

David Rees AM  
Chair of the Health and Social Care Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

21<sup>st</sup> April 2015

Dear David,

## **Regulation and Inspection of Social Care Bill – Stage One Consultation**

### **About ATL Cymru – the education union**

The Association of Teachers and Lecturers represents over 160,000 education professionals across the four constituent parts of the United Kingdom. It draws its membership from teachers and lecturers, leaders and support staff in maintained and independent schools, and Further Education Colleges. As well as campaigning vigorously to protect and enhance members' pay and conditions ATL also believes that the education profession has a key role in developing education strategy and policy. ATL Cymru represents over 6,500 education professionals in colleges and schools across the whole of Wales.

### **Our response**

We welcome this opportunity to respond to the Consultation which is examining the General Principles of the Regulation and Inspection of Social Care (RISC) Bill. We would like you to note that as an education union which represents members across the education workforce in Wales we would, of course, welcome the 'General Objectives' of the Bill:

*“4 [...] The general objectives of the Welsh Ministers in exercising their functions under this Part are—*

*(a) to protect, promote and maintain the safety and well-being of people who use regulated services, and*

*(b) to promote and maintain high standards in the provision of regulated services.”*

However, we do have a series of inter-related concerns about the registration of the workforce, which we believe need to be addressed. We would be concerned if members of the nursery, school or further education (FE) workforce were asked to register with *both* the Education Workforce Council (EWC) and Social Care Wales (SCW) in order to carry out their work. We think this would be unacceptable. We have detailed our concerns below.

## **Background**

**Whilst it is not clear who exactly will be required to register as a ‘social care worker’ under the RISC Bill (Part 4) in the future, we would have concerns that those working within some early years settings could be subject to dual registration, which would not be acceptable.**

In addition, those working as learning support workers (or similarly titled), especially those supporting a disabled child or young person in a school or FE setting could also be deemed a ‘social care worker’ under future regulation.

We would have concerns, therefore, that groups of ‘learning support workers’ would have to register with both the Education Workforce Council (EWC) *and* the new Social Care Wales (SCW).

**Not only would dual registration cause cost duplication within the sector, but may mean parents and employers would be unsure about which registers to check when checking someone is suitable to employ, leading to potential safeguarding issues.** Those working in early years settings, such as nurseries, or supporting disabled learners in schools or FE settings are often poorly paid and it would be completely unreasonable to expect them to pay to be registered twice. We therefore seek clarity on this and assurances be put on the record from the Welsh Government that dual registration will not be required.

**We have outlined our reasons for our concerns below.**

## **Education Workforce Council**

From April 2016 the Education Workforce Council (EWC) (which came into being on 1<sup>st</sup> April 2015) will be responsible for registering “learning support workers”. The Welsh Government is currently consulting on who will be included within this definition. We expect that those working as ‘learning support assistants’ (or similarly titled) to support disabled learners will fall within the registration framework of the EWC. We would

however have concerns that under the RISC Bill, these same people could potentially be expected to register with Social Care Wales (SCW), and would seek clarity to ensure this is not the case.

The current EWC consultation can be found [here](#).

### **Welsh Government “10 year plan for the early years workforce”**

We would also note that within the earlier Welsh Government consultation on the ‘*Draft 10 year plan for the early years, childcare and play workforce*’, WG examined registration of the workforce with EWC. WG also suggested closer alignment between maintained and non-maintained settings, with EWC requiring CPD as part of the registration. The Consultation said:

*“Ideally, this CPD record could form part of a **workforce registration process**, where practitioners would be required to demonstrate a record of learning and development activities to support re-registration. This process could help to establish a culture of CPD in the early years, childcare and play sector, as well as contributing to greater professionalisation and a more defined career pathway, as practitioners would be able to register at a particular level, commensurate with their qualification level and job role. This approach is being taken forward for learning support staff in schools through the new Education Workforce Council, with this system expected to be in place by 2016. As one of our objectives is greater parity between the maintained and non-maintained sectors, we would want to learn from this process and look to apply similar principles to the non-maintained childcare workforce, if appropriate and feasible. We will also look to the voluntary model recently introduced by SkillsActive for play workers in England, which also includes a recorded CPD portfolio. We would invite your views as to the potential impact and benefits of professional registration for the childcare workforce.”*

Therefore we would presume that these workers, in early years settings, would be named as ‘learning support workers’ and registered with the EWC.

