



# Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015

2015 anaw 3

*Guidance and directions in relation to the purpose of this Act*

## **14 Meaning of “relevant authority”**

In this Act, “relevant authority” means—

- (a) a local authority;
- (b) a Local Health Board;
- (c) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c.21), or a scheme to which section 4 of that Act applies;
- (d) a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006 (c.42).

## **15 Power to issue statutory guidance**

- (1) The Welsh Ministers may issue guidance to a relevant authority on how the authority should exercise its functions with a view to contributing to the pursuit of the purpose of this Act (“statutory guidance”).
- (2) The statutory guidance may, amongst other things, address—
  - (a) steps an authority may take to increase awareness of, or change attitudes in relation to, gender-based violence, domestic abuse and sexual violence (for example, by designating a member of staff for that purpose or undertaking or assisting with a programme of public education);
  - (b) the commissioning by relevant authorities of specialist advice or other assistance relating to gender-based violence, domestic abuse or sexual violence;
  - (c) the circumstances in which it is appropriate for persons acting on behalf of a relevant authority to ask a person if he or she is suffering or at risk of gender-based violence, domestic abuse and sexual violence;

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- (d) the action that is appropriate where a person acting on behalf of a relevant authority has reason to suspect that a person is suffering or at risk of gender-based violence, domestic abuse and sexual violence;
  - (e) workplace policies to promote the well-being of employees of relevant authorities who may be affected by gender-based violence, domestic abuse and sexual violence;
  - (f) training for the members and staff of a relevant authority;
  - (g) the sharing of information between relevant authorities or by a relevant authority with another person;
  - (h) co-operation between relevant authorities or between a relevant authority and other persons.
- (3) The Welsh Ministers—
- (a) may issue statutory guidance to relevant authorities generally or to one or more particular authorities;
  - (b) may issue different statutory guidance to different relevant authorities;
  - (c) may revise or revoke statutory guidance by further guidance;
  - (d) may revoke statutory guidance by issuing a notice to the relevant authority to which it is directed.
- (4) The Welsh Ministers must ensure that statutory guidance, or a notice revoking such guidance, states—
- (a) that it is issued under this section, and
  - (b) the date on which it is to take effect.
- (5) The Welsh Ministers must arrange for statutory guidance, or a notice revoking such guidance, to be published.

## **16 Consultation and National Assembly for Wales procedures**

- (1) Before issuing or revising statutory guidance, the Welsh Ministers must consult such persons as they consider appropriate on a draft of the guidance.
- (2) If the Welsh Ministers wish to proceed with the draft (with or without modifications) they must lay a copy of the draft before the National Assembly for Wales.
- (3) If, before the end of the 40 day period, the National Assembly resolves not to approve the draft of the guidance, the Welsh Ministers must not issue it in the form of that draft.
- (4) If no such resolution is made before the end of that period, the Welsh Ministers must issue the guidance (or revised guidance) in the form of the draft.
- (5) The 40 day period—
  - (a) begins on the day on which the draft is laid before the National Assembly, and
  - (b) does not include any time during which the National Assembly is dissolved or is in recess for more than four days.
- (6) Subsection (3) does not prevent a new draft of proposed guidance or proposed revised guidance from being laid before the National Assembly.

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## **17 Duty to follow statutory guidance**

- (1) A relevant authority must follow the course set out in guidance issued to it in accordance with this Act when exercising a power or duty (including a power or duty that is contingent upon the opinion of the authority concerned); but this is subject to the following provisions of this section.
- (2) A relevant authority is not subject to the duty under subsection (1) so far as—
  - (a) the authority concerned thinks there is good reason for it not to follow the guidance in particular categories of case or at all,
  - (b) it decides on an alternative policy for the exercise of its functions in respect of the subject matter of the guidance, and
  - (c) a policy statement issued by the authority in accordance with section 18 is in effect.
- (3) Where subsection (2) applies in the case of an authority to which this section applies, the authority—
  - (a) must follow the course set out in the policy statement, and
  - (b) is subject to the duty under subsection (1) only so far as the subject matter of the guidance is not displaced by the policy statement.
- (4) The duties in subsections (1) and (3) do not apply to a relevant authority so far as it would be unreasonable for the authority to follow the statutory guidance or policy statement in a particular case or category of case.

## **18 Policy statements: requirements and ancillary powers**

- (1) A policy statement issued under section 17(2) must set out—
  - (a) how the relevant authority proposes that functions should be exercised differently from the course set out in the statutory guidance, and
  - (b) the authority's reasons for proposing that different course.
- (2) An authority that has issued a policy statement may—
  - (a) issue a revised policy statement;
  - (b) give notice revoking a policy statement.
- (3) A policy statement (or revised statement) must state—
  - (a) that it is issued under section 17(2), and
  - (b) the date on which it is to take effect.
- (4) The authority that issues a policy statement (or revised statement), or gives a notice under subsection (2)(b), must—
  - (a) arrange for a statement or notice to be published;
  - (b) send a copy of any statement or notice to the Welsh Ministers.

## **19 Directions**

- (1) Subsection (2) applies if, in relation to a policy statement issued by a relevant authority, the Welsh Ministers consider that the authority's alternative policy for the exercise of functions (in whole or in part) is not likely to contribute to the pursuit of the purpose of this Act.

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- (2) The Welsh Ministers may direct the relevant authority to take any action which the Welsh Ministers consider appropriate for the purpose of securing the exercise of functions by the authority in accordance with the statutory guidance issued to the authority in accordance with this Act.
- (3) A relevant authority subject to a direction under this section must comply with it; this includes a direction to exercise a power or duty that is contingent upon the opinion of the relevant authority.
- (4) A direction 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 application by, or on behalf of, the Welsh Ministers.

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