and understand the communities they serve.

4 Purpose & intended effect of the legislation

4.1 The purpose of these Regulations is to make provision in relation to the membership of the Council and the appointment of the chief officer. In relation to the membership of the Council the Regulations prescribe:

- the eligibility criteria for appointment to the Council
- who is entitled to make nominations; and
- how vacancies in the office of Council members are to be filled.

4.2 In relation to the chief officer of the Council the Regulations set who will appoint a person to that office and the procedure to be followed in relation to that appointment.

4.3 An independent panel will be set up to appoint the 14 Council members and following a formal selection process they will make recommendations to the Welsh Ministers on the most suitable candidates; a process used for the 13 existing Council members (out of 23 GTCW Council members) who were also directly appointed by the Welsh Ministers through the public appointments procedure.

4.4 The practical effect of the Regulations are as follows:

- The 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;
- The Welsh Ministers will appoint 7 members from a list of nominations made by organisations listed in Schedule 2 to the Regulations (regulation 6 refers) and they will also appoint 7 members directly (regulation 7 refers); and

- 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 Schedule 2 to the Regulations (i.e. trade unions).

4.5 These Regulations are made under sections 2(2) and 47(1) of, and paragraph 9(2) of Schedule 1 to the Act.

5. Consultation

5.1 A public consultation process was undertaken between 12 May and 4 July 2014.

5.2 Thirty four responses were received in total from organisations across the education sector. The key messages received were:

- respondents were broadly happy that the list of organisations that are entitled to nominate persons for appointment to the Council included in the consultation reflected those organisations that should be entitled to nominate members to the Council;
- some additions/deletions to the list of organisations entitled to nominate persons for appointment to the Council were identified; and
- some indicated their agreement for a public appointments process, mirroring comments made by the 64% of respondents who responded to an earlier consultation in 2012.

5.3 A Welsh Government response and a summary of responses has been published at <http://wales.gov.uk/consultations/education/consultation-on-the-appointment-of-members-to-the-education-workforce-council/?status=closed&lang=en>

6. Regulatory Impact Assessment

6.1 A Regulatory Impact Assessment has not been prepared as the Regulations do not impose any additional costs on business, employers or third parties. No additional requirements will be placed on the Council as a consequence of the Regulations.