



Llywodraeth Cymru
Welsh Government

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

Explanatory Memorandum
incorporating the
Regulatory Impact Assessment
and Explanatory Notes

June 2014

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

Explanatory Memorandum to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill

This Explanatory Memorandum has been prepared by the Department for Local Government and Communities of the Welsh Government and is laid before the National Assembly for Wales.

Member's Declaration

In my view the provisions of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill, introduced by me on the 30 June 2014 would be within the legislative competence of the National Assembly for Wales.

Lesley Griffiths AM

Minister for Local Government and Government Business
Assembly Member in charge of the Bill

June 2014

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PART 1

1. Description

1. The provisions of the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill are intended to ensure a focus across the public sector on the prevention of these issues, the protection of victims and the support for those affected by such issues.
2. The Bill places duties on the Welsh Ministers, County and County Borough Councils (“Local Authorities”) and Local Health Boards to prepare and publish strategies aimed at ending gender-based violence, domestic abuse and sexual violence. The Bill further provides a power to the Welsh Ministers to issue guidance to relevant authorities¹ on how they should exercise their functions with a view to contributing to ending gender-based violence, domestic abuse and sexual violence. The Bill also contains provision for the appointment of a Ministerial Adviser.

¹ Local Authorities, Local Health Boards, National Health Service Trusts and Fire and Rescue Authorities.

2. Legislative background

3. The National Assembly for Wales (“the Assembly”) has the legislative competence to make provision in the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill by virtue of Part 4 of the Government of Wales Act 2006 (“GoWA 2006”). The relevant provisions of GoWA 2006 are set out in section 108 and Schedule 7.
4. Paragraphs 5, 9, 12, 15 of Part 1 of Schedule 7 set out the relevant subjects which give the Assembly legislative competence to make the provisions set out in this Bill. The relevant paragraphs are reproduced below:

5 Education and training

Education, vocational, social and physical training and the careers service.
Promotion of advancement and application of knowledge.

Exception —

Research Councils.

9 Health and health services

Promotion of health. Prevention, treatment and alleviation of disease, illness, injury, disability and mental disorder. Control of disease. Family planning. Provision of health services, including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities. Clinical governance and standards of health care. Organisation and funding of national health service.

Exceptions—

Abortion.

Human genetics, human fertilisation, human embryology, surrogacy arrangements.

Xenotransplantation.

Regulation of health professionals (including persons dispensing hearing aids).

Poisons.

Misuse of and dealing in drugs.

Human medicines and medicinal products, including authorisations for use and regulation of prices.

Standards for, and testing of, biological substances (that is, substances the purity or potency of which cannot be adequately tested by chemical means).

Vaccine damage payments.

Welfare foods.

Health and Safety Executive and Employment Medical Advisory Service and provision made by health and safety regulations.

12 Local government

Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.

“Local authorities” does not include police authorities.

Exceptions—

Local government franchise.

Electoral registration and administration.

Registration of births, marriages, civil partnerships and deaths.

Licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.

Anti-social behaviour orders.

Local land charges, apart from fees.

Sunday trading.

Provision of advice and assistance overseas by local authorities in connection with carrying on there of local government activities.

15 Social welfare

Social welfare including social services. Protection and well-being of children (including adoption and fostering) and of young adults. Care of children, young adults, vulnerable persons and older persons, including care standards. Badges for display on motor vehicles used by disabled persons.

Exceptions—

Child support.

Child trust funds, apart from subscriptions to such funds by—

- (a) a county council or county borough council in Wales, or
- (b) the Welsh Ministers.

Tax credits.

Child benefit and guardian's allowance.

Social security.

Independent Living Funds.

Motability.

Intercountry adoption, apart from adoption agencies and their functions, and functions of “the Central Authority” under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.

The Children's Commissioner (established under the Children Act 2004 (c. 31)).

Family law and proceedings, apart from—

(a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and

(b) Welsh family proceedings officers.

5. None of the provisions of the Bill fall within any of the exceptions specified in Part 1 of Schedule 7 to GoWA 2006, or apply otherwise than in relation to Wales, or confer, impose, modify or remove (or give power to confer, impose, modify or remove) functions exercisable other than in relation to Wales, or breach any restrictions in Part 2 of Schedule 7, having regard to any exception in Part 3 of that Schedule from those restrictions.

