

Explanatory Memorandum to The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2025

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before Senedd Cymru 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 Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2025. I am satisfied that the benefits justify the likely costs.

Down Bowden MS
Minister for Social Care
14 January 2025

Part 1 – OVERVIEW

1. Description

- 1.1 These Regulations make amendments to The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016, made under Section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”). The amendment will be made to the definition of a social care worker to include special school residential service workers working for regulated special school residential service providers.
- 1.2 The amendment will enable Social Care Wales (SCW) to open the workforce register to special school residential service workers on a “voluntary” or “lead-in” basis from April 2025.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3. Legislative background

- 3.1 The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016 will need to be amended to allow Social Care Wales (SCW) to enable special school residential service workers to join the workforce register from 2025. The definition will include special school residential service workers working for special school residential service providers. This will mean that a person will not be able to work as a special school residential service worker unless they are registered with SCW.
- 3.2 Implementation of the registration of special school residential service workers will be carried out by SCW through the amendment of the Social Care Wales Rules made under sections 83 (registration requirements) and 84 (qualification requirements) of the 2016 Act.

4. Purpose & intended effect of the legislation

- 4.1 The Welsh Government has made a commitment to the mandatory registration of special school residential service workers by 30 September 2026.
- 4.2 These regulations, proposed as part of the Phase II implementation process of the 2016 Act, will allow for the opening of the register to this latest group on a “voluntary” basis in advance of a proposed deadline of 30 September 2026 for mandatory registration.
- 4.3 The intention is to afford the workforce regulator, SCW, ample lead-in time to engage and work with employers and the workforce prior to a proposed mandatory registration deadline of 30 September 2026. This is consistent with the approach taken to the registration of domiciliary care workers in 2018 and adult care home workers in 2022; and would allow time for this new group to understand the process and comply with the respective requirements and qualifications needed as part of

registration.

5. Consultation

- 5.1 This amendment follows on from the Regulated Services (Special School Residential Services) (Wales) Regulations 2023, the Regulated Services (Registration) (Wales) (Amendment) Regulations 2023 and the Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024.
- 5.2 A formal 12 week consultation on the wider proposals to include Special School Residential Services as a regulated service and require them to register with Care Inspectorate Wales (CIW) was undertaken between May and August 2023; and require its workforce to register with Social Care Wales (SCW).
- 5.3 This exercise received 25 responses from various stakeholders ranging from representative bodies, local authorities, health boards, service providers and individuals and there was support for these services and the workforce to be registered with the service and workforce regulators. An analysis of the responses received has shown that there was support for these proposals.
- 5.4 However, the consultation did raise some concerns from stakeholders about:
- a. the potential impact of registration requirements on staff employed to undertake occasional shifts at the residential setting and that some staff may no longer wish to undertake occasional shifts if required to register with Social Care Wales; and
 - b. some staff may consider the qualification and continuing professional development (CPD) requirements to be too onerous.
- 5.5 However, as we have seen through previous registration exercises, this has not been a significant issue for the workforce; and that SCW has worked with them to understand and complete the registration process and meet the necessary training and development requirements.
- 5.6 The Welsh Government has engaged with SCW to discuss the registration and qualification requirements for occasional workers. The regulator undertook a consultation in 2023 and, following the analysis of that exercise, extended the period of registration for a social care worker to obtain a qualification from three to six years. All workers can register via the employer assessment route.
- 5.7 It is not proposed to hold a consultation on this amendment to Regulations, as this is merely an administrative action to instruct SCW to include these workers onto the workforce register.
- 5.8 The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 placed a duty upon the newly regulated Special School Residential service providers to only employ workers registered with SCW as social care workers.

5.9 This amendment will afford the estimated 60 current workers in the four Special School Residential Services in Wales with a lead in period of 18 months from April 2025 to engage with SCW to understand and complete this process in advance of mandatory registration for all new workers from 30 September 2026.

