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Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language



Llywodraeth Cymru  
Welsh Government

**Paul Davies MS**  
Chair  
Economy, Trade and Rural Affairs Committee  
SeneddEconomy@senedd.wales

4 October 2021

Dear Paul,

Thank you for your letter of 28 September regarding the Legislative Consent Memorandum for the Professional Qualifications Bill.

I attach a response to the questions you have raised.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a wavy line and a short horizontal stroke.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

*1. To provide its assessment on the impact of the Bill on regulated professions in Wales;*

The UK Government is seeking to establish a new UK wide system for the recognition of all overseas qualifications and, as part of that, to replace the interim arrangements that were put in place at the end of the transition period for the recognition of European Economic Area (EEA) and European Free Trade Association (EFTA) qualifications (consisting of EU, Norway, Iceland and Liechtenstein and Swiss qualifications) with a single piece of legislation covering the whole of the UK.

The Welsh Government's concerns remain around the impact of the Bill on regulated professions which are devolved. Both the Education Workforce Council (EWC) and Social Care Wales (SCW) already have powers enshrined by Welsh Ministers in Welsh legislation to recognise international qualifications and determine whether they are equivalent to UK qualifications, and to enter into regulator recognition agreements, so would not need to use the power provided through this Bill.

However, the same may not be true for professions which are devolved but not currently subject to any existing Welsh regulation, and it is unclear quite what the impact would be on these professions.

The impact on regulators of the requirement to cooperate with the assistance centre remains uncertain as there is not sufficient detail in the Bill, nor in any guidance released to date, to be able to properly quantify impact.

In relation to the range of teaching and social care professions that are regulated by EWC and SCW, there could be significant impact depending on how UK Government ministers utilise the powers under the Bill as currently drafted. Although we have had assurance that the UK Government does not intend to use the concurrent powers in the areas of devolved competence without the agreement of the relevant Devolved Governments, this commitment does not feature in the Bill, and as such offers comfort only for as long as the current UK Government decides to abide by it. It remains a significant cause for concern that the powers in the Bill could be used to overturn Welsh Government policy and primary legislation made by the Senedd in a devolved area.

There is already a long standing and efficient system for information sharing between regulators, both within the four nations and overseas. It is the opinion of the Welsh Government that legislation is not required to facilitate this. There is a risk that formalising these existing arrangements may inadvertently change the existing protocols and procedures that have developed over a number of years thereby introducing inefficiencies and barriers.

*2. To outline the impact on regulated professional qualifications in Wales for the purposes of ascertaining demand for certain professions*

In terms of managing the demand to enter Wales from international teachers we have been able to do this since the end of the transition period and a small amount of international teachers have successfully used this route to have their qualifications recognised, awarded Qualified Teacher Status (QTS) and thereafter register with EWC to work in Wales' maintained schools. It should be noted that before EU Exit EU teachers were able to apply for recognition and register to work in Wales and are still able to do so.

In relation to professional demand for school teachers in Wales this is determined utilising the Teacher Planning and Supply Model (TPSM) which is the core part of the process in relation to determining the annual allocations for new student teachers. At present the TPSM does not include incoming international teachers as a specific data input and given the current low level of this cohort there are no plans currently to do so. The Welsh Government's current policy is to prioritise a workforce that has undergone accredited Initial Teacher Education (ITE) in Wales to support both the new ITE Partnerships and to ensure a workforce trained to deliver the new Curriculum. In previous years there was a reliance on "re-entrants" within the model (previously qualified teachers that have left the profession only to re-enter later). This figure can include UK wide qualified teachers and international/EU teachers as a combined cohort. In recent years, due to the ITE reforms and the new Curriculum, we have decreased the weighting we put on re-entrants, this increases the outputs in relation to the required demand for new teachers in the profession coming specifically from Wales new ITE system. We are closely monitoring the impact of the new Welsh regulations with EWC alongside workforce demand.

There is no requirement to hold QTS to teach in independent / private schools or provide education services to private individuals. This is why the Welsh Government is concerned about the Bill and the links to future trade agreements; private sector teachers can already come and work in the UK and Wales as there are no requirements for a qualification to work as a teacher in the private sector. Professional teaching qualifications are a requirement solely for the state-funded education sector in Wales.