3. Purpose and intended effect of the legislation

6. The overarching objective of the Bill is to improve the Public Sector response in Wales to gender-based violence, domestic abuse and sexual violence. It is intended to provide a strategic focus on these issues and ensure consistent consideration of preventive, protective and supportive mechanisms in the delivery of services.
7. The Welsh Government recognises in Wales, consistent with the rest of the world, women are disproportionately impacted by all forms of intimate violence. Although the prevalence and severity of gender-based violence, domestic abuse and sexual violence disproportionately affects women, the Bill recognises anyone can be affected by such violence and abuse. Victims can be from across the whole spectrum of society, including older people, all ethnicities, religions and beliefs, people with disabilities and people from the Lesbian Gay Bisexual and Transgender community.

Improving the response of public bodies

Issue

8. Although much has been done in Wales to tackle the issues of gender-based violence, domestic abuse and sexual violence, the issues persist.
9. The Office for National Statistics publishes annual figures on Violent Crime and Sexual Offences based on the Crime Survey for England and Wales (CSEW) as there are no Welsh specific figures. The 2012/13 CSEW self-completion module on intimate violence, asked of adults aged 16 to 59, covers experience of emotional, financial and physical abuse by partners or family members, as well as sexual assaults and stalking by any person. It found:
 - a. There were 7.1% of women and 4.4% of men in England and Wales who reported having experienced any type of domestic abuse in the last year, equivalent to an estimated 1.2 million female victims of domestic abuse and 700,000 male victims;
 - b. Overall, 30% of women and 16.3% of men in England and Wales had experienced any domestic abuse since the age of 16, equivalent to an estimated 4.9 million female victims of domestic abuse and 2.7 million male victims;
 - c. All types of domestic abuse (partner or family, non-physical abuse, threats, force, sexual assault or stalking) have shown a significant decrease from 2004/05 to 2012/13. However the figure is still at 5.7% for adults aged 16 to 59;

- d. More women than men have experienced intimate violence across all headline types of abuse asked about, which included all types of domestic abuse, sexual assault and stalking, since the age of 16;
 - e. In the last year, partner abuse (non-sexual) and stalking were the most common of the separate types of intimate violence: 4% of women and 2.8% of men reported having experienced partner abuse (non-sexual); 4.1% of women and 1.9% of men reported having experienced stalking;
 - f. 2% of women and 0.5% of men had experienced some form of sexual assault (including attempts) in the last year; and
 - g. 2.2% of women and 1.5% of men experienced family abuse (non-sexual) in the last year.
10. In a report to the Welsh Government, commissioned to inform the policy development of the Bill, Robinson et al² obtained the most recent British Crime Survey³ data (2011/12), disaggregated for Wales. This data shows in Wales, women experienced twice the levels of ‘any domestic abuse’ (11.1% compared to 5.1% for men) while rates of ‘any sexual assault’ were also higher for women (3.2%) than men (0.7%). The data also indicated more women reported being stalked than men (7.8% compared to 3.5%).
11. Population-based estimates applied to the Sylvia Walby 2009 report⁴ on the costs of domestic abuse suggest domestic violence costs Wales £303.5m annually – £202.6m in service costs and £100.9m to lost economic output. These figures do not include any element of human and emotional costs, which the research estimates costs Wales an additional £522.9m. In valuing the human and emotional costs, Walby followed the methodology of a Home Office study looking at the costs of crime⁵ which used survey based estimates of the public’s ‘willingness-to-pay’ (WTP) to reduce the risk of experiencing the pain and suffering associated with crimes of differing severity. The WTP estimates are multiplied by the number of crime occurrences to generate the aggregate figure. Combining the financial and human costs provides a total figure of £826.4m. These figures do not include other forms of gender-based violence and sexual violence which also produce significant human, emotional and financial costs to society. Based on the substantial costs of domestic abuse to the economy, Walby argues the additional investment in Public Services⁶ to reduce domestic violence to be cost effective.

