

The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales 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 2020.

I am satisfied that the benefits justify the likely costs.

Julie Morgan
Deputy Minister for Health and Social Services
11 February 2020

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 (1) (b) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”).
- 1.2 These Regulations provide that a register must be kept by Social Care Wales (SCW) of individuals employed (whether as an employee or a worker) or who are engaged under a contract for services to provide care and support in connection with a care home service provided wholly or mainly for adults, a care home service provided wholly or mainly for children, a secure accommodation service, a domiciliary support service or a residential family centre service.
- 1.3 The amendment will enable Social Care Wales (SCW) to open the workforce register to individuals who are employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults and/or a residential care service on a voluntary basis from 2020.
- 1.4 It will also open up the workforce register to individual ‘engaged under a contract for service’ in connection with a care home service provided wholly or mainly for children or a secure accommodation service. This will align the registration requirements in respect of each specification of social care worker.

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

- 2.1 None.

3. Legislative background

- 3.1 Section 80(1) (b) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) requires Social Care Wales to keep a register of social workers and social care workers of any other descriptions specified by the Welsh Ministers in regulations. These Regulations amend the Social Care Wales (Specification of Social Care Workers) (Registration) 2016, and are made under section 80(1) (b) of the Act.
- 3.2 These Regulations are made under the affirmative procedure.
- 3.3 Implementation of the registration of adult residential care workers and residential family centre 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 adult residential care workers by 2022. This commitment was expressed in written statements in October 2015¹ and November 2016².
- 4.2 These regulations, proposed as part of the Phase II implementation process of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”), will allow for the opening of the register held by SCW to this latest group on a voluntary basis in advance of a proposed deadline of 2022 for mandatory registration.
- 4.3 The intention is to afford the workforce regulator, SCW, ample lead-in time to engage and work with the workforce prior to a proposed deadline of 2022 for mandatory registration. This is consistent with the approach taken to the registration of domiciliary care workers in 2018, 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 A formal 12 week consultation on the proposed regulations was undertaken between 26 July and 14 October 2019 and received 55 responses from various stakeholders ranging from representative bodies, local authorities, health boards, service providers and individuals.
- 5.2 The consultation focused on asking a series of questions relating to mandating the registration of all domiciliary care workers from April 2020 and the opening of the workforce register to permit the voluntary registration of individuals employed or engaged under a contract of services within a care home provided wholly or mainly for adults and in residential family centre services from April 2020 in advance of their mandatory registration in 2022.
- 5.3 An analysis of the responses received has shown that:
- a. The majority of responses felt that social care workers working for agencies should be subject to the same standards and rules as those directly employed by a service provider (i.e. not personal assistants) to deliver care and support services.
 - Our consultation asked whether individuals employed under contract in domiciliary support services, residential family centre services, care homes provided wholly or mainly for adults, homes provided wholly or mainly for children and in secure accommodation should be required to register with the workforce regulator. The question sought stakeholder views regarding the need for consistency across the social care workforce, as although we have placed regulatory requirements

¹ <http://www.senedd.assembly.wales/documents/s45151/15%20October%202015.pdf> - lines 125 and 126.

² <http://www.assembly.wales/en/bus-home/pages/rop.aspx?meetingid=3488&assembly=4&c=Record%20of%20Proceedings#C259695>

on those in connection with domiciliary care and propose to do the same for those in adult residential care and residential family centre service; agency workers in homes provided wholly or mainly for children and in secure accommodation are currently exempt from registration due to an anomaly in earlier legislation. The responses felt that all workers, whether employees or engaged under a contract for services (e.g. “agency workers”), should be treated equally.

