

*These notes refer to the Regulation and Inspection of Social Care (Wales) Act 2016 (c.2) which received Royal Assent on 18 January 2016*

# REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – Regulation of Social Care Services**

#### *Chapter 6: Sections 56-58 – Local authority social services*

#### *Section 56 - Reports by local authorities and general duty of the Welsh Ministers and Section 57 - reviews, investigations and inspections*

103. Section 144 of the 2014 Act imposes a duty on local authorities to appoint a Director of Social Services for the purpose of its social services functions. Section 56 inserts section 144A into the 2014 Act placing a duty on local authorities to prepare and publish an annual report on the exercise of their social services functions.
104. The 2014 Act is the main piece of legislation relating to local authority social services functions (which, as mentioned above, are set out in Schedule 2 to that Act), sections 56 to 58 of this Act therefore insert provisions into the 2014 Act that are concerned with the Welsh Ministers' regulatory powers in respect of those functions.
105. Inserted section 149A provides a power to Welsh Ministers to review studies and research undertaken by others in relation to the exercise of the social services functions of local authorities in Wales. This could include a study undertaken by SCW pursuant to section 70 of the Act.
106. Inserted section 149B provides the Welsh Ministers with a power to review the exercise of local authority social services functions including the commissioning of services by local authorities in connection with the exercise of those services functions. For example, as a result of the duties under the 2014 Act to meet the needs of people who require care and support a local authority will be obliged to (among other things) have in place domiciliary support services. Local authorities can provide those services directly but they may also commission such services. If the Welsh Ministers decide to review a particular local authority with regard to the provision of domiciliary support then Welsh Ministers must have regard to the matters set out in section 149D – this includes the quality and effectiveness of the service (section 149D(b)) and the effectiveness of the service in achieving well being outcomes (section 149D(h)).
107. Part 8 of the 2014 Act (specifically sections 150 to 161) provide powers of intervention by central government in respect of the exercise by a local authority of its social services functions. Section 57(2) substitutes section 161 and inserts alternative provision in respect of powers of entry and inspection. Further, a duty is imposed upon Welsh Ministers by inserted section 161A to prepare and publish a code of practice. Section 161B provides a power to require information and section 161C establishes some offences. The inserted provisions are broadly equivalent to the Welsh Minister's powers

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in respect of private service providers in Chapter 3 of the Act with some exceptions that are not relevant in the context.