

## CHILDREN'S RIGHTS IMPACT ASSESSMENT

### 1. Describe and explain the impact of the proposal on children and young people.

This Children's rights impact assessment is evaluating the impact of the proposal to introduce a Code of Practice on the Delivery of Autism Services (the Code). The Code will be laid before the Senedd in March 2021 and implementation of the Code will commence from September 2021.

A detailed consideration of the Code is the impact on people with disabilities (including children and young people) and this is set out in the equality impact assessment. The Code is not considered to have an adverse impact in relation to children and young people with disabilities in general, and will have a beneficial impact in relation to autistic children and young people.

The Code has been developed in response to the members [Autism \(Wales\) Bill](#) which entered the Senedd in 2018. During Stage One Scrutiny of the Bill evidence was provided that autism services were not meeting the needs of those seeking assessment or support when a diagnosis was received. The Welsh Government did not support the Bill because its aims could be met through existing legislation in the Social Services and Well-being (Wales) Act 2014 and the NHS (Wales) Act 2006. When the Bill was rejected at the end of Stage One Scrutiny in 2019, the Welsh Government had made a commitment to focus on the needs of autistic people by issuing a statutory Code of Practice under the existing legislation which re-enforced and clarified existing duties placed on local authorities, health boards and NHS Trusts.

The Code sets out the duties related to the social services functions of local authorities and health services functions of local health boards and NHS trust bodies about the range and quality of services that should be available in their local areas for autistic children, young people and adults and their families and/or carers. The Code reinforces the legal frameworks already in place by specifying provisions and requires that the relevant bodies exercise their respective functions in accordance with requirements in the Code when arranging or delivering services for autistic people (including children) for autism services.

The Code will seek improvements in the delivery of autism services by requiring consistency and clear pathways to access assessment and support, identifying training needs and the provision of suitable training in autism for different professions. The Code also describes how Regional Partnership Board partners should ensure that autism is sufficiently visible in their work and that an autism infrastructure is in place to plan, deliver and monitor services and to provide data to inform continuous improvement.

The Code in seeking to improve access to assessment, diagnosis and support services for children and young people requires compliance with national pathway standards as developed by the [Together for Children and Young People Programme \(T4CYP\)](#) and national waiting time standards. There have been

recognised problems with long waiting times for assessment across health boards in Wales, a waiting time standard of 26 weeks from referral to first diagnosis appointment has been in place since 2018, however [an early review in 2019](#) found that the data collection approach is not consistent across Wales and more recently the impact of the Covid-19 pandemic has had a negative impact on waiting times. The Code will be a catalyst to improve compliance with standards and data collection and reporting.

The potential for negative impacts of the Code has also been considered. A consultation on the draft code of practice was held between September and December 2020, to make this accessible to a wide audience (including children and young people) an Easy Read version was also published. In her consultation response the Children's Commissioner for Wales raised concerns about possible unintended negative impact on children with other neurodevelopmental conditions or those who have support needs but do not meet the criteria for diagnosis. She also sought assurances that the views of children and young people are sought and listened to.

In addressing the Children's Commissioners comments, no child or young person should be disadvantaged in the delivery of the Code. Policy development in children's neurodevelopmental services, which includes autism for children and young people, is being progressed as part of the Together for Children and Young people Programme 2 (T4CYP2). The programme is working to improve the emotional wellbeing and mental health services and support available to children and young people in Wales, with three areas of focus:

- Early Help and Enhanced Support
- Neurodevelopmental Services
- Regional Partnership Boards

The programme works with a range of partners including the Children's Commissioner, the Welsh Youth Parliament, Regional Partnership Boards and Youth Councils to ensure engagement and co-production, making sure the views of children and young people are listened to and taken into account.

The neurodevelopmental work strand – [A vision for Neurodevelopmental support and services in Wales](#) states:

*Our vision is to take a holistic, children's rights approach to providing both NHS services and wider support to a range of neurodevelopmental conditions and co-occurring needs, including attention deficit hyperactivity disorder (ADHD) and autism.*

*There is an opportunity to create a whole system approach that seeks to meet current and future needs by connecting and maximising resources across education, health and social care.*

The Code is clear that assessment, services and support for autistic people including children and adults should take a holistic approach, outcomes should be based on identified need and support should not be reliant on whether or not a diagnosis of autism is made. The Code requires pathways to be in place to ensure on-going

support for children and young people completing the assessment pathway but who do not receive a diagnosis.

The impact of the Code of Practice will be monitored from implementation in September 2021 and an independent evaluation will commence once it has been in place for two years. In 2021 a demand and capacity review of all neurodevelopmental services is being undertaken, including services available for children and young people, and part of this will reveal where there may be gaps in service provision, which will inform the future evaluation.

## **2. Explain how the proposal is likely to impact on children's rights.**

The Table below highlights which UNCRC Articles are most relevant to the Code. The Welsh Government observes these articles in taking forward the legislative proposals.