PART 2 – REGULATORY IMPACT ASSESSMENT

Background

The registration of the social care workforce began with the Care Standards Act 2000 (the 2000 Act), which mandated the professional registration of social workers, managers of adult residential care homes and managers and workers of children’s residential care homes with the then workforce regulator, Care Council for Wales. In 2013, the Welsh Government also legislated for the mandatory registration of managers of domiciliary support services, to bring these into line with other managers in the sector.

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) was passed by the National Assembly for Wales on 24 November 2015 and received Royal Assent on 18 January 2016. It provides the statutory framework for the regulation and inspection of social care services and the social care workforce, including the renaming and extension of the remit of the workforce regulator into Social Care Wales (SCW).

During the passage of the Regulation and Inspection of Social Care (Wales) Bill through the National Assembly for Wales in 2015, consideration was given to the registration and professionalisation of other groups within the social care workforce to nurture the profile of the sector and improve standards and quality of care. In light of this discussion, the Welsh Government made several statements that indicated the next groups of the workforce to be registered would be domiciliary care workers and workers in regulated care home services provided wholly or mainly for adults. However, the legislation was provided greater flexibility to allow for further categories of the workforce to be included at future points. This includes the workers in services known as Special School Residential Services.

Throughout May and August 2023 consultation and discussions were held about making Special School Residential Services a regulated service under Care Inspectorate Wales (CIW) inspection and requiring the workforce in these services to register with Social Care Wales (SCW). The Regulated Services (Special School Residential Services) (Wales) Regulations 2023, the Regulated Services (Registration) (Wales) (Amendment) Regulations 2023 were drafted to define the new regulated service and amend the substantive regulations relating to such services needing to register with CIW. These Regulations were approved by the Senedd on 5 December 2023 and came into force 31 December 2023.

Further Regulations were drafted under the title, the Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024, which placed a duty upon these newly regulated service providers to only employ workers registered with SCW as social care workers. Part 8 of the Regulations contain requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff and specific requirements regarding the fitness of individuals working at the service. These requirements apply not just to employees but extend also to volunteers and to other persons working at the service, including agency staff, employed to roles providing care and support to individuals. These persons must be registered with SCW within six months of commencing their employment. Persons employed to manage the regulated service must also be registered with the workforce

regulator. The 2024 Regulations were laid before the Senedd in early March 2024 and came into force at the end of that month.

This Regulatory Impact Assessment examines the proposal to change the Regulations governing the maintenance of the workforce register and allow the workforce regulator to “voluntarily” open the register to special school residential service workers.

The Regulations

The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2025 would amend the Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016, to allow for the workforce register to be opened to special school residential service workers working for regulated special school residential service providers.

OPTIONS CONSIDERED

There are only two options available to us in this instance, to enact these proposals under the 2016 Act or not. The two options are:

Option one: Do nothing - retain the status quo;

Option two: Open the workforce register for special school residential service workers to join on a voluntary basis.

Option one: Do nothing - retain the status quo.

Workforce/Employers

Whilst the Regulated Services (Special School Residential Services) (Wales) Regulations 2023 (“the 2023 Regulations”) require service providers to register as a regulated service with Care Inspectorate Wales (CIW) by 1 July 2024. The subsequent Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 (“the 2024 Regulations”) will place a duty upon service providers to have a manager and workforce registered with the workforce regulator, Social Care Wales (SCW).

In this scenario, whilst there is no immediate requirement for special school residential service workers in Wales to register with SCW, they are able to continue to work in special school residential service settings or they could register “voluntarily” with the regulator. If they choose to register, workers (or their employers) will be required to pay the annual registration fee of £30. However, their employers will eventually find themselves needing to ensure that their staff are registered to comply with the current legislation. The 2024 Regulations, which came into force on 31 March 2024, requires providers of these services under section 31(2)(f) to only employ or contract workers who are registered with SCW. However, section 31(9)(a) provides that the workforce must be registered with SCW by 30 September 2026, after which time, if these staff are not registered, they would be unable to deliver care and support to pupils in need at these schools. This could cause significant problems going forward if employers and

the workforce regulator do not prepare the workforce of the need to register, or what registration will require of them.

