

## **REGULATORY APPRAISAL**

### **EDUCATION, WALES**

#### **THE GENERAL TEACHING COUNCIL FOR WALES (CONSTITUTION) (AMENDMENT) REGULATIONS 2007**

##### **Purpose and intended effect of the measure**

1. These Regulations will amend the General Teaching Council for Wales (Constitution) Regulations 1999 (the 1999 Regulations), as amended, which govern the membership of the Council and the arrangements by which members are elected and appointed.
2. The overall aim of the proposed amendments, is to bring clarity to the various voting categories set out in legislation in the light of experience gained following two elections by the General Teaching Council for Wales and two rounds of appointments by the Welsh Assembly Government.
3. The Regulations will:
  - (i) amend the existing election category of Head/Deputy Head to include Assistant Head teachers. Some schools, particularly in the primary sector appoint an Assistant Head rather than a Head/Deputy Head. The amendment ensures that assistant heads are able to vote/stand in a capacity that more aptly reflects their role;
  - (ii) amend the existing election category of Head/Deputy Head (and now assistant heads too) to ensure that at least one of the elected candidates is from the secondary sector. The single category for Headteacher/Deputy (and now Assistant Head) may disadvantage candidates in the secondary school sector where there are comparatively fewer schools (approximately 230) compared with the primary sector (1,700). The amendment addresses this;
  - (iii) amend the existing titles of the voting categories for teachers of senior pupils and teachers of junior pupils to read “teachers of secondary school age” and “teachers of primary school age”. The terms “senior pupils” and “junior pupils” are no longer in general use and have, therefore, caused some confusion. To avoid this and to offer greater clarity, the categories have been renamed;
  - (iv) clarify who may stand as a candidate for election i.e. only those persons who are required to be registered with the General Teaching Council for Wales (GTCW) (qualified teachers who carry out work specified in regulation 6 of the Education (Specified Work and Registration) (Wales) Regulations 2004 in schools). The amendment will ensure that all teachers who stand for election are required to be registered prior to the election and therefore have recent teaching experience;

- (v) provide that a person nominated by the organisations listed in Part 1 of the Schedule to the 1999 Regulations (the teaching unions) must be required to be registered with the General Teaching Council for Wales (qualified teachers who carry out work specified in regulation 6 of the Education (Specified Work and Registration ) (Wales) Regulations 2004 in schools) This amendment will ensure that the same requirement for elected candidates (that they are required to be registered prior to the election and therefore have recent school teaching experience) applies to candidates nominated for appointment by the teaching unions;
- (vi) amend the Schedule to the 1999 Regulations to allow for changes of names to those organisations listed (provided that there are no changes to the nature of the organisation) without the need for further legislation to amend the Regulations. This amendment ensures that the list remains up to date and accurate and avoids having regular amendments made, unnecessarily, to the Regulations;
- (vii) remove the current requirement for the Education Lifelong Learning and Skills Minister to approve the General Teaching Council for Wales (GTCW) election scheme; This amendment reflects the Council's status as an independent body and the continuing relaxation of National Assembly for Wales/Welsh Assembly Government control over some of the Council's executive functions. The Council's election scheme will still have to have certain minimum requirements built into it in accordance with the General Teaching Council for Wales (Constitution) Regulations 1999 e.g. provision for a returning officer and the making up of an electoral roll; and
- (viii) extend the current requirement that applies to nominated members requiring them to *"act as individuals and not as representatives of the organisation that nominated them "* to cover all Council members. At present the requirement to act as individuals only applies to elected members. The amendment ensures that the requirement to act as an individual applies to all Council members.

### **Risk Assessment**

4. If the amendments to the Regulations are not put in place then there could be confusion when the next appointments/elections arise. To do otherwise could adversely affect future elections/appointments to the Council. This would result in the GTCW being unable to operate, which would impact negatively on all the GTCW's functions including the statutory registration of teachers, teacher disciplinary procedures and the administration of the individually focussed Continuing Professional Development programme for teachers. (Grant scheme operated by the GTCW on the Assembly's behalf, which provides funding to teachers to enable them to undertake training they identify themselves).

