

## **Explanatory Memorandum to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2023**

This Explanatory Memorandum has been prepared by Health and Social Services Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2023. I am satisfied that the benefits justify the likely costs.

**Eluned Morgan**  
**Minister for Health and Social Services**

5 September 2023

## **PART 1**

### **1. Description**

1.1 The National Health Service (General Medical Services Contracts) (Wales) Regulations 2023 (“2023 Regulations”) will revoke and replace the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (“2004 Regulations”).

1.2 The 2023 Regulations include provisions for policy developments and updated statutory references. However, the underpinning policy is Contract Reform which creates a new Unified Contract for all GP Practices in Wales.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

2.1 None.

### **3. Legislative background**

3.1 The National Health Service (General Medical Services Contracts) (Wales) Regulations 2023 (“the 2023 Regulations”) are made pursuant to the Welsh Ministers’ powers under sections 7(8), 41 (3), 41(6), 43, 44, 47, 48, 54, 135 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

3.2 These Regulations are made under the negative resolution procedure. They will come into force on 1 October 2023.

### **4. Purpose and intended effect of the legislation**

4.1 The 2023 Regulations will set out the framework for GMS contracts under Part 4: Medical Services of the NHS (Wales) Act 2006. The GMS contractor will hold a common Unified GMS contract (“Unified Contract”) with a Local Health Board (“LHB”) for the provision of NHS primary medical services to patients, against which they can easily demonstrate high levels of quality standards and care.

4.2 The Unified Contract aims to simplify what services all GP practices in Wales provide as part of the NHS, and how they evidence assurance of service delivery. The Unified Contract aligns general practice with developing service models for delivery of care, based around the ethos of prudent healthcare. It aims to make it easier for patients and healthcare professionals to understand responsibilities for the provision of services, to reduce administrative bureaucracy, free up time and resource for service delivery, and enable use of data and technology to help plan resources and delivery of services.

4.3 The Unified Contract will consist of three parts, Unified Services, Quality Improvement and Supplementary Services. Quality Improvement and

Supplementary Services do not form part of the 2023 Regulations as they are optional for GP practices.

4.4 Unified Services will form most of the contract and are the key services all GP practices must provide. These services are reflected in the 2023 Regulations. In simplifying the contract, all services under the 2004 GMS contract which were classed as Additional or Directed Enhanced Services have been considered against what it is that every GP practice can be expected to provide. All Enhanced Services have been reviewed with the initial focus on 'what is it every GP can be expected to do' and what is more specialised. This key test has enabled consolidation and simplification of the contract.

4.5 Under current arrangements, there are 7 additional services (which under the Unified Contract will form part of Unified Services)–

- cervical screening;
- contraceptive services;
- vaccinations and immunisations;
- childhood vaccinations and immunisations;
- child health surveillance;
- maternity medical services; and
- minor surgery procedures of curettage, cautery, cryocautery of warts, verrucae, and other skin lesions.

4.6 GMS Contractors are currently able to opt out of providing additional services to patients, resulting in a percentage deduction of their Global Sum. The Global Sum is the main source of funding for GMS Contractors to deliver primary medical services to patients.

4.7 These Additional Services will move into Unified Services as set out in the 2023 Regulations to ensure that all persons in Wales will be provided with these services on an equitable basis.

4.8 The current Diabetes Directed Enhanced Service which LHBs commission from GMS contractors will move into Unified Services ensuring all diabetic patients with Type 2 disease receive the management and monitoring of their condition by GMS contractors.

4.9 The clinical indicators which were part of the Quality Assurance and Improvement Framework (QAIF), which was voluntary for GMS contractors to participate in, will also move into the Unified Services. This means GMS contractors will manage some of the most common chronic conditions, for example asthma and diabetes for patients with those conditions.

4.10 Another part of the QAIF that will transfer into Unified Services are the cluster domain indicators. This will embed the progress made to date with cluster development and provide the platform for further development. GP practices will demonstrate engagement in professional collaboratives through sharing information, participating in collaborative discussions and supporting the development and delivery of local solutions. This will enable improved

patient care and better systems to support the workforce to respond to need and to deliver care most effectively. It will also be set out in the 2023 Regulations that a GMS contractor has to be a member of a GP Collaborative and appoint at least one individual who is a health care professional to act on the contractor's behalf in the dealings between the contractor and the GP Collaborative to which the contractor belongs.

4.11 An element of QAIF from 1 April 2022 also included the Access Commitment to more clearly demonstrate to the public what they can expect in terms of access from GP practices. This part of the QAIF will move into the Unified Services to formalise access expectations and requirements coupled with robust targets and measures. The Access Commitment includes that GMS contractors–

- Have a telephone system with a recording function for incoming and outgoing lines, that stacks calls and allows for the analysis of call data.
- Have a telephone introduction message recorded bilingually and lasting no longer than 2 minutes.
- Ensure that patients and care homes can order repeat prescriptions through a digital solution.
- For the duration of core hours, ensure a digital method is in place for patients to request non-urgent appointments or a call back and that the necessary governance arrangements are in place for this process.
- Publicise information on how patients can request an urgent, routine and advanced consultation as well as publicising information for patients on how to request a consultation via the practice leaflet and practice website.
- Display information on the Access Standards.
- Offer a same day consultation for children under 16 with acute presentations and patients clinically triaged as requiring an urgent assessment.
- Offer pre-bookable appointments.
- Actively signpost patients to alternative collaborative based services, health board wide services and national services.

