

19<sup>th</sup> December 2024

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## **SUPPLY TEACHER PLATFORM**

### **Purpose**

- 1 To consider the findings of a due diligence exercise undertaken in response to the request from the Welsh Government for the WLGA to establish a Public Sector Employing Entity and host the central functions required to support a new Supply Teacher Booking Platform.
- 2 To agree a WLGA position and response to the Minister for Education and Welsh Language.

### **Background**

- 3 The Welsh Government in its Programme for Government committed to 'develop a new employment model for supply teaching with fair work at its heart'. This commitment is reiterated in the Co-operation Agreement where it emphasised that this commitment included local authority and school-led models.
- 4 Research by the Welsh Government involving the sector concluded that a 'public sector central booking platform' model was preferred above any other option, and this was subsequently agreed by the Minister.
- 5 A Welsh Government procurement exercise was undertaken in November 2022 and a contract for the booking platform has been awarded to Teacher Booker Ltd.
- 6 A range of central functions have been identified by the Welsh Government as required to support the operation of the supply teacher booking platform and the WLGA has been asked to establish a Public Sector Employing Entity (PSEE) and host these functions (appended at Annex 1). These include:
  - 6.1 Vetting and undertaking pre-employment checks for supply teachers registering on the platform
  - 6.2 Undertaking payroll and pensions arrangements
  - 6.3 Financial management including invoicing schools for any bookings through the platform.
- 7 The WLGA supported the Programme for Government commitment and efforts to establish a supply teacher booking platform 'in principle' but when considering the request from the Welsh Government, a number of questions emerged regarding the proposals - including risks and liabilities associated with hosting the central functions.

- 8 A workshop to explore the proposals in more detail, which brought together Teacher Booker, local authorities, Welsh Government and WLGA, highlighted issues in terms of the delivery model and potential risks and liabilities.
- 9 The WLGA Leader and Education Spokesperson requested a due diligence exercise be undertaken as a means of assessing the risks to the WLGA of establishing a PSEE and undertaking the central functions requested by the Welsh Government. Welsh Government funded the exercise.
- 10 The WLGA commissioned Local Partnerships to undertake an independent assessment of the proposals in Autumn 2023. Findings were presented in December 2023 and a final draft of their report was received in January 2024; this is appended at Annex 2.
- 11 The report findings indicate there are significant risks to the WLGA of hosting the central functions of the supply teacher platform, in employment, financial, operational and reputational terms. However, it also points out that there are alternative models and/or options for delivery and that the WLGA is committed to assisting the Welsh Government in its efforts to arrive at a solution.
- 12 The report highlights a need to source independent legal advice regarding the employment status of supply teachers engaged through the platform, this advice has been commissioned.

## **Next steps**

- 13 Welsh Government is keen to receive a decision from the WLGA as soon as possible and a formal response to the request that the WLGA establish a PSEE and host the central functions.
- 14 The status of the supply teacher platform, as a means to deliver a Programme for Government commitment and the 'in principle' support that has already been offered by the WLGA in trying to further the proposal will require careful consideration when determining a response to the request from the Welsh Government.
- 15 It is suggested that the WLGA remains supportive of the intent, but due to the significant risks identified in the report, would find it difficult to take forward the PSEE and central functions as outlined in the proposal. The WLGA is however committed to working with the Welsh Government to take forward the supply teacher platform by some other means.
- 16 Local Partnerships identified that other models for delivery and / or implementation exist and could be considered. For example, the size and scale of the undertaking, when compared with the size of the WLGA, was a significant feature in the risk assessment, considering options for other larger organisations to take this forward or set up the PSEE might address this. The WLGA is well placed to work with the Welsh Government to find another way forward.
- 17 The current outlook in terms of public sector finances is another key consideration and raises the question of timing and whether pressure on budgets will affect implementation. Schools may be more inclined to use agencies if they present a cheaper option, which could affect the take up and use of the platform, and ultimately its success. It may be

that there is the opportunity to pause the proposals in light of the current pressures on public finances and whilst other options regarding implementation are explored.

