

SL(5)372 – The National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019

Background and Purpose

The Regulations establish the Clinical Negligence Scheme for NHS Trusts and Local Health Boards to provide for all qualifying liabilities, from 1 April 2019, in tort and in contract.

The indemnity provided under the Scheme covers the clinical negligence liabilities of members (Local Health Boards and NHS Trusts) as well as those of non-member contractors who provide primary medical services by virtue of an arrangement with a member of the Scheme (e.g. a general medical services contract).

The Scheme applies from 1 April 2019 in respect of all liabilities within its scope. This means that, from that date, members and contractors will automatically be covered by the Scheme in relation to such liabilities.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

These Regulations introduce a state-backed scheme to provide clinical negligence indemnity for providers of GP services. The scheme will cover all contracted GPs and other health professionals working in NHS general practice.

The Explanatory Memorandum to these Regulations states, at paragraph 6:

“A Regulatory Impact Assessment has not been prepared for this instrument as it imposes no costs or no savings, or negligible costs or savings on the public, private or charities and voluntary sectors.”

Given the significance of these Regulations, we would welcome clarification from the Welsh Government as to why no Regulatory Impact Assessment was carried out (and upon which exemption in the “Welsh Ministers’ Regulatory Impact Assessment Code for Subordinate Legislation” is the Welsh Government relying to not carry out a Regulatory Impact Assessment).

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 to the merits point raised in this report.

Legal Advisers

Constitutional and Legislative Affairs Committee

12 March 2019