However the consultation also outlines proposals for their use of the Care Council Wales (CCW) induction pack, and CCW’s work within the early years setting. It is especially to this end that we would be concerned should those working in an early years setting be expected to register with *both* the Bill’s proposed successor to CCW, Social Care Wales (SCW), and with the EWC. We would seek clarity to this end.

We would also note that the RISC Bill means Welsh Ministers expect SCW to keep a 'register of managers of regulated services'. **We would therefore be especially concerned about the impact on those deemed 'learning support workers' in the early years who are expected to register with EWC, who could include managers registered with the SCW.** As we have stated this would be a real concern and we seek assurances this will not happen.

Full details of the "10 year plan..." consultation can be found [here](#).

### **Welsh Government position**

In response to the above consultation on the early years workforce we wrote to the Minister for Education and Skills in November 2014 asking: "will any members of the workforce be required to register with both EWC and CCW? If not, it would be helpful if you could please provide details of all the different roles fulfilled within the early years sector plotted against their prospective registering body." Since the Minister did not provide a breakdown we would still be concerned that some members of the workforce still run the risk of being required to register with both.

Under the RISC Bill the definitions of "care" (3 (1) (a)) and "support" (3 (1) (d)) includes functions which could be applied to a 'learning support worker' in a school, FE or early years setting. Given that Welsh Ministers will have the regulation making power to describe who is a "social care worker" (78 (2)) and who will be required to register with Social Care Wales (79 (b)), we seek assurances that there will be *no* requirement for dual registration with SCW and EWC.

In a Unison Partnership Meeting with DfES officials (14.4.15) we were given assurances that there would be **no** dual registration. **We welcomed that assurance but we would want it put on the public record.**

### **Estyn and CSSIW**

We also note that Estyn and Care and Social Services Inspectorate Wales (CSSIW) are developing a joint inspection framework in order to ensure that their work is joined up. As Estyn's November Newsletter said:

*"Estyn and CSSIW want to reduce the number of discrete inspections that non-maintained nursery settings receive from Estyn and CSSIW separately. Currently, Estyn inspects once in six years and CSSIW inspects day nurseries every year and playgroups every other year. The new joint inspections will replace*

*one of CSSIW's previous visits and replace Estyn's previous model of inspection entirely."*

This will bring the work of both inspectorates closer together, and we understand the joint framework will be consulted on over the summer.

It is perhaps worth noting that in England, Ofsted inspects all nursery settings. We would welcome this sort of approach, as we believe this work would best be carried out by *one* inspectorate.

**However, we note that under 2 (1) of the RISC Bill, where 'regulated services' are listed, registered day care does not appear.** We would seek clarity on whether early years settings will continue to be registered with CSSIW. Current details of how to register with CSSIW to provide "day care" can be found [here](#).

### **Donaldson Review**

Finally, it is perhaps worth noting that the Donaldson Review of Welsh education, "Successful Futures", outlines plans for the curriculum from 3-16, thus including early years in future curriculum plans. We would therefore expect a coherent workforce plan, with associated registration and CPD to run from ages 3-16 (with full and real engagement with the FE sector). Details of the plans can be found [here](#).

### **Our concerns**

We have outlined above the background to our concerns. Though we are delighted to see some elements of the registration and inspection sectors working together, we would have concerns that there could be **unintended consequences** of the RISC Bill should there be expectations of dual registration for workers in the early years, and those supporting disabled learners.

**We would welcome a situation in which learning support workers in early years, school and FE settings were able to move easily between maintained and non-maintained settings, as well as within different age ranges in schools and FE, with joined up expectations, including on continuous professional development (CPD) and qualifications.**

We note from the "10 year plan for early years..." that there are plans for increased professionalisation of those working in early years settings, which we would expect to be expanded to include all learning support staff. Whilst we welcome this in principle we would again have expectations that these requirements do not differ from those set out by SCW. It seems odd that potentially one registration body should be the

sector skills council for the workforce which is registered with another registration body and would have concerns about the expansive role of these bodies. Indeed, there could be potential conflict of interest issues here too.

We would expect SCW and EWC to be working together now to provide a joint framework for the support staff workforce, within the context that any expansion of EWC's role be subject to full consultation.

We would welcome clarity on the issues surrounding dual-registration, the definitions of social care workers for those working as nursery or support staff and the role of SCW, and potentially EWC, within this context.

Please do contact us if you have any specific questions.

Yours sincerely,

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