18 It is proposed that, in light of the report and if members are so minded, the WLGA write to the Minister for Education and Welsh Language to:

- 18.1 Politely decline the request for WLGA to take forward the PSEE and host the central functions, given the significant risks identified in the report; and
- 18.2 Commit resource to working with and supporting the Welsh Government to explore and find an alternative way forward for the supply teacher platform.

## **Recommendations**

**19 Members are asked to:**

- 19.1 Note and comment on the content of the report and findings; and**
- 19.2 Agree next steps, that WLGA write to the Minister to decline the request to host the central functions of the supply teacher platform but commit to working with the Welsh Government to explore and find an alternative way forward.**

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# WLGA – Supply Teachers Risk Assessment

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# 1 Executive Summary

The Welsh Local Government Associate (WLGA) has requested Local Partnerships to review the Welsh Government's proposal for the national provision of supply teachers with the aim of providing a risk assessment to support the WLGA Board in determining whether or not to support the proposed approach and support WLGA's role within it.

Under the current arrangements councils operate a hybrid model for the supply of supply teachers, combining the use of external agencies with an internal labour pool or supply list. Where councils operate a list, typically the council provides pre-employment checks and operates a payroll. Teachers on a supply list have access to the Teacher Pension Scheme (TPS) and get teachers' standard rates. Any supply that is not provided via an internal supply list is covered by staff employed by private agencies. Agency staff are on alternative (often lower) rates than those offered to regular teachers and don't have access to TPS. There are different views as to whether the operation of a supply list constitutes employment.

To counteract some of the concerns around "fair work" in terms of pay and benefits parity with regularly employed teachers, Welsh Government has proposed to establish a national scheme, with the WLGA playing a key role to deliver and operate a number of functions of the scheme. The role of the WLGA would be to implement and operate a single, centralised list of supply teachers, to provide a single payroll and to vet the staff.

A number of issues with the proposed scheme have been identified. Firstly, the model would be very large in size compared to the size of the WLGA. This would expose WLGA to significant financial, operational and reputational risk. Secondly, the WLGA has limited experience with the implementation and the operational delivery of the proposed services. Thirdly, it is unclear at this stage whether WLGA could indeed avoid employment status of supply teachers. If an employment relation were to exist this would expose the body to significant employment related liabilities. Further issues relate to the constitutional status of the WLGA, confirming WLGA's ability to facilitate access to TPS, the uncertainty of the take up of the scheme by schools and the need to confirm cost recovery and exit arrangements with Welsh Government and Local Authorities in greater detail.

The issues identified result in high levels of financial, employment, operational and reputational risk to the WLGA and a medium level of risk in relation to the delivery of other WLGA strategic priorities.

It can therefore be reasonably questioned whether it would be possible for the WLGA to host the functions of the scheme as currently envisaged without exposing the organisation to unacceptable levels of risk.

Nevertheless, alternative models could be envisaged that may provide a more sustainable way forward. Further work would be required by engaging with the sector to develop alternative operating models that would effectively address the various operational and employment related matters raised underpinned by robust financial and commercial arrangements to obtain local authority support.

WLGA would be able to support Welsh Government and officials with the design and development of a scheme that would effectively address the issues raised and would meet the stated policy objectives.



## 2 Context and aim of paper

In light of the commitment in the Labour/Plaid Co-operation Agreement to develop options for a sustainable model of supply teaching, Welsh Government has proposed for WLGA to support the implementation and delivery of key functions as part of a national model to facilitate the provision of supply teachers throughout Wales. The proposed model has been developed following initial engagement by Welsh Government with councils and the WLGA and follows on from the recent procurement by Welsh Government of a technology platform to facilitate the supply teacher booking process for schools.

The WLGA has requested Local Partnerships to review the proposal and speak to relevant stakeholders with the aim of providing a risk assessment to support the WLGA Board in determining whether or not to support the proposed approach and support WLGA's role within it.