- b. That greater clarity was needed about whether volunteers should be required to register, with some respondents suggesting they should, but a small majority tending to disagree with this.
- We have not included volunteers in the scope of our draft regulations, despite some respondents suggesting that they should be. The primary rationale for this is that it could put unnecessary barriers in the way of those that wish to volunteer. Additionally, many volunteers provide a type of support that falls outside of the definition of care and support outlined in the 2016 Act, in addition Regulation 35 of the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 already place clear requirements on providers of regulated services with regard to not to allow a volunteer to work at the service unless that person is fit to do so.
- c. The majority of respondents agreed that guidance should be provided to support domiciliary support services in complying with the regulations. Responses indicated that any guidance should be simple, concise and easy to find and use “...*supportive, clear and encouraging language*...” It was felt that guidance would be useful for a number of audiences including new entrants to the sector, current employees, employers/providers and agencies.
- We will give careful consideration as to what type of guidance might be helpful, and that we will work with Social Care Wales and Care Inspectorate Wales to consider how we might take this suggestion forward. This will include considering how any such guidance would fit alongside the information already available on the Social Care Wales and Care Inspectorate Wales websites.
- d. The majority of respondents agreed that a two year lead-in time for voluntary registration for individuals employed or engaged under a contract for services in connection with a care home service provided wholly or mainly for adults and residential family centre services from 2020 allowed sufficient time for the sector to begin the process ahead of mandatory registration. Some recognised that it struck a balance between providing a reasonable lead-in period that could “...*lead to complacency, and then a blockage of the system as the deadline looms*...” and a lead-in period which is too short and does not realistically allow individuals and providers enough time to prepare, which could ultimately compromise “*patient safety*”.
- We have acknowledged that there is a fine balance to be found between providing individuals sufficient time to engage with the

process of registration before it becomes mandatory, and one which avoids introducing complacency into the system. However, there has not been a strong case made for a lead-in period that is either shorter, or of longer than, two years.

- 5.4 Officials propose that the draft Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020 are further amended to require SCW to keep a register of individuals engaged under a contract for services (i.e. agency staff) in connection with a residential care service provided wholly or mainly for children or a secure accommodation service, and thus close the current anomaly about these workers aligning the registration requirements with those already in place relating to domiciliary support workers.
- 5.5 This will present a consistent requirement to all employers to employ social care workers who meet the registration requirements and ensure that these aspects of the workforce are regulated and have similar standards and Codes of Practice. This will both hold them accountable for failings and ensure that they are suitably skilled to deliver care and support to a high quality.
- 5.6 The consultation document also asked questions on proposals to allow the service regulator, Care Inspectorate Wales to require information from the directors, trustees and members of boards or committees of any applicant organisation (that is not a local authority or Local Health Board) about any previous applications to register and registrations of a regulated service in the UK as well as relevant identifying information when determining whether the organisation is fit to deliver a service. A separate Regulatory Impact Assessment (RIA) covering this aspect of the consultation will be provided and this aspect will not be included in this RIA.

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 establishment of Social Care Wales (SCW) – the workforce regulator.

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.

In April 2018 regulations came into effect requiring Social Care Wales (SCW), to keep a register of individuals who are employed or engaged under a contract of services in connection with a domiciliary support service. The effect of this was to allow voluntary registration of domiciliary support workers. This was done in order to provide a two year period for SCW to work with the sector to understand and prepare for registration requirements, ahead of mandatory registration from 2020. These Regulations deliver a similar approach for both employees (whether as an employee or worker) and individuals engaged under a contract for services, who provide care and support in connection with a care home service provided wholly or mainly for adults from 2020 ahead of their proposed mandatory registration from 2022.

The regulations also open the register on a voluntary basis to individuals engaged under a contract for services (e.g. agency workers), who provide care and support in connection with a care home service provided wholly or mainly for children or a secure accommodation service. Including these categories of workers in these regulations represents a proportionate approach that will allow these workers sufficient time to understand the implications of registration and provide consistency across the workforce and minimise the uncertainty whether these individuals are required to register with SCW.

This Regulatory Impact Assessment examines the proposal to change regulations in order to open the workforce register voluntarily to adult residential care workers and agency workers contracted to deliver services in children’s residential care and secure accommodation services.

