

Government Response: The National Framework for the Commissioning of Care and Support in Wales: Code of Practice

The Government is grateful to the Committee for the time that has been afforded and the attention to detail that has been given to scrutinising the draft Code of Practice.

The Code of Practice is issued under section 145 of the Social Services and Well-being (Wales) Act 2014. Under section 145(2) a Code may impose requirements or it may include guidelines (or both). This Code includes both and the helpful points raised by the Committee relate only to provisions of the Code that do not impose requirements. Notwithstanding that the Government notes the matters raised.

However, it respectfully submits that, albeit matters for correction, these are minor editorial points that do not change the operation or effect of the Code.

Given this observation, the Government proposes to the Committee that the Government makes the editorial corrections, as outlined in further detail below, prior to issuing the Code of Practice. The Government considers this a pragmatic and proportionate response that will ensure the Code of Practice is published without imprecision or unnecessary delay.

Scrutiny point 1:

- a. No date is included in the reference to “the Health Services (Provider Selection Regime) (Wales) Regulations” in paragraph 1.19, as the Regulations are yet to be made. It is proposed that paragraph 1.19 be amended as follows, in order that this is clear.

“1.19 Local health boards and NHS trusts should be aware that the Health Services (Provider Selection Regime) (Wales) Regulations and accompanying statutory guidance (The Provider Selection Regime Wales - Statutory Guidance), which are due to be made/come into force in autumn 2024, will also apply to the procurement of health services...”

The Health Services (Provider Selection Regime) (Wales) Regulations will be made under section 10A of the NHS (Wales) Act 2006. Section 3 of the Health Service Procurement (Wales) Act 2024 (the procurement Act) inserted a power to make these regulations into the NHS (Wales) Act 2006. Section 2 of the procurement Act also inserted a regulation making power allowing the Welsh Ministers to disapply health service procurement in Wales from the new procurement regime under the procurement Act. This power will also be relied upon to make these regulations.

- b. A footnote/hyperlink will be added in paragraph 1.68 for the reference to the Welsh Language (Wales) Measure 2011. Paragraph 1.68 contains the only reference to the Measure in the Code.
- c. A footnote/hyperlink will be added in paragraph 1.94 for the reference to the self-assessment tool and introductory training.

- d.** In the Glossary, the final paragraph of the entry for “Carer” will be amended to refer to the Social Services and Well-being (Wales) Act 2014 using the defined term “the Act.”