SCW already oversees the regulation of professional qualifications in social care in Wales and it has good communication with its counterparts in the other three nations of the UK. This allows the regulators to consult to discuss overseas professional qualifications and determine how these compare with Welsh qualifications. As UK qualifications are broadly similar, it can be a good indicator of whether an individual may need to do some additional modules/courses in some areas but SCW will work with individuals to help meet these requirements. It is difficult to determine exact impacts without further work with SCW to understand the numbers of EU or international social workers or social care workers coming into Wales, as this depends on whether regulators are able to compare these professional qualifications with regulatory or professional bodies across the world.

- 3. To provide an update on discussions with the UK Government on its request for clarification on the scope of the Bill and its application to certain sectors, such as further education.*

The UK Government has written to the Welsh Government, and to EWC and SCW, to determine the professions and regulators that are considered within scope of the Bill. My officials continue to work with UK Government officials to clarify the precise content and implications of this, and are currently in the process of agreeing a list of professions and regulators that are within scope of the Bill, which the UK government intends to publish over the coming weeks.

I understand that the UK Government will shortly be issuing further guidance on the interpretation of the definitions in the Bill. The Welsh Government is of the opinion that the Further Education sector in Wales is in scope of the Bill. Plainly this would be problematic if the UK Government were to exercise its powers to make changes to regulations in Wales which were not consistent with our policy.

- 4. To provide details of any discussions undertaken with the UK Government regarding any amendments that the Welsh Government has requested be made to the Bill.*

I wrote to UK Government Minister Lord Grimstone on 18 June to express my concerns with the Bill, and highlighted my concerns on the inclusion of concurrent powers. The Counsel General and Minister for the Constitution has also written to Baroness Bloomfield on concerns with the concurrent powers. I am pressing for an amendment to the Bill which would ensure that the powers of the Secretary of State and Lord Chancellor could not be exercised in areas devolved to Wales without obtaining the consent of the Welsh Ministers. I am also pressing for an amendment which would provide for a specific carve out from the requirements of Schedule 7B. I made Lord Grimstone aware of this in a meeting I had with him on 19 July, and my officials continue to take this forward.

My position remains that I cannot recommend the Senedd consents to this Bill until we see an amendment which ensures consent of Welsh Ministers is obtained.

- 5. To provide an update on discussions the Welsh Government has had with affected regulators in Wales, including public sector organisations.*

The Welsh Government meets regularly with devolved regulators in Wales, namely Education Workforce Council and Social Care Wales. The regulators do not see the need for this Bill and have expressed concerns centred on the concurrent powers, and what might happen if the UK Government uses the powers in the Bill to legislate in areas that are within their responsibilities and remit.

Discussions with regulators in Wales will recommence as the Bill moves to report stage.

- 6. To describe the relationship to, and combined effect of, the Bill with other relevant UK arrangements, such as the UK Internal Market Act 2020, the new immigration system and future international agreements.*

The United Kingdom Internal Market Act 2020 contains provision of UK market access to services in Part 2 and UK market access to professional qualifications and regulation in Part 3. Part 3 has an exception, however, for school teachers.

In relation to immigration the EWC is already able to recognise teaching qualifications from outside of the UK and therefore the Professional Qualifications Bill will not have a significant impact. However, in order to work as a teacher in Wales, non-UK candidates will have to demonstrate that they have the necessary visa or status. Those with a job offer can apply for a skilled worker visa, provided they can show that their salary meets the minimum requirements. Those from the EEA or Switzerland may have a pre-existing right to work in the UK under the EU Settlement Scheme.

The first pay point (M1) on the main pay scale from September 2020 for classroom teachers in Wales was £27,018. While this does exceed the baseline requirement for migration into the UK (£26,500) there are additional costs which must be factored in (application and visa costs for example) which may impact on ease of entry for international teachers. In addition it would appear that only certain teachers are on the Shortage Occupation List, for example Secondary teachers in maths, physics, science (where an element of physics will be taught), computer science and modern foreign languages.

For each of these reasons, the immigration system may be a barrier for non-UK qualified teachers.

In terms of future international agreements – state funded education is excluded from trade deals and we would therefore not expect to see any agreements in relation to school teachers in trade agreements.

To the extent that difficulties attracting and accessing workers from outside of the UK is a factor in social care workforce issues, the Professional Qualifications Bill will not have a significant impact in Wales. This is because SCW is already able to recognise qualifications from outside of the UK. The immigration system rather than issues with recognition of professional qualifications is likely to be a more significant factor.

The Welsh Government is deeply concerned that this Bill could be used to facilitate trade deals that in future could encompass a range of professions, undermining the role of our workforce regulators, the standards we set for these professions, and undermining qualification and registration requirements because of the desire to secure trade deals.