



# Domestic Abuse Act 2021

## 2021 CHAPTER 17

### PART 2

#### THE DOMESTIC ABUSE COMMISSIONER

##### *Domestic Abuse Commissioner*

#### **4 Appointment of Commissioner**

- (1) The Secretary of State must appoint a person as the Domestic Abuse Commissioner (“the Commissioner”).
- (2) The Commissioner is to hold and vacate office in accordance with the terms and conditions of the Commissioner's appointment.
- (3) The Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

#### **Commencement Information**

- II** [S. 4](#) in force at 1.11.2021 by [S.I. 2021/1038](#), [reg. 3\(b\)](#)

#### **5 Funding**

- (1) The Secretary of State may make payments to the Commissioner out of money provided by Parliament for the purpose of enabling the Commissioner to meet expenditure incurred in the exercise of the Commissioner's functions.
- (2) Payments are to be made at such times, and subject to any such conditions, as the Secretary of State considers appropriate.
- (3) The Secretary of State may pay, or make provision for paying, to or in respect of the Commissioner—
  - (a) remuneration;

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- (b) allowances;
- (c) sums by way of or in respect of pensions.

**Commencement Information**

**I2** S. 5 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

**6 Staff etc**

- (1) The Secretary of State must provide the Commissioner with—
  - (a) such staff, and
  - (b) such accommodation, equipment and other facilities,
 as the Secretary of State considers necessary for the carrying out of the Commissioner's functions.
- (2) Before providing any staff, the Secretary of State must—
  - (a) consult the Commissioner, and
  - (b) obtain the Commissioner's approval as to the persons to be provided as staff.
- (3) The Secretary of State must consult the Commissioner before providing any accommodation, equipment or other facilities.

**Commencement Information**

**I3** S. 6 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

*Functions of Commissioner*

**7 General functions of Commissioner**

- (1) The Commissioner must encourage good practice in—
  - (a) the prevention of domestic abuse;
  - (b) the prevention, detection, investigation and prosecution of offences involving domestic abuse;
  - (c) the identification of—
    - (i) people who carry out domestic abuse;
    - (ii) victims of domestic abuse;
    - (iii) children affected by domestic abuse;
  - (d) the provision of protection and support to people affected by domestic abuse.
- (2) The things that the Commissioner may do in pursuance of the general duty under subsection (1) include—
  - (a) assessing, monitoring, and publishing information about, the provision of services to people affected by domestic abuse;
  - (b) making recommendations to any public authority about the exercise of its functions;
  - (c) undertaking or supporting (financially or otherwise) the carrying out of research;

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- (d) providing information, education or training;
  - (e) taking other steps to increase public awareness of domestic abuse;
  - (f) consulting public authorities, voluntary organisations and other persons;
  - (g) co-operating with, or working jointly with, public authorities, voluntary organisations and other persons, whether in England and Wales or outside the United Kingdom.
- (3) Subject to subsection (4), the Commissioner may not do anything in pursuance of the general duty under subsection (1) that—
- (a) relates to a devolved Welsh authority, or
  - (b) otherwise relates to Welsh devolved matters.
- (4) Subsection (3) does not prevent the Commissioner from—
- (a) doing anything falling within subsection (2)(c), (d) or (e), to the extent that the thing done does not relate to Welsh devolved matters;
  - (b) doing anything falling within subsection (2)(f) or (g);
  - (c) disclosing information to a devolved Welsh authority, or information which relates to Welsh devolved matters, under section 18.
- (5) For the purposes of this section something relates to Welsh devolved matters so far as it relates to—
- (a) any matter provision about which would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru, or
  - (b) (so far as it is not within paragraph (a)), any matter functions with respect to which are exercisable by the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government or the Senedd Commission.
- (6) In this section—
- “devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006;
  - “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal.

#### Commencement Information

**I4** S. 7 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

## 8 Reports

- (1) The Commissioner may report to the Secretary of State on any matter relating to domestic abuse.
- (2) The Commissioner must publish every report made under this section.
- (3) Before publishing a report under this section, the Commissioner must send a draft of the report to the Secretary of State.
- (4) The Secretary of State may direct the Commissioner to omit material from any report under this section before publication if the Secretary of State thinks the publication of that material—
  - (a) might jeopardise the safety of any person, or
  - (b) might prejudice the investigation or prosecution of an offence.

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- (5) The Secretary of State must consult the Commissioner before making any direction under subsection (4).
- (6) The Commissioner must arrange for a copy of any report published under this section to be laid before Parliament.

