

Covering Teachers' Absence: Follow-up

November 2020



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Key messages

- 1 In 2013, we looked at arrangements for covering teachers' absence, working with Estyn – the schools inspectorate for Wales. Taken together, the reports raised concerns about the management of absence, the impact on learners' progress, support for supply teachers and the cost of cover.
- 2 Since 2013, there have been several other reviews and developments in Welsh Government policy, guidance and contracting arrangements. We assess the latest position and the impact of some of these actions in this follow-up report.

Response to Audit Wales consultation, 2020

“ A qualified, experienced supply teacher, delivering a well-planned lesson that is either stand alone or part of the work pupils are doing, can be beneficial. If nothing else, pupils learn that they can have an interesting day learning from a new adult and develop resilience and adaptability. If expectations of cover are low or cover-teaching poor or non-existent, cover is damaging to children's self-esteem, progress and learning. ”

- 3 **The Welsh Government has taken action to support supply staff, tackle the root causes of teacher absence from the classroom, improve the management of absence and address some key concerns about agency contracts. However, gaps in data mean that it is still difficult to say whether some of these actions are having the intended effects.**

- 4 The Welsh Government and its partners have been trying to tackle the root causes of teachers' absence from the classroom; in particular, sickness absence and professional development activities. In response to evidence on teachers' heavy workload, it also took action to reduce the administrative burden that some face although we do not yet know if workloads have reduced. While some councils have seen improving levels of sickness absence, overall levels have not reduced since 2013. There is still little monitoring or reporting of absence for reasons other than sickness.
- 5 The Welsh Government has sought to improve resources and access to training for supply teachers. This remains a challenge as access to training and support is often through employment. Supply agencies have provided a range of training events for supply teachers and learning support workers. Online resources on the new curriculum for Wales are available to supply teachers with access to Hwb, its digital platform. The Welsh Government has encouraged the regional education consortia and councils to provide training for supply teachers ahead of the new curriculum in September 2022. Schools are encouraged to provide performance feedback to cover staff but it is not clear that this happens routinely.
- 6 The Welsh Government has provided guidance for schools on safeguarding arrangements for temporary staff. Ultimately however, responsibility for pre-employment checks and supervision lies with the school and governors.
- 7 In 2017, the Welsh Government established a pilot scheme which saw newly qualified teachers employed as supernumeraries to provide cover across 19 school clusters. Schools reported benefits including better quality teaching and more continuity for learners. The teachers were able to complete their training. However, the on-going costs of employing supernumerary teachers were a barrier to schools continuing when the pilot funding stopped. A minority continued to employ the teachers. Some school leaders reported changing the approach to cover to carry forward some benefits from the pilot.
- 8 Previously, we found schools and councils did not monitor total expenditure on covering teachers' absence. The Welsh Government still considers that schools and councils are best placed to do this. We recognise that there are difficulties collecting comprehensive information. But currently there is no all-Wales data available on total expenditure, how cover is provided or its impact on learners.

- 9 Since 2012, there have been three different national framework contracts for agency staff in education. Over time both the number of councils using the framework and expenditure have increased. The contract starting in September 2019 addresses many of the concerns expressed about previous arrangements. It includes provision for basic training, transparent agency costs and changes to employment practices. The Welsh Government included a minimum pay level for supply teachers in the contract, equivalent to the bottom of the main teachers' scale. This increase in pay was welcomed by supply teachers and their representatives although it is likely to increase pressure on school budgets.
- 10 Schools were suspended from 20 March 2020 to 28 June 2020 as a result of the coronavirus pandemic. Eligible supply teachers working for agencies on the national framework were furloughed through the UK Government's job retention scheme. The Welsh Government expected councils and schools to continue to pay those directly employed to the end of their contracts. The long-term impact of this disruption on the supply workforce and agencies remains to be seen.
- 11 The Welsh Government estimates that cover to release staff to prepare for the rollout of the new curriculum could cost £10.8 million in 2020-21. We are not clear if there are enough active supply teachers available to do this, especially as there are likely to be demands for staff for the 'Recruit, Recover and Raise standards' initiative and higher than average sickness absence or staff self-isolating due to the coronavirus pandemic. This is particularly likely to be a problem for Welsh-medium schools that often report difficulty hiring supply teachers and for shortage subjects in other schools.



Workers who provide temporary classroom cover in our schools are a vital part of our education system. But there are consequences for learners' progress and school budgets if teachers' absence from the classroom is not managed well. There have been a lot of important developments since our 2013 report, but the Welsh Government could do more to demonstrate the impact of the action it has taken. It also needs to consider whether there are enough temporary workers available to help manage the COVID-19 response alongside preparations for the new curriculum, particularly where there are already known shortages.

Adrian Crompton
Auditor General for Wales



Key facts

Options available to schools for covering teachers' absence

Supply teachers

- Expected to actively teach a class.
- Employed by the school or hired through an agency.

Cover supervisors

- Higher level teaching assistants who can provide short-term cover.
- Can be directly employed by the school or hired through an agency.

Supply teaching assistants

- Supervise a class but are not expected to actively teach.
- May cover absent teaching assistants or other learning support workers, for example to work with pupils with additional learning needs.
- Most are employed through agencies.

Other options include

- A headteacher, deputy or assistant head provides cover.
- Reorganising timetable or classes.
- Specialists such as sport, art or music companies to provide alternative activities.
- Floating teachers with a contractual requirement to provide cover.



The current national contract for agency staff in education

- Contract runs from September 2019 to July 2022.
- Framework contract with 22 geographical zones, each covering a council area.
- In September 2020, 25 agencies featured in at least one geographical zone.
- Schools and councils spent £41.4 million through the contract between September 2019 and March 2020.
- At least 89% of expenditure between October 2019 and March 2020 was on supply teachers and other classroom staff.



Recommendations

Recommendations

Ensuring the quality and sufficiency of supply teachers for schools

- R1 As part of its work to ensure the quality and sufficiency of supply teachers for schools, we recommend that the Welsh Government:
- reinforces in its policy development and implementation that effective management of staff absence is fundamental to ensure positive learner outcomes.
 - sets out some clear longer-term measures of success against which progress in improving the quality and sufficiency of supply teachers can be judged.
 - works with the Education Workforce Council, regional education consortia and agencies to promote the availability of training and resources to supply teachers and learning support workers, particularly as part of its work to prepare the teaching profession for the curriculum reform roll-out from September 2022.
 - clarifies if schools can arrange enough cover to release staff to prepare for the roll-out of the new curriculum from September 2022 as well as responding to demands resulting from the coronavirus pandemic. This is particularly important for Welsh-medium schools and subjects where supply shortages already exist.

The national framework contract for agency staff

- R2 The 2019-2022 national procurement framework for agency staff has benefits for learners and schools as well as supply teachers. But we recommend that the Welsh Government:
- puts in place monitoring arrangements for the contract's operation to ensure that supply teachers, cover supervisors and learning support workers are working within their role description;
 - encourages schools to use its national contract for agency staff to benefit from its quality standards and safeguarding arrangements; and
 - monitors the rate of take-up of its national contract for agency staff to check if schools are switching to using agencies outside of the contract's requirements.