This paper summarises the approach as currently proposed and sets out a risk assessment based on a summary of the key issues identified. It further sets out a proposed way forward.



## 3 Policy context

### 3.1 Political context

The Labour/Plaid Co-operation Agreement includes a commitment to “work with partners to develop options for a sustainable model of supply teaching with fair work at its heart, which will include local authority-led and school-led alternatives”. The Programme for Government also outlines this commitment.

The main issues that supply teachers and their representatives have identified and want to be addressed are set out in the School Teachers’ Pay and Conditions (Wales) Document (STPC(W)D) and include pay progression, portability and pay parity with permanent staff, as well as access to the teachers’ pension scheme (TPS).

In addition, there are concerns within the sector in relation to the scale of private agencies’ involvement in the sector and the increased costs to schools and related profits to private sector organisations this gives rise to.

### 3.2 Sector engagement to date

Over the previous twelve months Welsh Government has engaged in discussion with Directors of Education of Welsh Local Authorities (LAs) and other stakeholders to obtain views as to the possible workings of a new model to provide supply teachers to schools. A number of alternative delivery models were considered, including a Wales-wide technology platform, a cluster model, regional registers or lists, school led arrangements and partnership arrangements.

Engagement to date indicated that most LAs were broadly supportive in principle of the deployment of a technology solution that would streamline existing booking and management processes. However, other alternatives lacked significant LA support due to pressures on LA budgets and resource and workload implications of bringing some functions back in house. Other factors weighing against the alternatives were the efficiency of current agency provision and overall cost increases for schools.

Based on the outcome of this engagement Welsh Government is exploring whether a WLGA-led supply model could be considered as a way forward to meet the political objective that would be supported by local government stakeholders.





## 4 Current and proposed model for provision of supply teachers

### 4.1 Current supply arrangements

Most councils currently operate a hybrid model for the supply of supply teachers, combining the use of external agencies with an internal labour pool or supply list. The relative size of the internal provision varies between councils, as does the nature of the support provided by councils on behalf of schools. For example, some councils actively run recruitment campaigns for teachers for addition to the internal supply list but with others this is done by the school.

Where councils operate a list, typically the council provides pre-employment checks on behalf of the school and operates a payroll, based on timesheets provided by the school.

Employment checks typically include a DBS check (outsourced by many councils to Powys), checking the teacher's teaching registration and checking two references. Schools will typically issue the employment contract. Services provided by councils to schools are typically set out in a Service Level Agreement and charged back to schools.

Teachers on a supply list have access to the TPS and get teachers standard rates. It is understood that a number of councils have reduced the provision of an internal list over the years due to the administrative effort required and the related cost impact on council budgets.

In case of performance management issues schools will work in partnership with the council to resolve matters and ensure due process is followed, reflecting the formal role of the council as employer and the de facto employment of the supply teacher by the school.

Any supply that is not provided via an internal supply list is covered by staff employed by private agencies. Where schools engage external agencies, the matching, pre-employment checking and paying of staff is all performed by the agency. Agency staff are on alternative (often lower) rates than those offered to regular teachers and don't have access to TPS, although some may provide access to an alternative pension provision.

Whereas most councils that operate an internal list accept that the council is the employer of the staff, Anglesey Council has successfully argued in court, in the context of an employment tribunal, that the teacher is employed by the school for the duration of its placement (which is typically to cover very short-term placements). Whilst teachers on the Anglesey list do not receive sick pay, their daily fee rate is set at similar levels to regular teaching staff and they have access to TPS.

### 4.2 Constraints and obstacles of the current model

Overall, it appears that councils are broadly content with the model they are currently deploying, however a number of issues have been raised that could improve the current service for schools and provide improvements for the sector more generally:

- Much of the processing done by councils in support of schools is still manual. Automation of workflows would provide cost and resource efficiencies

- Not all councils provide a matching service to link available teachers to required positions; it is often up to the school to find the relevant teacher with the council then completing the relevant checks. A matching service would improve the service
- Whilst councils with internal lists provide equal pay and benefits it is recognised that staff employed by agencies are typically paid less and will not have access to TPS
- Quality assurance processes for supply teachers, particularly of those employed on (very) short term roles, are unclear at best. This creates a risk of sub-par teachers reappearing with other agencies and with other councils. A centralised model would make it easier to safeguard quality of all supply teachers
- There are different views as to the level of profitability of agencies and the extent to which establishing a central in-house model would lead to overall lower costs within the system. It was considered that any profit taken out of the system would be counteracted by the not considerable cost of establishing a new organisation and new operating processes.

