



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

VALID FROM 06/04/2016

PART 8

SOCIAL SERVICES FUNCTIONS

Local authorities

143 Social services functions of local authorities

- (1) For the purposes of this Act, the social services functions of a local authority are its functions under the enactments mentioned in the first column of the table in Schedule 2 to this Act (being the functions which are described in general terms in the second column of that Schedule).
- (2) The Welsh Ministers may by order—
 - (a) add entries to the table;
 - (b) remove entries from the table;
 - (c) amend entries in the table.

Commencement Information

- II** S. 143 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

144 Directors of social services

- (1) A local authority must appoint an officer, to be known as the director of social services, for the purposes of its social services functions.

Status: Point in time view as at 01/11/2014. This version of this part contains provisions that are not valid for this point in time.

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- (2) A local authority may not appoint a person to be its director of social services unless it is satisfied that the person has demonstrated competencies specified by the Welsh Ministers.
- (3) The Welsh Ministers must specify the competencies for the purpose of subsection (2) in a code issued under section 145 or in regulations.
- (4) Two or more local authorities may, if they consider that the same person can efficiently discharge, for both or all of them, the functions of a director of social services, appoint one person as director of social services for both or all of those authorities.
- (5) A local authority which has appointed, or jointly appointed, a person under this section must secure the provision of adequate staff for the purposes of its social services functions in order to assist the director.

Commencement Information

I2 S. 144 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

Codes

145 Power to issue codes

- (1) The Welsh Ministers may issue, and from time to time revise, one or more codes on the exercise of social services functions (“a code”).
- (2) A code may impose requirements, and may include guidelines setting out aims, objectives and other matters.
- (3) A local authority must, when exercising social services functions—
 - (a) act in accordance with any relevant requirements contained in a code (subject to section 147), and
 - (b) have regard to any relevant guidelines contained in it.
- (4) A code may specify that section 147 does not apply to a requirement contained in the code.
- (5) The Welsh Ministers must—
 - (a) publish each code for the time being in force on their website, and
 - (b) make available to the public codes that have been replaced or revoked (whether on their website or otherwise).

Commencement Information

I3 S. 145 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

146 Issue, approval and revocation of codes

- (1) Before issuing or revising a code under section 145, the Welsh Ministers must consult such persons as they think fit on a draft of the code (or revised code).

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- (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 for Wales resolves not to approve the draft, the Welsh Ministers must not issue the code (or revised code) in the form of that draft.
- (4) If no such resolution is made before the end of that period—
 - (a) the Welsh Ministers must issue the code (or revised code) in the form of the draft, and
 - (b) the code (or revised code) comes into force on the date appointed by order of the Welsh Ministers.
- (5) The 40 day period—
 - (a) begins on the day on which the draft is laid before the National Assembly for Wales, and
 - (b) does not include any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (6) Subsection (3) does not prevent a new draft of a code (or revised code) from being laid before the National Assembly for Wales.
- (7) The Welsh Ministers may revoke a code (or revised code) issued under this section in a further code or by direction.
- (8) A direction under subsection (7) must be laid before the National Assembly for Wales.

Commencement Information

I4 S. 146 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

147 Departure from requirements in codes

- (1) Where this section applies to a requirement in a code (see section 145(4)), a local authority may exercise social services functions in a way that does not comply with the requirement so far as—
 - (a) the authority considers there is good reason for it not to comply with the requirement in particular categories of cases or at all,
 - (b) it decides on an alternative policy for the exercise of its functions in respect of the subject matter of the requirement, and
 - (c) a policy statement issued by the authority in accordance with section 148 is in effect.
- (2) Where paragraphs (a) to (c) of subsection (1) apply, the authority—
 - (a) must follow the course set out in the policy statement, and
 - (b) is subject to the duty to comply with the requirement in the code only so far as the subject matter of the requirement is not displaced by the policy statement.
- (3) The duty to comply with a requirement in a code of practice or to follow the course set out in a policy statement does not apply to a local authority so far as it would be

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unreasonable for the authority to follow the code or policy statement in a particular case or category of case.