Progress on reducing and managing absence from the classroom

01

Progress on reducing and managing absence from the classroom

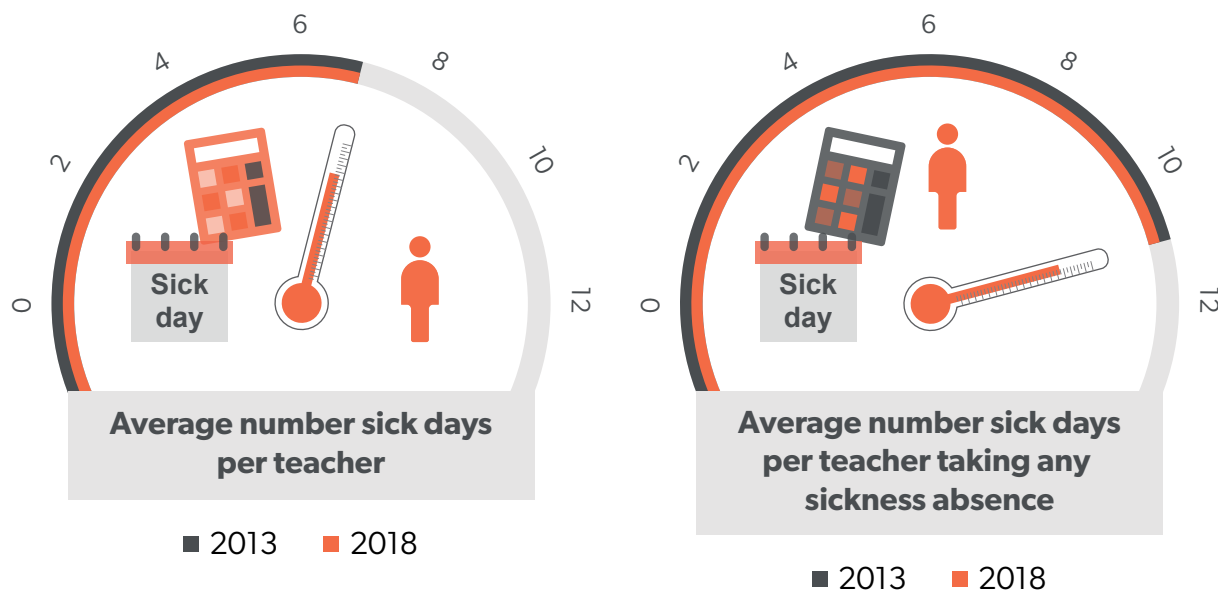
- 1.1 Previously we found that around 10% of classes were covered by someone who was not the class teacher. Schools did not routinely monitor who was providing cover. The most common reasons for absence from the classroom were sickness and professional development.
- 1.2 Most schools in Wales have a service level agreement with their council for human resources support and will adopt the council's attendance management policies. In 2017, Estyn found that nearly all primary schools tracked and monitored sickness absence in line with their attendance management policy. Half of headteachers had been trained in attendance management in the previous three years. The Welsh Government issued guidance about managing the school workforce effectively in 2015: most headteachers knew about it but only a few reported reading and acting on it.
- 1.3 The Welsh Government's guidance states that schools should monitor staff absence from the classroom and include information in reports to governors. Estyn found that very few primary schools recorded how often teachers were absent from the classroom for reasons other than sickness. We did not examine how individual schools apply the revised Welsh Government guidance now, but heard no evidence suggesting the situation had changed.
- 1.4 The guidance states clearly that effective management of staff absence is fundamental to ensure positive learner outcomes. However, this emphasis is not reflected explicitly in the Welsh Government's policy document [Education in Wales: Our national mission](#).

The Welsh Government has been trying to tackle some of the root causes of absence from the classroom

Overall, teachers' sickness absence has stayed the same since 2013 although some councils have seen improvement

1.5 Annual statistics show that sickness absence among teachers was 7 days in 2018, the same as in 2013 (**Exhibit 1**), equating to a sickness absence rate of 3.6%.

Exhibit 1: sickness absence – teachers, 2013 and 2018

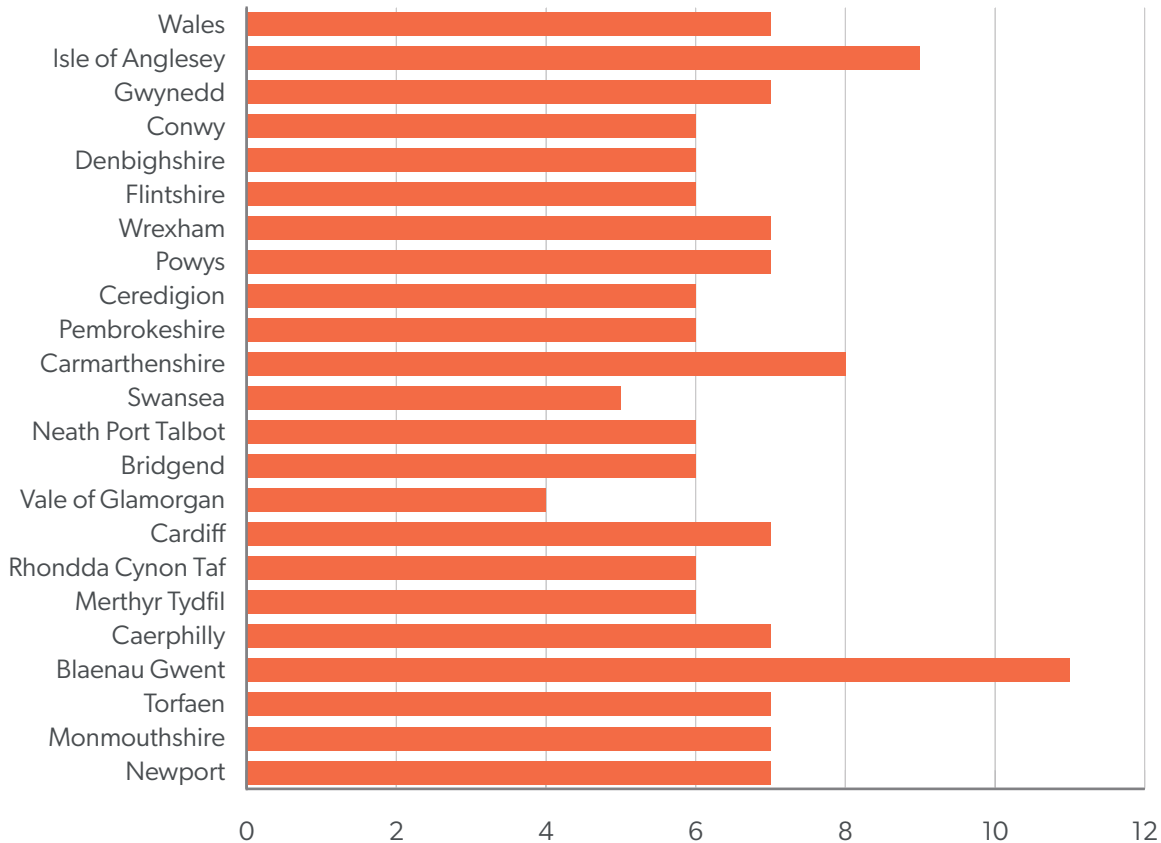


Note: In August 2020, Statistics for Wales announced it would not publish data for the year to 31 December 2019.

Source: Statistics for Wales – Teacher Sickness Absence

1.6 Levels of absence vary between councils: in 2018, there was six days difference between the highest and lowest (**Exhibit 2**). Although the overall average has stayed the same, some councils have improved: the average fell by two or more days between 2015 and 2018 in Conwy, Pembrokeshire, Neath Port Talbot and Vale of Glamorgan.

Exhibit 2: average number of days sickness absence per teacher by council, 2018



Note: In August 2020, Statistics for Wales announced it would not publish data for the year to 31 December 2019.

Source: Statistics for Wales – Teacher Sickness Absence

The Welsh Government has been trying to reduce workload and bureaucracy, factors that can contribute to stress-related absence

- 1.7 Welsh Government annual statistics do not include the causes of sickness absence. But many respondents to our consultation identified stress and/or workload as contributory factors. In the 2017 Education Workforce Survey, 88% of teachers said they could not manage their workload in working hours. Full-time teachers on average reported working 51 hours a week.
- 1.8 The Welsh Government responded in September 2017 by announcing funding of £1.28 million (matched by £600,000 from the councils involved) for a two-year pilot project employing school business managers to reduce the workload of heads and school leaders. At the same time, Estyn published a [Reducing Workload Guide](#) for teachers and headteachers.

- 1.9 In April 2019, the Welsh Government established a 'Managing Workload and Reducing Bureaucracy Group' with representation from councils, schools and trade unions. Its aim was to reduce the administrative burden on teachers and heads. In June 2019, the Minister for Education announced that the Welsh Government would take forward four immediate priorities:
- developing a 'Workload & Well-Being Charter and Toolkit' for the school workforce;
 - refreshing, promoting and monitoring take-up of Estyn's Reducing Workload Guide;
 - developing and publicising training models and case studies to encourage a national approach; and
 - auditing data requirements on schools from across the system and assessing the impact of collecting data on workload.
- 1.10 The Minister said that a further education workforce survey would be conducted within 12 months to support this work by monitoring workload. This survey had not taken place when schools were suspended in March 2020, though the commitment to undertake a survey remains.