### 4.3 Proposed supply model

To counteract some of the concerns around “fair work” in terms of pay and benefits parity with regularly employed teachers, Welsh Government has proposed to establish a national scheme, with the WLGA playing a key role to deliver and operate the scheme. The proposed model mirrors the model deployed by Northern Ireland Supply Teacher Register (NISTR) in Northern Ireland by the Department of Education. By way of illustration section 4.3.1 sets out the NISTR model, and 4.3.2 the proposed Wales model.

#### 4.3.1 The NISTR model

NISTR provides a register of supply staff that is operated by the Education Authority (EA) in Northern Ireland. Schools can select and contract with staff using an online platform. Teachers are employed by each school for the duration of each role. All staff are paid using a single monthly payroll operated and provided by the Department of Education’s Teachers’ Pay and Pensions Team.

The Department does not appoint or employ teachers however it provides funding to the EA to administer the NISTR system on behalf of the entire education system to ensure that all schools have access to registered, pre-employment checked, professional supply teaching staff. The NISTR Administration Team manage the solution and support the service delivery to all end users, including schools acting as Employing Authorities. It is understood that the supply staff themselves are employed by the school (conglomeration) for the duration of the post.

As such, in the Northern Ireland model all supply staff within Northern Ireland are checked and listed by a single entity within the public sector with similar rates and benefits to regular teaching staff. Schools engage the teachers using a single online platform and the administration is performed by Northern Ireland Department of Education. Employment would ultimately be with (conglomeration of) schools.

#### 4.3.2 Proposed Welsh model

##### Deployment of the Teacher Booker online platform

Under the model proposed by Welsh Government the WLGA would operate a register of supply staff on behalf of all Local Authorities in Wales. Schools would use a newly procured technology platform called Teacher Booker to advertise supply teaching jobs and to select, recruit and contract with a supply teacher. To work via the platform, supply staff would register themselves. Details would include qualifications, registration information, references and vetting. The supply teacher would also record their availability, specialism (if appropriate) and location preferences. If the teacher does not have a current DBS they would complete the application themselves.

Under the proposed platform schools will have access to the system via their own log ins and can upload jobs, search for supply staff via a range of filters, and create their own supply lists/pools of preferred staff.

Once an advert has been confirmed, the school can send all selected, available supply teachers the booking information. Bookings will be confirmed on a first come first served basis, with the contract in place once the supply teacher has accepted the request. The system generates a contract and terms for the booking.

##### Vetting

It is proposed that the WLGA would carry out the vetting of new supply teachers. It is understood that from a legal standpoint the responsibility of vetting staff sits with the employer of the staff, but that the actual function can be outsourced to third parties.

In terms of the proposed process, following self-registration, the teacher would not be approved to work until they have been approved by the verifying body (i.e. the WLGA). This process would include identity checks and verifying all information before the teacher is able to access the system. Once all information is verified the WLGA would approve the teacher and they would move to the full system, ready to accept work from schools.

Further work needs to be completed to determine the detailed approach to the vetting process and, if required, to procure any supporting technology.

##### Payroll

To ensure that supply teachers are within scope of the STPC(W)D, arrangements will need to be linked to a central public sector payroll. Furthermore, the booking system can only manage operating under a single payroll. It is therefore proposed that WLGA would provide a single payroll function.

##### Cost recovery

Specific cost recovery arrangements to cover the cost of WLGA to administer the Teacher Booker system and its activities to register, check and pay supply teaching staff have yet to be agreed. However, it is understood that it is proposed that funding for the additional Teacher Booker service for the duration of their 4-year contract, and all associated costs for functions supplied by the WLGA, would be provided by Welsh Government.