The Regulations

The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020 amend the Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016, to require SCW to keep a register of individuals employed (whether as an employee or worker) or engaged under a contract for services in connection with a care home service provided wholly or mainly for adults, or a residential family centre service. It also specifies that SCW are required to keep a register of individuals engaged under a contract for services in connection with a care home provided wholly or mainly for children or a secure accommodation service. Previously the workforce register was only open to employees, which left uncertainty around whether these individuals were required to register.

Registration fees

Under sections 74 and 83 of the Regulation and Inspection of Social Care (Wales) Act 2016, Social Care Wales has the power to make provision of the payment of fees in connection with registration to the register. These fees must be specified in rules made by Social Care Wales.

The responsibility for setting these fees rests with Social Care Wales and not with the Welsh Government. The proposed regulations do not change the powers for Social Care Wales to charge a fee, or the level of those fees. However as these are costs which are associated with the implementation of the regulations, they are considered as part of this Regulatory Impact Assessment.

Background to the current level of fee charged

The current registration fees were set in 2018, following a consultation by Social Care Wales. Whilst other nations in the UK had revised their fee levels at various times since early 2000, fee levels in Wales had not changed since they were originally set in Wales in 2003 and had become the lowest of all comparable UK social care workforce regulators. According to Social Care Wales, the new fees were aimed at bringing the registration fee regime in Wales in line with other social care regimes across the UK.

Following the consultation Social Care Wales determined to raise the fees on a sliding scale over four years from 2018-2019 and ending in 2021-2022. This scale increases social workers and social care manager fees over that period by increments of £10 starting from £50 to £80; and social care workers by increments of £5 beginning at £15 and rising to a maximum of £30. Students of social work studying towards a career in social care would pay a set fee of £15 over the same period.

The Welsh Government worked with the regulator on the issue of registration fees to ensure that there were a number of options considered and that these were set at a level that is both affordable and proportionate in accordance with Welsh Ministerial commitments made in 2015.

OPTIONS CONSIDERED

The two options are:

- **Option one:** Do nothing - retain the status quo;
- **Option two:** Open the workforce register for adult residential care workers and residential family care service workers to join on a voluntary basis.

Option one: Do nothing - retain the status quo

In this scenario, Individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults and residential family care services in Wales would not need to register in order to be able to continue to work in care home settings.

Option two: Open the workforce register for adult residential care workers to join on a voluntary basis.

Social Care Wales are required to keep a register of individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults or residential family centre services. The effect of the Regulations allows the workforce to register with SCW on a voluntary basis prior to proposed mandatory registration.

Social Care Wales are responsible for maintain the workforce register and would be tasked with promoting registration to this section of the workforce.

Registration of the workforce will incur a fee, which may be paid either by the individual registrant or by their employer.

Costs associated with each option

Option one: Do nothing - retain the status quo

Workforce / Employers

If the status quo is maintained, individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults or residential family centre services will not incur any additional costs relating to registration. Employers do not currently incur the cost of registration fees but if we retained the status quo, but are responsible for costs associated with mandatory training for their employees.

The status quo would also mean that individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for children or secure accommodation services would also be unable to register which would result in neither the workforce nor their employers having to meet any associated costs of registration or mandatory training.

The costs associated with registration are outlined below under the workforce costs included in option two.

Workforce regulator (Social Care Wales (SCW))

Under option one the regulator would not occur any additional costs. Any costs already incurred in making changes in anticipation of changes to the workforce register would be sunk costs.

However, should mandatory registration be introduced in 2022, the cost pressures on the regulator will be focussed on a much shorter period of time and this could increase the risk of failing to register the workforce. This is because the workforce, which is estimated to consist of around 20,000 workers, would be required to register within the six month grace period and the associated costs of promotion, additional staff and office space would be concentrated around the period of registration.

