

National Assembly for Wales
Bill Summary

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

August 2014

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

1. Introduction

Introduction date: 30 June 2014

Member in charge: Lesley Griffiths AM, Minister for Local Government and Government Business

Assembly Committee undertaking Stage 1 scrutiny of the Bill: Communities, Equality and Local Government Committee

Stage 1 reporting deadline: 14 November 2014

The scrutiny of this Bill is remitted to the **Communities, Equality and Local Government Committee**. The Committee is considering the Bill at stage 1 and held its first evidence session on 17 July 2014. It will report to the Assembly on Stage 1 by 14 November 2014. Stage 2 proceedings should be completed by 6 February 2015, subject to the general principles of the Bill being agreed by the Assembly.

The Committee has issued a call for evidence, which closes on 5 September 2014.

The Minister in charge of the Bill made a **plenary statement**¹ on 1 July 2014.

The aim of the Bill is to strengthen the response of public sector bodies to gender-based violence, domestic abuse and sexual violence in terms of prevention, protection and support for those affected. The Bill place duties on Welsh Ministers, local authorities and Local Health Boards to produce strategies for ending gender-based violence, domestic abuse and sexual violence and a power to Welsh Ministers to issue guidance to local authorities on how they should exercise their functions to achieve this aim. The Bill also allows for the appointment of a Ministerial Adviser.

¹ National Assembly for Wales RoP Plenary [*Statement: Introduction of the Gender-based Violence, Domestic Abuse and Sexual Violence \(Wales\) Bill*](#) 1 July 2014

There are therefore **four elements to the Bill**:

- duty to prepare and report on national strategies;
- duty to prepare and report on local strategies;
- power to issue statutory guidance and a duty to follow such guidance;
- appointment of a Ministerial Adviser on gender-based violence, domestic abuse and sexual violence.

Between November 2012 and February 2013, the Welsh Government undertook a **consultation**² on legislation to end violence against women and domestic abuse.

A summary³ of the 147 individual responses was published in September 2013.

The Welsh Government also commissioned a **Task and Finish Group** to produce a report⁴ to inform the content, delivery and enforcement of the Bill, which was published in August 2012. An **independent review**⁵ of services was also published in April 2014.

Not all of the proposals included in the consultation or recommendations by the Task and Finish Group have been included in the Bill, as some are being taken forward by other means. These include the proposals relating to healthy relationship education, workplace policies and safe accommodation. The title of the Bill and some of the definitions it uses are also different to those in the White Paper.

² Welsh Government, [*White Paper Consultation on legislation to end violence against women, domestic abuse and sexual violence \(Wales\)*](#) Number: WG17102, 26 November 2012

³ Welsh Government, [*White Paper – summary of responses Consultation on legislation to end violence against women, domestic abuse and sexual violence \(Wales\)*](#) Number: WG 19614, September 2013

⁴ Welsh Government, [*The Welsh Government’s proposed ‘Ending Violence Against Women and Domestic Abuse \(Wales\) Bill’: Recommendations from the Task and Finish Group*](#), 24 August 2012

⁵ Welsh Government, [*Building Effective Responses: An Independent Review of Violence against Women, Domestic Abuse and Sexual Violence Services in Wales*](#), 2014

2. The Bill

The Bill contains 23 Sections, summarised below.

2.1. *Introduction*

Section 1 Outlines the purpose of the Bill, which is to improve arrangements for the prevention of gender-based violence, domestic abuse, and sexual violence, protection of victims and support for people affected.

2.2. *National strategy*

Section 2 Makes a provision that requires Welsh Ministers to prepare, publish, review and implement a national strategy, which specifies objectives, timescales and proposed actions that will contribute to the purpose of the Bill.

Section 3 Requires that Welsh Ministers must take all reasonable steps to achieve the objectives in the national strategy.

2.3. *Local strategies*

Sections 4-5 Makes a provision that requires local authorities and health boards to jointly prepare, publish and review local strategies, which specify objectives, timescales and proposed actions that will contribute to the purpose of the Bill.

A local strategy may also require any public authority or voluntary organisation whose activities are capable of contributing to the purpose of the Bill to take specific action, with approval from the body.

Section 6 Requires that in preparing and reviewing local strategies, a local authority and health board must have regard to the national strategy as well as the most recent assessments of care needs, crime and disorder, substance misuse and reoffending in the local authority area.

Section 7 Requires that local authorities and health boards must take all reasonable steps to achieve the objectives in the local strategy.

2.4. *Measuring performance*

Sections 8-9 Make provision requiring Welsh Ministers to publish indicators and annual reports to measure progress towards the achievement of the purpose of the Act.

It requires that a national indicator must be quantifiable against a particular outcome and able to be measured over a period of time. Before publishing indicators, Welsh Ministers must consult with appropriate people.

Section 10 Requires local authorities and health boards to publish annual reports on the progress made towards achieving objectives in the local strategy.

2.5. Guidance and directions

Section 11 Provides a definition of ‘relevant authority’ as a local authority, health board, fire and rescue authority or NHS trust.