In addition, WLGA would also be responsible for invoicing arrangements to meet the payroll costs of supply teaching staff placed through the Teacher Booker system. As schools currently typically pay their local authority for vetting it could be envisaged that payments would be made to the WLGA instead of to local authorities.



### Employer-related functions

It has been anticipated by Welsh Government that from a legal point of view supply teachers would be employed by each school for the duration of each booking and hence not by the WLGA. It would be the responsibility of the school, as the employer, to create the booking which serves as a contract offer. The employment would be envisaged to cease once the booking has ended.

However, the employment status of WLGA in this model is to be confirmed by legal advisors. If WLGA were to be deemed to be an employer, this would require it to support any disciplinary processes in conjunction with the relevant school, as LAs currently do. Processes would need to be agreed and established as to how the WLGA would work with each local authority to manage any employment-related procedures.

### Professional learning

It is understood that Welsh Government is in ongoing discussion with regional consortia, local authorities and the WLGA on how access to professional learning can link with the new supply model, with a view to ensuring both accessibility and encouraging uptake. Any professional learning that is undertaken could be recorded via the Professional Learning Passport.

Welsh Government has indicated that supply teachers and other supply staff will be able to access the new Professional Learning Entitlement regardless of how they are employed. Funding provided to LAs to provide professional learning already includes provision for supply. Further detail is to be agreed as part of the work with stakeholders on the entitlement offer.

### Implementation and onboarding


Work to finalise the booking platform and implement the platform, as well as the wider overall operating model with the WLGA at its heart, is still to be completed. A staggered roll-out would be envisaged. This was originally planned from September 2023 which would include implementation with some LAs in the autumn term, with remaining LAs registered and trained to use the platform throughout the year.

The platform provider is due to provide all training, technical support for the platform and run an initial onboarding and compliance exercise to register first users on the system.

### **4.3.3 Proposed WLGA role**

In summary, based on the model set out in the previous section, the role of the WLGA would be to:

- 1) Operate a single, centralised list of supply teachers, acting as the central coordinating body supporting schools, supply staff and education authorities as needed
- 2) Provide a vetting service to ensure all supply teachers meet the relevant professional and safeguarding standards
- 3) Provide a single payroll on behalf of all participating schools in Wales, also to enable access to TPS.
- 4) Managing financial transactions between the schools and the WLGA

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- 5) Support the implementation and running of the Teacher Booker software as well as the general nation-wide operating model, ensuring there is a single and consistent process of managing and maintaining the quality of supply staff in schools in Wales.



## 5 Issues and risks

### 5.1 Key issues

Based on discussions with stakeholders a number of issues with regard to the currently proposed model can be identified. The issues result in a number of risks, which have been quantified where possible, using illustrative figures.

#### 5.1.1 Large relative scale of the proposed model

The number of supply teachers envisaged to be in scope for inclusion in the model is yet to be decided but will be in the hundreds as a minimum and a few thousand if it were to include all supply teachers in Wales. Even with just 300 supply teachers onboarded that could result in an annual payroll of just under £10 million pounds and 3,600 pay slips per annum.

Both in terms of the number of supply teachers and in terms of total expenditure this would result in an organisation that, when hosted by the WLGA, would be very large in comparison, if not larger than the WLGA itself. This would expose WLGA to significant financial and reputational risk.

As a consequence of this risk exposure, the WLGA Board would be required to dedicate significant effort on the effective governance of the scheme (or the body set up to operate the scheme) which would likely come at the expense of WLGA's other activities and strategic priorities.

#### 5.1.2 Significant implementation effort and complexity

Given the scope and complexity of implementing the model and its underlying processes, the implementation effort required would be significant. Local authority and school support for implementation would be critical, requiring significant ongoing stakeholder engagement.

As WLGA has not implemented a project of similar complexity before it would expose WLGA to material financial and reputational risk and would require significant WLGA effort, even if the implementation would be outsourced to a third party.


