

## **Government Response: The National Health Service (Optical Charges and Payments) (Amendment) (No. 2) (Wales) Regulations 2025**

Technical Scrutiny point 1: The Welsh Government acknowledges the Committee's observation regarding the retrospective effect of these Regulations and welcomes the opportunity to provide clarification.

Avoiding retrospective effect in this area is inherently challenging given the budgetary cycle which is driven by the Doctors and Dentists Review Body ("DDRB") process rather than the legislative mechanism. Annual uplifts for the sector are determined through tripartite negotiations between the Welsh Government, NHS Wales, and Optometry Wales and take account of the DDRB recommendations which are published after the start of the financial year. Whilst this approach ensures fairness across primary and community care professions, it results in negotiations concluding after 1 April, necessitating retrospective application to maintain equity.

In line with other contractor services, it is essential that the agreed increases apply from 1 April to ensure fairness and consistency across all primary care contractors. The DDRB is a fully independent body over which the Welsh Government has no influence, however, we will continue to keep our processes under review and explore any opportunities to improve timing and reduce the need for retrospective effect where possible, while maintaining fairness and consistency across all contractor services.

Technical Scrutiny point 2: The Welsh Government considers that the definition of "the Act" in regulation 1(2) of the National Health Service (Optical Charges and Payments) Regulations 1997 ("the 1997 Regulations") must, by operation of paragraph 1(4) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006 be taken as meaning the National Health Service (Wales) Act 2006 ("the NHSWA 2006"). Consequently, any reference to "the Act" would then, by operation of that transitional provision, be a reference to the NHSWA 2006 and therefore, it is more likely than not that the reference to "the 2006 Act" would be read as a reference to the NHSWA 2006 rather than any other Act of 2006. Further, the definition of "the 2006 Act" in the NHSWA 2006 to which the Committee refers applies only for the purposes of the commencement provision in section 208 of that Act which, in the Welsh Government's view, supports the interpretation above.

Notwithstanding this, the Welsh Government thanks the Committee for bringing this to our attention, and the Committee will note that Schedule 1 to the 1997 Regulations is subject to annual amendments. Considering that opportunity we will look to make an amendment in this respect at that next opportunity.