Section 12 Makes provision for Welsh Ministers to issue guidance to a relevant authority on how the authority should contribute to the purpose of the Bill.

The statutory guidance may address:

- steps an authority may take to increase awareness of gender-based violence, domestic abuse and sexual violence;
- circumstances in which it is appropriate for staff of the relevant authority to ask a person if they are suffering from or at risk of gender-based violence, domestic abuse or sexual violence and the action that is appropriate to take (to ‘ask and act’);
- training for staff of a relevant authority;
- the sharing of information by (and between) relevant authorities;
- co-operation between relevant authorities.

Section 13 Requires Welsh Ministers to consult with appropriate persons before issuing guidance and to lay a copy of that guidance before the National Assembly.

Section 14 Requires relevant authorities to follow statutory guidance, unless the authority considers that there is good reason for it not to follow the guidance and it decides on an alternative policy.

Section 15 Requires that a policy statement must set out how the relevant authority proposes that its alternative policy will operate and its reasons for adopting the alternative policy.

Section 16 If the Welsh Ministers consider that a relevant authority’s alternative policy is not likely to contribute to the purpose of the Bill, they may direct it to take appropriate action instead. The relevant authority must comply with this direction.

2.6. Ministerial adviser

Section 17 Requires the Welsh Ministers to appoint a Ministerial Adviser on gender-based violence, domestic abuse and sexual violence.

Section 18 Outlines the functions of the Adviser, which are to:

- advise and give assistance to the Welsh Ministers;
- undertake research;
- advise and give assistance to other people, with the agreement of the Welsh Ministers;
- produce reports.

Sections 19-20 Requires the Adviser to prepare and publish an annual plan setting out objectives and priorities for the coming year, and submit it to the Welsh Ministers for approval following consultation with appropriate people.

The Adviser is also required to produce an annual report on the exercise of their functions during the year.

2.7. Definitions and other provisions

Section 21 Provides definitions of (among others):

- “abuse” - physical, sexual, psychological, emotional or financial abuse;
- “domestic abuse” - abuse where the victim of it is or has been associated with the abuser;
- “gender-based violence” - (a) violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation; (b) female genital mutilation; (c) forcing a person (whether by physical force or coercion by threats or other psychological means) to enter into a religious or civil ceremony of marriage (whether or not legally binding);
- “sexual violence” - sexual exploitation, sexual harassment, or threats of violence of a sexual nature;
- “female genital mutilation” - an act that is an offence under sections 1, 2 or 3 of the Female Genital Mutilation Act 2003;
- “financial abuse” means—(a) having money or other property stolen, (b) being defrauded, (c) being put under pressure in relation to money or other property, and (d) having money or other property misused;
- “harassment” - a course of conduct by a person which he or she knows or ought to know amounts to harassment of the other;—(a) a person ought to know that his or her conduct amounts to or involves harassment if a reasonable person in possession of the same information would think the course of conduct amounted to or involved harassment of another person, and (b) “conduct” includes speech;

- “sexual exploitation” - something that is done to or in respect of a person which- (a) involves the commission of an offence under Part 1 of the Sexual Offences Act 2003 (c.42), as it has an effect in England and Wales, or (b) would involve the commission of such an offence if it were done in England and Wales.

3. Financial implications of the Bill

A detailed Regulatory Impact Assessment (RIA) is contained in the EM. This presents the three options considered for each of the elements of the Bill, along with the costs of each option and an assessment of how far it meets the Bill's aims.

The RIA discusses the benefits of the Bill, but is not able to quantify them. It states that as it is not possible to determine the impact of the proposals in the Bill on the number of incidents of gender-based violence, domestic abuse and sexual violence in Wales, it is not possible to place a value on the benefits of the Bill.

Table 1 provides a summary of the additional costs that will be incurred as a result of implementing the legislation. The direct costs of the legislation between 2014-15 and 2017-18 are £1.6 million, of which £1.4 million fall upon the Welsh Government, with the remaining £0.2 million falling on local authorities and local health boards (LHBs). The remaining £5.6 million costs in the table relate to the opportunity costs associated with public sector staff receiving training, and do not represent a direct financial outlay by any organisation.

Table 1: Summary table of additional costs of the legislation, 2014-15 to 2017-18

Element	2014-15	2015-16	2016-17	2017-18	Total
Direct costs					
Preparing and reporting on National Strategy	0	117,600	106,500	106,500	330,600
Preparing and reporting on Local Strategies	0	0	182,600	36,300	218,900
Issuing statutory guidance and the duty to follow	106,300	173,000	280,700	260,700	820,700
Appointment of a Ministerial Adviser	0	92,500	81,500	81,500	255,500
Total direct costs	106,300	383,100	651,300	485,000	1,625,700
Opportunity costs					
Issuing statutory guidance and the duty to follow	1,996,100	1,147,800	1,233,600	1,233,600	5,611,100
Total opportunity costs	1,996,100	1,147,800	1,233,600	1,233,600	5,611,100
Total costs	2,102,400	1,530,900	1,884,900	1,718,600	7,236,800

Source: National Assembly for Wales, [Explanatory Memorandum – Gender-based Violence, Domestic Abuse and Sexual Violence \(Wales\) Bill](#)

4. Response to the Bill

In the **plenary debate** on 1 July 2014⁶ Lesley Griffiths AM, Minister for Local Government and Government Business, set out the purpose of the Bill

Mark Isherwood AM, Shadow Minister for Local Government, Social Justice, Housing and North Wales, saw the Bill as gender neutral, which was a cause for concern given the evidence that male and female victims of domestic abuse have different levels of need and require different kinds of services. He was also concerned about improving access to services and about cross-border and cross-sector working, given the number of independent and third sector service providers.