The Welsh Government introduced new measures aiming to reduce teachers' time out of the classroom

- 1.11 As well as trying to reduce the administrative burden on teachers, the Welsh Government has also introduced steps to cut the amount of time teachers are out of the classroom for training or development activities by:
- encouraging schools and regional consortia to hold 'twilight' training sessions outside school hours;
 - encouraging consortia and councils to coordinate training events and make full use of in-service training days; and
 - legislating for an extra in-service training day from 2019-20 for three years specifically to prepare for the new curriculum.
- 1.12 A few schools have adjusted their timetables, for example by closing schools to pupils on one afternoon a week to coordinate planning, preparation and assessment sessions. Seemingly driven by a desire to cut costs, this may reduce the need for cover. We did not explore the impact on schools, pupils or parents and carers.

A lack of monitoring or research means that we still do not know how schools are covering absence

- 1.13 The Public Accounts Committee recommended previously that the Welsh Government, local authorities and schools monitor who provides cover and conduct research on the effectiveness of different options. The Welsh Government's 2015 guidance set out the options available to schools for providing cover when necessary. It clearly stated the circumstances in which learning support workers can provide cover, for example, for short periods of unplanned teacher absence while a qualified teacher is being sought. It reinforced that schools should monitor how cover is provided and report to governors.
- 1.14 In 2017, Estyn found that very few primary schools monitored how effective cover was in ensuring that pupils make effective progress. Without this information, governors, councils or the Welsh Government cannot judge the impact of cover on learners.
- 1.15 During our work, interviewees expressed the opinion that schools were increasingly using teaching assistants to provide general cover rather than supply teachers to teach. In January 2020, the Minister for Education told the Senedd's Petitions Committee inquiry into supply teachers that the role of a teaching assistant is clear. She asked teaching assistants and their representatives to report incidents where they are asked to act in a way that breaches their role to the Welsh Government. The Welsh Government told us that no incidents had been reported when schools were suspended in March 2020.
- 1.16 Although the School Teachers' Pay and Conditions (Wales) Document states that teachers should rarely provide cover, there is no limit on the amount of cover that headteachers or deputy and assistant headteachers can do. Covering for teachers adds to workload pressures on school leaders. In 2017, Estyn found only half of primary schools had specific policies on managing headteacher absence and recommended that the Welsh Government provide guidance on this issue. This was included in the Welsh Government's 2017 and 2020 revised guidance that recognised the role of councils and governors in overseeing headteacher absence. We did not examine how many schools and/or councils now have a specific policy in place.



Progress on supporting cover staff and safeguarding

02

Progress on supporting cover staff and safeguarding

2.1 In 2013, we found that cover staff lacked access to training and resources. They did not always have support and information from schools to work effectively. A lack of performance monitoring and feedback to teachers or agencies reduced opportunities to improve and risked safeguarding concerns being missed. In 2017, the Welsh Government committed to develop alternative models to ensure the quality and sufficiency of supply teachers for schools in **Education in Wales: Our national mission**.

Access to training and support for cover staff has improved but gaps remain

2.2 Supply teachers and learning support workers can have limited opportunities to access professional learning because it is often gained through employment. In 2017, Estyn found that most primary schools invited supply teachers to training events. Few, however, included cover staff in the school's improvement plan. Only a few local authorities organised training courses specifically for supply teachers.

2.3 The Welsh Government took action to make training and resources more available to supply teachers in 2016. This included:

- bringing together information and guidance for supply teachers as part of its free education materials available in its digital learning platform, Hwb.
- providing supply teachers with email addresses needed to access tools and resources to support teaching that are not freely available on 'Hwb'. By June 2020, 980 email addresses had been issued to supply teachers.
- establishing Supply Teachers – Athrawon Cyflenw, a professional learning network open to supply teachers with a Hwb email. However, Welsh Government officials told us that few supply teachers have used the network.

2.4 The Welsh Government has also ensured supply teachers can access training by the regional education consortia free of charge. It reports that some regions pay supply teachers to attend training for induction. The Welsh Government does not have figures on uptake.

- 2.5 Agencies on the national framework are required to offer basic training to supply teachers and learning support workers (**Appendix 3**). This covers safeguarding, manual handling, first aid and behavioural management. This requirement was included in the contract that ran from September 2015 to July 2019. But the expanded number of agencies on the current contract means more cover staff should have access to training. Agencies have offered a range of other training, although we do not have figures on take-up, by agency staff. Given that this is the first year of the contract and that education has been disrupted since March 2020, we recognise that data for the academic year 2019-20 is unlikely to be typical.
- 2.6 The 2017 Education Workforce Survey also found that supply teachers did not have access to professional development (42% of supply teachers had no professional development in the previous 12 months compared to 14% of teachers). Several responses to our consultation said that supply staff were still not getting the necessary support and information from schools. The Welsh Government has committed to undertaking another Education Workforce Survey that would provide more up-to-date insight about access to professional development and the impact of the Welsh Government's actions.
- 2.7 Supply teachers and recruitment agencies maintain the biggest barrier to training is money; either the cost of training events and/or losing income if they are unavailable for work. In 2017, Estyn found that primary schools generally only pay supply teachers for time spent on training or development work if they are on a long-term placement. The Welsh Government has encouraged the regional education consortia to provide training events for supply teachers in school holidays, at the weekend or after school. The Welsh Government told us that some twilight sessions have been held, but we do not know how many cover staff attended.

Supply teachers and learning support workers will need training to support the new curriculum

- 2.8 In September 2017, the Welsh Government outlined its action plan for improving education, including a new curriculum. Evidence from schools pioneering the curriculum suggests that it requires a new approach to teaching. To support learners' progress, supply staff will need to understand the approach when roll-out starts in September 2022. They also must be prepared for working in schools offering more differentiated local curricula, another element of the reform.

2.9 The Curriculum for Wales' Professional Learning Programme launched by the regional consortia in spring 2020, includes interactive online resources accessible to all educational practitioners, including supply staff who have registered for an email address to access the Hwb. Over time more material is being made available digitally, including professional learning and cases studies about how teachers and schools are responding to the challenges of coronavirus. The Minister for Education reported to the Senedd in November 2018 that the regional education consortia would be asked to monitor the amount of training made available to supply teachers and its uptake. She said that schools would have flexibility to include supply teachers in professional training for staff. The Curriculum and Assessment (Wales) Bill 2020 Explanatory Memorandum published in July 2020 does not include further details.

The Welsh Government's pilot employment model supported some newly qualified teachers to achieve professional standards but at a cost to schools

- 2.10 Since 2003, newly qualified teachers (NQTs) must undertake statutory induction to achieve the professional standards for teaching and leadership. They can count supply sessions towards the requirement, but it is difficult to get the full range of experience by doing supply work (for example, supervising visits or planning lessons). In 2019, the Education Workforce Council reported that only 3.5% of NQTs achieving the standards since 2012 did so solely through being a supply teacher.
- 2.11 In 2017, the Welsh Government invited bids to take part in pilot projects in which supernumerary teachers were employed specifically to provide cover. The Welsh Government limited the pilots to employing NQTs, giving more a chance to complete their training. Although 55 of the 56 individuals employed achieved the professional standards during the pilots, employing NQTs had implications for schools; for example, they were not always available for cover because they were doing other work to complete their induction. Costs would have been increased compared to employing registered teachers because NQTs require more supervision and do not have a full timetable.
- 2.12 In July 2020, the Welsh Government announced grant funding for schools to support learners whose education has been disrupted by the coronavirus pandemic. Schools have freedom to decide how to support pupils including employing supernumerary teachers and learning support workers. The Welsh Government expects schools will learn from the experience of the earlier pilots, for example, to avoid the difficulties some clusters had employing staff across several schools.