Care Inspectorate Wales (CIW)

The inclusion of the inspection of four Special School Residential Services across Wales will have no impact upon the service regulator or its inspection processes and planning. CIW already check that staff in regulated services are suitably skilled and trained as part of their inspection process. However, CIW will introduce a lead-in time for services and their staff to register with SCW to be fair and proportionate. CIW will grant dispensation to allow staff time to register up to the mandatory deadline for registration by 30 September 2026. After that time, employers with staff not registered with SCW could face the imposition of sanctions from CIW until they comply with their legal requirements.

We would expect that CIW will work with the education inspectorate, Estyn, to arrange to co-ordinate their inspections to minimise the impact upon special school residential services. Whilst this might incur some additional administrative resources to plan and co-ordinate future inspections, it is difficult to calculate these actual costs but we would not expect them to be significant.

Social Care Wales (SCW)

Under option one the regulator would not incur any additional costs, as no changes to the workforce register are proposed at this time. We will not require Special School Residential Services workers to register with SCW until 30 September 2026.

The process of registration is already well-established and has seen significant investment being provided to the workforce regulator to help manage the administration of this annual process. There are an estimated 60 workers in the four known Special School Residential Services in Wales and we do not expect many workers to immediately register with SCW ahead of the mandatory registration period of 30 September 2026. Experience from previous registration exercises has shown that we can expect to see 20% (12) of the workforce to have registered before the end of 2025 and the remainder in the run up to the mandatory deadline. As workforce registration is a continuous process, we expect the administration and processing of registration of this small number of applications to be easily absorbed by the regulator. The workforce regulator has a tried and tested procedure to engage with employers and workers ahead of registration to help prepare them for completing the registration process. It is difficult to gauge the administrative costs associated with engaging with this small workforce to help them understand the registration process and its benefits but as this is limited to a small number of employers and staff, these costs will not be significant for the regulator.

Welsh Government

There will be no additional costs under this scenario. The Welsh Government provides SCW with most of its funding to undertake its regulatory duties through the regulator's annual grant-in-aid package, which increases year-on-year to meet a variety of regulatory and additional functions, including workforce registration.

Benefits of Option one: Do nothing - retain the status quo.

The most significant benefit, albeit a short-term one, with option one is that the workforce, employers and the workforce regulator do not incur any immediate costs associated with registration.

However, as the associated legislation (the Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024) includes a requirement upon service providers to only employ workers registered with SCW there will be a cost implication in the longer-term. An unintended consequence of this legislation, without this proposed amendment, would be that the existing workforce would no longer be able to work in the sector after 30 September 2026, as they are not registered with SCW. This would cause significant panic and stress for both the workforce and their employers if all 60 workers had to register by the deadline outlined in the Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 by 30 September 2026.

Risks associated with Option one: Do nothing - retain the status quo.

The primary risk relating to option one relates to the proposal to introduce mandatory registration in September 2026. Whilst the voluntary registration of 60 additional workers might not be significant, if all these workers leave it until the 30 September 2026 deadline, they could be lost amongst the cycle of registration or registration renewals for the other 61,000 workers required to register with Social Care Wales (SCW). This could cause undue stress for those registering (and their employers) and on SCW registration staff and risks introducing errors in data recording, which could have serious implications for both the regulator and special school residential service workers. This could also lead to confusion about the status of those workers not yet added to the register, for example, whether they could continue to deliver services if they are not registered. In the longer term this could require further investment to correct or mitigate the potential damage that might have been caused by any errors or oversights.

This risk has been mitigated in part as, prior to the registration of domiciliary care workers and adult care home workers, the Welsh Government provided SCW with extra resources to plan, prepare and manage the application process of an estimated 40,000 workers. This included recruiting more staff, office space and equipment to help process this large influx of registration applications alongside the registration renewals of the existing 11,000 workers.

Costs associated with Option one: Do nothing - retain the status quo.

Workforce/Employers

If the status quo is maintained, special school residential service providers are only required to register with CIW, workers will not incur any additional costs or fees relating to workforce registration. This also means that employers will not face any additional costs, relating to either a registration fee or any associated costs such as mandatory training.