**Commencement Information**

**I5** S. 8 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

## 9 Advice and assistance

- (1) The Commissioner may provide the Secretary of State with any advice or assistance that the Secretary of State may request.
- (2) The Commissioner may, at the request of any other person, provide the person with advice or assistance relating to the exercise of any of the person's functions, or the carrying out of any activities by the person, in relation to people affected by domestic abuse.
- (3) The Commissioner may charge a person for providing the person with advice or assistance under subsection (2).
- (4) The Commissioner must publish any advice given to a person under subsection (2).
- (5) Before publishing any advice given under this section, the Commissioner must send a draft of what is proposed to be published to the Secretary of State.
- (6) The Secretary of State may direct the Commissioner to omit anything contained in the advice before publication if the Secretary of State thinks the publication of that material—
  - (a) might jeopardise the safety of any person, or
  - (b) might prejudice the investigation or prosecution of an offence.
- (7) The Secretary of State must consult the Commissioner before making any direction under subsection (6).

**Commencement Information**

**I6** S. 9 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

## 10 Incidental powers

- (1) The Commissioner may do anything which the Commissioner considers will facilitate, or is incidental or conducive to, the carrying out of the Commissioner's functions.
- (2) But the Commissioner may not borrow money.

**Commencement Information**

**I7** S. 10 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

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## *Framework document*

### **11 Framework document**

- (1) The Secretary of State must issue a document (a “framework document”) that deals with matters relating to the Commissioner.
- (2) The matters that may be dealt with by a framework document include (among other things)—
  - (a) matters relating to governance, funding and staffing;
  - (b) matters relating to the exercise of functions of the Commissioner;
  - (c) matters relating to scrutiny of the Commissioner's activities by Parliament or by Senedd Cymru.
- (3) The Commissioner must have regard to the framework document when exercising any of the Commissioner's functions.
- (4) The Secretary of State must have regard to the framework document when exercising any functions in relation to the Commissioner.
- (5) The Secretary of State—
  - (a) must keep the framework document under review, and
  - (b) may issue a revised framework document.
- (6) The Secretary of State—
  - (a) must consult the Commissioner in preparing or revising a framework document, and
  - (b) may not issue a framework document without the agreement of the Commissioner.
- (7) The Secretary of State must consult the Welsh Ministers before issuing—
  - (a) the first framework document under this section, or
  - (b) any other framework document which is, in the opinion of the Secretary of State, significantly different from the framework document it replaces.
- (8) The Secretary of State must—
  - (a) arrange for any framework document issued under this section to be published in the manner which the Secretary of State considers appropriate,
  - (b) send a copy of the framework document to the Welsh Ministers, and
  - (c) lay a copy of the framework document before Parliament.
- (9) The Welsh Ministers must lay before Senedd Cymru a copy of any framework document sent to them under subsection (8)(b).

#### **Commencement Information**

**18** S. 11 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

*Status: Point in time view as at 07/06/2022.*

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### *Advisory Board*

## 12 Advisory Board

- (1) The Commissioner must establish an Advisory Board (“the Board”) for the purposes of providing advice to the Commissioner about the exercise of the Commissioner’s functions.
- (2) The Board is to consist of not fewer than six and not more than ten members appointed by the Commissioner.
- (3) Each member of the Board is to hold and vacate office in accordance with the terms and conditions of the member’s appointment.
- (4) The members of the Board must include—
  - (a) at least one person appearing to the Commissioner to represent the interests of victims of domestic abuse;
  - (b) at least one person appearing to the Commissioner to represent the interests of charities and other voluntary organisations that work with victims of domestic abuse in England;
  - (c) at least one person appearing to the Commissioner to represent the interests of persons who provide, or have functions relating to, health care services in England;
  - (d) at least one person appearing to the Commissioner to represent the interests of persons who provide, or have functions relating to, social care services in England;
  - (e) at least one person appearing to the Commissioner to represent the interests of persons with functions relating to policing or criminal justice;
  - (f) at least one person appearing to the Commissioner to have academic expertise in relation to domestic abuse.
- (5) The Commissioner may pay such remuneration or allowances to members of the Board as the Commissioner may determine.
- (6) In this section—
 

“health care services” means services relating to health care (within the meaning of section 9 of the Health and Social Care Act 2008);

“social care services” means services relating to social care (within the meaning of that section).

#### **Commencement Information**

**19** [S. 12](#) in force at 1.11.2021 by [S.I. 2021/1038](#), [reg. 3\(b\)](#)

### *Strategic plans and annual reports*

## 13 Strategic plans

- (1) The Commissioner must, as soon as reasonably practicable after the Commissioner’s appointment, prepare and publish a strategic plan.

