



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 8

### SOCIAL SERVICES FUNCTIONS

#### *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).

#### **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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*Status: This is the original version (as it was originally enacted).*

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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.

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

#### **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.

#### **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.