These proposals will instruct SCW to add special school residential service workers to the list of registered social care workers. Without implementing these proposed amendments, there is no requirement on SCW to include them on to the workforce register or to open the register to enable their registration. This would result in an unintended consequence of employers being unable to retain their existing workforce and comply with Part 8, section 31(2)(f) of the Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 (“the 2024 Regulations”), which came into force on 31 March 2024.. This places a requirement on employers to only employ or contract workers who are registered with SCW, which is a requirement after 30 September 2026. This would mean that the existing workforce would not be able to work in these services after that date, as they would not be registered; and their employers would fail to comply with the law and would see them incur sanctions or penalties from the service regulator, CIW.

Care Inspectorate Wales (CIW)

The implementation of the proposals to register the workforce will not have any cost implications for CIW, or directly impact CIW’s inspections of these services in the immediate future. CIW has agreed to allow services time to settle in and prepare for inspection and to register their workforce with SCW.. Whilst our proposals follow on from section 31(2)(f) of the 2024 Regulations, which came into force on 31 March 2024 and require service providers to employ only workers registered with SCW, we have agreed a proportionate approach to be taken whereby these services will focus on time to meet the specific requirements to register their services and then their workforce with both the service and workforce regulators. We expect CIW to incorporate a check in their inspections from October 2026 to ensure that special school residential services have records that show their staff are registered with SCW.

Whilst this might incur some additional administrative resources to plan and co-ordinate future inspections, it is difficult to calculate these costs. It is estimated that the annual cost, based on 2023-24 figures is £15,000, which equates to an additional 0.25 inspector that will be met within existing budgets and will be a recurring cost once implemented.

Social Care Wales (SCW)

Under option one the regulator would not incur any additional costs, as there are no proposed changes being made to the workforce register from 1 April 2025.

In 2018, the Welsh Government provided SCW with significant investment to meet the costs associated with maintaining the register and regulating a significant increase in social care workers onto the workforce register, including direct staffing costs arising from the demands of managing the registration process; overseeing an anticipated increased number of conduct and fitness to practice processes; and indirect costs such

as for venue hire for conduct committees, and conduct committee expenses. The process of registration is already well-established and has seen significant investment being provided to the workforce regulator to help manage the administration of this annual process. It is not expected that further costs are needed in anticipation of the proposed changes to the workforce register, as the numbers of workers needing to register are small – i.e. approx. 60 people – and will be absorbed into the ongoing registration and registration renewal cycle.

Welsh Government

There will be no immediate additional costs under this scenario. The Welsh Government believe that the funding provided to SCW for the registration of these workers and its regulatory duties through the regulator's annual grant-in-aid package, which increases year-on-year to meet a variety of regulatory and additional functions, including workforce registration.

Option two: Open the workforce register for special school residential service workers to join on a voluntary basis.

Workforce/Employers

The proposal is to open the register from 1 April 2025, to allow sufficient time for the current workforce and their employers to engage with SCW to understand the process and benefits of workforce registration. It is likely that, as with previous registration exercises, many of the workers in this sector will have the required qualifications and registration will be straightforward. For the remainder, the regulator will provide an alternative route – i.e. employer assessment - to register ahead of mandatory registration on 30 September 2026. This will allow employers to confirm that they are confident that the worker has the necessary understanding and skills to complete their care and support role; but will require the employee to complete one of the qualifications listed in the qualification framework within the first three-year period of registration.

Workers or employers will incur an annual registration fee of £30 and workers will be required to re-register after 3-years and confirm that they have completed the necessary qualifications and continued professional learning requirements.

Care Inspectorate Wales (CIW)

The proposal is to instruct Social Care Wales (SCW) to open a section of the workforce register to include special school residential service workers to the list of social care workers required to register with the regulator. The register will be opened ahead of mandatory registration from 30 September 2026, providing a lead-in period of 18 months for workers to join. This will not put any additional cost implications upon CIW, who have agreed to work with these services to help them meet their legal requirements under the 2016 Act.