<b>Article</b>	<b>Code of Practice</b>
Article 1  Definition of the Child	<p>For the purpose of the Code, transition from child to adult will be at 18 years.</p> <p>The term 'people' within the code refers to children, young people and adults. The Code recognises all individuals, irrespective of age. In some areas specific reference to children and young people has been made where required because the Code recognises that children's rights and needs are likely to differ in part to those of adults.</p>
Article 2  Non-discrimination	<p>The Equality Act 2010 places clear duties on public sector bodies to prevent discrimination and promote equality for people with certain Protected Characteristics, this is referenced in the Code. An Equality Impact Assessment has also been undertaken.</p>
Article 3  Best interests of the child	<p>The code requires that the performance of health, care and support services must be carried out with the best interests of children at the centre with the overall aim to improve the well-being outcomes of children.</p> <p>The code applies to all practitioners working for local authorities, local health boards and NHS trusts, particularly those in public facing roles, to ensure that they can make a positive difference to the health and wellbeing outcomes of autistic children and young people.</p>
Article 4	<p>The Code contains general principles of the Convention in relation to who is protected, and an affirmation that all relevant organisations should work towards the best interests of children and parental freedom.</p>

Implementation of the Convention	
Article 5  Parental guidance and a child's evolving capacities	<p>The Code ensures that every autism diagnostic assessment for children and young people must include (for example) detailed questions about parents or carers' concerns and, if appropriate, the child or young person's concerns, details of the child or young person's experiences of home life, education and social care.</p> <p>The Code highlights the need to develop a profile of the child or young person's strengths, skills, differences and barriers, including: ability and learning style, academic skills, speech, language and communication, fine and gross motor skills, adaptive behaviour (including self-help skills), mental and emotional health (including self-esteem), physical health and nutrition, sensory sensitivities, and behaviour likely to affect day-to-day functioning and social participation.</p> <p>The profile should be used to create a personalised plan, taking into account family and educational context. The assessment findings should be communicated to the parent or carer and, if appropriate, the child or young person.</p>
Article 6  Life, survival and development	<p>Access to early assessment and diagnosis is key to supporting the developmental needs of children and young people who may be autistic. The Code provides that assessment and diagnosis must take place within timescales set out in relevant guidelines issued by the Welsh Government and that national pathways are followed.</p>
Article 12  Respect for the views of the child	<p>The Consultation on the code was produced in Easy Read to facilitate a wide range of people (including children and young people) in giving their opinions on the draft code.</p> <p>The Code makes provision for services offering autism assessments to children, young people and adults and that they must ensure practitioners listen to and take into account the views of young people, adults, families and/or carers (e.g. Section 1, 5(iv)).</p> <p>The impact of the Code of Practice will be monitored from implementation in September 2021 and an independent evaluation will commence once it has been in place for two years. In 2021 a demand and capacity review of all neurodevelopmental services is being undertaken and part of this will reveal where there may be gaps in service provision, which will inform the future evaluation.</p>
Article 16	<p>The Social Services and Wellbeing Act and the NHS Act set out what data should be collected and how it should be published. This is</p>

Right to privacy	<p>intended to ensure a consistency of approach and provide clear safeguards to prevent individual's personal privacy being compromised.</p> <p>The Welsh Government currently collects high level data on autism as part of wider data collections.</p>
Article 17 Access to information from the media	<p>Support and resources are available for children and young people on the National Autism Team website.</p> <p><a href="http://www.autismwales.org">www.autismwales.org</a></p>
Article 23 Children with a disability	<p>The Code is intended to positively address the needs of people of all ages with autism in Wales. It will make a significantly positive contribution in relation to children and young people with autism. The code also emphasises the importance of holistic assessment and the consideration of other co-existing conditions which may have an impact on the child or young person.</p>
Article 24 Health and Health Services	<p>The Code will establish the necessity of a clear pathway to assessment and diagnosis, so that regardless of where a person lives or what age they are, they can access a diagnostic assessment in a timely manner. The consideration of co-existing conditions is also required.</p> <p>The code also provides that assessments of the care and support needs of a person with autism are to be completed.</p>
Article 27 Adequate standard of living	<p>The Code does not directly relate to standards of living - its overall impact is to facilitate access to and improve the provision of services to persons with autism which will enable autistic children to better realise their potential and achieve an equitable standard of living with those who are not autistic</p>
Article 28 Right to education	<p>The Code is made under the Social Services and Wellbeing Act and the NHS act – however it aligns with Welsh Government Additional Learning Needs reform and it will promote inclusive education through requiring training needs analysis and the training of teachers and other staff in education settings to support children and young people with autism, which includes post registration professional development.</p>
Article 29 Goals of education	<p>The Additional Learning Needs reform, underpinned by the Additional Learning Needs and Education Tribunal (Wales) Act 2018, introduces a new system focused on ensuring all children and young people that require support, including autistic learners, have that support properly planned for and protected, and will have a statutory plan with equal rights of appeal. The Act puts learners at the heart of the decision making process. Although it extends to meet the needs of autistic</p>

	children and young people it does not differentiate between different additional learning needs because it seeks to ensure that all needs are met equitably and comprehensively.
Article 30 Children from minority or indigenous groups	The Code promotes Welsh language standards and sets out that information and support must be provided in plain language format with consideration given to first language, ethnicity and cultural differences.
Article 31 Leisure, play and culture	<p>Every child has the right to relax, play and take part in a wide range of cultural and artistic activities. However, the extent to which a child with autism can relax, play and take part in cultural activities can be impeded by other people's understanding of autism.</p> <p>The Code addresses this impediment by stating that key professionals require the provision of appropriate training to them in relation to supporting autistic people, including children and young people. .</p> <p>Children will be supported to do the things that matter to them and be encouraged to participate in their community. Local authorities should assess and ensure that services not only meet children's personal well-being outcomes but, where possible, provide added value.</p>
Article 40 Juvenile justice	<p>While not specifically addressed in the Code, it is important to have an awareness of the signs of autism as many of the people the criminal justice system come into contact with, may not be aware that this is why they are experiencing difficulties. The Welsh Government has produced guidance designed to provide an insight into autistic spectrum disorders for professionals working within the various areas of the Criminal Justice System within Wales.</p> <p><a href="https://autismwales.org/wp-content/uploads/2020/09/e_5_110127asdcriminaljustpracen.pdf">https://autismwales.org/wp-content/uploads/2020/09/e_5_110127asdcriminaljustpracen.pdf</a></p>