#### 5.1.3 Limited operational delivery expertise

Whilst the WLGA is currently anticipated to provide payroll, vetting and implementation services, its experience of delivery of these services is very limited and access to relevant systems would need to be set up. WLGA payroll is currently run by Cardiff Council. Therefore, any payroll function for the scheme would likely need to be outsourced to Cardiff or another organisation.

Ultimately the WLGA would carry the financial and reputational risk of any payroll and vetting errors.

#### 5.1.4 Employment position could expose WLGA to material risk

It is unclear at this stage whether WLGA could indeed avoid employment status, mirroring the Anglesey employment model, as Welsh Government is suggesting, or whether it will ultimately be considered an employer, as is the current presumption of



other Welsh councils with local supply teacher lists. Legal advice would need to be sought on this matter to provide greater clarity.

If an employment relation were to exist this would expose the body to significant employment related risks, for example in relation to claims in relation to pay, dismissal or in relation to pension.

#### 5.1.5 Constitutional status of the WLGA

As WLGA itself is not a body, any commercial relationships, including employment of staff and contracting for any third-party services, the model would require WLGA to establish a corporate body such as a company, resulting in complexity to the WLGA and its governance.

WLGA has previously set up a body for the Joint Inspection Team (JIT) providing some precedent for this model, JIT is relatively small with less than 10 employees. Any risk related to the supply teacher body's activities (e.g. due to payroll error, cost overruns of outsourced delivery, employment risk) would be borne by the corporate body/WLGA.

It is not yet clear how this risk would be managed. Effective cost allocation processes and operating processes with each local authority and school will need to be established to provide operational resilience and mitigate risks.

#### 5.1.6 Access to TPS yet to be confirmed

For supply teachers to have access to the TPS, the employer would need to be an education body (having a Department of Education number), which WLGA is not at this stage.

It is not clear how the WLGA body would be able to obtain the relevant TPS access although it is understood from the Welsh Government that this should be able to be accommodated. Further engagement with TPS is needed to determine how that could be delivered, and, if so, how and what the implications of that would be for WLGA, for example in relation to employment status of supply teachers.

#### 5.1.7 Take up of the scheme by schools uncertain

There is no guarantee that schools will use the new system, particularly as supply teachers on the scheme are likely to be more expensive than current agency staff due to their improved pay and benefits. As school budgets will not be protected going forward demand for more expensive staff will be low given other priorities. This exposes the WLGA to financial and reputational risk.

#### 5.1.8 Recovery of ongoing delivery costs to be agreed

The WLGA body would incur ongoing operating costs to deliver its functions, including not just staff vetting, payroll, invoicing and any general onboarding of new supply staff but also engaging regularly with councils and schools to ensure the effective ongoing delivery of the service. Given the complexity of aligning a central body to a variety of local processes and systems in the various councils (and their schools) these costs could be relatively high, and would all need to be recovered, requiring agreement on a recovery formula.



### 5.1.9 Exit arrangements uncertain

There is no guarantee that Welsh Government will continue to provide the required funding to support running the scheme on an ongoing basis. Changes in political priorities and financial settlements may therefore create funding gaps with little notice or even require the scheme to be abolished. In the absence of agreement with Welsh Government as to how any financial exposure to the WLGA will be covered it would expose the organisation to significant financial risk. Furthermore, it would expose the wider sector to operational risk due to uncertainty as to how supply teachers would continue to be supplied to the sector.

## 5.2 Risk assessment

To summarise the risk position of the proposed model for the WLGA Board, the table on the next page sets out a summarised risk assessment based on the issues described in 5.1. It should be emphasised the assessment below sets out the risks to the WLGA only, not the risks to the wider sector or to Welsh Government.