The proposals follow on from the implementation of the Regulated Services (Special School Residential Services) (Wales) Regulations 2023 ("the 2023 Regulations"), which

placed a requirement on service providers to register as a regulated service with Care Inspectorate Wales (CIW) by 1 July 2024; and the Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 (“the 2024 Regulations”), which came into force on 31 March 2024 and placed a requirement on employers to employ only workers registered with SCW after 30 September 2026. This will not place any further additional costs onto CIW, as its inspection processes include a check that a service’s workforce is appropriately trained and skilled.

CIW has agreed to provide a dispensation to this part of its initial inspections of special school residential services to allow for the workforce to begin the process of registration. The registration of the workforce will be something that CIW will consider as part of its inspections from October 2026, but will need to satisfy itself that employers can present a clear plan that shows they are working towards this goal.

Social Care Wales (SCW)

SCW are responsible for maintaining the workforce register and would be tasked with promoting registration to this section of the workforce. Implementing these new regulations will ensure that services will be compliant with section 31(2)(f) of the 2023 Regulations, as they seek to include special school residential service workers on the list of social care workers required to register with SCW. This will allow those currently working for regulated special school residential service providers in Wales to join the workforce register on a “voluntary” basis ahead of the mandatory deadline set for 30 September 2026. After this point, all special school residential service workers will need to be registered within six months of commenced their employment or engagement under contract.

By opening the register for a “voluntary” registration period, we will allow the workforce to engage with SCW to understand the process and what the necessary qualifications to register are and sign up to the Code of professional practice for social care workers. However, this will incur an annual registration fee, which may be paid either by the individual registrant or by their employer.

Welsh Government

There are no additional impacts for the Welsh Government under this scenario.

Costs associated with Option two: Open the workforce register for special school residential service workers to join on a voluntary basis.

Workforce/employers

When special school residential service workers enter the register from 1 April 2025, and all new workers register after September 2026, they will fall within the category of social care workers and be subject to a £30 annual registration fee. It has been estimated that this would equate to a total maximum cost to the workforce and generation of income for SCW to the tune of £1,800 (i.e. 60 workers at £30 per worker). Social Care Wales (SCW) has confirmed that there will be several payment options available to registrants to help spread the cost of the registration fee, including direct

debits for either a single payment or monthly instalments over the course of the respective annual registration period.

As with domiciliary care and adult care home workers, new registrants can also apply to HMRC to reclaim a proportion of this fee back as a tax deduction¹. The guidance provided by the UK Government's "Gov.UK" website outlines that an individual can claim tax relief on fees or subscriptions you pay to approved professional organisations if it relates to your job. However, an individual would not be able to claim fees or subscriptions that they have not paid for themselves (e.g. an employer has paid for them). This may have a marginal impact on the Welsh tax base and the Welsh Government's new tax raising powers but given that voluntary registration is to be phased in over a year and a half, we envisage this to be almost negative.

In addition to the registration fee, there is an associated cost relating to the time taken to complete the registration process. It is difficult to determine the extent to which this cost is likely to fall on individual workers or their employers, and if it were to fall on individual workers, it becomes increasingly difficult to quantify as this will depend upon their technological skills. Therefore, for the purposes of this RIA whilst the fee is assumed to be a cost to the workforce, the assumption is that work of registration will be undertaken in work hours. On this basis, an estimated cost has been produced based on the burden being incurred by employers is set out below.

Cost of Registration

There may be a potential financial cost for employers, who may pay the registration fee on behalf of their staff either as an inducement to join or remain with their organisation. However, we have no information on how common this practice is. The workforce regulator is unable to breakdown the split between workers' and employers' payments because of the variety of payment methods used. We have therefore simply noted that this practice might occur, as any assumption would risk double counting possible costs.

Cost to Complete the Registration Process

Based on an estimate of approximately two hours to complete the registration process and using the Low Pay Commission's predicted national living wage for people aged 25 and over of £11.44 per hour in 2024 as a baseline (plus £3.78 on-costs for NI contributions, pensions etc.), we can calculate that cost to complete one registration would be approximately £30.43 ($£11.44 + £3.78 \times 2$) per worker. This reflects that the majority of workers are likely to be on the minimum wage but in the over 25 bracket². Therefore, the cost of for completing the registration process for the whole workforce would, if assumed would fall solely on employers would equate to a sum of £1,826 per annum.

