



# School Standards and Organisation (Wales) Act 2013

2013 anaw 1

## PART 2

### STANDARDS

#### CHAPTER 2

##### INTERVENTION IN LOCAL AUTHORITIES

###### *Grounds for intervention*

#### **21 Grounds for intervention**

For the purposes of this Chapter, the grounds for intervention in the exercise by a local authority of its education functions are as follows—

GROUND 1 - The local authority has failed, or is likely to fail, to comply with a duty that is an education function.

GROUND 2 - The local authority has acted, or is proposing to act, unreasonably in the exercise of an education function.

GROUND 3 - The local authority is failing, or is likely to fail, to perform an education function to an adequate standard.

###### *Warning notice*

#### **22 Warning notice**

- (1) The Welsh Ministers may give a warning notice to a local authority if they are satisfied that one or more of grounds 1 to 3 exist in relation to the local authority.

- (2) The Welsh Ministers must specify each of the following in the warning notice—
- (a) the grounds for intervention;
  - (b) the reasons why they are satisfied that the grounds exist;
  - (c) the action they require the local authority to take in order to deal with the grounds for intervention;
  - (d) the period within which the action is to be taken by the local authority (“the compliance period”);
  - (e) the action they are minded to take if the local authority fails to take the required action.

### *Powers of intervention*

## **23 Power of Welsh Ministers to intervene**

- (1) The Welsh Ministers have the power to intervene under this Chapter in the exercise of education functions by a local authority if subsection (2) or (3) applies.
- (2) This subsection applies if—
  - (a) the Welsh Ministers have given a warning notice, and
  - (b) the local authority has failed to comply, or secure compliance, with the notice to the Welsh Ministers’ satisfaction within the compliance period.
- (3) This subsection applies if the Welsh Ministers are satisfied that one or more of grounds 1 to 3 exist in relation to the local authority and they have reason to believe that—
  - (a) there is a related risk to the health or safety of any person that calls for urgent intervention under this Chapter, or
  - (b) the local authority is unlikely to be able to comply, or secure compliance, with a warning notice.
- (4) Where the Welsh Ministers have the power to intervene, they must keep the circumstances giving rise to the power under review.
- (5) If the Welsh Ministers conclude that the grounds for intervention have been dealt with to their satisfaction or that exercise of their powers under this Chapter would not be appropriate for any other reason, they must notify the local authority of their conclusion in writing.
- (6) The Welsh Ministers’ power to intervene continues in effect until they give notice under subsection (5).
- (7) Where the Welsh Ministers have the power to intervene, they are not limited to taking the action they said they were minded to take in a warning notice.

## **24 Power to require local authority to obtain advisory services**

- (1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.
- (2) The Welsh Ministers may direct the local authority to enter into a contract or other arrangement with a specified person, or a person falling within a specified class for the provision to the authority or the governing body of a school maintained by it (or both), of specified services of an advisory nature.

(3) The direction may require the contract or other arrangement to contain specified terms and conditions.

(4) In this section “specified” means specified in a direction under this section.

## **25 Power to require performance of functions by other persons on behalf of authority**

(1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.

(2) The Welsh Ministers may give such directions to the local authority or any of its officers as they think are appropriate for securing that the functions to which the grounds for intervention relate are performed on behalf of the authority by a person specified in the direction.

(3) A direction under subsection (2) may require that any contract or other arrangement made by the authority with the specified person contains terms and conditions specified in the direction.

## **26 Power to require performance of functions by Welsh Ministers or nominee**

(1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.

(2) The Welsh Ministers may direct that the functions to which the grounds for intervention relate are to be exercised by the Welsh Ministers or a person nominated by them.

(3) If a direction is made under subsection (2), the local authority must comply with the instructions of the Welsh Ministers or their nominee in relation to the exercise of the functions.

## **27 Power to direct exercise of other education functions**

(1) If the Welsh Ministers think it is expedient, a direction under section 25 or 26 may relate to the performance of education functions in addition to the functions to which the grounds for intervention relate.

(2) The Welsh Ministers may have regard (among other things) to financial considerations in deciding whether it is expedient that a direction should relate to education functions other than functions relating to the grounds for intervention.

## **28 General power to give directions and take steps**

(1) This section applies if the Welsh Ministers have the power to intervene in the exercise of education functions by a local authority.

(2) If the Welsh Ministers think it is appropriate in order to deal with the grounds for intervention, the Welsh Ministers may—

- (a) give directions to the local authority or any of its officers, or
- (b) take any other steps.

### *Supplementary*

#### **29 Directions**

- (1) A local authority, or an officer of an authority, subject to a direction or instruction under this Chapter must comply with it.
- (2) This includes a direction or an instruction to exercise a power or duty that is contingent upon the opinion of the local authority or an officer of the authority.
- (3) A direction under this Chapter—
  - (a) must be in writing;
  - (b) may be varied or revoked by a later direction;
  - (c) is enforceable by mandatory order on application by, or on behalf of, the Welsh Ministers.

#### **30 Duty to co-operate**

- (1) A local authority and the governing body of a maintained school must give the Welsh Ministers and any person specified in subsection (3) as much assistance in connection with the exercise of functions under or by virtue of this Chapter as they are reasonably able to give.
- (2) The governing body of a maintained school and the local authority that maintains the school must also secure, so far as reasonably practicable, that persons who work at the school do the same.
- (3) The specified persons are—
  - (a) any person authorised for the purposes of this section by the Welsh Ministers;
  - (b) any person acting under directions under this Chapter;
  - (c) any person assisting—
    - (i) the Welsh Ministers, or
    - (ii) a person mentioned in paragraph (a) or (b).

#### **31 Powers of entry and inspection**

- (1) A person falling within subsection (2) has at all reasonable times—
  - (a) a right of entry to the premises of the local authority in question and any school maintained by it;
  - (b) a right to inspect, and take copies of, any records or other documents kept by the authority or any school maintained by it, and any other documents containing information relating to the authority or any such school, which the person considers relevant to the exercise by the person of functions under or by virtue of this Chapter.
- (2) The following persons fall within this subsection—
  - (a) the person specified in a direction under section 24 or, where the direction specifies a class of persons, the person with whom the local authority enter into the contract or other arrangement required by the direction;
  - (b) the person specified in a direction under section 25;
  - (c) the Welsh Ministers in pursuance of a direction under section 26;
  - (d) the person nominated by direction under section 26.

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

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- (3) In exercising the right under subsection (1)(b) to inspect records or other documents, a person (“P”)—
- (a) is entitled to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
  - (b) may require the following persons to provide any assistance P may reasonably require (including, among other things, the making of information available for inspection or copying in a legible form)—
    - (i) the person by whom or on whose behalf the computer is or has been so used;
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (4) Any reference in this section to a person falling within subsection (2) includes a reference to any person assisting that person.
- (5) In this section “document” and “records” each include information recorded in any form.