Risk	Impact (1-5)	Likelihood (1-5)	Overall Risk score	Comment
Financial risk	5	4	20	<p>Even with 300 supply teachers, payroll for the entity could approach £10m per annum.</p> <p>Whilst Welsh Government would be able to provide funding to cover initial costs and risks (e.g. operational error) it cannot be guaranteed to continue to do so indefinitely.</p> <p>A lack of demand from schools and the uncertainty of exit arrangements provide further material financial risk to the WLGA.</p>
Employment Liability risk	5	4	20	<p>If WLGA were legally deemed to be the employer of the supply teachers within the scheme this would expose the organisation to significant liabilities in relation to pensions and other employment-related claims.</p>
Operational delivery risk	4	4	16	<p>In the absence of material expertise in implementing and running of the anticipated functions of the scheme and the complexity of integrating the WLGA functions with distinct Local Authority operating processes there is a risk of operational error and ongoing delivery issues.</p>
Reputational risk	4	4	16	<p>As operational delivery has to be agreed in more detail there is a risk the scheme as envisaged is not operationally viable, impacting the reputation of the WLGA.</p> <p>In the absence of significant experience to establish and deliver the model, the relative immaturity of the operating model and demand uncertainty, reputational risk to the WLGA is significant. Obtaining 3<sup>rd</sup> party support can only partly mitigate this.</p>
Risk to delivery of other WLGA strategic priorities	3	3	9	<p>The scale and complexity of the implementation of the programme will likely require significant focus at Board level at the expense of other WLGA priorities.</p>



## 6 Summary assessment and way forward

### 6.1 Summary assessment

There is a general support within the WLGA and the sector more widely to seek to deliver the policy objective to develop a sustainable model of supply teaching with fair work at its heart.

However, the various stated issues of the currently proposed model and the resultant risks for WLGA appear to be very significant. The scope and scale of the operational activities that WLGA is expected to deliver under the scheme is very significant when compared to the WLGA's size, both in terms of people and in terms of financial reserves. This means that even small setbacks or unexpected outcomes can have relatively large implications for the WLGA, whether operationally, financially or reputationally.

Additionally, uncertainty around the employment position, the way costs will be allocated between the parties and the nature and duration of any Welsh Government support result in significant financial risk to the WLGA, both in terms of its ongoing operating budget and in terms of its financial reserves.

Effective governance would be fundamental to mitigate these risks, requiring ongoing focus and effort at Board level. This would likely limit the Board's capacity to pay sufficient attention on its other strategic priorities.

It can therefore be reasonably questioned whether it would be possible for the WLGA to host the anticipated functions as currently envisaged without exposing the organisation to unacceptable levels of risk.

### 6.2 Way forward

Alternative models to deliver the scheme could be envisaged that would not put the WLGA at risk and would therefore provide a more sustainable way forward. Further work would be required by engaging with the sector to develop alternative operating models that would effectively addresses the various operational and employment related matters, raised underpinned by robust financial and commercial arrangements required to obtain local authority support.

WLGA would be well placed, given the nature and strengths of the organisation, to support Welsh Government with the design and development of such a scheme that would meet the stated policy objectives.



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### **Welsh Government proposed PSEE arrangements for WLGA – Supply teacher platform**

#### **Setting up the Public Sector Employing Entity (PSEE)**

- We propose that a PSEE is set up by the WLGA as either a Limited Company (this is the fastest option) or Community Interest Company. Either way, the cleanest way is for it to be a wholly owned subsidiary of the WLGA in this instance. It will need a named Director and Articles of Association, as any company would (adopting the Model Articles of Association should be straightforward). It will also need liability insurances, relevant to the type of company and service that is provided.
- The PSEE will be wholly owned by WLGA but be separate in terms of finances etc.
- Costs for the PSEE will be covered by WG, although cost outline will need to be provided by WLGA in advance.
- The 'setting up' of the PSEE is mainly an administrative process and Teacher Booker (TB) is able to provide guidance on this process.