Welsh Government

There will be no additional costs under this scenario.

Option two: Open the workforce register for adult residential care workers and residential family care service workers to join on a voluntary basis.

Workforce

When individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults or residential family centre services enter the register in 2020, they will fall within the category of social care workers and be subject to an increased registration fee of £25 in 2020-2021 and £30 in 2021-2022. The workforce regulator, Social Care Wales (SCW) has estimated that approximately 40% of the workforce will register in the first year, with the remaining 60% of workers following suit in the second year. If we take this assumption as following this pattern by 2021/22, 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:

- 2020/21: estimated 8,000³ workers at £25 per worker = £200,000
- 2021/22: estimated 20,000 workers at £30 per worker = £600,000

Social Care Wales (SCW) has confirmed that there will be a number of 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.

³ Social Care Wales estimates of the likely numbers of registrants would see 40% in the first year and the remaining 60% in year two.

As with domiciliary support workers voluntarily registering currently, new registrants can also apply to HMRC to reclaim a proportion of this fee back as a tax deduction⁴. 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 two years, we envisage this to be negligible.

Social Care Wales has confirmed that there will be a number of payment options available to registrants, including direct debits for either a single payment or monthly instalments spread out over a year.

In addition to the 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. Therefore, for the purposes of this RIA while 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.

In respect to the potential impacts on agency staff in the children's residential care and secure accommodation services, it is not possible to identify exact costs as we do not have accurate data on the numbers of these staff currently working in the sector. For illustrative purposes we have therefore estimated the number of agency workers as being 25% (723) of the current employed workforce of 2,894 as reported by Social Care Wales⁵ (SCW) in 2019. This would provide SCW with a further revenue stream of £18,075 of funding from fees in 2020/21 and £21,690 in 2021/22.

Social Care Providers (employers)

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 company. However, we have no information on how common this practice is and the workforce regulator is unable to breakdown the split due to 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

Time to complete registration

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

⁴ Guidance on what can be claimed back can be found at <https://www.gov.uk/tax-relief-for-employees>

⁵ https://socialcare.wales/cms_assets/file-uploads/RCCW-factsheet-ENG.pdf

and over of £8.67 per hour in 2020 as a baseline (plus £2.60 on-costs for NI contributions, pensions etc.), we can calculate that cost to complete one individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults or residential family centre services registration would be approximately £22.54 (£8.67 + £2.60 x 2) per worker.

This reflects that the majority of individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults or residential family centre service workers are likely to be on the minimum wage but in the over 25 bracket⁶. Therefore the cost for completing the registration process for these categories of the workforce (estimated to be 20,000 workers) would equate to a sum of £450,800, if it is assumed that employers are meeting these costs themselves.

Applying this methodology for agencies employing staff under contract to deliver care and support in connection with a care home provided wholly or mainly for children or a secure accommodation service the costs would be similar for individual costs but for the whole workforce the registration process would equate to a cost of £16,296. However, it could be that these costs would be passed on by their agency employers to those service providers requiring agency staff to back-fill for staff either completing their own training, who are off sick or on maternity leave, etc.

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 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 in order 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 SCW 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 a notional 475 hours to complete this training, which includes “on-the-job training” and “off-site⁷” learning. The amount of “off-site” learning needed will vary greatly depending on the individual. For example, employers are already likely to have invested heavily in more experienced workers who are then unlikely to require as much “off-site” learning (which could include, for example, first aid training). Workers employed straight from school however are likely to require a greater investment in learning that cannot be undertaken “on-the-job”.

⁶ 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

⁷ While described as ‘off-site’, this learning may take place in the workplace but not on-the-job.

The cost to employers of paying salaries for time spent learning “off-site” is difficult to estimate given the individualised nature of the learning.