## **Options**

### Option 1: Do Nothing

5. If we do not make the amendments there is likely to be confusion during the next GTCW elections in 2008. There is also the possibility that the list of nominating bodies will not be accurate, which could result in a reduced pool of candidates from which to select the Assembly appointed Council members in September 2007.

### Option 2: Make the Legislation

6. Implementing these Regulations will bring clarity to the way members of the Council are elected and appointed. They will remove confusion that currently exists in relation to the voting categories in readiness for Council elections in 2008 and ensure the smooth running of the next round of Assembly appointments to the Council in September 2007.

## **Benefits**

7. In making these amendments to the existing legislation it ensures that the next round of Assembly appointments in 2007 is carried out on the basis of an accurate and up to date list of nominating bodies and that all appointments are made from the largest pool of candidates possible.
8. Some types of teacher, previously under-represented on the Council (e.g. Assistant Head teacher and Head teacher/Deputy Head teacher of secondary schools) will no longer be disadvantaged.
9. Titles of the election categories and the criteria to stand as a candidate for election will become clear so as to avoid confusion in the General Teaching Council for Wales (GTCW) elections in 2008 and burdens on the Council, in terms of having to seek the Welsh Assembly Governments approval to the election scheme, will be removed in line with the Council's growing independent status.

## **Costs**

10. There are no financial implications for the Assembly or the General Teaching Council for Wales (GTCW) arising from the implementation of these Regulations. Any work associated with the preparation of these Regulations will be accommodated within Practitioner Division running costs in 2006-07. The GTCW will need to amend its election scheme and prepare new guidance but the additional cost to the GTCW of doing this is minimal and can be met from within its own running costs budget (i.e. funding it receives from the fee paid by teachers).

## **Consultation**

### With Stakeholders

11. Between 18 July 2005 and 14 October 2005, the Welsh Assembly Government undertook a consultation with a wide range of interested bodies from the education sector, with the intention of bringing the changes into force in March 2006. A list of consultees is attached at Annex

A. From the comments received, there was clear support to develop Regulations to take account of these proposals. Three additional issues, however, were also raised about the composition of the Council that had not been included in the consultation and these were:

- to extend the current requirement that applies to nominated members requiring them to *“act as individuals and not as representatives of the organisation that nominated them”* to cover **all** Council members;
- a call for all teacher unions in Wales to be given a guaranteed place on the Council; and
- a request that consideration be given to providing representation based on the linguistic nature of the education system in Wales.

12. Given the significance of these issues the Minister for Education, Lifelong Learning and Skills decided to put the amending Regulations on hold so that there could be a full and thorough consultation on the additional issues. A further consultation on the composition of the Council took place on 26 June 2006 until 8 September 2006 (extended to 15 September 2006 for schools to take account of the start of the school term).

13. 58 responses to the 2006 consultation were received, comprising 38 schools, five teaching unions), three LEAs/Educational bodies, one Diocesan body, and 11 from other interested bodies. A summary of responses was published on 1 November 2006 and can be found at:

<http://new.wales.gov.uk/docrepos/40382/4038232/403829/Consultations/870830/consul-response-amendments-1.pdf?lang=en>.

14. There was clear support (94%) for the proposal that the current requirement that applies to nominated members requiring them to *“act as individuals and not as representatives of the organisation that nominated them”* being extended to cover **all** Council members. There was little support for the teaching unions to have automatic places on the Council (only 14% were in favour of the proposal with 86% against. On the issue of representation based on the linguistic nature of education system in Wales, 83% of respondents felt that the existing opportunities were adequate for the Welsh Medium sector to be represented on the Council and there was little support for a new organisation (only 21 % in favour and 79% against), which was representative of the Welsh medium sector to be added to the list of bodies able to nominate candidates for appointment.