The Welsh Government has issued guidance on safeguarding for temporary staff but responsibility for pre-employment checks and safeguarding information lies with schools

- 2.13 Our previous report found not all schools ensured that safeguarding procedures were in place for cover staff. In 2015, Welsh Government safeguarding guidance for schools provided advice on employers' duties in a supply context. Its guidance on managing workforce attendance made clear that schools should carry out the same checks¹ for supply staff as for permanent employees.
- 2.14 It is unlawful for schools to hire any person to work as a teacher or learning support worker if they have not registered in that category with the Education Workforce Council. To facilitate pre-employment checks, the Education Workforce Council makes its registers available to schools, councils and all 55 agencies operating in Wales. It told us that it was aware of occasions when agencies had placed staff without checking their registration status. While failing to check the register is not a breach of the law, placing a person as a teacher or learning support worker in a school who is unregistered is. The national contracts for agency staff since 2012 have required agencies to undertake pre-employment checks and provide general safeguarding training. Since September 2019, the increased number of agencies on the framework means that this requirement applies more widely.
- 2.15 Ultimately, schools are responsible for ensuring supply staff have been through the correct checks before they start work and to record evidence of this. Welsh Government guidance states that it is not enough for the school to rely on an agency or local authority to do this. They must also provide information on the school's internal safeguarding procedures to supply staff. In 2017, Estyn found that school leaders in a few schools do not ensure that these checks are made before temporary staff start work. They reported that too many schools did not provide new supply teachers with important information about the school's safeguarding policies. We received some evidence suggesting that some schools and/or agencies do not always make appropriate pre-employment checks, but we do not know if this is widespread. We had no reports of specific incidents.

1 Schools must ensure that any staff employed to work with children are registered correctly with the Education Workforce Council and have a current enhanced Disclosure and Barring Service check.

Schools are encouraged to provide performance feedback to cover staff but it is not clear that this happens routinely

- 2.16 Previously we found that supply teachers employed for less than a term rarely received feedback on their performance². Welsh Government guidance states it is good practice for a nominated senior staff member to give constructive feedback to the individual and any employing agency. The school should keep a written copy of feedback.
- 2.17 In 2017, Estyn found that most primary schools provided feedback on supply teachers' performance to agencies. Very few gave feedback to supply teachers themselves or undertook formal performance management, unless the supply teacher was employed for more than a term. The 2017 Education Workforce survey found that only 21% of supply teachers (compared to 73% of permanent teachers) and 24% of supply learning support workers (compared to 33% of permanent learning support workers) had been observed and received feedback in the previous 12 months. A future Education Workforce Survey may provide evidence of any improvement.

2 A supply teacher employed in a school for more than one term is subject to the national performance management arrangements for teachers.



Progress in managing expenditure and sourcing cover

03

Progress in managing expenditure and sourcing cover

- 3.1 In 2013, we found that neither schools, local authorities nor the Welsh Government monitored the full cost of providing cover. We also found shortages of supply cover for some subjects and for Welsh-medium schools.

There remains a lack of all-Wales data on the full cost of cover to inform budget planning and judgments of value for money

- 3.2 In 2013, the Senedd's Public Accounts Committee recommended that the Welsh Government monitor expenditure on cover. The Welsh Government accepted this recommendation in principle; its response indicated that it believed schools and councils were best placed to gather information.
- 3.3 In 2016-17, the [Ministerial Taskforce report](#) again highlighted the lack of data on spending and recommended the Welsh Government work with local authorities, schools and supply agencies to analyse the full cost of supply teaching. The Welsh Government remains of the view that this analysis is best done by schools and/or councils.
- 3.4 We recognise that there are difficulties collecting comprehensive information. But currently there is no all-Wales data available on total expenditure, how cover is provided or its impact on learners. To understand the full cost of cover, data would need to include agency cover, teachers and learning support workers directly employed by schools on a temporary basis and permanently employed cover supervisors and teachers who provide cover. It would also need to take account of absence insurance or local arrangements to help schools manage the cost of cover. Better data would help the Welsh Government, councils and schools to plan their budgets and improve their understanding of whether arrangements are providing value for money.

The 2019 national framework for agency staff addresses many concerns expressed about previous arrangements but risks remain

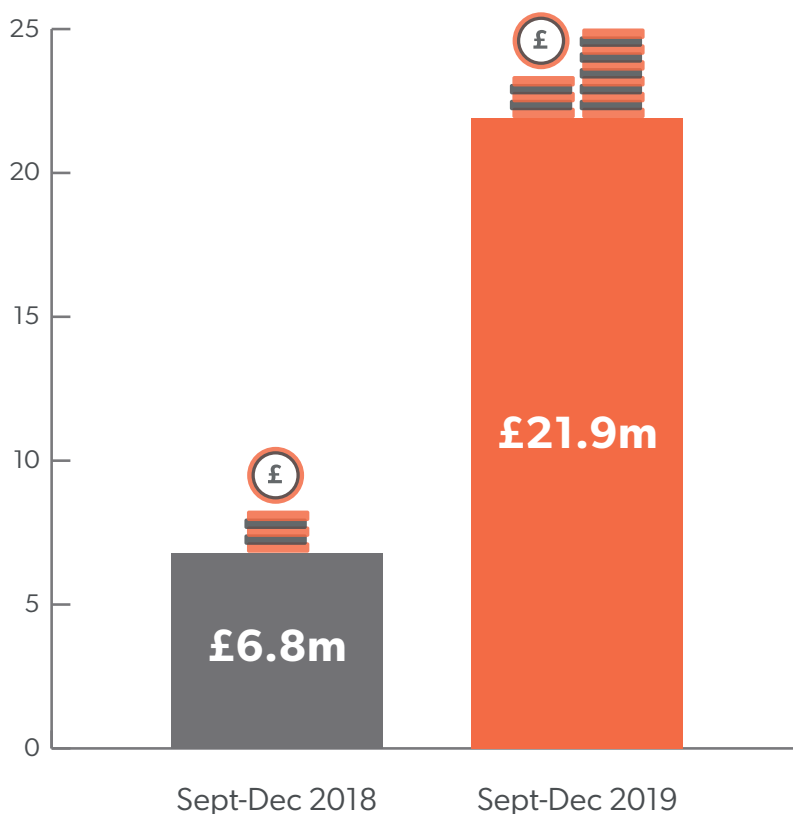
The National Procurement Service collaborated with local authorities to address many of the concerns expressed previously about agency working

- 3.5 In 2013, we highlighted that the opportunity was missed to influence the arrangements and training of supply teachers during the tendering process for the 2012 national framework contract for agency staff. The Welsh Government's National Procurement Service (NPS) led the tendering process for the subsequent contract. It placed more requirements on bidders in terms of safeguarding arrangements and basic training.
- 3.6 Tendering for the latest 2019-2022 national contract allowed the Welsh Government to respond to the 2017 Ministerial Taskforce's recommendations and to concerns about supply teachers' pay and conditions from lobby groups, unions and others. NPS officials worked in collaboration with a network of council procurement and human resources staff to understand councils' requirements and to make improvements to the contract.
- 3.7 **Exhibit 8 in Appendix 3** provides more detail, but generally we conclude that the terms of the latest contract have responded to previous concerns:
- the framework has 22 geographical zones, each covering a local authority area, providing schools with a choice of agencies meeting the requirements placed by the contract;
 - requirements designed to increase quality extend to all the agencies on the framework including:
 - basic training for agency staff;
 - pre-employment checks; and
 - feedback from agencies to supply staff.
 - agency costs are transparent to schools and councils;
 - umbrella companies, where used, must be registered in the UK;
 - agency staff in placements lasting over 12 weeks receive higher pay in line with the 2010 Agency Workers Regulations; and
 - set a minimum rate of pay for agency supply teachers equivalent to the bottom of the main schoolteachers pay scale (**paragraphs 3.10-3.19**).

Expenditure through the new contract for agency staff has increased but we do not know from available data if this represents a change in overall expenditure

3.8 NPS monitors expenditure through the national contract³. Between 2015-16 and 2018-19 (financial years) expenditure rose in part due to schools in more councils using the previous contract. By 2018-19, schools in 20 councils used the contract in 2018-19 compared with eight in 2015-16 (**Exhibit 6, Appendix 3**).