However, if we take a standardised notion of 1 day training off-site per week of the total notional 475 hours of training, we can estimate that the cost would equate to 95 hours at a cost of approximately £1,071 (i.e. 95 hours of training at the national minimum wage of £8.67 and on-costs (at 30% of salary costs)). This does not reflect what may actually be happening on the ground, where in fact the likely cost is expected to be much lower for the reasons outlined above.

Based on current figures for registration of domiciliary care staff, this assumes that 22% of the workforce will require the qualification⁸ and to bring this number of the workforce up to the required qualifications would equate to a cost of £4.7 million for the sector in salary costs⁹.

In answer to some concerns from the domiciliary support sector that there were some employees who would not be interested in acquiring a qualification and could therefore leave the sector, SCW worked with that sector to find a solution to help retain these staff but allow them to register. SCW will use a conferred competence route – where employees endorsed by their managers that they have the right skills and competences – and where workers are new and will not have time to complete the qualification requirements by the mandatory deadline, they could complete the first module (and associated assessment) of the induction framework on skills and values for working in social care prior to registration. It is expected that this process will also be utilised with the individuals employed or engaged under a contract for services in connection with a care home provided wholly or mainly for adults or residential family centre service so that, as well as the qualification route. 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.

It is not possible to identify the number of Individuals engaged under a contract for services in children’s residential care and secure accommodation services who might require the necessary qualifications, as we do not currently have any accurate data on these workers. Applying the same methodology as above and assuming that 25% of the estimated number are working towards more permanent employment, the cost of training 181 workers to meet the registration requirements would equate to a sum of £149,081 in staff time and a further £44,724 (30% on-costs (i.e. NI contributions,

⁸ Adult residential care workers have yet to register therefore we are drawing parallels from the SCW figures for domiciliary care workers. These show that as at January 2020, of around 12,500 registrants 76% of the domiciliary workforce has registered with a qualification, with 13% of these registering through the confirmed competence route and 11% of these using the Principles and Values route (or 8% of the total). Based on an assumption that the remaining workers left to register will not be qualified, that approx. half of these may come through on the confirmed competence route, this gives us a calculation of a total 22% of the workforce registering that need to be trained (i.e. 8% already registered through confirmed competence and 14% potentially to register through confirmed competence)

⁹ This figure is based upon the current National Living Wage of £8.67 + £2.60 employer on-costs x 95 hours to complete a Level 2 qualification x 3,800 workers needing to attain this qualification.

Pensions, etc.) equating to a total cost of £193,805.

However, these costs are not a consequence of this regulation alone. Even without mandatory registration, there is a cost to employers for training staff and ensuring that they have the right skills to do the job. Employers already have a legal obligation placed upon them under the Regulation and Inspection of Social Care (Wales) Act 2016 to ensure that their staff receive “appropriate training to understand behaviours and adopt strategies to support individuals with their behaviours to achieve positive well-being and outcomes.” In addition to this, the voluntary registration of domiciliary support workers which preceded this proposal means that many of these costs will already have been met. However we do not have access to data 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 in greater value for money to employers. It could even introduce some cost savings, for example where workers move from one employer to another.

Workforce regulator (Social Care Wales (SCW))

The costs associated with maintaining the register and regulating adult residential care workers and residential family care service (and domiciliary care workers) include:

- Direct staffing costs arising from the demands of managing the registration process
- Direct staffing costs arising from additional staff needed to oversee an anticipated increased number of conduct and fitness to practice processes,
- Indirect costs such as for venue hire for conduct committees, and conduct committee expenses.

SCW estimate that the costs associated with maintaining the register and regulating adult residential care workers and residential family care service (and domiciliary care workers) would increase year on year as more of the workforce enter the register and the increase would rise from £1,130,738 in 2018-2019 to 2,995,000 in 2021-2022. Some of these costs would be offset by the collection of registration fees. The following table estimates the income anticipated to SCW from registration, under option 2.

