



# Welsh Language (Wales) Measure 2011

**2011 nawm 1**

## **PART 4**

### **STANDARDS**

#### **CHAPTER 8**

##### **STANDARDS INVESTIGATIONS AND REPORTS**

###### *Standards investigations*

#### **61 Standards investigations**

- (1) In this Measure “standards investigation” means an investigation carried out in relation to a person (P) for the purpose of determining one or more of the following questions—
- (a) whether P should be — or should continue to be — liable to be required to comply with standards;
  - (b) if P is within Schedule 6, what standards (if any) should be — or should continue to be — potentially applicable to P;
  - (c) if P is within Schedule 8, what services (if any) should be — or should continue to be — specified in column (2) of P’s entry in the Schedule 8 table;
  - (d) what standards (if any) should be — or should continue to be — specifically applicable to P (whether or not the standards are already specified by the Welsh Ministers under section 26(1));
  - (e) any other question which the Commissioner considers to be relevant to the extent to which P may be subject to the duty in section 25(1) to comply with standards.
- (2) A particular standards investigation may be carried out in relation to—
- (a) a particular person, or
  - (b) a group of persons.

**62 Power to carry out standards investigations**

- (1) The Commissioner may carry out standards investigations.
- (2) But the Commissioner may not carry out a standards investigation unless he or she has given an exploration notice to each relevant person, at least 14 days before beginning the investigation.
- (3) An exploration notice is a notice in writing which—
  - (a) states that the Commissioner is proposing to carry out a standards investigation, and
  - (b) specifies the subject matter of the standards investigation.
- (4) In this section “relevant person” means—
  - (a) in the case of a standards investigation relating to a particular person, that person;
  - (b) in the case of a standards investigation relating to a group of persons, such persons—
    - (i) who appear to the Commissioner to be members of the group, and
    - (ii) to whom the Commissioner thinks it appropriate to give exploration notices.

**63 Requirements when carrying out standards investigations**

- (1) In carrying out a standards investigation, the Commissioner must have regard to the need to secure that requirements for persons to comply with standards by virtue of section 25(1) are not unreasonable or disproportionate.
- (2) If the Commissioner decides, or is directed, that a standards investigation is to consider whether service delivery standards should be specifically applicable to P, the investigation must—
  - (a) consider whether, in respect of each of the activities specified in Schedule 9 which P carries out, it is reasonable and proportionate for service delivery standards to be specifically applicable to P, and
  - (b) as respects each such activity, if it is reasonable and proportionate for service delivery standards to be specifically applicable to P, conclude that service delivery standards should be specifically applicable to P in relation to that activity.
- (3) In carrying out a standards investigation, the Commissioner must consult—
  - (a) each relevant person,
  - (b) the Advisory Panel, and
  - (c) the public, except—
    - (i) if, or
    - (ii) to the extent that
 the Commissioner considers that it is inappropriate to do so.
- (4) The failure of a person to participate in the Commissioner’s consultation does not prevent the Commissioner from carrying out the standards investigation.
- (5) In this section “relevant person” means—
  - (a) in the case of a standards investigation relating to a particular person, that person;

- (b) in the case of a standards investigation relating to a group of persons, such persons—
  - (i) who appear to the Commissioner to be members of the group, and
  - (ii) whom the Commissioner thinks it appropriate to consult.

### *Standards reports*

## **64 Standards report**

- (1) After carrying out a standards investigation, the Commissioner must produce a standards report.
- (2) A standards report is a document that sets out—
  - (a) the conclusions of the standards investigation, and
  - (b) the Commissioner’s reasons for reaching those conclusions.
- (3) If—
  - (a) the conclusions of the investigation are (in whole or in part) that any standards should be specifically applicable to P, and
  - (b) any or all of those standards are not specified by the Welsh Ministers under section 26(1),the report must set out the standards that are not specified.
- (4) As soon as reasonably practicable after preparing a standards report, the Commissioner—
  - (a) must send a copy of the report to—
    - (i) each relevant person,
    - (ii) the Advisory Panel,
    - (iii) each person who participated in the Commissioner’s consultation under section 63, and
    - (iv) the Welsh Ministers, and
  - (b) may send a copy of the report to any other person whom the Commissioner considers to have an interest in the report.
- (5) In this section “relevant person” means—
  - (a) in the case of a standards investigation relating to a particular person, that person;
  - (b) in the case of a standards investigation relating to a group of persons, such persons—
    - (i) who appear to the Commissioner to be members of the group, and
    - (ii) to whom the Commissioner thinks it appropriate to give a copy of the report.

### *Welsh Ministers’ power of direction*

## **65 Direction to carry out standards investigation**

- (1) This section applies if the Welsh Ministers exercise their powers under section 16 to direct the Commissioner so as to direct him or her to carry out a standards investigation in respect of a person or group of persons.

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

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- (2) The direction must specify the following matters—
- (a) the person or group of persons in respect of which the investigation is to be carried out;
  - (b) the subject matter of the investigation;
  - (c) the reasons why the Welsh Ministers consider that the Commissioner should conduct the standards investigation;
  - (d) the period (which must be no shorter than six months) within which the Commissioner must carry out the standards investigation.
- (3) Subsection (2) does not prevent the direction from specifying other matters.

*Regard to be had to standards report*

## **66 Welsh Ministers to have due regard to report**

- (1) This section applies if the Commissioner has carried out a standards investigation and produced a standards report (whether or not at the direction or request of the Welsh Ministers).
- (2) The Welsh Ministers must have due regard to the standards report in deciding whether, and how, to exercise the powers conferred on them by this Part.