



# Children and Families (Wales) Measure 2010

## 2010 nawm 1

### PART 1

#### CHILD POVERTY, PLAY AND PARTICIPATION

### CHAPTER 3

#### INSPECTION, GUIDANCE AND DIRECTIONS

PROSPECTIVE

#### *Inspection*

#### **13 Inspection**

- (1) The Welsh Ministers may by regulations make provision—
  - (a) for the inspection of the exercise by a local authority of functions under sections 7 to 12;
  - (b) for the publication of reports of the inspections in such manner as the Welsh Ministers consider appropriate.
- (2) The regulations may provide for the inspections to be organised by—
  - (a) the Welsh Ministers, or
  - (b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Welsh Ministers.
- (3) The regulations may provide that for the purposes of the law of defamation any report published under the regulations is privileged unless the publication is shown to have been made with malice.

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*Status: Point in time view as at 10/01/2011. This version of this chapter contains provisions that are prospective.*

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- (4) Regulations made under subsection (3) do not limit any privilege subsisting apart from provision in such regulations.

#### **14 Powers of entry**

- (1) Any person authorised by the Welsh Ministers may, for the purposes of regulations made under section 13, at any reasonable time enter—
- (a) any premises owned or controlled by a local authority;
  - (b) any premises falling within subsection (3).
- (2) But subsection (1) does not authorise entry to premises used wholly or mainly as a private dwelling.
- (3) The premises referred to in subsection (1)(b) are premises—
- (a) which are used, or proposed to be used, by any person in connection with services or facilities secured by a local authority;
  - (b) or which the person authorised under subsection (1) reasonably believes to be so used, or proposed to be so used.
- (4) Authorisation under subsection (1)—
- (a) may be given for a particular occasion or period;
  - (b) may be given subject to conditions.
- (5) A person exercising any power conferred by subsection (1) or section 15 must, if so required, produce some duly authenticated document showing that person's authority to do so.

#### **15 Powers of inspection**

- (1) A person entering premises under section 14 may (subject to any conditions imposed under section 14(4)(b))—
- (a) inspect the premises;
  - (b) inspect, take copies of and remove from the premises any documents or records relating to the discharge by the local authority of its functions under sections 7 to 12;
  - (c) inspect any other item and remove it from the premises;
  - (d) interview in private any person working at the premises.
- (2) The power in subsection (1)(b) includes—
- (a) power to require any person holding or accountable for documents or records kept on the premises to produce them, and
  - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) The power in subsection (1)(b) does not include power—
- (a) to require a person to produce any document or record in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or
  - (b) to take copies of such a document or record or to remove it.

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- (4) In connection with inspecting any such documents, a person authorised for the purposes of section 14 (subject to any conditions imposed under section 14(4)(b))—
  - (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and
  - (b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.
- (5) A person is within this subsection if he or she is—
  - (a) the person by whom or on whose behalf the computer is or has been used, or
  - (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (6) A person entering premises under section 14 (subject to any conditions imposed under section 14(4)(b)) may require any person to afford him or her such facilities and assistance with respect to matters within the person's control as are necessary to enable him or her to exercise powers under section 14 or this section.
- (7) Any person who without reasonable excuse—
  - (a) obstructs a person exercising any power under section 14(1) or this section, or
  - (b) fails to comply with any requirement imposed under this section,is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **16 Power to require information**

- (1) The Welsh Ministers may at any time require any person specified in subsection (3) to provide them with any information, documents, records (including personal records) or other items—
  - (a) which relates or relate to the exercise by a local authority of its functions under sections 7 to 12, and
  - (b) which the Welsh Ministers—
    - (i) consider necessary or expedient to have for the purpose of any of their functions relating to the exercise by a local authority of its functions under sections 7 to 12, or
    - (ii) consider necessary or expedient for any person exercising functions under sections 14 to 15 to have for the purpose of those functions.
- (2) The Welsh Ministers may share anything obtained under subsection (1) with any person exercising functions under sections 14 to 15.
- (3) The persons referred to in subsection (1) are—
  - (a) a local authority;
  - (b) any person with whom the authority have entered into arrangements—
    - (i) in the exercise of any of its functions under sections 7 to 12, or
    - (ii) in connection with any related activity.
- (4) The power in subsection (1) includes, in relation to information, documents or records kept by means of a computer, power to require provision of them in a legible form which can be taken away.

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- (5) The power in subsection (1) does not include power to require the provision of information, documents or records in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (6) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### *Guidance and directions*

## 17 Guidance

- (1) The Welsh Ministers may give guidance to another Welsh authority from time to time about—
  - (a) the exercise of functions under sections 1 to 10, or
  - (b) any action to promote the broad aims for contributing to the eradication of child poverty.
- (2) A Welsh authority must have regard to the guidance when exercising its functions.
- (3) In exercising its functions under sections 11 and 12, a local authority must have regard to any guidance given from time to time by the Welsh Ministers.

#### Commencement Information

**11** S. 17 in force at 10.1.2011 by [S.I. 2010/2994](#), [art. 2\(e\)](#)

## 18 Directions

- (1) This section applies if the Welsh Ministers are satisfied that any other Welsh authority is failing, or is likely to fail, to comply with any duty under section 2, 7, 10, 11 or 12.
- (2) The Welsh Ministers may direct the Welsh authority to take any action which the Welsh Ministers consider necessary or expedient to secure its compliance with the requirements of the relevant duty.
- (3) A direction given under this section—
  - (a) must be given in writing;
  - (b) may be varied or revoked by a later direction;
  - (c) is enforceable by mandatory order on the application of the Welsh Ministers.

#### Commencement Information

**12** S. 18 in force at 10.1.2011 by [S.I. 2010/2994](#), [art. 2\(f\)](#)

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