



Guidance for Employers

Employing FE Teachers and FE Learning Support Workers

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1.0 Introduction

The Education Wales Act 2014 and the Education Workforce Council (main Functions) (Wales) Regulations 2015 as amended, set out the requirements for practitioners to be registered in the category or categories of registration for the work they undertake.

You may, for example, have a member of staff who is an FE teacher and they have a part-time contract of employment for that role. In addition, they may also have a part-time contract as an FE learning support worker. In such cases the practitioner must be registered in **both** the 'FE teacher' and 'FE learning support worker' categories. They would however, only pay one registration fee.

A key consideration for employers in determining whether registration is a requirement is the role the individual is actually undertaking rather than their job title.

The legal responsibility for ensuring that only registered practitioners are employed to undertake the work specific to their category of registration lies not only with the practitioner themselves but also with an FE institution, and if applicable a private supply agency.

This document provides information to assist employers, agencies and prospective employers in complying with this legal requirement.

2.0 Who need to register with the Education Workforce Council (EWC) and how do they register?

2.1 Who need to be registered?

In the category of FE teacher

Regulations stipulate that colleges and supply agencies should ensure every FE teacher, who provides education in or for an FE Institution is registered with the Council **before** they commence work. FE teachers include:

- any person employed by an FE institution on a lecturers' contract, whether this be full-time, part-time, temporary, fixed term basis or on an hourly rate, regardless of duration and post title.
- a person employed on a management scale by an FE institution who undertakes scheduled lecturing or teaching in or for an FE institution, regardless of the number of hours involved or however short-term the lecturing or teaching may be for;
- a person who has a part-time contract as an FE lecturer and another part-time contract as a school teacher, school learning support worker or FE learning support worker
- agency staff undertaking lecturing / teaching duties, without a temporary or permanent contract with an FE institution.

In the category of FE learning support worker

- a person employed by an FE institution (**not on** a lecturers' contract) to provide any of the support services set out in the Act where the person is directly involved in learning delivery, whether this be full-time, part-time, temporary, fixed term basis or on an hourly rate. This might include, for example a teaching assistant, an instructor, demonstrator, assessor, technician or librarian who may assist students with any learning;
- a person who is not on a lecturers' contract (for example, a teaching assistant, an instructor, demonstrator, assessor or technician) who undertakes a **small** amount of lecturing or teaching in addition to their substantive non lecturing role in order to cover for the absence of a substantive member of lecturing staff. This would include a person who might receive a temporary "uplift" or similar to undertake such duties. However, if such a person is subsequently placed on a lecturers' contract at a later date, they would then need to be registered in the category of "FE teacher" instead;
- agency staff undertaking any of the support services set out in the Act without a temporary or permanent contract with an FE institution;
- a person who is already registered as an FE teacher or school teacher with the EWC but meets one of the criteria above. All staff need to be registered in the category or categories of registration for the work they undertake.

Please note:

- (a) The lists above are not exhaustive and may be revised over time.
- (b) Unlike school teachers (who must hold Qualified Teacher Status in order to be registered), there is no qualifications pre-requisite to being registered as an FE teacher.

Which existing staff do not need to be registered in the category of "FE learning support worker"?

- members of staff who are not directly involved in learning delivery having purely administrative roles such as data management, IT systems support, HR or finance
- a person on a management scale who does not undertake any of the support services in or for an FE institution. This might include the Principal of an institution;
- those whose only role in the FE institution is as a work based learning assessor where the contracted is funded by the Welsh Government or as a youth worker;
- a person who provides temporary or occasional updates for an FE institution on current industrial, commercial or professional practice. Note, such persons would not be on an employment contract with the institution. For example, an Accountant or Solicitor who visits an institution to provide a professional input to a course or courses three or four times per year.;
- a person who is engaged by an FE institution, either directly or via a third party organisation to provide training specific to the requirements of an external body or organisation. In such cases, the person is not an employee of an FE institution, but the institution is managing the contract / quality assuring the provision rather than delivering it using its own staff. Examples might include:

- NVQs; commercial activities; courses on topics such as health and safety or management course for an external company; provision within a prison.
- a person who only hires an FE institution's premises or who makes use of them with the permission of the FE institution. For example, a sports team that hires an FE institution's football pitch for weekly training or a company that hires a conference room.

The lists of applicable staff are not exhaustive and may be revised over time. The key point for employers in determining whether registration is a requirement is what role the individual is undertaking rather than their job title.

2.2 Applying to register with EWC

How to register

Registration is subject to compliance with the Education Workforce Council Registration Rules and the registration application pack is available to download from the Council's website (www.ewc.wales).

Included within the application pack is a guidance document which sets out clearly the eligibility criteria for registration in each category or categories of registration required. The guidance is annexed to this document for information.

If an applicant for registration makes a declaration on their application form, his or her suitability for registration will be formally considered under the Council's Fitness to Practise responsibility.

Where the Council is not satisfied as to the applicant's suitability for registration and they cannot be registered, the Council will notify him / her accordingly.

3.0 Implications of EWC FE teacher registration for employers and agencies

3.1 What does a college and supply agency need to do?

In complying with the legal requirement for ensuring practitioners are registered in the category or categories of registration for the work they undertake, colleges and supply agencies should:

- make **pre-employment checks** to ensure that the practitioner is registered in the relevant category of registration **prior** to commencing work. This can be done via online employer access to the Register. Where a practitioner's registration status cannot be verified from the employer access, the Registration Team should be contacted directly;
- **check annually** that all practitioners in their employment continue to be registered, as continued registration is dependent upon the payment of an annual registration fee.

