



Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

September 2014



WLGA • CLILC

INTRODUCTION

- 1 The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
- 2 It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
- 3 The WLGA welcomes the opportunity to respond to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill. The Association is supportive of the Welsh Government's aims of ending gender based violence, domestic abuse and sexual violence and is committed to working together with the Welsh Government, Local Authorities and other partners to improve the Public Sector response in Wales.
- 4 The WLGA is aware that victims of domestic abuse, violence and sexual violence are predominantly women and that there are specific areas of violence against women, such as Female Genital Mutilation (FGM), forced marriages and honour killings. However, the introduction of a gender neutral Bill gives Welsh Government and the public sector in Wales the opportunity to ensure that *all* victims of violence, domestic abuse and sexual violence receive the support they need, regardless of gender, as well as those in same sex relationships. Therefore, the Association supports the revised title and focus of the Bill and the recognition that these issues affect both women and men, albeit that we recognise the reality that different interventions and support services/approaches will be required in tackling gender based violence.

General Principles of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill and the need for legislation to improve the Public Sector response in Wales to domestic abuse, gender-based violence and sexual violence.

- 5 The WLGA recognises that local government has made significant progress in relation to VAWDA in recent years, including the development of Work Place Polices and improving the support to victims. However, the WLGA also acknowledges the desire of WG to introduce legislation with the aim of further improving support services in the Public Sector in Wales.

- 6 The WLGA welcomes that the Bill relates to domestic and sexual violence against both men and women and believes this represents an important symbolic position. Nonetheless, specific reference could be made in the Bill in relation to the prevalence of violence against women and its impact. This is based on the evidence that women are disproportionately affected by such violence. For example, the role of the Adviser could include an element that relates specifically to violence against women or the Bill could also be amended to include specific duties in relation to violence against women. Such amendments would offer a proportionate response to the evidence and a practical solution to claims by some that violence against women should be the main focus of the Bill, whilst also protecting the philosophy of the Bill based on equality and fairness for all victims.

National and Local Strategies

- 7 The WLGA welcomes the requirement for the development of a National Strategy by the Welsh Government in recognition of the importance of national strategic leadership, accountability and a continuing commitment to tackle these issues at the most senior level. The Strategy will need to provide clear priorities for action, specific objectives and a focus on what improvements are to be achieved and ensure transparency in the direction of travel to be taken by public bodies in improving their response to domestic and sexual violence.
8. We note the proposal to place a duty on local authorities and LHBs to prepare and publish joint local strategies. We welcome the proposal that this Strategy can be delivered through Single Integrated Plans/Public Service Plans and believe that this is appropriate in making clear strategic commitments across public services. However, the WLGA also recognises that (at least) 14 of the 22 local authorities in Wales have an equality objective included in their Strategic Equality Plans to tackle violence against women (which could also include men where a need/priority is identified and based on evidence). This demonstrates that there is a potential overlap between the existing duties on Welsh public authorities (Equality Act 2010) and the new duty to be placed on them to develop a local strategy under this Bill. Whilst it is recognised that the new duty is to be undertaken jointly with Local Health Boards care will be needed to ensure that there is no duplication with other related plans and strategies in terms of delivery. The proposed approach needs to be proportionate and fit in to existing work being undertaken to result in positive outcomes. Also in relation to employment all 22 local authorities have now reviewed and/or revised their work based policies which include issues of domestic abuse and are in the process of implementing them.