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- (2) A strategic plan is a plan setting out how the Commissioner proposes to exercise the Commissioner's functions in the period to which the plan relates, which must be not less than one year and not more than three years.
- (3) A strategic plan must in particular—
  - (a) state the Commissioner's objectives and priorities for the period to which the plan relates;
  - (b) state any matters on which the Commissioner proposes to report under section 8 during that period;
  - (c) state any other activities the Commissioner proposes to undertake during that period in the exercise of the Commissioner's functions.
- (4) The Commissioner must, before the end of the period to which a strategic plan relates (“the current period”)—
  - (a) prepare a strategic plan for a period immediately following the current period, and
  - (b) publish that plan.
- (5) At any time during the period to which a strategic plan relates, the Commissioner—
  - (a) may revise the strategic plan, and
  - (b) must publish any revised plan.
- (6) In preparing or revising a strategic plan, the Commissioner must consult—
  - (a) the Secretary of State,
  - (b) the Advisory Board established under section 12, and
  - (c) such other persons as the Commissioner considers appropriate.
- (7) The Commissioner must arrange for a copy of any plan (or revised plan) published under this section to be laid before Parliament.

#### **Commencement Information**

**I10** [S. 13](#) in force at 1.11.2021 by [S.I. 2021/1038](#), [reg. 3\(b\)](#)

## **14 Annual reports**

- (1) As soon as reasonably practicable after the end of each financial year, the Commissioner must submit to the Secretary of State an annual report on the exercise of the Commissioner's functions during the year.
- (2) The annual report must include—
  - (a) an assessment of the extent to which the Commissioner's objectives and priorities have been met in that year;
  - (b) a statement of the matters on which the Commissioner has reported under section 8 during the year;
  - (c) a statement of the other activities the Commissioner has undertaken during the year in the exercise of the Commissioner's functions.
- (3) The Commissioner must arrange for a copy of every annual report under this section to be laid before Parliament (but see subsection (4)).

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- (4) The Secretary of State may direct the Commissioner to omit material from any report under this section before it is laid before Parliament if the Secretary of State thinks the publication of that material—
  - (a) might jeopardise the safety of any person, or
  - (b) might prejudice the investigation or prosecution of an offence.
- (5) The Secretary of State must consult the Commissioner before making any direction under subsection (4).
- (6) In this section “financial year” means—
  - (a) the period beginning with the day on which the first Domestic Abuse Commissioner takes office and ending with the following 31 March, and
  - (b) each successive period of 12 months.

**Commencement Information**

**III** S. 14 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

*Duties of public authorities in relation to Commissioner*

**15 Duty to co-operate with Commissioner**

- (1) The Commissioner may request a specified public authority to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner's functions.
- (2) A specified public authority must, so far as reasonably practicable, comply with a request made to it under this section.
- (3) In this section “specified public authority” means any of the following—
  - (a) a chief officer of police of a police force maintained for a police area in England and Wales;
  - (b) a local policing body;
  - (c) the Chief Constable of the British Transport Police Force;
  - (d) the British Transport Police Authority;
  - (e) the Ministry of Defence Police;
  - (f) an immigration officer or other official of the Secretary of State exercising functions in relation to immigration or asylum;
  - (g) the Crown Prosecution Service;
  - (h) the Parole Board;
  - (i) the Criminal Cases Review Commission;
  - (j) an English local authority;
  - (k) an NHS body in England;
  - (l) Her Majesty's Inspectors of Constabulary;
  - (m) Her Majesty's Chief Inspector of the Crown Prosecution Service;
  - (n) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
  - (o) a body approved as an independent inspectorate under section 106 of the Education and Skills Act 2008 (inspection of registered independent educational institutions);



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- (p) the Care Quality Commission;
  - (q) Monitor.
- (4) The Secretary of State may by regulations amend this section so as to—
- (a) add a public authority as a specified public authority for the purposes of this section;
  - (b) remove a public authority added by virtue of paragraph (a);
  - (c) vary any description of a public authority.
- (5) Before making regulations under subsection (4) the Secretary of State must consult the Commissioner.
- (6) Regulations under subsection (4) may not contain provision adding a devolved Welsh authority as a specified public authority for the purposes of this section.
- (7) In this section—
- “devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006;
  - “English local authority” means—
    - (a) a county council or district council in England,
    - (b) a London borough council,
    - (c) the Greater London Authority,
    - (d) the Common Council of the City of London in its capacity as a local authority, or
    - (e) the Council of the Isles of Scilly;
  - “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971;
  - “NHS body in England” means—
    - (a) a National Health Service trust in England established under section 25 of the National Health Service Act 2006,
    - (b) an NHS foundation trust within the meaning given by section 30 of that Act,
    - (c) the National Health Service Commissioning Board,
    - (d) a clinical commissioning group established under section 14D of that Act, or
    - (e) the National Health Service Trust Development Authority;
  - “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal.