Additional costs could include time for managers to learn about and to manage the record keeping requirements for the registration process. This is more difficult to

¹ Guidance on what can be claimed back can be found at <https://www.gov.uk/tax-relief-for-employees>

² Accurate data is not available on the average age of the workforce, therefore we are reliant on parallels drawn from evidence collected on other areas of the workforce in similar roles i.e. residential child care workers – where the average age is 38 – see SCW factsheet on Residential child care workers on the Register (1 April 2018) https://socialcare.wales/cms_assets/file-uploads/RCCW-factsheet.pdf

quantify as it will vary depending on the previous knowledge and experience of the manager, the number of staff they manage, and their salary level. However, to mitigate any of these costs, Social Care Wales (SCW) will be tasked with making the registration and record-keeping processes as accessible as possible. SCW have confirmed that it will employ a similar engagement process of briefings and visits to help employers, and employees, understand the process and take them through it. This will also include learning from the process that was undertaken during the registration of domiciliary care workers to help make this process as easy as possible.

Training Costs

Linked to the registration of staff is the cost of meeting the required qualification requirements. A new suite of qualifications was launched in September 2019, and Social Care Wales has determined that the minimum qualification requirements will be level 2 in Health and Social Care (Diploma, QCF or NVQ) or equivalent. Social Care Wales estimate that it will take 460 hours to complete. The qualification requirement must be met within the first six months of a new employee joining the service. Anecdotal evidence indicates that a worker would on average need to complete 12.7 hours of study a week to meet this requirement.

Employers may be expected to pay employees for the time spent on training (estimated at £7,001 based upon current (2024) national minimum wage of £15.22), as well as covering the cost of the training. The workforce regulator, SCW, estimates that 50% of the current social care workforce have not attained the necessary qualifications to register. To bring this number of the workforce up to the required qualifications would equate to a cost of £210,036 for the sector in salary costs alone³. Employers are also likely to incur further costs to back-fill for the member of staff that is undertaking the training and it is difficult to quantify this cost as agencies across Wales charge different fees for providing staff to be able to provide an average cost.

As in the registration of domiciliary care and adult care home workers, alongside the qualification route, SCW will allow for employer assessment – where employees can register with the endorsement of their managers that they have the right skills and competences – but will have to complete one of the qualifications listed in the qualification framework within their first registration renewal period or depending on their working pattern within 6 years. This would help ease the immediate pressure on employers around the cost of training to ensure staff are registered by the mandatory deadline, but there will still be costs relating to continued professional development for staff going forward. It is difficult to quantify the savings that these options would give employers.

However, these costs are not a consequence of this regulation alone. It is reasonable to expect, even without mandatory registration, that there will be a cost to employers for training staff and ensuring that they have the right skills to do the job. However, we do not have data available on the current (pre-registration) cost to employers of training staff. Overall, a more consistent approach to training across the sector is likely to result

³ This figure is based upon the current National Living Wage and ancillary costs of £15.22 x 460 hours to complete a Level 2 qualification x 30 workers (50% of the 60 workers in this sector) needing to attain this qualification.

in greater value for money to employers. It could even introduce some cost savings, for example where workers move from one employer to another.

Social Care Wales (SCW)

SCW estimate that the costs associated with maintaining the register and regulating special school residential service workers would increase year on year as more of the workforce enter the register and the increase would rise from £1.130m in 2018-2019 to £2.995m in 2021-2022. With no immediate plans to increase the workforce register further we can expect the costs to increase incrementally over the next few years.

In 2018, outside of its grant-in-aid funding, the Welsh Government provided the workforce regulator with an additional £119,500 to support preparatory work (i.e. additional staffing support, IT and office facilities) for the registration and regulation of domiciliary care workers. SCW have confirmed that the direct costs of registering the existing special school residential service workforce will not have a significant impact upon its registration team and this can be managed within current resources.

Registration and re-registration are an ongoing process that can have varying demands on the registration team, as they administer the applications. SCW has undertaken two large exercises that has seen a significant increase in registering both domiciliary care workers and adult care home workers in recent years. This has seen the register increase by over 50,000 workers and the team has become adept at managing and administering these applications in an effective and timely manner.