- 9 Section 14 of the Bill requires relevant authorities to follow statutory guidance, unless the authority considers that there is good reason for it not to do so and it decides on an alternative policy. The WLGA welcomes the opportunity for local authorities to not follow statutory guidance if they believe there is an alternative way to deliver progress. Local authorities are best placed to understand local priorities and issues and how these can best be addressed locally which may not clearly fit with the approach WG are proposing through the Statutory Guidance. Any process for gaining WG approval for veering away from Statutory Guidance should also be proportionate, speedy and non- bureaucratic.
- 10 The WLGA welcomes the requirement in the Bill that Welsh Ministers and the Ministerial Adviser will prepare and publish annual reports alongside the local authorities. This is consistent with the precedent set up by the Equality Act 2010 and is a good practice model to be followed in future legislation.
- 11 In order to fully implement purpose 1(1)(a) of the Bill which relates to the prevention of gender based violence, domestic abuse and sexual violence, a whole part could be added to the Bill to deal with perpetrators. This would ensure that legislation does not only relate to the punishment of the behaviour but would also address the whole offending behaviour. Without addressing the behaviour of perpetrators, domestic abuse will not truly be prevented from happening. We recognise however that the focus of this particular Bill is on victims as opposed to perpetrators and this is why we recommend that the Bill be only amended to include reference to perpetrators as opposed to regulating them. The Bill could for example be amended so that perpetrators are included in both the national indicators under section 8 and within the local strategies under section 4.

The Appointment of a Ministerial Adviser

- 12 The proposal to appoint a Ministerial Adviser rather than a Commissioner is generally supported by the WLGA and it is recognised that the aim of an Advisor would be to help bring about increased strategic leadership. The Adviser role however needs to be, and be seen to be, independent of Government with the ability and freedom to work across all relevant policy portfolios within Welsh Government and across public services. The Bill should be explicit about the independence of the Advisor post and this may be an area where the Committee may wish to consider how this independence can be guaranteed.

- 13 It is also important that the Ministerial Advisor has the appropriate level of authority to ensure that the Welsh Government departments and public services do not work in silos to implement National and Local Strategies and can influence change as appropriate.

Barriers to implementation of these provisions and whether the Bill takes account of them

- 14 The WLGA welcomes the creation of the National Training Framework and we note that funding is partly being provided by Welsh Government, however this is only until 2018. Looking at the timeframe for implementation it looks like the policy will just start to become fully operational in 2018. Therefore a commitment from the Welsh Government to continue its funding beyond 2018 is required so that the policy can be practically implemented. The statutory guidance in Section 12 suggests it '*may address training for staff of a relevant authority*'. Whilst the WLGA acknowledges the estimated direct costs of the National Training Framework of £439,700, plus £374,000 for Ask & Act (up to 2018) are being met by Welsh Government, the WLGA is concerned with the estimated opportunity costs for local government associated with public sector staff receiving training of £5,611,100 (up to 2018). There will be financial implications for local authorities for some staff required to attend the training, for example, the provision of cover for key front line posts, and it is suggested that the relevant Group monitors implementation of the National Training Framework, including the financial implications for public bodies.

Any unintended consequences arising from the Bill

- 15 The WLGA has not identified any unintended consequences arising from the Bill although it is suggested that implementation of the Bill is closely monitored, including the financial implications for public bodies.

Financial implications of the Bill (Part 2 of the EM)

- 16 There is a financial implication regarding the Ministerial Advisor who would need a supporting structure to undertake the role. The costs of the Adviser's office are substantial, £255,500 to 2018.

- 17 Recommendation 5 of the recent research publication commissioned by Welsh Government, *Building Effective Responses* (30th April 2014) recommended that '*For those interventions for which there is good evidence making sure that funding is secure and available on a continuing basis and is not susceptible to fluctuations in local budgets*'. During the current economic climate and within the current context of cuts to public services, it is important that any monies spent on implementing the Bill are used to best effect. It is also important that any new financial burdens that arise as a consequence of the Bill are clearly identified and are funded by the Welsh Government. There will also be financial implications in relation to time, resources and capacity.
- 18 Between April 2012 and April 2013 a total of 2,242 cases were heard at MARACS across the South Wales Police area (other police force areas will also hold their own figures). A total of 70% of these referrals came from the police, whilst the other 30% came from partner agencies. The Welsh Government is currently conducting campaigns designed to increase awareness of gender based violence. With an increase of awareness of campaigns and the introduction of this legislation, specialist services can expect to see an increase in disclosures and referrals. This extra-demand for services does not appear to have been taken into account in the Explanatory Memorandum, in light of this the costs of the Bill might need to be revised. The additional costs of implementing the Bill should be monitored by WG and additional resources provided as required.
- 19 Looking at the Welsh Government estimates in the Explanatory Memorandum, it would appear that local government and the public sector will have to contribute estimated opportunity costs of £5.8 million, and a direct cost of £0.2m over 3 years in relation to the implementation of the Bill, particularly in relation to staff attending training courses. Within the same estimates the Welsh Government will provide £1.4m. There seems to be a significant disproportion between the monies the Welsh Government is committing to the policy and those to be 'paid' or 'soaked up' by the public sector. Due to the current financial climate, and the savings to be made by local authorities over the next few years which is likely to result in some job losses, some authorities may struggle to either field attendees at training courses or provide appropriate cover for front line staff.
- 20 The training costs might be brought down if the training referred to in Section 12(2)(d) of the Bill were to be provided internally rather than externally. To build capacity Welsh Government could consider following the precedent of including a trainers course for

