

# SL(5)410 – The Regulated Services (Penalty Notices) (Wales) Regulations 2019

## Background and Purpose

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) reforms the regulation and inspection regime for social care in Wales and provides the statutory framework for the regulation and inspection of social care services and the social care workforce.

These Regulations prescribe the details of a penalty notice system, whereby the Welsh Ministers may issue a penalty to providers and responsible individuals of regulated services instead of bringing proceedings for an offence, should certain regulatory breaches occur. These Regulations prescribe the offences for which a penalty notice may be given.

These Regulations will replace the current Regulated Services (Penalty Notices) (Wales) Regulations 2017.

## Procedure

---

Negative.

## Technical Scrutiny

---

Two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Regulation 8(1) sets out prescribed offences under the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019, but states that these are prescribed offences “for the purposes of regulation 12”. Regulation 12 relates to the period during which proceedings may not be instituted. The correct reference should be to section 52(1) of the Act.

### **2. Standing order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

The Welsh text of the offence “contravention of, or failure to comply with, requirements to have in place specified policies and procedures” in schedules 1 to 5 of these Regulations potentially gives rise to confusion. Due to the way it is drafted, it is not clear whether the failure to comply is in relation to the requirements to have policies and procedures in place, or in relation to the policies and procedures themselves.



## Merits Scrutiny

---

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Implications arising from exiting the European Union

---

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Government Response

---

A government response is required.

### **Legal Advisers**

**Constitutional and Legislative Affairs Committee**

**3 May 2019**