Some of the administrative costs would be offset by the collection of registration fees. There are now over 60,000 social workers, social care managers and social care workers on the workforce register which has generated an additional income for SCW alongside their grant-in-aid from the Welsh Government. In 2017-18, when there were just over 11,000 workers on the register, this provided the regulator with a total of £272k worth of income; by 2022-23 this had risen to just over £2m with the addition of over 49,000 additional workers. These funds are reinvested into SCW's regulation and development of the social care workforce in Wales.

Fitness to Practice

On the regulatory side of its work, SCW have estimated that the number of fitness to practise investigations are increasing as more groups of workers are added to the register. SCW has provided an estimated cost for the increase in fitness to practise investigations based on the numbers of registrants currently on its workforce register (circa. 62,000 workers).

Currently, 109 cases per annum go to a full Fitness to Practice (FtP) hearing at a cost of £16k per case (a total of £1.74m per annum). These figures significantly increased with the addition of over 49,000 domiciliary care workers and adult residential care workers by 2022. As the Special School Residential Services workforce register, we do not expect there to be an immediate increase in the number of FtP cases within the registration period. The regulator will be working with workers to help ensure that they have the relevant skills and qualifications needed to register and provide a proportionate approach to help these new registrants to understand the requirements of

registration. This includes providing them with sufficient time to acquire the necessary qualifications if they don't already have them.

We do not expect there to be a significant increase in the number of cases brought against these workers, and when comparing it with the rest of the workforce, with only 60 special school residential service workers being added by this latest addition to the register we expect this number to increase by approx. 2 cases a year. Whilst it is difficult to accurately estimate the numbers that may be involved, if we used this estimate as a starting point, it would mean that the regulator would incur an additional expenditure of £32k to their overall regulatory costs per annum.

Care Inspectorate Wales (CIW)

Whilst there are no direct impacts upon the service regulator relating to the regulation of the four Special School Residential Services in Wales, as these can be included into the inspection programme without much additional impact. CIW have confirmed that it will take a proportionate approach to inspecting these services for the first year of their registration; to afford them time to work with the service regulator to put measures in place to ensure they are delivering the quality of care expected of these services. CIW are aware of the requirements for the workforce to register and that they have until 30 September 2026 to do so, and have built this into their inspection plans for these services. There may be some further administrative resources needed to plan and coordinate future inspections between CIW inspectors and their Estyn counterparts. It is estimated that the annual cost, based on 2023-24 figures is £15,000, which equates to an additional 0.25 inspector and will be a recurring cost once implemented.

Welsh Government

It is not expected that further funding will be required to offset the additional costs of option two, as the numbers to register can be absorbed within current administration costs. The costs set out above are, however, estimated costs and are for illustrative purposes only as we cannot predict the numbers of cases. The Welsh Government will continue to work with the regulator to monitor the potential impacts as the process of increasing the workforce register unfolds and any additional fitness to practise costs arise.

Benefits associated with Option two: Open the workforce register for special school residential service workers to join on a voluntary basis.

The registration of the special school residential service workforce will further build on steps taken to professionalise the sector, which is the overall objective of the work. Although difficult to quantify, the anticipated benefits of registration include:

- Improved trust and confidence in social care workers among both users and the general public;
- Workers in social care feel they are valued which can lead to improved job satisfaction;
- A happier and more supported workforce could lead to improvements in the quality of care;

- Ensuring that the workforce is trained and has the proper skills to do the job can provide additional protection and assurance for users.

Additionally, opening the register early provides ample time and engagement between the workforce and the regulator, which will help workers and employers understand the process and its benefits. The opening of the register early will also afford greater opportunity to identify any potential resource issues and utilise any best practice learned during the registration of domiciliary care and adult care home workers.

As outlined above, the proposal will also afford special school residential service workers greater time to understand what it means for them and prepare for the process. The preparations can help to explain all aspects of the registration process, including the need for registration fees and certain qualifications, which might be new to many in the sector. This preparatory work could also clarify how having a specific set of skills or qualifications will help reassure potential employers or service users that the worker has attained required standard to deliver care and support.