#### **Commencement Information**

**I12** S. 15 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

## **16 Duty to respond to Commissioner's recommendations**

- (1) This section applies where the Commissioner publishes a report under section 8 containing recommendations in relation to—
- (a) any public authority that is a specified public authority for the purposes of section 15;

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- (b) any government department in the charge of a Minister.
- (2) The relevant person must prepare comments on the report.
- (3) In this section “the relevant person” means—
  - (a) the public authority, or
  - (b) the Minister in charge of the government department, as the case may be.
- (4) The comments must include, in respect of each recommendation made in the report, an explanation of—
  - (a) the action which the relevant person has taken, or proposes to take, in response to the recommendation, or
  - (b) why the relevant person has not taken, or does not propose to take, any action in response.
- (5) The relevant person must arrange for the comments to be published in such manner as the person considers appropriate.
- (6) The comments must be published before the end of the period of 56 days beginning with the day on which the report is published.
- (7) The relevant person must send a copy of anything published under subsection (5) to—
  - (a) the Commissioner, and
  - (b) where the relevant person is a specified public authority for the purposes of section 15, the Secretary of State.

**Commencement Information**

**I13** S. 16 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

**17 Duty to send conclusions of domestic homicide review to Commissioner**

- (1) Section 9 of the Domestic Violence, Crime and Victims Act 2004 (establishment and conduct of domestic homicide reviews) is amended as follows.
- (2) After subsection (3A) insert—
  - “(3B) A person or body within subsection (4)(a) that establishes a domestic homicide review (whether or not held pursuant to a direction under subsection (2)) must send a copy of any report setting out the conclusions of the review to the Domestic Abuse Commissioner.
  - (3C) The copy must be sent as soon as reasonably practicable after the report is completed.”

**Commencement Information**

**I14** S. 17 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

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### *Disclosure of information*

## **18 Disclosure of information**

- (1) The Commissioner may disclose to a person any information received by the Commissioner in connection with the Commissioner's functions if the disclosure is made for a purpose connected with a function of the Commissioner.
- (2) A person may disclose any information to the Commissioner if the disclosure is made for the purposes of enabling or assisting the Commissioner to exercise any function.
- (3) A disclosure of information authorised by this section does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure in relation to that information, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (4) But nothing in this Part requires or authorises any of the following—
  - (a) the disclosure of any patient information (see subsection (5));
  - (b) the making of a disclosure which, although made in the exercise of a function under this Part, would contravene the data protection legislation (see subsection (6));
  - (c) the making of a disclosure which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (5) “Patient information” means information (however recorded) which—
  - (a) relates to—
    - (i) the physical or mental health or condition of an individual,
    - (ii) the diagnosis of an individual's condition, or
    - (iii) an individual's care or treatment,or is (to any extent) derived directly or indirectly from information relating to any of those matters, and
  - (b) identifies the individual or enables the individual to be identified (either by itself or in combination with other information).
- (6) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (7) This section does not affect any power to disclose that exists apart from this section.

#### **Commencement Information**

**I15** S. 18 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

### *Miscellaneous and supplementary*

## **19 Restriction on exercise of functions in individual cases**

- (1) The Commissioner may not exercise any function in relation to an individual case.
- (2) But subsection (1) does not prevent the Commissioner considering individual cases and drawing conclusions about them for the purpose of, or in the context of, considering a general issue.

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### Commencement Information

**I16** S. 19 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

## 20 Duty to report on domestic abuse services in England

- (1) The Commissioner must, before the end of the relevant period, prepare and publish a report under section 8 on—
  - (a) the need for domestic abuse services in England, and
  - (b) the provision of such services.
- (2) But subsection (1) does not require the Commissioner to report on the need for, or provision of, services provided to people who reside in relevant accommodation (within the meaning of section 57(2)).
- (3) In subsection (1)—
 

“domestic abuse services” means any advice, advocacy or counselling services provided, in relation to domestic abuse, to victims of domestic abuse or their children;

“the relevant period” means the period of 12 months beginning with the day on which this section comes into force (but see subsection (4)).
- (4) The Secretary of State, with the agreement of the Commissioner, may by regulations extend the relevant period for a further period of up to 6 months.
- (5) The power conferred by subsection (4) may be exercised only once.

### Commencement Information

**I17** S. 20 in force at 1.11.2021 by S.I. 2021/1038, reg. 3(b)

## 21 Amendments relating to Commissioner

- (1) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), at the appropriate place insert— “ Domestic Abuse Commissioner. ”
- (2) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert— “ The Domestic Abuse Commissioner. ”
- (3) In section 37 of the Government of Wales Act 2006 (power of the Senedd to call witnesses etc), after subsection (6A) insert—
 

“(6B) Subsection (1) applies in relation to things done by the Domestic Abuse Commissioner by virtue of section 7(4)(b) or (c) of the Domestic Abuse Act 2021 (functions exercisable in relation to devolved Welsh authorities etc) as it applies in relation to the exercise by the Welsh Ministers of their functions.”

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**Commencement Information**

**I18** S. 21 in force at 1.11.2021 by [S.I. 2021/1038](#), [reg. 3\(b\)](#)

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**Changes to legislation:**

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