



Guidance for Employers

Employing Work Based Learning Practitioners

April 2017

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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 requirement for practitioners to be registered in the category or categories of registration for the work they undertake.

A work based learning (WBL) practitioner in Wales must be registered with the Education Workforce Council (EWC) if they provide the services set out below **for, or on behalf of, a work based learning provider** where the provider is contracted to the Welsh Government (this also applies to all sub-contractors and consortium members that deliver Welsh Government funded training).

The legal responsibility for ensuring that only registered WBL practitioners are employed in such posts lies not only with the practitioner themselves but also with the work based learning provider.

This document provides information to assist employers with complying with this legal requirement.

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

2.1 Who needs to be registered?

Regulations stipulate that work based learning providers should ensure every WBL practitioner who provides education or training in a work based learning environment is registered with the Council **before** they commence work.

In legislation:

Work based learning means:

'education or training provided-

- (a) For persons aged 16 or above (regardless of whether it is also provided for persons under 16), and*
- (b) To develop knowledge and skills relevant to a particular trade, occupation or employer'.*

A work based learning practitioner is:

'a person, who provides (or wishes to provide) work based learning practitioner services'

Work based learning practitioner services are defined as:

- (a) The co-ordination and delivery of work based learning;*
- (b) The assessment of the knowledge and skills of a person receiving (or about to receive) work based learning.*

Below are examples to help with identifying which employees need to be registered but the lists are not exhaustive. Using the definitions above, employers need to consider the actual role an individual is undertaking and not just their job title.

Yes	No
<ul style="list-style-type: none"> • Assessors • Trainers • Learning deliverer • Tutor • Coaches • Mentors <p>Those that co-ordinate the delivery of WBL such as:</p> <ul style="list-style-type: none"> • those involved in management / leadership roles • quality assurance staff <p>In addition: *some self-employed persons or persons provided by an external organisation (see below)</p>	<p>Administrative staff such as:</p> <ul style="list-style-type: none"> • office based administrators • IT systems support • human resources • finance <p>Others:</p> <ul style="list-style-type: none"> • Sales and marketing staff • unpaid volunteers

*We are aware that a small number of practitioners are not directly employed by a main or sub-contractor but provide WBL services on their behalf. All employers need to ensure that any such person is registered with the Council in order to provide WBL services.

A practitioner **must** be registered in the category or categories of registration for the role(s) they undertake. For example, you may have staff who work part-time as a WBL practitioner and part-time in one of the other registration categories. In such cases the practitioner must be registered in **all** relevant categories. They would however, only pay one registration fee.

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.

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 work based learning practitioner registration for employers

3.1 What does an employer 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, employers should:

- make **pre-employment checks** to ensure that a WBL practitioner is registered **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 WBL practitioners in their employment continue to be registered, as continued registration is dependent upon the payment of an annual registration fee.

Where employers consistently breach their statutory duty by employing unregistered WBL practitioners, the Council is obliged to inform the Welsh Government.

3.2 What action should be undertaken by work based learning providers if a WBL practitioner is not registered with the Council?

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

- **WBL practitioners who are eligible for registration but are not currently registered** – they cannot commence work until they are registered. In such cases, at the request of the employer / prospective employer, a registration pack will be sent to the applicant.

If a work based learning provider employs an unregistered work based learning (WBL) practitioner to undertake the services defined in section 2.0 they are in breach of the law.

- **WBL practitioners who cannot be registered due to restrictions.** Any WBL practitioner who is not eligible for registration ***should not be employed as a work based learning practitioner***. If the applicant believes that he / she is eligible and disagrees with the record held by the Council we will investigate the matter. Once the case has been investigated, the employer and individual will be notified accordingly.

If an employer knowingly continues to employ a WBL practitioner who is unregistered in a post which requires registration, the Welsh Government has powers to issue a direction to the employer 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 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.

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

Under the Education Workforce Council Regulations 2015, as amended, the Council is required to supply a subset of information on particular practitioners if requested by an employer or prospective employer. This applies to registered or unregistered persons for whom records are held on the database.

The Council's Register only holds information on WBL practitioners in Wales.

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

The information which can be provided to work based learning providers is set out in part eight of the EWC Functions Regulations.

If an employer /prospective employer wants 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 may request information. The EWC provides responses to employers 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 practitioners records in response to requests and appropriate checks on identity will be made before any information is released.

4.2 Web Access for employers

The Council provides the facility for electronic access to the Register for employers 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.

5.0 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 **practitioners** 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 employers on an ongoing basis, preferably by using the online employer access facility provided to them.

6.0 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
E-mail	:	registration@ewc.wales