Where colleges and supply agencies consistently breach their statutory duty by employing unregistered practitioners, the Council is obliged to inform the Welsh Government.

The legal requirement applies to colleges, private supply agencies and the practitioner themselves. It is important that if college uses practitioners from a private supply agency that all parties are clear who is actually making the checks to ensure that a person is registered with the Council. A college should not assume that a supply agency is automatically making this check or vice-versa.

3.2 What action should be undertaken by colleges and supply agencies if a practitioner is not registered with the Council?

It is possible, that a college or supply agency will find, following contact with the EWC, that an employee or prospective employee is not registered. This may be for two reasons:

- **FE teachers who are eligible for registration but are not currently registered.** These individuals need to be registered before they can be employed. In such cases, at the request of the employer / prospective employer, a registration pack will be e-mailed to the applicant.

If a college or supply agency employs an unregistered FE teacher to undertake the work of an FE teacher they are in breach of the law.

- **FE learning support workers who are eligible for registration but are not currently registered** cannot commence work until they are registered. In such cases, at the request of the employer / prospective employer, a registration application pack will be e-mailed to the learning support worker
- **practitioners who cannot be registered due to restrictions.** Any practitioner who is ineligible for registration in the category or categories of registration for the work they wish to undertake **should not** be employed. If the practitioner believes that he / she is eligible for registration and disagrees with the record held by the Council we will investigate the matter. Once the case has been investigated, the college or supply agency and individual will be notified accordingly.

If a college knowingly continues to employ a practitioner who is unregistered in a post which requires registration, the Welsh Government has powers to issue a direction to a college to comply with its statutory duty.

3.3 The responsibility to refer practitioners to the EWC

In line with the Education Workforce Council (Main Functions) (Wales) Regulations 2015, as amended, all employers of registered persons in Wales are responsible for referring cases of alleged **unacceptable professional conduct, serious professional incompetence and / or conviction of a relevant offence** to the Council.

An employer (FE Institution) must refer any practitioner to the Council where:

- it has ceased to use the services of a practitioner or might have ceased to use their services had he or she not ceased to provide them.

An agent (private supply agency) must refer any practitioner to the Council where

- it terminated arrangements with a registered person; or
- may have terminated arrangements if the registered person had not terminated them; or

- may have refrained from making new arrangements for a registered person if the registered person had not ceased to make themselves available for work.

The following do not override an employer's statutory duty to make a referral:

- **Settlement or mutual agreements** where there was any possibility that the person may have been dismissed had the agreement not been entered into.
- **Dismissal for 'Some Other Substantial Reason' (SOSR)** where the termination of employment was as a result of a disciplinary issue (conduct and/or competence).

All employers are reminded that making a referral in the circumstances set out above is a statutory requirement and relates to allegations of unacceptable professional conduct, serious professional incompetence and / or conviction of a relevant offence

If the Council becomes aware that an employer has not or is not referring cases to it in line with the statutory requirements it may refer that employer to the Welsh Government who can issue the employer with a Directive to comply.

If you have any queries at all about the referral of practitioners to the Council please contact the Fitness to Practise Team (e-mail fitnessstopractise@ewc.wales)

4.0 Access to information on the Register by employers and agencies

Under *The Education Workforce Council (Main Functions) (Wales) Regulations 2015* as amended, the Council is required to supply a subset of information on a particular practitioner, if requested by a college or prospective employer. This applies to registered or unregistered persons for whom records are held on the database.

The Council's Register of Education Practitioners only holds information on the education workforce in Wales.

4.1 What information from the Register of Education Practitioners may be supplied to employers and agencies?

The information which can be provided to colleges and supply agencies is set out in part 8 of the EWC Functions Regulations.

If an employer / prospective employer or agency want to check whether a practitioner is registered confirmation of the registration status should be obtained using the employer access to the Register via the secure link from our website. If an employer has difficulty in identifying a practitioner they should contact the Registration Team directly (registration@ewc.wales).

The legislation is specific as to the purposes for which employers or agencies may request information. The EWC provide responses to colleges and supply agencies on the understanding that the information is being released for the specific purpose and subject to the rules about disclosure set out below:

- the information supplied should not be disclosed to any person other than the practitioner to whom the information relates;

- the supply of information is subject to the condition that it is used for the purposes of ascertaining the suitability of the person for employment or continued employment.

If any of these areas appear to be potentially a concern, the Deputy Chief Executive will be notified before any information is released.

Only members of the Qualifications and Registration Team at the Education Workforce Council will give information about FE teachers' records in response to requests and appropriate checks on identity will be made before any information is released to FE teachers, employers, agencies, prospective employers or others.

4.2 Web Access for employers and agencies

The Council provides the facility for electronic access to the Register for colleges and supply agencies in order that they can carry out their own registration checks. For further information or guidance on using the access contact the Qualifications and Registration Team.

5. How will practitioner records be kept up to date?

The information held in a practitioner's record may change from time to time and registration is subject to compliance with the Education Workforce Council Registration Rules. As such there is a requirement for **practitioner** to notify the Council, within a month, of a change to any of their particulars recorded on the Register.

However, the Council is also keen to receive such details from colleges and supply agencies on an ongoing basis, preferably by using the online employer access facility provided to them.

6. How to contact the Council

Any queries should be directed to the following:

Contact	:	The Qualifications and Registration Team
Address	:	9 th Floor, Eastgate House, 35-43 Newport Road, Cardiff, CF24 0AB
Telephone	:	029 2046 0099
Fax number	:	029 2047 5850
E-mail	:	registration@ewc.wales