Group	2018/19	2019/20	2020/21	2021/22
Current registrants 11,000	£455,755 (a)	£550,015 (b)	£644,275	738,535
Domiciliary support workers	£120,000	£400,000 (c)	£500,000	£600,000 (d)
Care Home workers etc.	n/a	n/a	£200,000 (e)	£600,000 (f)

Agency workers¹⁰	n/a	n/a	£18,075	£21,690
Total Income	£575,755	£950,015	£1,362,350	£1,960,225

Registration fees are collected from the approximately 11,000 registrants currently registered with SCW; up to 2017/18 this provided the regulator with a total of £271,970 worth of income. The figure shown at (a) represents the increased revenue stream when registration fees across all categories were increased in 2018/19.

(b) reflects the first of a series of incremental increases in fee levels for all categories of registered workers.

With the registration of the domiciliary support workforce, it is estimated that a further £400,000 (c) will be added to the regulator's revenue stream by the time that exercise is completed in 2020 (based on 16,000 workers charged a fee of £25). This will be in addition to a further incremental increase on the registration fees of the initial 11,000 registrants. The figure shown at (d) represents the final planned incremental increase in registration fees across all categories.

With the registration of Individuals engaged under a contract for services, SCW estimate that 8,000 adult residential care workers to register in the first year of the register being opened in 2020-2021 with the majority following up throughout 2021-2022. This would equate to revenue totalling £200,000 in 2020-2021 (e) and £600,000 (f) by 2021-2022 and also includes the incremental fees for those periods.

Fitness to Practice

On the regulatory side of its work, SCW have estimated that it would expect the number of fitness to practise investigations to increase 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 associated with the 11,000 current registrants currently on its workforce register.

Currently, 25 cases per annum go to a full Fitness to Practice hearing at a cost of £13,000 per case (a total of £325,000 per annum). Social Care Wales estimates that, with the inclusion of the full domiciliary care, adult residential care and residential family care service workforce (approximately 36,000 workers) this number could increase by a further 84 cases going to full hearing by 2022. Whilst it is difficult to accurately estimate the numbers that may be involved, if we take this estimate as a starting point it would mean that the regulator could incur an additional expenditure of £1,092,000 to their overall regulatory costs, equating to a total of £1,417,000 per annum. In total, the figures provided show that SCW have estimated increase in its conduct panel activity costs to increase to £1,741,000 by 2021-2022.

In order to provide additional staff resources to cover the expected increase in activity, SCW estimate that 27 whole time equivalent (WTE) members of staff would need to be

¹⁰ This includes those employed under contract to provide care and support in residential services wholly or mainly for children and secure accommodation services.

employed to cover the increase in activity (6 WTE in the Registration department, 17 in the Fitness to Practice department and 4 in the Committee management team). This would also require £200,000 of additional funding to cover the costs of running the three regulation departments and £170,000 to cover accommodation costs to house the new staff and a further £80,000 of support costs.

Care Inspectorate Wales (CIW)

Care Inspectorate Wales has confirmed that questions have been developed and incorporated into their existing procedures for service inspections to check on staff and confirm that they have registered with SCW and therefore do not foresee any additional costs as part of these Regulations. The existing Memorandum of Understanding between the regulators already provides for the exchange of information to allow for the verification of data and sharing of intelligence.

Welsh Government

Sponsorship funding to Social Care Wales

The ability for the workforce regulator to set the level of fees and collect these costs has a direct impact on the amount of funding provided to SCW by Welsh Government through our grant-in-aid sponsorship funding. In order to facilitate the opening of the workforce register for domiciliary care workers (and in preparation for the registration of adult residential care workers) the Welsh Government has already provided the regulator with almost £1 million to meet the direct costs associated with this exercise to cover additional staffing and IT costs. There are therefore no additional costs required to cover the administration of extending the workforce register.

This sum was on top of its grant-in-aid sum of £18,008 million to deliver a robust regulation system for the social care workforce and supporting the professionalisation of the social care workforce through effective training and development.