Commencement Information

I5 S. 147 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

148 Policy statements: requirements and ancillary powers

- (1) A policy statement issued under section 147(1) must set out—
 - (a) how the local authority proposes that social services functions should be exercised differently from the requirement in the relevant code, 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 147(1), and
 - (b) the date on which it is to take effect.
- (4) An authority that issues a policy statement (or revised statement), or gives a notice under subsection (2)(b), must—
 - (a) arrange for the statement or notice to be published;
 - (b) send a copy of the statement or notice to the Welsh Ministers.

Commencement Information

I6 S. 148 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

149 Directions to require compliance with codes of practice

- (1) Subsection (2) applies if, in relation to a policy statement issued by a local 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 lead to the exercise of social services functions to an adequate standard.
- (2) The Welsh Ministers may direct the local 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 relevant requirement in the relevant code.

Commencement Information

I7 S. 149 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

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Intervention by central government

150 Grounds for intervention

For the purposes of this Part, the grounds for intervention in the exercise by a local authority of its social services functions are as follows—

GROUND 1 - the local authority has failed, or is likely to fail, to comply with a duty that is a social services function;

GROUND 2 - the local authority has acted, or is proposing to act, unreasonably in the exercise of a social services function;

GROUND 3 - the local authority is failing, or is likely to fail, to perform a social services function to an adequate standard.

Commencement Information

18 S. 150 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

151 Warning notice

(1) The Welsh Ministers may give a warning notice to a local authority if they are satisfied that one or more of grounds 1 to 3 exist in relation to the local authority.

(2) The Welsh Ministers must specify each of the following in the warning notice—

- (a) the grounds for intervention;
- (b) the reasons why they are satisfied that the grounds exist;
- (c) the action they require the local authority to take in order to deal with the grounds for intervention;
- (d) the period within which the action is to be taken by the local authority (“the compliance period”);
- (e) the action they are minded to take if the local authority fails to take the required action.

(3) Where the Welsh Ministers give a warning notice under subsection (1), they must—

- (a) within 21 days of the giving of the notice, lay a copy of the notice before the National Assembly for Wales, and
- (b) within 90 days of the giving of the notice, report to the National Assembly for Wales on the action taken by the local authority in response to the warning notice.

Commencement Information

19 S. 151 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

152 Power of Welsh Ministers to intervene

(1) The Welsh Ministers have the power to intervene under this Part in the exercise of social services functions by a local authority if subsection (2) or (3) applies.

(2) This subsection applies if—

- (a) the Welsh Ministers have given a warning notice, and

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- (b) the local authority has failed to comply, or secure compliance, with the notice to the Welsh Ministers' satisfaction within the compliance period.
- (3) This subsection applies if the Welsh Ministers are satisfied that one or more of grounds 1 to 3 exist in relation to the local authority and they have reason to believe that—
 - (a) there is a related risk to the health or safety of any person that calls for urgent intervention under this Part, or
 - (b) the local authority is unlikely to be able to comply, or secure compliance, with a warning notice.
- (4) The Welsh Ministers must, within 90 days of the date on which they begin to intervene in the exercise of a local authority's social services functions, report to the National Assembly for Wales on the steps taken pursuant to the intervention.
- (5) Where the Welsh Ministers have the power to intervene, they must keep the circumstances giving rise to the power under review.
- (6) If the Welsh Ministers conclude that the grounds for intervention have been dealt with to their satisfaction or that the exercise of their powers under this Part would not be appropriate for any other reason, they must notify the local authority of their conclusion in writing.
- (7) The Welsh Ministers' power to intervene continues in effect until they give notice under subsection (6).
- (8) Until such time as notice is given under subsection (6), the Welsh Ministers must, every 6 months from the date on which they begin to intervene in the exercise of a local authority's social services functions, report to the National Assembly for Wales on the steps being taken pursuant to the intervention.
- (9) Where the Welsh Ministers have the power to intervene, they are not limited to taking the action they said they were minded to take in a warning notice.

Commencement Information

I10 S. 152 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

153 Power to require local authority to obtain advisory services

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of social services functions by a local authority.
- (2) The Welsh Ministers may direct the local authority to enter into a contract or other arrangement with a specified person, or a person falling within a specified class, for the provision to the authority of specified services of an advisory nature.
- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
- (4) In this section and section 154 “specified” means specified in a direction.