4.12 To further improve access for patients the 2023 Regulations include provisions requiring GMS contractors to–

- Answer their telephones for the duration of core hours (i.e., 8.00am to 6.30pm), Monday to Friday unless prior agreement has been given by the Local Health Board for the use of an answer phone message in exceptional circumstances; and
- Ensure their main practice premises has their doors open so that patients can physically access the premises between the hours of 8.30am and 6.00pm. This will also prevent half-day closures by the minority of practices.

4.13 There will be strengthened and holistic contract assurance measures, performance management and monitoring through a new Assurance

Framework. A key goal of the Assurance Framework is to reduce bureaucracy via a system of checks that are robust and proportionate.

4.14 A set of principles of assurance have been agreed as the basis for the future approach:

- Open and transparent in process
- Proportionate and not bureaucratic in execution
- Makes use of existing sources of data
- Data analysed at a national level and provided to practices and Health Boards
- Uses national standards and measures
- Consistently applied across Wales
- Processes should be formative and supportive where possible
- Provides a clearly articulated stepped approach to escalation if concerns exist

4.15 A set of key indicators will be developed and will be applied across NHS Wales, strengthening existing systems and instilling consistency of approach to assurance of the Unified Contract. Better use of existing data from a wide range of sources will enable practice performance to be assessed in an open and transparent way.

4.16 To ensure assurance processes are proportionate and also formative, Health Boards will prioritise which contractors are to receive a governance review and consider what depth of review is necessary for assurance. A nationally agreed escalation process for managing concerns will also be set out.

4.17 The Assurance Framework will sit outside of the 2023 Regulations to enable the Assurance Framework to be revised as necessary but a provision in the 2023 Regulations will require contractors to engage with the Local Health Board in the processes outlined in the latest published Assurance Framework.

4.18 Provision for a national minimum dataset “new patient questionnaire” template will be included in the 2023 Regulations which will be utilised by all practices and offered to patients who register with the practice. The minimum dataset questionnaire will ensure screening of patients aged 16 or over who:

- are drinking alcohol at an increased or higher risk level
- are users of tobacco products
- have a high BMI

4.19 Practices will continue with their current methods of signposting patients who are identified as at risk, to relevant support where available.

4.20 The introduction of the national minimum dataset “new patient questionnaire” for all new patients will ensure consistency of approach in collating important health screening information.

4.21 The 2023 Regulations will also include provisions for a digital service regarding the issue and receipt of prescriptions. Currently, GPs and other clinicians in primary care produce prescriptions using electronic solutions but must print and sign hard copies which are transported to a pharmacy for fulfilment. The hard copy prescriptions are archived for reporting by the NHS Wales Shared Services Partnership. The programme will complete the digitisation of this process so that paper prescriptions and 'wet' signatures are replaced by electronic prescriptions and electronic signatures. Prescriptions will be sent electronically from the authorising prescriber directly to the pharmacy for fulfilment.

4.22 In the same way as the 2004 Regulations, the 2023 Regulations establish the components of the GMS Contract which include:

- The conditions which must be met by a GMS contractor (GP) before a LHB may enter into a contract with it;
- Terms relating to contract duration and general medical services to be provided;
- Dispute resolution;
- Prescribing and dispensing of medicines;
- Variation, Termination and cancellation of contracts;
- The conditions to be met by those who perform services or are employed or engaged by the contractor;
- Patient registration and removal, list closures and assignments;
- Patient records, the provision of information and rights of entry; and
- Complaints

## **5. Consultation**

5.1 A 4 week informal consultation on the main provisions contained within the 2023 Regulations, targeted at key stakeholders, opened on 3 April 2023 and closed on 30 April 2023.

5.2 The consultation document was also placed on the General Practice Management page of the Welsh Government website for 4 weeks to enable the public to engage with the consultation should they wish.

5.3 Eight responses were received. Overall, the proposed changes regarding consolidating the core services and clarifying the services that patients can expect to receive from GPs were welcomed.

5.4 One amendment was made to the draft 2023 Regulations in relation to a respondent's concern in respect of Access.

5.5 The informal consultation document can be accessed here –

<https://www.gov.wales/planned-changes-general-medical-services-contract>

<https://www.llyw.cymru/newidiadau-cynlluniedig-ir-contract-gwasanaethau-meddygol-cyffredinol>

5.6 The summary response to the informal consultation can be accessed here –

<https://www.gov.wales/nhs-general-medical-services-contracts-wales-regulations-2023>

<https://www.llyw.cymru/rheoliadaur-gig-contractau-gwasanaethau-meddygol-cyffredinol-cymru-2023>

5.7 In addition a copy of the draft 2023 Regulations were shared with the General Practitioners Committee (Wales), (the GP's representative body) for their consideration and comment. Relevant amendments were made to the 2023 Regulations. The General Practitioners Committee Wales are content with the draft Regulations that are being laid in the Senedd.