The **Minister** stated that the Bill is gender specific in that it enables gender specific responses where necessary. She acknowledged the importance of cross sector and cross border issues and stated that section 12 of the Bill will provide Welsh Ministers with a power to issue statutory guidance which would encompass the safe sharing of information.

Jocelyn Davies AM, for Plaid Cymru also questioned whether the Bill reflects the disproportionate impact of domestic violence on women. She was concerned about the absence of education provisions from the Bill and the possible consequences for early intervention and the prevention of domestic violence. She asked the Minister how the government will ensure the local authority and Health Board strategies required by the Bill will include provisions for people trapped in patterns of repeated victimisation and those women experiencing domestic abuse during pregnancy.

The **Minister** explained that the proposals on healthy relationship education in the White Paper will form part of the Welsh Government's review of national curriculum and assessment arrangements and she stressed the need for adequately trained teachers for this aspect of the curriculum. She indicated that any future education-related Bill could take forward legislative changes to the curriculum.

She stated that training for health professionals seeks to ensure that issues for pregnant women are more effectively identified in maternity services.

⁶ National Assembly for Wales RoP Plenary [*Statement: Introduction of the Gender-based Violence, Domestic Abuse and Sexual Violence \(Wales\) Bill*](#) 1 July 2014 [accessed 9 July 2014]

Peter Black AM, the Welsh Liberal Democrat spokesperson for Local Government, Heritage, Housing and Finance, questioned the need for a Bill, saying he believed there was nothing in the Bill that Ministers could not already do. He also believed the approach taken in Bill does not reflect the fact that gender based violence is experienced mainly by women and that it needed to encompass the whole range of services, including education. He believed Female Genital Mutilation (FGM) and violence against children should also be covered by the Bill and that it should also make provision for programmes to help re-educate perpetrators of domestic violence.

The **Minister** said she believed the creation of a statutory advisory role “is absolutely needed to ensure ownership of the issue at a very high strategic level” particularly given the cross cutting nature of the policy area. She stated that FGM is covered by the Bill and that it will also help to identify children who are exposed to domestic violence.

Rebecca Evans AM, Welsh Labour, expressed disappointment at the lack of provisions for healthy relationship education in the Bill but welcomed the prospect of national indicators and hoped they would help to provide a broader picture of the effects of gender-related sexual harassment and abuse. She welcomed the establishment of a political adviser post and asked the Minister how that role would complement the work of the anti-human trafficking co-ordinator.

The **Minister** emphasised the importance of training for all staff who are likely to encounter domestic abuse and sexual violence issues, including those working in education. She said the National Training Framework would contribute to this aim and would also help to ensure that health professionals would respond more quickly to evidence of sexual violence and domestic abuse. National Indicators will include overarching measures of success in both national and local strategies.

Lindsay Whittle AM, for Plaid Cymru, was concerned about monitoring the police response to domestic abuse. He was also concerned about the reluctance of men to report incidents of violence against them and about violence in lesbian gay and transgender relationships. He asked the Minister how the Bill will help children to overcome the trauma of witnessing domestic violence. He believed the Bill provided an opportunity to ban smacking.

The **Minister** said that work to improve the police response is being taken forward by the Home Office and she believed that the Bill will contribute to raising awareness and changing attitudes.

Julie Morgan AM, Welsh Labour, highlighted the variation in the number of reported incidents of domestic abuse across Wales and variation in the provision of, and levels of funding for, domestic abuse services.

The **Minister** said that work on variation in services and funding is being undertaken outside this legislation.

Jenny Rathbone AM, Welsh Labour, wished to know how the Bill would promote prevention and, in particular, help to break the link between perpetrators and victims of domestic violence and prevent perpetrators' children becoming abusers themselves. She was concerned about how the Bill would raise awareness of gender-based violence, domestic abuse and sexual violence across the range of public agencies. FGM was an issue of particular concern.

The **Minister** confirmed that FGM is specifically captured in the Bill as a form of gender-based violence and by the definition of domestic violence if carried out by a person associated with the victim. The Bill would further prevention by improving the public sector response, including promoting awareness, through local joint strategies.

Joyce Watson AM, Welsh Labour, asked the Minister how delivery of the duty on public authorities will be monitored. She was also concerned about the management of disclosure in schools and the role of GPs.

The **Minister** stated that the publication of local strategies will ensure transparency around local issues and the responses to them. The national training framework will equip education staff with the necessary skills to deal with disclosures made to them.