Exhibit 3: expenditure through the national contract for agency staff in education, September to December 2018 and 2019



Source: Welsh Government, National Procurement Service (unpublished)

³ The local management of school arrangements resulting from the 1988 Education Act mean that schools are responsible for staffing decisions; they do not have to use the national contract to procure agency staff. In September 2019, the Welsh Government wrote to local authorities and schools promoting the benefits of using agencies on the framework contract.

3.9 Between September 2019 and March 2020, schools and councils spent £41.4 million through the latest contract. This included expenditure on non-classroom staff (for example agency caretakers, administrative and catering staff)⁴. In the first four months of operation of the new contract, total expenditure was three times that in the corresponding period in 2018 (**Exhibit 3**). This was to be expected because the contract covers more agencies: NPS estimate that agencies now on the framework previously accounted for around 90% of agency expenditure. We do not know if the framework is encouraging schools or councils to change their use of agencies from the data available. The agencies vary substantially in size, the number of geographical zones in which they operate and the categories of staff offered; data seen by Audit Wales suggests that by March 2020 62% of spend has been with three agencies.

The Welsh Government introduced a minimum rate of pay on the national framework equivalent to the statutory minimum for qualified teachers although this is likely to put pressure on school budgets

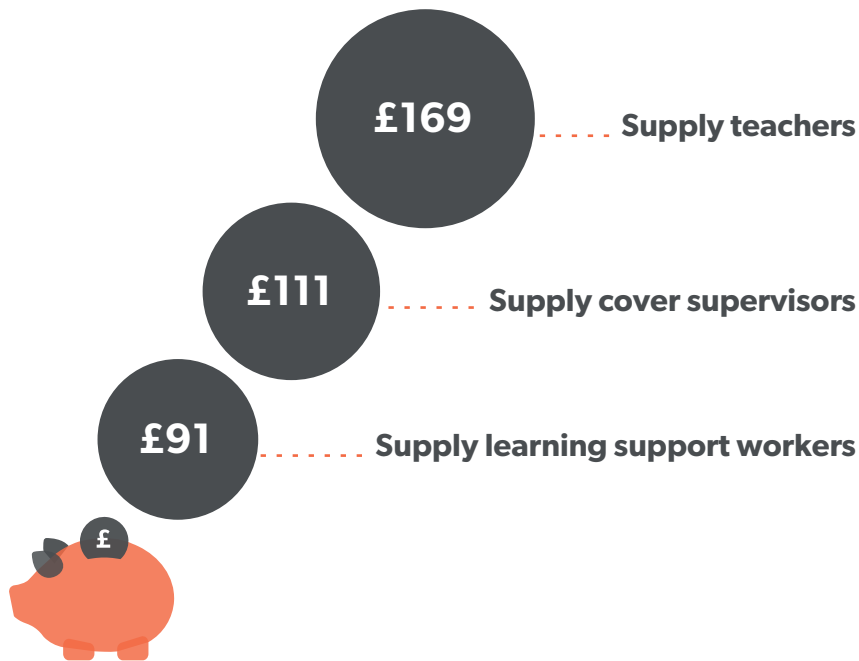
- 3.10 Until September 2019, there was no recommended pay for agency supply teachers: NPS told us that average daily pay received by agency supply teachers in 2019 was around £95 (before deductions). The 2017 Ministerial Taskforce report suggested 'supply teachers should be able to expect pay and conditions appropriate to their qualified teacher status'.
- 3.11 The 2019 framework contract included a requirement that agency teachers' pay be the minimum point of the main teachers' pay scale: equivalent to £127.72 a day (before deductions) in September 2019. Schools can pay agency supply teachers more – for example for skills or experience – but NPS data does not show how often this has occurred. The Welsh Government told us that it wanted to see agency supply teachers achieving pay parity with directly employed supply teachers. While pay has increased for supply teachers from agencies on the framework, we do not know if this has goal has been met totally as we do not know supply teachers directly employed by schools are paid according their experience and point on the teachers' pay scale.
- 3.12 The contract does not include minimum pay for other categories of agency staff, partly because there is no national pay scale for these staff. Our own scan of adverts in September 2020 suggested that agency pay across Wales was £60-70 a day (before deductions) for a school teaching assistant.

4 Between October 2019 and March 2020 schools and councils spent £4.08 million (11% of the total) on non-classroom agency staff through the framework. NPS's data for September 2019 is not broken down by category of staff (**Exhibit 7, Appendix 3**).

- 3.13 Responses to our consultation generally supported the increased remuneration for agency supply teachers employed through the framework contract. Representatives of the group 'Fair Deal for Supply Teachers' which supports and campaigns on behalf of supply teachers in Wales welcomed it, although it falls short of their desire to be paid according to their experience and allow access to the teachers' pension scheme.
- 3.14 The Welsh Government did not assess the likely impact of increasing pay for agency supply teachers on school budgets before it invited bids for the contract. We understand it assumed any increased costs from pay could potentially be covered by reduced agency fees with increased transparency of fees making it easier for schools to choose which agency to use. However, as the level of agency fees for agencies other than for the preferred supplier under the 2015-2019 national contract was not known, we do not know how this assumption was evidenced. No new funding was provided to meet additional costs. We expect costs of supply teachers employed through the framework may rise for schools in the 2020-21 academic year as a result of the 2020-21 teachers' pay award⁵.
- 3.15 Between October 2019 and March 2020 schools paid an average of £169 a day for a supply teacher, significantly more than for a supply cover supervisor or teaching assistants (**Exhibit 4**). This amount includes pay, employment costs and agency fees.

5 The minimum pay point of the teachers' main pay scale will increase by 8.48% as a result of the Welsh Government's 2020-21 pay award. This will increase pay for agency supply teachers employed through the framework from £127.72 to £138.55 a day and costs to schools to around £180 a day.

Exhibit 4: average daily costs to schools for agency staff procured through the national contract for agency staff in education, October 2019 – March 2020



Note: NPS data for September 2019 does not show category of staff.

Source: Audit Wales analysis of National Procurement Service data, September 2020

3.16 In 2017, Estyn found that a few primary headteachers were concerned about the affordability of supply cover. They often selected the cheapest option available when arranging cover. We do not think this situation is likely to have improved as many school budgets are currently under pressure. In 2018-19 – the latest year for which figures are available – 39% of secondaries and 12% of primaries had negative reserves. We see a potential risk that such differing costs for types of staff leads schools to make decisions that ultimately undermines the benefits of the 2019-2022 contract, namely:

- schools may use higher level teaching assistants for short-term cover rather than supply teachers; and/or
- schools may use agencies outside of the national contract to reduce costs.

- 3.17 We heard anecdotal evidence from several sources that schools were employing more higher level teaching assistants (HLTAs) and cover supervisors under the new arrangements as the cost-differential is more than previously. Although learning support workers should not do work outside of their role description by teaching, headteachers have a degree of flexibility in how they use HLTAs to cover 'short-term' absence⁶. Data currently available from NPS does not show if schools increasingly employ cover supervisors who are HLTAs rather than supply teachers.
- 3.18 Evidence from four recruitment agencies to the Senedd's Petitions Committee in November 2019 suggested that some schools were hiring supply teachers from agencies on the framework who are paid less than the minimum rate. This claim was echoed more recently in anecdotal evidence to us. In January 2020, the Minister for Education told the Senedd's Petitions Committee that the largest agency operating in Wales had reported that 88% of its supply teachers were paid at least the minimum rate. The Welsh Government reports that by March 2020, 94% of supply teacher bookings were at the minimum payrate.
- 3.19 From the outset, NPS told agencies on the framework that it viewed paying less than the minimum pay rate to be undesirable. Officials told us that that they will raise individual cases where they are aware of this happening with the agencies concerned and with the council. Ultimately NPS could remove agencies from the framework if they repeatedly pay supply teachers less than the minimum. However, NPS are mindful that framework agencies could lose out to those outside the framework who can reduce costs by reducing pay as well as fees if schools insist on paying less for agency cover.