#### **Role of the PSEE**

- The purpose of the PSEE is to provide a public sector payroll, linked to TPS and STPC(W)D on behalf of local authorities. The PSEE would also undertake a central vetting service.
- The PSEE can choose to outsource the payroll function or vetting service to other providers, and do so using funding provided by WG. This could include outsourcing to Teacher Booker, although this would be outside of our procurement with them and would be for the WLGA to decide.
- It is anticipated that the PSEE would pay for a payroll function from an external provider.
- There are options for undertaking the vetting service e.g. outsourcing to one LA, all LAs or another organisation. Whichever vetting process is agreed, the vetting arrangements will need to be agreed by all LAs.
- One example of how the vetting could be undertaken is to allocate each worker to their 'home LA' based on home address. The LA would vet the worker and approve them to work across LAs.

#### **How the PSEE operates under the WLGA**

- TB recommend it is a wholly owned subsidiary of the WLGA.
- Separate staffing is not necessarily required as the PSEE could buy the time of existing staff in the WLGA – e.g. HR or finance officers for a proportion of their time. Costs of this would be covered by the WG.
- This approach is a 'clean start', detached from the WLGA, and will be straightforward to outsource any required operational functions to individual local authorities (if this is agreed by all and it a more appropriate option e.g. vetting).
- Under the PSEE employment terms for supply teachers would be separated cleanly from WLGA employees with no crossover.
- WG would be able to support the process of adding the PSEE to the TPS regulations to enable all supply staff to be paid a pension. DfE has advised that adding new public sector organisations is done frequently. The WG and TB can provide support to ensure this can be managed. It is our understanding that the PSEE would need a DfE number, but WG can discuss this with DfE.
- Access to the EWC register can be provided to the PSEE.

### **What is required from the PSEE**

Once set up, the PSEE will need to:

- Sign an agreement to outsource the services it is not undertaking (e.g. vetting/document checks) – or if it is not undertaking DBS applications:
  - The PSEE will either need to be registered with an e-broker to process new DBS applications OR will need to register for the E-bulk service (min volume 1500). It would be worth speaking to the DBS about this and explaining the model.
  - Once the PSEE is registered, the PSEE can outsource day-to-day processing of DBS applications to the interim vetting partner (Teacher Booker Ltd for the first 750 registrations). TB can also help with setting up with the e-broker and can recommend one they have used.
- Adapt TB's Contract for Services. This document will be presented to workers when a job is offered to them and acceptance of the Terms will be required in order to accept each individual job. There is time to finalise this aspect as acceptance of the Contract for Services Terms is not a prerequisite to register workers and begin their vetting.
- Get insurances
- Be approved to administer TPS and access EWC register.

### **What functions the PSEE needs to undertake**

- Vetting/document checks including commissioning new DBS Checks and conducting EWC Checks — this function will be outsourced to Teacher Booker for the first 750 registrations and support will be provided to move this function over to the PSEE. TB is accredited with Standards in Recruitment and very experienced in providing this function. A variation in the PSEE central functions role could be to outsource vetting to individual LAs as outlined above.
- Invoicing (collecting payments from schools).
- Operating payroll for all bookings.
- Contract management between PSEE and outsourced support (if applicable)

### **Advantages of PSEE via WLGA**

- Entity can be set up quickly, without need for staffing or funding. Initial support can be provided by TB.
- Functions are public sector and remain with the employers, represented by WLGA. This is the Minister's preference.
- Platform costs can be separated from WLGA finances. Role of PSEE is separate from WLGA.

### **Additional considerations**

- TB has an established platform operating across England and Scotland. Their system already links to LA payrolls and to third party providers. These processes are GDPR compliant.
- Template contracts can be provided which outline rights of workers and the basis they are undertaking the work.
- Safeguarding arrangements remain as before. Vetting partners must ensure worker has the correct checks in place but schools cannot automatically assume that checks have been undertaken. It is a school's responsibility to request ID and DBS when the supply teacher arrives at the school, regardless of assurances from an agency. This

is set out in the statutory guidance, Keeping Learners Safe.

- The cost for providing the services via a PSEE will be variable as there is currently no indication of uptake. If proposal is agreed, further discussions will be required with WLGA to determine approximate costs, which can be reviewed as the platform is rolled out.