² Robinson et al., *The Welsh Government’s proposed ‘Ending Violence Against Women and Domestic Abuse (Wales) Bill’: Recommendations from the Task and Finish Group 2012.*

³ The British Crime Survey has now become the Crime Survey for England and Wales (CSEW).

⁴ Walby, S., *The Cost of Domestic Violence: Update 2009.*

⁵ Brand, S. and Price, R., *The Economic and Social Costs of Crime, Home Office Research Study 217, 2000.*

⁶ Public Services are services delivered for the benefit of the public. This can include services delivered through the third sector, through social enterprise or through services that are contracted out. There is no clear and agreed definition of exactly what the Welsh public sector is, or which organisations it includes.

Policy background

12. Tackling gender-based violence, domestic abuse and sexual violence is a complex issue with various Public Sector organisations involved, and with no single organisation having lead responsibility in Wales. The issue is further compounded by the current devolution settlement by which the Welsh Government has responsibility for some, but not all, areas of Government dealing with violence and abuse within communities in Wales.
13. Evidence presented in the Welsh Government's 10,000 Safer Lives Report⁷ demonstrated the importance of strategic direction and leadership in tackling these issues. The Report noted where domestic abuse was a strategic issue for the Local Service Board it had led to effective changes across Public Sector services.
14. The 10,000 Safer Lives project also reviewed the barriers to providing a good service to the victims of abuse (medium and standard risk⁸) in Wales. The review found the approach to sharing information on, and managing of, medium and standard risk victims of domestic abuse was inconsistent across Wales. Multi-agency training was also identified as a key tool in improving services for medium and standard risk victims of domestic abuse, and again it found current provision was variable across Wales.
15. Successful approaches to tackling gender-based violence, domestic abuse and sexual violence are associated with multi-agency responses, ensuring the services and expertise of partner agencies are built into the development of effective local strategies. Evaluation studies of Domestic Abuse Multi-Agency Risk Assessment Conferences (MARACs), first piloted in Cardiff in 2003, indicate MARACs (where statutory and third sector agencies share information about high-risk victims of domestic abuse in order to produce a co-ordinated action plan to increase victim safety) have led to significant improvements in the safety of victims and their children and promote better standards of professional practice⁹.
16. To draw together these successful approaches requires leadership and strategic direction. Both the 10,000 Safer Lives project and the Robinson report recognised a leadership gap in relation to domestic abuse and wider issues of violence against women (which is the most prevalent form of gender-based violence) and sexual violence in Wales. As Robinson et al. concluded:

⁷ *10,000 Safer Lives Project – Improving the way the public services respond to prevent instances of Domestic Abuse, Welsh Government, April 2012.*

⁸ Services for those who are regarded as high-risk have been established in Wales via the MARAC process.

⁹ Robinson A. L. (2004). *Domestic Violence MARACs (Multi-Agency Risk Assessment Conferences) for Very High-Risk Victims in Cardiff: A Process and Outcome Evaluation*. School of Social Sciences: Cardiff University

“Leadership is sorely needed because there is evidence of good practice but no one at senior level to take responsibility for embedding this across Wales. Leadership is required because many of the issues are sensitive, disturbing and ‘below the radar’ of both frontline professionals and most citizens. Leadership is essential for translating policies and strategies into the sorts of services that will make a difference on the ground, through effective planning, supporting and resourcing frontline professionals. Finally, leadership is required because the Welsh Government’s commitment in this area, as indicated by this legislative initiative, must lead to an effective and sustainable programme of change.”

Changes required to current arrangements

17. In order to ensure a strategic focus and improved response to address the issues of violence against women (the most prevalent form of gender-based violence), domestic abuse and sexual violence, the Welsh Government published a White Paper in November 2012¹, which outlined a number of legislative and policy proposals. The proposals underpinned the Welsh Government’s ‘Right to be Safe Strategy’¹¹, and focused on the aspects of prevention, protection and support.

The changes to be made by the Bill to take forward some of these proposals are set out below.

National Strategy

18. In recognition of the importance of leadership and the Welsh Government’s continuing commitment to tackling these issues, the Bill provides provision to require the Welsh Ministers to prepare and publish a strategy to contribute to the pursuit of the purpose of the Bill. The purpose of the Bill is to improve:

- a. arrangements for the prevention of gender-based violence, domestic abuse and sexual violence;
- b. arrangements for the protection of victims of gender-based violence, domestic abuse and sexual violence;
- c. support for persons affected by gender-based violence, domestic abuse and sexual violence.