The full impact of the coronavirus pandemic on the supply workforce and agencies is not yet clear

- 3.20 Schools in Wales were suspended between 20 March 2020 and 28 June 2020 as a result of the coronavirus pandemic. School closure has had a significant effect on supply teachers and learning support workers, depending on their employment status. The Welsh Government made clear that it expected schools and councils to honour the remainder of contracts for supply staff employed. Agencies could furlough eligible supply teachers and learning support workers through the UK Government's job support scheme. All agencies on the framework contract furloughed eligible staff at least until the start of the 2020-21 academic year.

6 In our previous work, we found this was interpreted differently by schools. In our sample of 20 schools the length of time covered by a HLTAs before employing a supply teacher ranged between one day and two weeks.

3.21 The long-term impact of the pandemic on the supply workforce remains to be seen; some may take up employment in schools as part of the year-long Recruit, Recover, Raise standards initiative while former teachers may return to do supply if other employment options are reduced. The impact of the disruption to agencies' business is also unclear yet.

Schools will need a substantial amount of cover to release teachers to prepare for the new curriculum, but we are uncertain if enough supply teachers are available

3.22 The Welsh Government is committed to implementing a new curriculum for Wales from September 2022. Schools will need cover so teachers can be released for development work and training before then. Based on experience to date, the Welsh Government estimates schools will need cover costing £10.8 million in 2020-21 (estimates range from £5.4 million to £16.1 million)⁷.

3.23 The Welsh Government further estimates that schools will need cover costing £29.1 million between September 2021 and July 2026 (ranging between £14.5 million and £43.6 million). The Welsh Government recognises these figures may be under-estimates as they are based on information from 'innovation' schools whereas other schools will have more work to do to prepare to roll-out the curriculum in September 2022.

3.24 The Senedd's Finance Committee is currently scrutinising funding for the Curriculum and Assessment Bill 2020. However, we are not clear if the supply workforce can meet this demand, particularly in 2020-21. In July 2020, the Welsh Government announced an extra £29 million of funding for the 2020-21 academic year to support pupils whose education has been disrupted by the coronavirus pandemic. Guidance for headteachers and governors makes clear some of the staff to provide support are likely to come from existing supply teachers and learning support workers. Also, demand for cover is likely to be greater than usual in 2020-21 if staff are sick or self-isolating with coronavirus or more staff are necessary because of changes in how schools are organised (for example to allow 'bubbles' of staff and pupils).

7 Welsh Government Curriculum and Assessment (Wales) Bill – Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes, September 2020

Costs are a barrier to employing supernumerary teachers for cover although they provide benefits for learners and schools

- 3.25 The 2017 Ministerial Taskforce recommended investigating new ways to employ supply teachers. In 2017, the Welsh Government invited bids from clusters of schools to employ newly qualified teachers as supernumerary teachers to provide cover across the clusters. At its maximum, the pilots funded 48 posts in 19 school clusters, each of which was free to develop their own approach to utilising the teachers. The pilot ran for three years with grant funding up to £2.4 million available for academic years 2017-18 and 2018-19. The Welsh Government provided 100% of costs in year one and 75% in year two. It intended that the pilots would become self-financing in 2019-20, recouping costs through spending less on externally sourced cover.
- 3.26 An interim evaluation in September 2019 found that the leaders and pupils believed the quality of teaching improved with the supernumerary teachers. Learners, especially those with additional learning needs, benefitted from more consistency. Many clusters used supernumerary teachers to release staff for strategic and development work such as literacy provision, action research, improving moderation processes, evaluation and monitoring systems, transition planning and behaviour approaches. Clusters said that this would have been done in teachers' own time otherwise, if at all. A further benefit was supporting teachers starting their careers (**paragraph 2.11**).
- 3.27 Five of the 19 clusters continued to employ supernumerary teaching staff when grant funding ceased. Schools cited the cost of employing supernumerary teachers rather than higher level teaching assistants (HLTAs) or daily supply teachers as the main barrier to continuing. Supernumerary teachers covered almost 30% of absence days requiring cover so savings from covering absence met between 70% and 83% of the pilot's costs. A follow-up report in 2020 found that half of the six school clusters that responded had taken forward changes in the way they provided cover as a result of the pilot, for example providing continuity for learners by employing supernumerary HLTAs for short-term cover. The Welsh Government told us that there are no plans to continue funding although learning from the pilots has influenced the development of its 2020-21 'Recruit, Recover, Raise standards' initiative.

Difficulty sourcing cover for Welsh-medium schools is likely to continue

- 3.28 Some schools have difficulty sourcing cover. In 2013, Estyn found that a few Welsh medium and schools in rural or disadvantaged areas had difficulty sourcing supply cover. Most secondary schools had difficulty hiring supply teachers in maths or physics. In 2017, Estyn found that Welsh-medium schools often found it difficult to source supply teachers. They sometimes compromised quality to use staff with Welsh-language skills. Council officers told us in early 2020 that finding cover staff for Welsh-medium schools was hard: some councils maintain central lists of qualified Welsh-speaking teachers to help their schools find supply teachers.
- 3.29 These difficulties reflect more general shortages of Welsh-medium teachers and of teachers for some subjects. The Welsh Government has introduced financial incentives and other steps to encourage graduates to train in shortage areas but until numbers of qualified teachers increase, shortages will remain:
- **teachers for Welsh-medium** – under the [Cymraeg 2050 programme](#), the Welsh Government has set itself targets to increase Welsh-speaking entrants to the teaching profession by 2050 with milestones for 2021 and 2031. As well as training grants, it funds language courses and plans a sabbatical programme for teachers, teaching assistants and supply teachers. However, there are challenges meeting the numbers required for Initial Teacher Training, especially for secondary where the number of student teachers been below the number required for five years running.
 - **shortage subjects** – the Welsh Government offers training grants to encourage graduates to train as teachers in Wales. In academic year 2019-20, grants between £3,000 and £20,000 were available depending on the subject and previous qualifications. The highest grants were available to people with a first-class degree, a PhD or masters degree, undertaking a postgraduate secondary teacher training courses in mathematics, physics, chemistry, Welsh or computer science. However, the number of new secondary school trainee teachers was 44% lower than the desired number in 2018-19. The number of new primary school trainees was less than desired for a fourth year⁸.

8 [Statistics for Wales Initial Teacher Education Wales, 2018/19, SB 19/2020, 25 June 2020](#). These figures do not include other paths, such as the Graduate Teacher Programme and Teach First.



Appendices

- 1 Our audit methods
- 2 Key developments since 2013
- 3 The national contract
for agency staff in education

1 Our audit methods

- 1 In 2013, we published a report looking at the arrangements for covering teachers' absence based on work that we had undertaken in 2012 with colleagues from Estyn, the schools' inspectorate for Wales.
- 2 Since 2013, there have been other relevant reports by Senedd [then National Assembly for Wales] committees and by Estyn. A 'Supply Model Taskforce' also reported to the [then] Cabinet Secretary for Education in 2017. All made recommendations for the Welsh Government, local authorities or schools.
- 3 In 2019-20, we returned to this topic to examine progress in meeting the recommendations and assess any improvements in managing teachers' absence. We did this by:
 - a reviewing documents.
 - b interviewing Welsh Government policy and National Procurement Service officials.
 - c interviewing stakeholders including Estyn, the Education Workforce Council Wales and representatives of 'Fair Deal for Supply Teachers'.
 - d reviewing tender documentation for the national contract for the agency staff in education and initial performance and finance data.
- 4 Our consultation exercise in January and February 2020 invited information from schools, teachers, supply teachers, teaching unions and councils. NPS contacted agencies on the framework on our behalf inviting them to contribute evidence. We received 105 responses from 39 supply teachers, 33 teachers, 13, headteachers/governors/school business managers, 13 parents, 3 agencies and 4 others.
- 5 We did not undertake fieldwork in schools in this follow-up work. We contacted every school involved in our previous work to invite them to take part in our consultation.
- 6 We did not contact individual councils. We spoke to representatives of the Welsh Local Government Association and to council members of the National Procurement Service's reference panel involved in procuring and monitoring the national contract.

