

# **VIOLENCE AGAINST WOMEN, DOMESTIC ABUSE AND SEXUAL VIOLENCE (WALES) ACT 2015**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Sections 20-23 – National Adviser; functions of the Adviser; annual plan and annual report; publication of reports***

28. **Section 20** establishes the post of the National Adviser. The Adviser will be an individual appointed, via a public appointments process, by the Welsh Ministers and will hold office in accordance with terms specified by Ministers. The section also provides that the Welsh Ministers may pay expenses, remuneration, allowances and pensions in respect of the Adviser. Ministers will also be able to provide the Adviser with the support necessary for the Adviser to exercise his or her functions (by for example, allocating Welsh Government staff to assist the Adviser and providing office space and equipment).
29. **Section 21** sets out the Adviser’s functions, all of which are related to the pursuit of the purpose of the Act. This is not a civil service role; it is a statutory advisory role, and the Adviser will advise and assist the Welsh Ministers in tackling gender-based violence, domestic abuse and sexual violence. An element of the Adviser’s role will involve working with public service providers across Wales to promote best practice across the public sector.
30. The Adviser will also have a key role in reviewing the actions being taken by local authorities, Local Health Boards, fire and rescue authorities and NHS Trusts under the duties imposed by the Act, and advising the Welsh Ministers of the findings. To that end, section 21 requires local authorities, Local Health Boards, fire and rescue authorities and NHS Trusts to comply with reasonable requests for information made by the Adviser. This power allows the Adviser to access the information he or she considers necessary to inform the exercise of the functions mentioned in section 21(1). Relevant information for these purposes could be details of procedures and processes in place to identify and respond to victims of the abuse and violence covered by the Act; or details of relevant training undertaken by staff for the purpose of tackling such abuse and violence.
31. This group of sections refers to both a “National Adviser” and “Ministerial Adviser”. The Bill for this Act on introduction to the National Assembly for Wales referred to the office established under section 20 as the “Ministerial Adviser”. At stage 3 of the Bill’s scrutiny before the Assembly, the Welsh Government tabled amendments to the Bill to change the title of the Adviser to “National Adviser”. Some of the amendments were not agreed by the Assembly, and therefore some references to “Ministerial Adviser” remain.

*These notes refer to the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (c.3) which received Royal Assent on 29 April 2015*

32. Under section 22, the Adviser is required to prepare an annual plan and annual report related to the exercise of the Adviser's functions. This section sets out what should be included in the plan and enables the Adviser to consult with anyone in its preparation. The plan requires the approval of the Welsh Ministers (which may be modified, with the Adviser's agreement).
33. The Adviser's annual reports must also be submitted to the Welsh Ministers. This will enable the Welsh Ministers to have full oversight of the work of the Ministerial Adviser and ensure the role is contributing to the achievement of the purpose of the Act.
34. The annual plans and reports required under section 22 of the Act must be published by the Welsh Ministers under section 23. This is to ensure that information about the exercise of functions by the Adviser is publicly available. This information will be of particular interest to those public and third sector organisations working in the gender-based violence, domestic abuse and sexual violence sector.
35. [Section 23](#) also sets out which other reports are required to be published by the Welsh Ministers. Reports mentioned in the Adviser's annual plan must be published; while any other reports not mentioned in the annual plan may be published at the Welsh Ministers' discretion.
36. The Welsh Ministers' duty to publish information under section 23(1) is subject to a qualification. Subsection (3) allows the Welsh Ministers to remove information in the reports or plans sent to them by the Adviser prior to publishing those documents. For example, information contained in a report produced by the Adviser could enable a victim or perpetrator of domestic abuse to be identified; publication of this information could place the individual at risk of harm or prejudice a pending criminal case.