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Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business



Llywodraeth Cymru
Welsh Government

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Christine Chapman AM
Chair
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

31 July 2014

Dear Christine,

**GENDER-BASED VIOLENCE, DOMESTIC ABUSE AND SEXUAL VIOLENCE (WALES)
BILL – CELG COMMITTEE – REQUEST FOR FURTHER INFORMATION**

Thank you for inviting me to the Communities, Equality and Local Government Committee on 17 July 2014 to give evidence in relation to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill.

Peter Black AM asked a question relating to the sanctions a court could impose on a relevant Authority if they failed to comply with a direction issued by the Welsh Ministers under Section 16 of the Bill and whether they could be fined.

My officials explained to the Committee, a court would order the relevant Authority to comply with the direction and in the event of further non-compliance with the court order, the court could impose a sanction on the relevant authority through contempt of court proceedings.

It was also explained to the Committee, pursuing this course of action would very much be a last resort. I do not foresee using the power of direction on a regular basis. I would prefer to adopt a collaborative approach and use the role of the Ministerial Adviser to assist and work with any Authority which sought to depart from the guidance issued under section 12 but could not provide good reason for doing so.

However, in order to clarify the position, below are examples of how it is envisaged the guidance provisions would work and an explanation of how the direction making power would then function in practice.

Example:

- Guidance is issued by the Welsh Ministers under section 12 of the Bill and by virtue of section 14, relevant Authorities must follow the course set out in the guidance;
- A relevant Authority thinks there is good reason for it not to follow the guidance in particular categories of case or at all. It decides on an alternative policy and issues a policy statement to this effect outlining the alternative policy and the rationale for departing from the guidance;
- The Welsh Ministers consider the alternative policy published and followed by the relevant authority and decide it is not likely to contribute to the pursuit of the purpose of the Bill;

Effect of provisions:

- The Welsh Ministers under section 16(2) direct the relevant authority to take appropriate action for the purpose of securing the exercise of functions by the authority in accordance with the guidance issued to the authority under section 12;
- Section 16(3) of the Bill requires the relevant authority to comply with the direction;
- The relevant authority decide not to comply with the direction;
- The Welsh Ministers make an application to the court for a mandatory order requiring compliance with the direction as set out in section 16(4). The mandatory order would contain a penal notice – setting out disobedience would be a contempt of court punishable by imprisonment, a fine or sequestration of assets;
- A failure to comply with the terms of a mandatory order issued by the court would result in the authority being in contempt of court. In the event of non-compliance the Welsh Ministers could make an application to the court and it would be a matter for the court what punishment to impose on a relevant authority which is found in contempt.

These are the options available to the Welsh Ministers; however it is not the intention to adopt such a course of action except in the most extreme cases. I would seek to work with relevant authorities, using the expertise of the Ministerial Adviser, to seek to resolve any issues. Only when all other avenues have been exhausted would I consider resorting to the courts.

I trust this additional information will assist Members in their scrutiny of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill. Please do not hesitate to contact me should you or any other Member have any further queries or require any further information on any aspect.

Regards,



Lesley Griffiths AC / AM

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