Core reference documents

[Auditor General for Wales, Covering Teachers' Absence, September 2013](#)

[Estyn, The Impact of Teacher Absence, September 2013](#)

[National Assembly for Wales Public Accounts Committee, Covering Teachers' Absence, May 2014](#)

[National Assembly for Wales Children, Young People and Education Committee, Inquiry into supply teaching, December 2015](#)

[Welsh Government, Keeping Learners Safe, Guidance document number 158/2015, January 2015](#)

[Welsh Government, Effective management of school workforce attendance, Guidance document, July 2015](#)

[Welsh Government, Employing and supporting supply teachers in a school environment, April 2016](#)

[Estyn, Effective management of school workforce attendance in primary schools, January 2017](#)

[Welsh Government and Education Workforce Council for Wales, Education Workforce Survey, April 2017](#)

[Welsh Government, Effective management of workforce absence in schools, Guidance document number 217/2017, July 2017](#)

[Welsh Government, Education in Wales: Our National Mission Action plan 2017-21, September 2017](#)

[Welsh Government, Ministerial Supply Model Taskforce: Report to the Cabinet Secretary for Education, October 2017](#)

[Duggan, B., Glover, A., Grover, T. and Feehan, A. \(Arad Research\), Evaluation of the School Based Supply Cluster Model Project, Social Research Number: 50/2019](#)

[Welsh Government, School Teachers' Pay and Conditions \(Wales\) Document 2019 and guidance on schoolteachers' pay and conditions, September 2019 \(soon to be updated\)](#)

[Welsh Government, Effective management of school workforce attendance, Guidance document number 258/2020, February 2020](#)

[Duggan, B., Glover, A., and Grover, T. \(Arad Research\), Evaluation of the School Based Supply Cluster Model Project: Follow-up report, Social Research Number: 45/2020 July 2020](#)

2 Key developments since 2013

- 1 Since 2013, the Welsh Government and others have taken actions which have affected both the management of workforce attendance by schools and the pay and conditions of supply staff (**Exhibit 5**).

Exhibit 5: key developments relevant to the management of workforce attendance in schools, 2014-2020

March 2014	Welsh Government's 'New Deal for the Education Workforce' outlines professional training standards for teachers including for supply teachers.
January 2015	Welsh Government 'Keeping Learners Safe' guidance includes section on temporary staff, making clear schools should apply same checks on temporary as permanent staff.
April 2015	National Procurement Service awards national contract for agency staff in education to New Directions Education Ltd.
July 2015	Welsh Government publishes guidance on managing school workforce attendance.
April 2016	Welsh Government publishes on employing and supporting supply teachers.
April 2016	Welsh Government makes learning and development resources available to supply teachers.
May 2016	Welsh Government announces a Supply Model Taskforce to consider future delivery options with education, council, business and trade union representatives.
July 2016	Welsh Government publishes annual sickness absence statistics by council for the first time, for the year to 31 December 2015.
April 2017	Education Workforce Survey provides information on the experience of supply teachers and learning support workers.
September 2017	New professional standards for teachers and learning support workers come into force.

October 2017	Welsh Government announces three-year supply model employment pilots in 15 councils across Wales.
December 2017	Welsh Government updates guidance on managing school workforce attendance.
May 2018	Senedd's Petitions Committee launches inquiry in response to a petition, Fair Deal for Supply Teachers .
July 2019	National Procurement Service awards latest contract for employment of agency staff in education, to run for 3 years from 1 September 2019.
November 2019	Interim evaluation of the supply model employment pilots published.
February 2020	Welsh Government updates guidance on managing school workforce attendance, including details about the new national contract.
March 2020	Welsh Government statement on temporary staff affected by closure of schools during the coronavirus pandemic.
July 2020	Welsh Government announces funding to support learners whose education has been disrupted by the coronavirus pandemic – support may be provided from the supply workforce and newly qualified teachers.
July 2020	Follow-up report on the supply model employment pilots published.

3 The national contract for agency staff in education

National contracts 2012-2019

- 1 On behalf of the [then] Welsh Purchasing Consortium, Cardiff Council invited bids for agency workers for local authority functions, including schools. Framework contracts for North and South Wales covering 16 councils were awarded to New Directions Education Ltd in 2012. Our 2013 report said the tendering process missed opportunities to include elements of the previous Quality Mark for agencies or to require teachers to undertake training in the Welsh Government's priorities such as literacy and numeracy.
- 2 In 2014, the National Procurement Service (NPS) – a department of the Welsh Government – took over responsibility for the contract. The tender document for a new contract included requirements reflecting some issues raised in our previous report, by Estyn and by the Public Accounts Committee. Bidders were required to offer training at low or no cost to supply teachers and agency costs were clear with bidders stating a maximum daily fee, reducing over the contract period.
- 3 In 2015, NPS awarded the contract for one national contract to New Directions Education Ltd. The contract ran from September 2015, initially for three years but then extended to July 2019. Expenditure on school agency staff through the national contracting arrangements more than tripled during that period. In part this was due to schools in more council areas using it (up from 8 councils to 20). However, expenditure almost doubled over four years in councils using it from 2015-16 (**Exhibit 6**).

Exhibit 6: expenditure under the national contract for agency staff in education by council, 2015-16 to 2018-19 (financial years)¹

	2015-16² £ millions	2016-17 £ millions	2017-18 £ millions	2018-19 £ millions
Wales	6.920	16.669	19.787	25.382
Blaenau Gwent	0.312	0.244	0.382	0.914
Bridgend	0.219	0.407	0.817	1.238
Caerphilly	3.286	0.297	0.001	0.299
Cardiff	1.855	2.955	3.237	3.406
Carmarthenshire	0.083	0.826	0.957	1.753
Ceredigion	0.284	0.583	0.878	0.846
Swansea	-	1.349	1.523	1.824
Conwy	-	0.016	0.001	0.027
Denbighshire	0.544	0.873	1.295	1.867
Flintshire	0.336	1.021	1.097	1.419
Gwynedd	-	0.001	0.002	-
Isle of Anglesey	-	-	-	-
Merthyr Tydfil	-	1.375	1.666	2.028
Monmouthshire	-	0.628	0.646	0.745
Neath Port Talbot	-	0.405	0.361	0.851
Newport	-	1.198	1.171	0.890
Pembrokeshire	-	0.238	0.282	0.251
Powys	-	0.209	0.528	0.841
Rhondda Cynon Taf	-	1.419	1.915	2.623
The Vale of Glamorgan	-	0.773	0.961	1.035
Torfaen	-	0.443	0.437	0.659
Wrexham	-	1.411	1.629	1.864

Note:

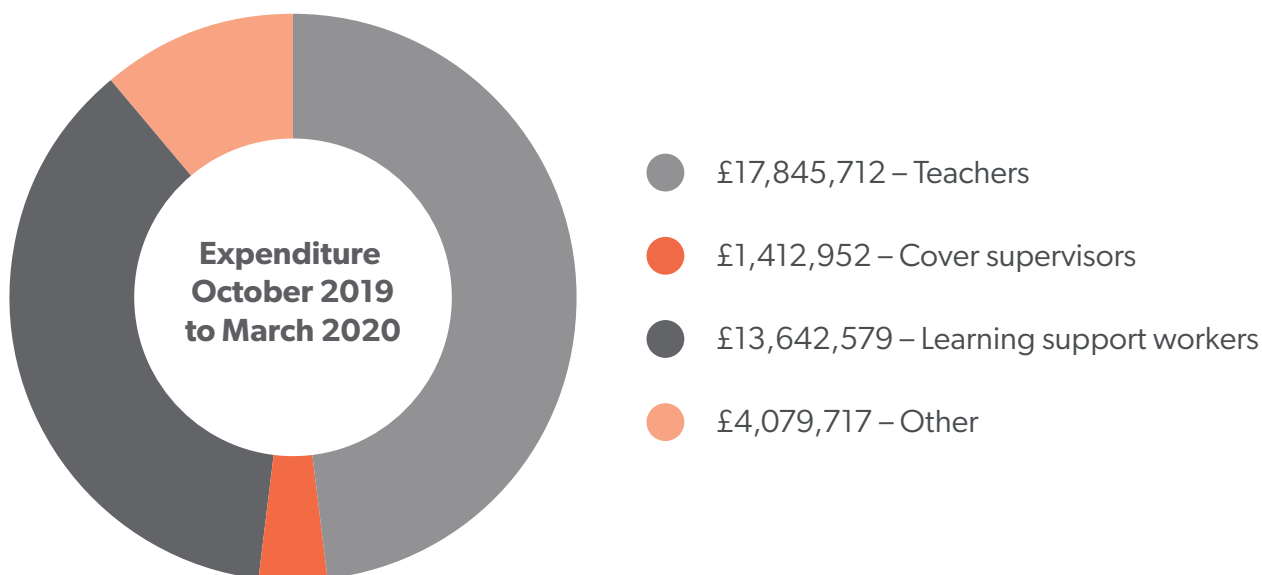
- 1 These figures include expenditure by schools and by councils directly, for example on supply staff for pupil referral units and pupils being educated other than in school.
- 2 The contract ran from September 2015. For comparison, figures for 2015-16 are adjusted over a 12-month period.