19. The duty enshrines the commitment of the Welsh Ministers to contribute to the pursuit of this purpose in statute.

¹ Consultation to end violence against women, domestic abuse and sexual violence (Wales): <http://wales.gov.uk/consultations/people-and-communities/vawwhitepaper/?status=closed&lang=en>

¹¹ ‘Right to be Safe’ strategy (2010)

<http://wales.gov.uk/topics/housingandcommunity/safety/domesticabuse/publications/besafe/?lang=en>

Ministerial Adviser

20. The importance of leadership is recognised within the Bill, which places a duty on the Welsh Ministers to appoint a Ministerial Adviser on gender-based violence, domestic abuse and sexual violence.
21. Making the appointment a statutory duty on the Welsh Ministers acknowledges the high priority which the Welsh Government attaches to addressing these issues, as well as the need for long-term policy commitment and planning in this area.
22. This is a statutory advisory role and the Ministerial Adviser will work alongside the Government to advise and assist the Welsh Ministers in tackling these issues.
23. The local coordination of services, performance monitoring, information sharing and data collection were just some of the issues identified in the White Paper as inconsistent. Whilst some localisation of services is expected across Wales to reflect local need and demand, there is a clear need to promote best practice and high quality standards. An element of the Ministerial Adviser's role will be, on behalf of the Welsh Ministers, to work with Public Services across Wales to promote best practice, and support the high quality and standards required by the Welsh Government.
24. The Ministerial Adviser will also have a key role in reviewing the actions being taken by Public Sector bodies in Wales under the duties imposed by the Bill, and advising the Welsh Ministers of the findings.

Local Strategies

25. In accordance with the Programme for Government commitment, the Bill places a duty on Local Authorities and Local Health Boards to prepare and publish joint Local Strategies for tackling gender-based violence, domestic abuse and sexual violence.
26. The currently published Single Integrated Plans (SIPs) and supporting needs analyses do not all address the issues of gender-based violence, domestic abuse and sexual violence, as there is no specific statutory requirement to do so. This can result in less than satisfactory consideration of these issues at the strategic planning stage. Most of the published needs analyses have some consideration of reported incidents of domestic abuse, although this is not done in a consistent manner with differing data sets being used. The consideration is also usually confined to domestic abuse, with little or no consideration of the wider issues of gender-based violence and sexual violence. The current plans also show consideration of the issue in the needs analysis does not always result in inclusion in the resulting plan, even where an increase in incidents is identified.

27. The Bill seeks to address this gap by providing a particular focus on these issues to ensure consideration of them by Local Authorities and Local Health Boards as part of the strategic planning process, with the aim of raising the profile of the issues and raising its priority across the Public Sector. The Bill requires the strategies to focus on the elements of prevention, protection and support.
28. The Bill requires Local Authorities and Local Health Boards to take into account the most recent assessment for the area of the Local Authority under section 14 of the Social Services and Well-being (Wales) Act 2014. It also requires Local Authorities and Local Health Boards to take into account strategic assessments prepared in accordance with regulations made under section 6 of the Crime and Disorder Act 1998 relating to reducing crime and disorder, combating substance misuse and reducing re-offending. This is to ensure the approach adopted by Local Authorities and Local Health Boards to these issues is based on evidence and proportionate to the identified needs.
29. As is currently the case with other similar requirements, it is intended Local Authorities and Local Health Boards could choose to fulfil the strategy requirement in this Bill by way of the single integrated planning process. It is intended to encourage Local Authorities and Local Health Boards, through guidance, to incorporate the planning requirements set out in this Bill into the wider planning process.

