

Lesley Griffiths AC / AM  
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth  
Minister for Local Government and Government Business



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref LF/LG/0563/14

Christine Chapman AM  
Chair of the Communities, Equality  
and Local Government Committee

9 July 2014

Dear Christine,

**Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill**

Following the introduction of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill, into the National Assembly for Wales on 30 June 2014, please find attached copies of three draft guidance documents and four Policy Intent Statements.

These documents are provided to support the Committee's scrutiny of the Bill.

The three pieces of draft guidance have been created to provide examples to the Committee of the matters the statutory guidance I am considering publishing under the power contained in section 12 of the Bill may address. These include guidance on the following:

A National Training Framework;  
Ask and Act; and  
Multi-Agency Fora.

Some limited stakeholder consultation on elements of the guidance has already taken place. However please note this guidance is currently in initial draft stage and, in accordance with section 13 of the Bill, any guidance issued under section 12 will be the subject of a public consultation before a draft is finalised and laid before the Assembly for scrutiny. Only then will any guidance under section 12 be issued.

A summary of the effect of each of these pieces of guidance is provided as a cover sheet with each document, and is also contained in the Explanatory Memorandum which was published along with the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill.

The Policy Intent Statements provide further information on the policy intent for the subordinate legislation and directions which could be made under the Bill, if enacted.

I look forward to providing evidence to the Committee in due course.

Regards  
Lesley

**Lesley Griffiths AC / AM**

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Minister for Local Government and Government Business



Llywodraeth Cymru  
Welsh Government

# **Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill**

Policy intent of regulations and  
other subordinate legislation  
made under the Bill

July 2014

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## **Introduction**

This document provides an indication of the current policy intent for subordinate legislation and directions which the Welsh Ministers may wish to make using the powers in the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill ('the Bill') if enacted.

The statements are presented in the order in which the relevant provisions appear in the Bill, and all section references within the statements likewise relate to section numbers in the Bill, as introduced.

The Bill contains five provisions which provide the Welsh Ministers the power to make directions, regulations, orders and guidance. However the guidance provision is not referenced in this document as separate draft guidance has been provided, indicating the policy intent of the Welsh Ministers.

This document also outlines the Assembly procedure, if any, attached to each provision.

This statement should be read in conjunction with the Bill and Explanatory Memorandum as published on introduction.

The tables overleaf provide the policy intentions for each of these provisions in the Bill.

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| <b>DIRECTION RELATING TO:</b>  | To review local strategies |
| <b>SECTION:</b>  | 5(3)(b)                    |
| <b>DESCRIPTION OF THE POWER</b>  |                            |
| <p>Section 5 places duties on Local Authorities and Local Health Boards as to when they must publish and review their local strategies.</p> <p>Section 5(3)(b), provides the Welsh Ministers the power to direct Local Authorities and Local Health Boards to review their strategy.</p> <p>This power is not subject to any Assembly procedure.</p>   |                            |
| <b>WHY THE POWER IS REQUIRED</b>   |                            |
| <p>Section 5(3)(b) provides the Welsh Ministers with the flexibility to direct Local Authorities and Local Health Boards to review their strategy in the event circumstances suggest a review should take place, for example in the event the Welsh Ministers decide to review the National Strategy.</p> <p>As it relates to the review of local strategies, the circumstances in which the direction would be used may change from time to time. The direction power in the Bill is not the subject of any Assembly procedure before it can be exercised. This is to ensure the Welsh Ministers have the flexibility to react quickly to changes in circumstances ensuring the timely review of strategies at a local level. For example, local circumstances could dictate that the strategy of a particular area should be reviewed.</p>   |                            |
| <b>POLICY INTENTION OF THE POWER</b>   |                            |
| <p>The policy intention for the direction power is to allow the Welsh Ministers, on an occasion when a significant change or event has taken place and the local strategies are not due to be reviewed imminently, to direct Local Authorities and Local Health Boards to review their strategies with regards to gender-based violence, domestic abuse or sexual violence.</p> <p>An example of when this power could be used would be in the event the Welsh Ministers decide a review of the National Strategy was required, possibly following an Assembly Election, and it is also decided local strategies should be reviewed to take into account the changes to the National Strategy. It could also be exercised where a significant issue has arisen in a particular area and the review of the strategy could assist in dealing with any particular issue.</p> <p>It is considered at this time, this is likely to be a direction which will rarely be exercised as Local Authorities and Local Health Boards are already under a duty to review their strategies after each ordinary election under section 5(2). They also have the flexibility of reviewing their strategies themselves at any other time they deem appropriate. However, it is still important for this power to be in place when required.</p> |                            |

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| <b>OTHER CONSIDERATIONS:</b>                                    |
| N/A   |
| <b>INTERDEPENDENCIES AND LINKS TO OTHER POWERS/REGULATIONS:</b> |
| N/A   |