Further funding may be required to offset the additional costs of option two to Social Care Wales as set out above if numbers are significantly higher than expected for either registration or fitness to practice cases. The costs set out above are, however, estimated costs and are for illustrative purposes only as it is not possible to accurately predict the numbers of new cases that may be brought forward. 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.

Increased training costs

The Welsh Government currently also funds apprenticeships for Level 2 in Health and Social Care and Child Care and it is estimated that growth in the take up of apprenticeships is likely to be seen mostly in the private and voluntary sectors but that it is difficult to predict what that growth will look like. However, for illustrative purposes we have taken the current estimate that around 54% of those registering are trained, and that a further 23% of the workforce are being registered through the confirmed

competency route. This would leave a potential 22% increase in those seeking to access the apprenticeship programme due to registration. The current cost of an individual apprenticeship through the programme is £5,449 per individual, so the estimated cost of the 22% increase would equate to 4,400 workers being added to the programme at a cost of £23,975,600 over the 5 year period assuming mandatory registration in 2022 and a further three years before registration renewal is required.

Benefits associated with each option

Option one: Do nothing - retain the status quo

The most significant benefit to option one is a reduction in costs to the workforce, employers and the workforce regulator.

Option two: Open the workforce register for adult residential care workers and residential family care service workers to join on a voluntary basis.

The registration of the Individuals engaged under a contract for services 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;
- Showing that, as the work force professionalise, a career in social care can be attractive which helps to build capacity to meet future demand;
- Highlighting to service users, their families and friends that a professional workforce has the proper skills to do the job and reassure them that they are overseen by a regulator if things fail or fall below expectations.

Additionally, should mandatory registration be implemented in 2022, opening the register early will mitigate the potential risks of registering a large number of workers overnight. It will also allow for the development of a robust communications strategy around registration, and greater engagement with the sector to help workers and employers understand the process and its benefits.

The opening of the register on a voluntary basis will also afford greater opportunity to identify any potential resource issues and utilise any best practice learned during the registration of domiciliary care workers.

As outlined above, the proposal will also afford Individuals engaged under a contract for services 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 each option

Option one: Do nothing - retain the status quo

The primary risk relating to option one is connected with the proposal to introduce mandatory registration in 2022.

If voluntary registration is not introduced and mandatory registration comes in to force in 2020, SCW would have to register all 20,000 estimated adult residential care workers overnight and additional resources may be required to cope with a potentially overwhelming temporary burden that would be placed upon it in 2022. This could lead to undue stress on staff and risks introducing errors in data recording which could have serious implications for both the regulator and adult residential care workers.

Even where a great deal of attention is directed at planning and communications, a further risk of not having a long lead-in period to mandatory registration is that workers or their employers will delay registration and that greater numbers may miss the deadline.

This could lead to a risk of 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.

Whilst SCW has planned for managing the application process by recruiting more staff and office space and equipment, it might still have to redirect additional staff to help process a mass influx of applications, which could draw staff away from other tasks to meet the demand. This could place strains on other aspects of its workload that again could have potential reputational impacts.

If mandatory registration does not proceed then the risks outlined above are reduced significantly. However, in this scenario the key risk is that there will be an inconsistent approach to different parts of the social care workforce, which could lead to a devaluing

of the work undertaken in the care home sector compared to that undertaken in domiciliary care.

Option two: Open the workforce register for adult residential care workers and residential family care service workers to join on a voluntary basis.

The risk remains that Individuals 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 individuals 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 adult residential care sector.

SCW is currently undertaking a number of actions to mitigate these risks in respect of domiciliary support services where a similar approach to registration of the workforce has been introduced. 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 2022 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 adult residential care and residential family care service sectors 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

Two options have been considered. Option one is to retain the existing system whereby the workforce would not be required to register with the regulator until the mandatory date in 2022. This option has significant implications if all 20,000 estimated workers 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 domiciliary care workers compared to care home staff which could 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 2022.

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.