Employers may choose to use the early registration of its workforce as a demonstration of commitment to quality, or to provide a degree of reassurance to users that workers are registered with SCW and as such will be held accountable if their conduct is called into question.

The workforce can also be assured that, should their conduct be questioned, they would be afforded a fair opportunity to defend themselves before a panel of their peers. Registration should also empower workers to take charge of their own personal development and pursue opportunities with SCW to further their skills or qualifications through the SCW's various training and development programmes and drive continued improvement in the quality of service.

Risks associated with Option two: Open the workforce register for special school residential service workers to join on a voluntary basis.

The risk remains that workers will delay registration until a mandatory deadline is introduced, although it is felt that this is significantly mitigated by opening the register for voluntary registration.

Failure to meet the requirements and qualifications when registering mean that some of the workforce decide that the procedure is too cumbersome or costly and opt to leave the sector, placing greater pressure on those that remain to deliver services or undermining services to the point of collapse.

A large portion of workers consider that the requirement for qualifications are not something they wish to undertake and/or that registration fees are too costly and decide to leave the sector. The loss of a significant portion of the workforce because they believe that the required qualifications are not for them or are something they do not wish to acquire could have devastating consequences for the special school residential service sector.

SCW is currently undertaking a number of actions to mitigate these risks. This includes employer and employee engagement events to help clarify the process, and several

routes to registration that reflect that while some workers may be able to demonstrate the skills they have, they may not already hold the appropriate qualifications. This also includes extending the amount of time that workers have to obtain those qualifications.

Although the sector is aware of the proposals, there is still likely to be some in the sector who will have not given this any further consideration or put off engaging with the regulator as 2026 is still a few years off. As time goes on, there is the potential for this to be forgotten so SCW are preparing plans to implement a further information exercise for the special school residential service sector along similar lines to those used for the domiciliary care sector. Even with the mitigating actions, careful consideration will need to be given to the potential risks around failing to secure the workforce “buy in” to the benefits of registration. The loss of any significant numbers of the workforce will have substantial impacts on the delivery of services and the sector as a whole. The Welsh Government has provided additional funding to SCW to help with this process and in the previous financial year to cover preparatory work including funding to help employ additional staff and resources to meet the costs of registration. However, any significant influx of registration applications or delays in processing these applications could have knock on effects for those that seek to register closer to the deadline. The Welsh Government will continue to work with the workforce regulator, SCW, to monitor and manage the process to mitigate these possible impacts and risks.

Summary and preferred option

Only two options have been considered – to retain the status quo or to make an amendment. Option one or retain the existing system whereby the workforce would not be required to register with the regulator until the mandatory date in 2026. Unlike previous registration exercises, the numbers are significantly lower and whilst it can be expected that some workers will decide to leave registration to the last minute, or fail to register in time for mandatory registration, which could have serious consequences for the sector, the regulator and the Welsh Government. Not entering into any form of registration of the workforce could also lead to a two-tier system where higher expectations are placed on those registered workers compared to those who are not required to register, which could impact standards of care and also impact on workers’ ability to move between the two sectors.

Option two demonstrates a clear commitment to moving towards mandatory registration, with the benefits as outlined. While there remain some associated risks in terms of the rate of registration these can be better managed with a longer lead in time prior to the proposed mandatory registration requirement in 2026.

Therefore, option two is the preferred option.

Competition Assessment

| The competition filter test | |
|---|---------------------|
| Question | Answer yes or no |
| Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share? | No |

| | |
|--|----|
| Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share? | No |
| Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? | No |
| Q4: Would the costs of the regulation affect some firms substantially more than others? | No |
| Q5: Is the regulation likely to affect the market structure, changing the number or size of firms? | No |
| Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q8: Is the sector categorised by rapid technological change? | No |
| Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products? | No |

The filter test shows that it is not likely that the regulation will have any detrimental effect on competition; therefore a detailed assessment has not been conducted.

We do not consider it necessary to undertake a competition assessment for these Regulations since they will not affect the business sector in any significant way.