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Commencement Information

111 S. 153 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

154 Power to require performance of functions by other persons on behalf of authority

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of social services functions by a local authority.
- (2) The Welsh Ministers may give such a direction to the local authority or any of its officers as they think is appropriate for securing that the functions to which the grounds for intervention relate are performed on behalf of the authority by a person specified in the direction.
- (3) A direction under subsection (2) may require that any contract or other arrangement made by the authority with the specified person contains terms and conditions specified in the direction.
- (4) If a direction under subsection (2) is in force, the functions of the local authority to which it relates are to be treated for all purposes as being exercisable by the specified person.

Commencement Information

112 S. 154 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

155 Power to require performance of functions by Welsh Ministers or nominee

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of social services functions by a local authority.
- (2) The Welsh Ministers may direct that the functions to which the grounds for intervention relate are to be exercised by the Welsh Ministers or a person nominated by them.
- (3) If a direction is made under subsection (2), the local authority must comply with the instructions of the Welsh Ministers or their nominee in relation to the exercise of the functions.
- (4) If a direction under subsection (2) is in force, the functions of the local authority to which it relates are to be treated for all purposes as being exercisable by the Welsh Ministers or their nominee.

Commencement Information

113 S. 155 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

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156 Power to direct exercise of other social services functions

- (1) If the Welsh Ministers think it is expedient, a direction under section 154 or 155 may relate to the performance of social services functions in addition to the functions to which the grounds for intervention relate.
- (2) The Welsh Ministers may have regard (among other things) to financial considerations in deciding whether it is expedient that a direction should relate to social services functions other than the functions relating to the grounds for intervention.

Commencement Information

I14 S. 156 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

157 General power to give directions and take steps

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of social services functions by a local authority.
- (2) If the Welsh Ministers think it is appropriate in order to deal with the grounds for intervention, the Welsh Ministers may—
 - (a) direct the local authority or any of its officers, or
 - (b) take any other steps.

Commencement Information

I15 S. 157 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

158 Intervention: duty to report

Where the Welsh Ministers exercise their power of direction under section 153, 154, 155 or 157, they must—

- (a) within 21 days of the giving of the direction, lay a copy of the direction before the National Assembly for Wales, and
- (b) within 90 days of the giving of the direction, report to the National Assembly for Wales on the steps taken by the local authority to comply with the direction.

Commencement Information

I16 S. 158 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with **art. 4**, **Schs. 1, 2**)

159 Directions

- (1) A local authority, or an officer of an authority, subject to a direction or instruction under this Part must comply with it.
- (2) This includes a direction or an instruction to exercise a function that is contingent upon the opinion of the local authority or an officer of the authority.

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(3) A direction under this Part—

- (a) must be 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.

Commencement Information

I17 S. 159 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

160 Duty to co-operate

(1) A local authority must give the Welsh Ministers and any person mentioned in subsection (2) as much assistance in connection with the exercise of functions under or by virtue of this Part as they are reasonably able to give.

(2) The persons are—

- (a) any person authorised for the purposes of this section by the Welsh Ministers;
- (b) any person acting under a direction under this Part;
- (c) any person assisting—
 - (i) the Welsh Ministers, or
 - (ii) a person mentioned in paragraph (a) or (b).

Commencement Information

I18 S. 160 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

161 Powers of entry and inspection

(1) A person falling within subsection (2) has at all reasonable times—

- (a) a right of entry to the premises of the local authority in question;
- (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which the person considers relevant to the exercise of his or her functions under or by virtue of this Part.

(2) The following persons fall within this subsection—

- (a) 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;
- (b) a person specified in a direction under section 154;
- (c) the Welsh Ministers in pursuance of a direction under section 155;
- (d) a person nominated by a direction under section 155.

(3) In exercising the right under subsection (1)(b) to inspect records or other documents, a person (“P”)—

- (a) is entitled to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and

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- (b) may require the following persons to provide any assistance P may reasonably require (including, among other things, the making of information available for inspection or copying in a legible form)—
- (i) the person by whom or on whose behalf the computer is or has been so used;
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (4) Any reference in this section to a person falling within subsection (2) includes a reference to any person assisting that person.
- (5) In this section “document” and “records” each include information recorded in any form.

Commencement Information

I19 S. 161 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

Status:

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