local government officers to build internal capacity – an example of where this has been successful is in relation to 'Forced Marriage and Honour Based Violence'. This 3 day development programme was conducted by a partnership commissioned by the Welsh Government which included South Wales Police, the Welsh Government, BAWSO and the Henna Foundation. The WLGA believe that upskilling people within organisations is one way of building internal capacity.

Appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation

- 21 Section 6(2) gives the Welsh Ministers a power to require additional information to be taken into account and assessments to be carried out by local authorities in preparing their local strategies. The Bill uses expressions such as 'anything specified in the regulations' or 'in relation to any matters specified in the regulations'. There is no detail or examples in the explanatory notes as to what these could be nor of the kind of extra cost such requirements could have on local authorities' budgets. While it is understandable that these provisions can be made by subordinate legislation (as they may change regularly), the contents might be more than purely technical and affirmative resolution procedure might be better for this particular set of powers.
- 22 The procedure under Section 13 looks like a super-affirmative procedure in that it allows for other drafts of the statutory guidance to be submitted to the Assembly. However it is not clear whether the additional drafts would have to be presented to the Assembly within the 40 day period or whether a new count down would be started with each new or amended draft. Clarification would need to be included in the Explanatory Notes or by an amendment to the section.

Other Considerations

Definitions in the Bill

- 23 The Bill should clarify if children and young people, and older people, are included in the definition of victims. This is currently unclear although they are potential victims within the meaning of the Bill (e.g. elder abuse which can occur in the home). The Explanatory Memorandum clearly indicates that this is intended but the definition section of the Bill makes no reference to them. This equally applies to the definition of perpetrators - it should also be made clear that children and older people could also be perpetrators within the scope of Bill.

- 24 It is important that the definition of both potential victim and perpetrator includes reference to children and young people, as an acknowledgement that they represent a particularly vulnerable group in relation to domestic abuse and sexual violence. Research tells us that children and young people who are exposed to sexual and/or domestic violence, as either a witness or as a victim, are more likely to go on to engage in such behaviours than children and young people who are not. It is therefore vital that children and young are not only protected from such behaviours but also engaged in discussion and education about relationships and violent behaviour. The All Wales Core Liaison Schools Programme, an initiative from all four Welsh police forces, already fulfils this function through the delivery of a specific module on domestic abuse in all schools in Wales. In addition Graham Donaldson is currently undertaking a review for Welsh Government into the curriculum in Wales and issues such as domestic abuse and sexual violence should be considered as part of that review. Consideration could also be given to discussing domestic abuse and sexual violence through more informal learning routes, such as via the youth service.

Conclusion

- 25 The WLGA offers the following comments and amendments to the draft Bill:
- a) The Bill/EM should be amended be clear and consistent to include children and older people throughout*
 - b) Local authorities should be given the opportunity to consider making use of existing mechanisms to implement local strategies*
 - c) As women are disproportionately affected by violence Welsh Government should consider the introduction of specific duties in the Bill such as requiring an element of the annual reports to focus on this group*
 - d) Further consideration should be given to how perpetrators of sexual and domestic abuse are challenged or supported to change their behaviour*
 - e) Welsh Government need to ensure that the role of the Ministerial Advisor is an independent one to remove any risk of potential bias*
 - f) Welsh Government needs to commit to further funding for implementation of the Bill post 2018.*

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