Guidance

30. The Bill provides the Welsh Ministers with a power to issue guidance to relevant authorities (Local Authorities, Local Health Boards, Fire and Rescue Authorities and NHS trusts) on how they should exercise their functions with a view to contributing to the pursuit of the purpose of the Bill.
31. The guidance can, amongst other things, address awareness raising through, for example, public education, the Ask and Act process, training for staff and the sharing of information. Asking and acting is aimed at providing the support to front line professionals who come into regular contact with victims of gender-based violence, domestic abuse and sexual violence to ask potential victims about abuse or violence, in certain circumstances, and where appropriate, to act so suffering and harm is reduced. Any guidance issued by the Welsh Ministers under this power would have to be followed by the relevant authorities. An authority could only depart from the guidance if they identified an alternative way of doing so. In such circumstances the authority would need to publish details of the alternative approach. In the event the Welsh Ministers considered it unlikely such an approach would contribute to the pursuit of the purpose of the Bill, the Bill provides a reserve power of direction for Welsh Ministers to require authorities to follow the guidance.

32. Such guidance will provide for the sharing of best practice and will assist in the promotion of consistency and high quality standards across Wales. The Bill provides provision requiring the Welsh Ministers to consult with appropriate persons on a draft of any proposed guidance, or revision of the guidance. The Welsh Ministers must also lay a copy of the draft guidance before the National Assembly. The Assembly may resolve not to approve the draft guidance, which would prevent the Welsh Ministers from issuing the guidance in the form laid before the Assembly. The Welsh Government would therefore undertake a public consultation, including a regulatory impact assessment, before issuing or revising any guidance under section 12 of the Bill.

Purpose and intended effect of the Bill

33. The Welsh Government's principal policy aim in this area is to reduce the rates of gender-based violence, domestic abuse and sexual violence in Wales. The Bill supports this aim by seeking an improved public sector response to gender-based violence, domestic abuse and sexual violence. The main aims of the Bill are to improve arrangements to:

- a. promote awareness of, and to prevent, protect and support victims of gender-based violence, domestic abuse and sexual violence ;
- b. strengthen the strategic leadership and accountability for gender-based violence, domestic abuse and sexual violence; and
- c. improve the consistency, quality and join-up of service provision in Wales.

34. The Bill will promote awareness of the issues of gender-based violence, domestic abuse and sexual violence through the creation of a Ministerial Adviser post. Such a statutory role to advise on these issues does not currently exist in the UK, this would therefore be the first role of its kind.

35. The duty on Local Authorities and Local Health Boards to jointly prepare and publish a strategy will ensure transparency around the extent of the issue in a local area and the proposed actions to be taken to address it. This is required to raise awareness amongst both professionals working in the Public Sector and the general public. Issues such as domestic abuse, which affect 1 in 4 women in their lifetime and 1 in 6 men, are often hidden issues. In order to improve the response, earlier intervention is required, which in turn requires a specific focus on these issues to work towards removing the stigma attached to them by demonstrating the importance of tackling these issues at both a national and local level.

36. Both the Ministerial Adviser and the strategy requirements strengthen strategic leadership and accountability. The strategy requirements will ensure consideration of the issues as part of the strategic planning process.

37. The Bill will improve the consistency and quality of service provision in Wales by enabling the Welsh Ministers to issue guidance to relevant authorities on,

amongst other things:

- a. the training and support available for staff to help them recognise signs of gender-based violence, domestic abuse and sexual violence;
- b. the circumstances where it is safe and appropriate to 'Ask and Act';
- c. the sharing of information between relevant authorities and others; and
- d. the co-operation arrangements between relevant authorities, and between relevant authorities and others.

Scope of the Bill

38. The Welsh Government recognises the gendered nature of domestic abuse and sexual violence as mostly perpetrated against women and girls by men and this is both a cause and consequence of gender inequality. Whilst the Welsh Government recognises the disproportionate affect of such abuse and violence on women, it is committed to supporting all victims of gender-based violence, domestic abuse and sexual violence.
39. The Bill addresses domestic abuse and sexual violence perpetrated against all people in Wales, irrespective of gender or sexual orientation. The Bill also addresses violence perpetrated against a woman or man arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation.
40. The broad definition of domestic abuse covers abuse by partners, previous partners and family members. This definition includes less prevalent forms of abuse such as honour based violence.
41. The Bill and any guidance will seek to support and complement existing safeguarding procedures concerning children under the age of 18, it will not replace them.
42. The Bill does not make provision for the Ministerial Adviser to deal with individual cases of gender-based violence, domestic abuse, or sexual violence in Wales. These remain the responsibility of the appropriate authorities such as the police, probation services, Crown Prosecution Services and adult and children's safeguarding services and statutory partnerships such as multi-agency risk assessment conferences (MARACs) and multi-agency public protection arrangements and Community Safety Partnerships.

