



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 8 **E+W**

SOCIAL SERVICES FUNCTIONS

[^{F1}Enforcement

Textual Amendments

- F1** Ss. 161-161C and cross-heading substituted for s. 161 (29.4.2019) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), **ss. 57(2)**, 188(1); S.I. 2019/864, art. 2(3)(c)

161 Powers of entry and inspection **E+W**

- (1) A person falling within subsection (2) may authorise an inspector to enter and inspect premises falling within subsection (3).
- (2) The following persons fall within this subsection—
 - (a) the Welsh Ministers—
 - (i) where they consider it necessary or expedient for the purposes of a review conducted under section 149B(1), or
 - (ii) in pursuance of a direction under section 155;
 - (b) a person specified in a direction under section 153 or, where the direction specifies a class of persons, the person with whom the local authority enters into the contract or other arrangement required by the direction;
 - (c) a person specified in a direction under section 154;
 - (d) a person nominated in a direction under section 155.
- (3) The following premises fall within this subsection—
 - (a) premises owned or controlled by a local authority;

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- (b) premises—
 - (i) which are used, or proposed to be used, by any person in connection with the exercise of a local authority social services function, or
 - (ii) which the Welsh Ministers reasonably believe is being used, or may be used, for that purpose,
 but premises used wholly or mainly as a private dwelling do not fall within this subsection unless the occupier of the premises consents to the inspector entering and inspecting them.
- (4) “Premises” includes a vehicle.
- (5) The Welsh Ministers may by regulations make provision about the qualifications and other conditions to be met by an individual who may be an inspector.
- (6) When entering premises, an inspector must, if requested to do so by any person at the premises, produce a document showing the inspector's authorisation given under subsection (1).
- (7) The inspector may—
 - (a) examine the state and management of the premises and, if any persons are accommodated or receive care and support at the premises, examine the treatment of those persons;
 - (b) require the manager of the premises or any other person who appears to the inspector to hold or be accountable for documents or records kept at the premises to produce any documents or records (including medical and other personal records) that the inspector considers may be relevant to the exercise of functions under this Part by the person who authorised the inspector;
 - (c) inspect and take copies of any documents or records (including medical and other personal records) that the inspector considers may be relevant to the exercise of functions under this Part by the person who authorised the inspector;
 - (d) require any person to afford the inspector such facilities and assistance with respect to matters within the person's control as are necessary to enable the inspector to carry out the inspection;
 - (e) take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of carrying out the inspection;
 - (f) interview in private—
 - (i) the manager of the premises or any other person who appears to the inspector to be responsible for the premises;
 - (ii) any person working there;
 - (iii) any person accommodated or receiving care and support there who consents to be interviewed.
- (8) The powers in subsection (7)(b) to (d) include the power to—
 - (a) gain access to and check the operation of any computer and associated apparatus which the inspector has reasonable grounds to believe is (or has been) used in connection with the documents or records, and
 - (b) require documents or records to be produced in a form which is legible and portable.
- (9) Subsection (10) applies where—

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- (a) persons are accommodated or receiving care and support at the inspected premises,
 - (b) the inspector is a registered medical practitioner or registered nurse, and
 - (c) the inspector has reasonable grounds to believe that a person accommodated or receiving care and support at the premises is not receiving (or has not received) proper care and support.
- (10) Where this subsection applies, the inspector may examine the person in private but only if the person gives consent to the examination.
- (11) For the purposes of subsections (7)(f) and (10), an interview or examination is to be treated as conducted in private despite the presence of a third party if—
- (a) the person being interviewed or examined wants the third party to be present and the inspector does not object, or
 - (b) the inspector wants the third party to be present and the person being interviewed or examined consents.
- (12) Where an inspector conducts an interview or examination under this section, the inspector must, if requested to do so by—
- (a) the person being interviewed or examined, or
 - (b) an individual accompanying that person,
- produce a document showing the inspector's authorisation given under subsection (1) and, in the case of an examination, a document showing that the inspector is a registered medical practitioner or registered nurse.
- (13) As soon as is reasonably practicable after an inspector has concluded an inspection under this section, the inspector must send a report of the inspection to the person who gave the authorisation under subsection (1).
- (14) That person must send a copy of the inspector's report—
- (a) to the local authority being reviewed or subject to the direction, and
 - (b) if the person is not the Welsh Ministers, to the Welsh Ministers.
- (15) In this section and sections 161A, 161B and 161C, “inspector” means an individual authorised under subsection (1).

161A Code of practice about inspections E+W

- (1) The Welsh Ministers must prepare and publish a code of practice about the manner in which inspections of premises under section 161 are to be carried out (including about the frequency of such inspections).
- (2) The Welsh Ministers may revise the code and must publish a revised code.
- (3) An inspector must have regard to the most recently published code when carrying out an inspection under section 161.

161B Power to require information E+W

- (1) The Welsh Ministers may require a person falling within subsection (2) to provide them with—
 - (a) any documents, records (including medical or other personal records) or other information—

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- (i) which relate to the exercise of a social services function of a local authority, and
 - (ii) which the Welsh Ministers consider it necessary or expedient to have for the purposes of a review under section 149A or 149B;
- (b) an explanation of the content of—
- (i) any documents, records or other information provided under paragraph (a), or
 - (ii) any documents or records provided to an inspector conducting an inspection of premises under section 161 in connection with a review under section 149B.
- (2) The following persons fall within this subsection—
- (a) a local authority;
 - (b) a person providing a service in connection with the exercise of a local authority social services function;
 - (c) a Local Health Board;
 - (d) an NHS trust,
- but a Local Health Board or NHS trust cannot be required to provide an explanation of the content of any documents or records provided to an inspector conducting an inspection of premises under section 161.
- (3) A person is not required to provide documents, records or other information under subsection (1) if the person is prohibited from providing them by any enactment or other rule of law.
- (4) The power in subsection (1) includes power to require documents or records to be produced in a form which is legible and portable.

161C Offences E+W

- (1) It is an offence for a person—
- (a) to intentionally obstruct the carrying out of an inspection of premises under section 161 by an inspector, or
 - (b) to fail to comply with any requirement imposed on the person by an inspector carrying out such an inspection.
- (2) It is an offence for a person to fail to comply with a requirement imposed on the person by the Welsh Ministers under section 161B(1).
- (3) It is a defence for a person charged with an offence under subsection (1)(b) or (2) to show that the person had a reasonable excuse for not complying with the requirement.
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine, or to imprisonment for a term not exceeding 6 months, or to both;
 - (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.
- (5) Sections 53 (offences by bodies corporate), 54 (offences by unincorporated bodies) and 55 (proceedings for offences) of the Regulation and Inspection of Social Care (Wales) Act 2016 apply to an offence under this section as they apply to offences under Part 1 of that Act.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))