## **PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)**

The Welsh Government intends to maintain and improve effective delivery of General Medical Services drawing on experience from the past few years to ensure patient focused delivery and provided in line with the principles of prudent healthcare.

The Unified Contract is a result of 18 months of work undertaken as part of a tripartite approach with Welsh Government, NHS Wales and the General Practitioners Committee (Wales) – the GP’s representative body.

The moving of services into unified services set out in the 2023 Regulations is cost-neutral.

An Integrated Impact Assessment has been undertaken on the 2023 Regulations and Section 1 and 8 can be accessed here –

<https://www.gov.wales/nhs-general-medical-services-contracts-wales-regulations-2023-integrated-impact-assessment>

<https://www.llyw.cymru/rheoliadaur-gig-contractau-gwasanaethau-meddygol-cyffredinol-cymru-2023-asesiad-effaith-integredig>

### **6. Options**

Option 1: Business as usual

6.1 If the 2023 Regulations are not made, then persons registered with GP practices in Wales will not benefit from unified services and receiving services on an equitable basis. The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 would remain in place.

Option 2: Make the Regulations

6.2 Make the 2023 Regulations to ensure that the consequences outlined above are avoided and that persons registered with GP practices in Wales receive high levels of quality care. This is the preferred option.

### **7. Costs and benefits**

Option 1: Business as usual

7.1 Persons registered with GP practices in Wales will continue to receive medical services as they do now under the 2004 Regulations.

Option 2: Make the Regulations

7.2 No additional costs are incurred by making the 2023 Regulations. It is a cost neutral move transferring services into Unified Services.



7.3 Persons registered with a GP practice in Wales will benefit by receiving Unified Services. The Unified Contract simplifies what services all GP practices in Wales provide and how they evidence assurance of service delivery. The Contract aligns general practice with developing service models for delivery of care, based around the ethos of prudent healthcare. It aims to make it easier for patients and healthcare professionals to understand responsibilities for the provision of services, to reduce administrative bureaucracy, free up time and resource for service delivery, enable use of data and technology to help plan resources and delivery of services.

7.4 Every citizen has the right to access primary medical services, and this is unaltered, also the way in which a patient registers with a practice to access services is unaltered. GP practices will continue to be responsible for using the funding provided through the contract to engage the staffing resources necessary to deliver services in accordance with the contract.

7.5 'A Healthier Wales' sets out a whole system approach to health and social care, outlining a 'wellness' system, which aims to support and anticipate health needs, to prevent illness, and reduce the impact of poor health and inequality.

7.6 There is a clear recognition that primary care, as the first point of contact for most citizens accessing health services, has a key role in maximising the opportunities for prevention and self-management, including around unhealthy behaviours which contribute to long term conditions or disease.

7.7 The clinical indicators which were part of the Quality and Improvement Framework (QAIF), which was voluntary for GMS contractors to participate in, will also move into the unified contract. This means GMS contractors will manage some of the most common chronic conditions, for example asthma and diabetes for patients with those conditions.

7.8 An element of QAIF from 1 April 2022 also included the Access Commitment to demonstrate to the public more clearly what they can expect in terms of access from GP practices. This part of the QAIF will move into the unified contract to formalise access expectations and requirements coupled with robust targets and measures.

7.9 In addition, to improve access further for patients, GMS contractors must –

- Answer their telephones for the duration of core hours (i.e. 8.00am to 6.30pm), Monday to Friday unless prior agreement has been given by the Local Health Board for the use of an answer phone message in exceptional circumstances; and
- Ensure their main practice premises have their doors open so that patients can physically access the premises between the hours of 8.30am and 6.00pm, this will also prevent half-day closures by the minority of practices.

7.10 To promote the public health agenda a national minimum dataset “new patient questionnaire” template will be utilised by all practices and offered to patients who register with the practice. The standardised questionnaire will ensure screening of patients aged 16 or over who:

- are drinking alcohol at an increased or higher risk level
- are users of tobacco products
- have a high BMI

7.11 Practices will continue with their current methods of signposting patients who are identified as at risk, to relevant support.

7.12 The introduction of the national minimum dataset “new patient questionnaire” for all new patients will ensure consistency of approach in collating important health screening information.

## **8. Competition Assessment**

8.1 The making of the 2023 Regulations has no impact on the competitiveness of businesses, charities, or the voluntary sector.

## **9. Post implementation review**

9.1 The intent is to ensure that GMS contracts remain fit for purpose for the next 10 years or so, thereby continuing existing and enhancing provision of services to patients. Welsh Government has agreed these changes in extensive collaborative discussions with GPC Wales and NHS Wales. There will be continuous monitoring as set out in the 2023 Regulations and if necessary, through the routine annual negotiations between Welsh Government, the General Practitioners Committee (Wales) and NHS Wales future amendments could be made to the 2023 Regulations.