15. Consequently, the amendments now being made to the General Teaching Council for Wales' (GTCW's) constitution are those issues, which had support arising from the 2005 consultation as well as the additional amendment arising from the 2006 consultation that the current requirement that applies to nominated members requiring them to *“act as individuals and not as representatives of the organisation that nominated them”* being extended to cover **all** Council members.

### With Subject Committee

16. These Regulations were first notified to the then Education and Lifelong Learning Committee on 29 June 2005 (ELL2-08-05 (p.5), Item No. ELL 51-05). Members were advised of my decision to put the amending Regulations on hold during my report to the Education and Lifelong Learning and Skills Committee on 5 June 2006, and to conduct a further consultation on the additional issues (Minister's Report 5 July 2006 ELLS2 11-06 (p1) item 7). Committee Members were invited to comment on the proposals but no comments were received. The Regulations have remained on the list of forthcoming legislation since 29 June 2005 but have not been identified for detailed scrutiny.

### **Review**

17. The Assembly Government holds meetings with the General Teaching Council for Wales (GTCW) every six weeks to discuss a wide variety of issues impacting on the Council including its statutory obligations. This will continue if the proposals are implemented.

### **Summary**

18. The proposed Regulations will ensure that the Assembly appointment exercise in 2007 and the GTCW elections in 2008 run as smoothly as possible by bringing clarity to the various voting categories as set out in existing legislation. There are no financial implications for the Assembly or the General Teaching Council for Wales arising from the implementation of these Regulations.

## **ANNEX A**

### **Proposed amendments to the General Teaching Council for Wales (Constitution) Regulations 1999 – List of Consultees**

National Union of Teachers (Cymru)  
National Association of Schoolmasters Union of Women Teachers (Cymru)  
Association of School and College Leaders (formerly the Secondary Heads Association in Wales)  
Professional Association of Teachers  
National Association of Head Teachers in Wales  
Undeb Cenedlaethol Athrawon Cymru  
Association of Teachers and Lecturers  
The University and College Lecturers' Union (formerly NATFHE)

Fforwm Ltd  
Further Education National Training Organisation  
National Association for Special Educational Needs  
National Council for Education and Training for Wales  
Association of Directors of Education in Wales  
Welsh Local Government Association  
Wales TUC Cymru  
Governors Wales (Confederation of School Governors Associations in Wales)  
Roman Catholic Church in Wales  
Church in Wales  
Churches Joint Education Policy Committee  
Heads of Higher Education Wales  
Universities Council for the Education of Teachers Cymru  
Confederation of British Industry Wales  
Parent Teacher Associations of Wales  
Independent Schools Information Service Wales  
Welsh Secondary Schools Association  
Welsh Primary Schools Association  
Institute of Directors  
Welsh Association of Standing Advisory Councils on Religious Education  
Association of Directors of Social Services in Wales  
Wales Council for Voluntary Action

22 Directors of Education

28 Further Education Institutions

12 Higher Education Institutions

7 Initial Teacher Training Institutions

5 General Teaching Councils

10% sample of primary and secondary maintained schools in Wales

12 Diocesan Bodies

UWIC

Free Churches Education Unit

Council for Industry and Higher Education

Federation of Small Businesses

The Methodist Church

Estyn

Commission for Racial Equality Wales Office

Equal Opportunities Commission

Disability GAP Wales

Department for Education and Skills

Welsh Association of Foundation/Aided Schools

Welsh Language Board

Welsh Joint Education Committee

The Headmasters and Headmistresses Conference

All Wales Ethnic Minority Association (AWEMA)

Wales Women's National Coalition

Lesbian Gay Bisexual Forum

New Directions Education Recruitment Ltd

Millennium Personnel Services (Education) Ltd

Select Education

Hays Educational Personnel

NSPCC Cymru

Disability Rights commission

Disability Wales

National Association of Educational Inspectors Advisors and Consultants

Capita Education Resources

North Wales Open College Network

Education Recruitment Network

Childrens Commissioner for Wales

Society of Education Officers (Wales)

Audit Commission LEA Inspection

Women in Education Network

The Teaching Awards Trust

Acorn Business Centre