Source: National Procurement Service, 2020 (unpublished)

The 2019-2022 national contract

- 4 NPS worked with councils to develop third version of the national contract that addresses their requirements as well as recommendations of 2017 Ministerial taskforce and concerns of lobby groups, unions and others. The contract was awarded in July 2019 and runs for three years from September 2019.
- 5 Between September 2019 and March 2020, schools and councils spent £41.4 million through the contract. In the period between October 2019 and March 2020 at least 89% was on supply teachers and other classroom cover (**Exhibit 7**).

Exhibit 7: the national contract for agency staff in education, expenditure October 2019 – March 2020



Notes:

- 1 NPS data for September 2019 does not show category of staff.
- 2 'Other' includes data from three agencies which was not broken down by category of staff as well as non-classroom staff (for example, caretakers, administrative or catering staff).

Source: Audit Wales analysis of National Procurement Service data, September 2020

- 6 **Exhibit 8** shows our view on how the final contract addresses the concerns and recommendations raised in previous reports. **Paragraphs 3.10 to 3.19** discuss the minimum rate for pay for supply teachers.

Exhibit 8: Audit Wales commentary on the national contract for agency staff in education, September 2019 – July 2022

Increasing the number of agencies on the framework

The 2019 contract replaced an all-Wales framework with one agency with a contract including 22 geographical zones each covering a council area. Two of the 27 agencies initially successful have left the framework. The number of agencies on each framework varies between 5 and 21, providing some choice for schools in each zone. NPS told us that they estimate the agencies initially on the framework had provided around 90% of supply days previously.

Quality standards for agencies

The Welsh Government abandoned the Quality Mark for supply agencies in 2010. At that time, only eight agencies had registered for it. In 2017, the Ministerial Taskforce recommended setting minimum criteria for agencies providing staff to maintained schools.

The contract requires agencies to be accredited by one of three named UK recruitment industry bodies. Accreditation covers general business and hiring rules, introduction and data protection. Some agencies were already accredited but this requirement will increase the number of accredited agencies in Wales. Accreditation is additional to regulation by UK Government's Employment Agency Standards Inspectorate which enforces and ensures compliance with the law for all recruitment agencies.

The contract also includes performance targets for agencies, reported quarterly. Generally, NPS have faced substantial additional demands from managing up to 27 agencies rather than one previously. Officials no longer meet regularly with representatives of agencies on the framework but will raise issues with individual agencies on an exceptional basis. Broader developments are discussed through a suppliers' network. Council HR and procurement officers welcomed the wider choice of agencies but agreed relationships were more distant than previously.

Training for agency staff

The Senedd's Children Young People and Education Committee recommended in 2015 that the Welsh Government consider mandatory training for supply teachers. The then Minister favoured a voluntary system. The contract requires agencies to offer teachers and learning support workers basic training in safeguarding, manual handling, first aid and behavioural management free of charge. Agencies on the framework are not required to pay staff to attend training but they are encouraged to offer online material and events outside of school hours. This is the same as required by the 2015-2019 contract but will be more widely available. The contract also requires agencies to consider supply teachers and learning support workers wider training needs including training to support the upcoming changes in education outlined in 'Education in Wales: Our National Mission'.

Performance management for agency staff

Supply teachers employed for more than a term are subject to the schools' performance management arrangements. Performance management is recommended for learning support workers but not compulsory.

The contract requires agencies to collect feedback on performance from schools and to provide this to individuals. This was required under previous arrangements but now applies to more agencies. The potential effectiveness of feedback to help agencies manage performance and be aware of problems depends on them actively seeking – and receiving – high quality information from schools.

Safeguarding

The contract requires agencies to conduct the same pre-employment as schools would do for a direct hire before any individual works in school. This includes references, an enhanced disclosure and barring service check and checking they are registered with the Education Workforce Council for Wales). Again, this was also a requirement of the 2015-2019 contract, but the new arrangements make it more widely applicable. We received evidence that some agencies do not seem to do all these pre-employment checks (**paragraphs 2.13 to 2.15**) but the information provided did not identify if the allegation referred to any agency on the framework or allow us to investigate specific instances.

Transparency of agency fees (daily rates and introduction fees)

High fees charged by agencies have attracted attention, including from the 2017 Ministerial Taskforce. The 2015-2019 contract had set fee scale for the contract holder. There was no limit on fees charged by other agencies. In bidding to be on the framework, agencies were asked to state a maximum daily fee charged on top of pay and employment costs; they may choose to charge less but the school must be able to see the fee clearly. NPS told us that maximum fees range between £15 and £50 a day. This transparency makes it easier for schools to take account of the cost of fees in deciding what agency to use.

Schools pay an introduction fee if employing staff from an agency placement. This compensates the agency for the loss of daily fees but the Ministerial Taskforce believed fees could be disproportionate. Under the 2019 contract, schools do not pay an introduction fee if the agency worker becomes an employee after 12 weeks. Before 12 weeks, the introduction fee is determined by a sliding scale.

Agencies' use of umbrella companies¹

The 2017 Ministerial Taskforce criticised the use of umbrella companies by agencies, especially those registered outside the UK to take advantage of more favourable taxation regimes. The 2019 contract requires agencies on the framework to provide evidence of submitting quarterly HMRC reports where umbrella companies are used to NPS. This provides some assurance that the agencies are complying with their legal obligations regarding their arrangements. Agencies can only use UK-registered umbrella companies.

Ensuring compliance with the 2010 Agency worker regulations

The 2010 Agency Workers Regulations give workers the same terms and conditions as permanent staff after 12 weeks in a placement. Many agencies used the 'Swedish Derogation', a lawful arrangement where workers give up their right to pay parity for at least 50% pay between assignments. This had attracted criticism from the 2017 Ministerial Taskforce as well as from the 2017 Taylor review². Its use has been outlawed by the UK Government from April 2020. The 2019 contract required agencies on the framework not to use the Swedish Derogation from the earlier date of September 2019.

This change benefits agency supply teachers and learning support workers doing placements that are more than 12 weeks long (or 12 separate weeks over a period). It potentially increases costs to schools. Given the disruption to schools in 2020, it is too early to see if schools are incentivised to end supply placements before 12 weeks and/or avoid hiring more experienced – and expensive – teachers.

We heard anecdotal evidence that some schools are unaware of their responsibilities under the Agency Worker Regulations and so face unexpected bills for supply teachers who could claim higher pay after 12 weeks. Without evidence from individual cases we do not know if, or how often, this happens. The 2019 contract requires agencies to tell schools in advance of triggering the qualifying period.

Notes:

- 1 Umbrella companies employ agency contractors who obtain temporary assignments through a recruitment agency. This employment model is common in the recruitment industry as agency liabilities are reduced and there may be benefits to agency workers. The company will pay the contractor by PAYE, offsetting appropriate expenses. It will invoice the agency for the staff.
- 2 Taylor M, Marsh, G., Nicol, D and Broadbent, P., **Good Work: The Taylor review of modern working practices**, July 2019

Source: Audit Wales analysis



Audit Wales

24 Cathedral Road

Cardiff

CF11 9LJ

Tel: 029 2032 0500

Textphone: 029 2032 0660

We welcome telephone calls in
Welsh and English.

E-mail: info@audit.wales

Website: www.audit.wales