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|--|---|
| <b>REGULATIONS RELATING TO:</b>  | Power to prescribe additional matters which must be taken into account in preparing local strategies and to require further assessments to be conducted by a Local Authority or Local Health Board. |
| <b>SECTION:</b>  | 6(2)  |
| <b>DESCRIPTION OF THE POWER</b>  |   |
| <p>Section 6 outlines a number of matters to which Local Authorities and Local Health Boards must have regard in preparing or reviewing their local strategy, including needs assessments required under section 14 of the Social Services and Well-being (Wales) Act 2014, and strategic assessments prepared in accordance with regulations made under section 6 of the Crime and Disorder Act 1998, relating to crime and disorder, substance misuse and re-offending.</p> <p>Section 6(2) provides the Welsh Ministers the flexibility to prescribe additional matters and to conduct further assessments which must be taken into account in preparing local strategies.</p> <p>Before these Regulations come into force they would be laid before the Assembly under the negative procedure.</p> |   |
| <b>WHY THE REGULATION POWER IS REQUIRED</b>  |   |
| <p>Section 6(2) provides for the Welsh Ministers to prescribe additional matters or further assessments be conducted by a Local Authority and Local Health Board if they consider this is required to ensure the full issues on gender-based violence, domestic abuse and sexual violence have been considered. Then any further information must be taken into account in preparing their local strategy.</p> <p>It is proposed these regulations are subject to the negative procedure as they will prescribe technical matter of detail which may change from time to time.</p>   |   |
| <b>POLICY INTENTION OF THE REGULATIONS</b>   |   |
| <p>The policy intention for this regulation power is it would be used if the Welsh Ministers decide after Local Authorities and Local Health Boards have considered their needs and strategic assessments (undertaken under the regulation powers of the Social Services and Well-being (Wales) Act 2014 and Crime and Disorder Act 1998), they were inadequate for the purpose of informing the development of local strategies on the issues of gender-based violence, domestic abuse and sexual violence specifically. The Welsh Ministers would, therefore, be able to exercise the regulation power in subsection (2) to prescribe additional information or further assessments be undertaken, if the combination of these needs assessments proves insufficient.</p>                            |   |



**OTHER CONSIDERATIONS:**

The arrangements for local needs and strategic assessments are prescribed by the following legislation:

- Section 14 of the Social Services and Well-being (Wales) Act 2014; and
- Regulations made under section 6 of the Crime and Disorder Act 1998.

**INTERDEPENDENCIES AND LINKS TO OTHER POWERS/REGULATIONS:**

N/A

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| <b>DIRECTIONS RELATING TO:</b>  | In certain circumstances, to direct relevant authorities to comply with statutory guidance. |
| <b>SECTION:</b>   | 16(2)   |
| <b>DESCRIPTION OF THE POWER</b>   |   |
| <p>Section 16 (2) gives the Welsh Minister’s power to direct a 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 relevant authority.</p> <p>The power can only be exercised if, in relation to a policy statement issued by a relevant authority (under section 15 of the Bill), the Welsh Ministers consider 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 the Bill.</p> <p>The Welsh Ministers may direct the relevant authority to take any action 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.</p> <p>This power is not subject to any Assembly procedure.</p>   |   |
| <b>WHY THE POWER IS REQUIRED</b>  |   |
| <p>This direction power provides that a relevant authority, subject to a direction under this section, must comply with it, and provides the Welsh Ministers with the flexibility to react quickly to secure compliance with guidance issued under section 12 where appropriate.</p>  |   |
| <b>POLICY INTENTION OF THE POWER</b>  |   |
| <p>Using as an example the draft guidance provided for scrutiny, this power could be used if a relevant authority chose not to follow an element of the National Training Framework as provided by the Welsh Ministers under section 12. For example, a relevant authority determined they were not going to undertake level 1 training amongst their staff and instead issued a policy statement outlining an alternative approach. Unless the alternative approach offered a comparable or better outcome in terms of its contribution to the pursuit of the purposes of the Bill, the Welsh Ministers could direct the authority to follow the guidance and ensure all staff receive level 1 training. For example, if the authority simply issued a policy statement setting out their approach was not to train staff, but instead rely on an internal publicity campaign, this is unlikely to achieve the outcomes sought. If their alternative approach was to undertake a more detailed level of training with all staff, then this would achieve more than is sought in the guidance. The intention is therefore to ensure compliance with guidance issued under section 12 unless a better alternative is proposed.</p> |   |

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| <b>OTHER CONSIDERATIONS:</b>  |
| N/A   |
| <b>INTERDEPENDENCIES AND LINKS TO OTHER POWERS/REGULATIONS:</b>   |
| Section 12 – Power to issue statutory guidance<br>Section 14 – Duty to follow the statutory guidance<br>Section 15 - Policy statements: requirements and ancillary powers |

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| <b>POWERS RELATING TO:</b>   | Commencement |
| <b>SECTION:</b>  | 22(3)        |
| <b>DESCRIPTION OF THE POWER</b>  |              |
| <p>Section 22 provides for the commencement of the Bill provisions if the Bill is enacted.</p> <p>Section 22(3) sets out the Welsh Ministers may by order appoint a day for the coming into force of sections of the Bill not otherwise specified in section 22.</p> <p>This order will be confined to commencement and is technical in nature, therefore no Assembly procedure will be required for this power.</p> |              |
| <b>WHY THE POWER IS REQUIRED</b>   |              |
| <p>This is an order making power which provides the flexibility for the Welsh Ministers to decide the coming into force date of certain provisions within the Bill where it cannot currently be determined when the suitable date would be at this point.</p>  |              |
| <b>POLICY INTENTION OF THE POWER</b>   |              |
| <p>This commencement power will be used for sections 2-10, 19 and 20 of the Bill. It has not yet been determined when these provisions will come into force after the Bill is enacted and therefore the commencement provision provides for the Welsh Ministers to provide when they will come into force which will be at a later, appropriate date.</p>  |              |
| <b>OTHER CONSIDERATIONS:</b>   |              |
| N/A  |              |
| <b>INTERDEPENDENCIES AND LINKS TO OTHER POWERS/REGULATIONS:</b>  |              |
| <p>This Order relates to all the provisions within the Bill which are not specified in sections 22(1) or (2).</p>  |              |