Territorial Extent

43. This Bill applies in relation to Wales.

Risks

44. The risk of not introducing the Bill is the identified aims of increasing

awareness, strengthening leadership and accountability, and improving the consistency and quality of service provision will not be achieved. Without achieving these aims, the overarching aim to improve the Public Sector response in Wales to gender-based violence, domestic abuse and sexual violence will not be achievable.

45. Without the statutory framework to ensure the consideration of these issues at a national and local level, there is a risk tackling these issues will not be seen as a strategic priority. Additionally, without the use of statutory guidance to set the framework within which the aspects of prevention, protection and support should be addressed, there is a risk the current inconsistencies in quality and service response will remain.

Implementation and delivery plan

46. The main elements of this legislation are included on the face of the Bill. There is provision within the Bill for the Welsh Ministers to issue statutory guidance to support the implementation of the proposals.
47. The Welsh Ministers intend to issue guidance to assist the relevant authorities in meeting the requirements of the Bill. The guidance will, for example assist in delivering on the required Local Strategies by providing advice and best practice on effective multi-agency collaboration and information sharing, and delivering training through the National Training Framework.
48. Subject to the approval of the Bill by the National Assembly and subsequent Royal Assent, implementation will be phased. It is proposed the following provisions will come into force on the day Royal Assent is received:
- section 1; and
 - sections 21 to 23.
49. It is then intended that sections 11 to 18 will come into force two months after the Bill receives Royal Assent.
50. The remaining provisions will come into force subsequently by way of an order made by statutory instrument.
51. The anticipated milestones are as follows:
- Advertisement for Ministerial Adviser – Spring 2015
 - Appointment of Ministerial Adviser – Autumn 2015
 - Publication of National Strategy – Spring/Autumn 2016

4. Consultation

52. The Welsh Government consulted on a White Paper to end violence against women (the most prevalent form of gender-based violence), domestic abuse and sexual violence between 26 November 2012 and 22 February 2013. In addition eight consultation events were held across Wales involving members of the general public and stakeholders. A youth specific (14-15yrs) event was also organised in partnership with the National Society for the Prevention of Cruelty to Children (NSPCC). A copy of the White Paper together with a summary of responses can be accessed at:

<http://wales.gov.uk/consultations/people-and-communities/vawwhitepaper/?skip=1&lang=en>

53. The White Paper invited comments on a number of policy and legislative proposals. In total 147 responses were received, which came from the following types of organisations:

Third sector organisations	52
Individuals	23
Individual professionals from the sector	23
Public sector bodies	20
Political interest	10
Professional bodies	8
Multi-agency forums	5
Religious groups	3
Commissioner offices	3
Total	147

54. The proposals in the White Paper received a positive response. However, not all of the proposals discussed in the White Paper are being taken forward within this Bill.
55. The section below outlines the proposals in the White Paper which have not been included in this Bill:

- **Proposal related to healthy relationship education and a whole school approach**

56. There was overwhelming support in the consultation responses for the proposals in the White Paper. There was also significant support for healthy relationship lessons to be made compulsory via the curriculum.

57. The Department for Education and Skills of the Welsh Government is currently conducting a Review of the National Curriculum and Assessment Arrangements. The second stage of the Review, which was announced on 12 March 2014, is being led by Professor Graham

Donaldson. This will include a review of the Basic Curriculum including Personal and Social Education (PSE) to ensure it is fit for purpose in the 21st Century. Healthy relationship education is a key part of the PSE Framework for 7 to 19 year-olds in Wales. The findings of the review are expected to be submitted to the Minister for Education and Skills by the end of 2014.

58. The Review is taking a fundamental look at the curriculum as a whole in Wales – to ensure that it provides a broad, balanced and importantly coherent continuum from Foundation Phase to Key Stage 4 – linking to our Review of Qualifications. The Review therefore provides an important opportunity to consider the place of PSE, including healthy relationships, in the new curriculum for Wales as a whole. By ensuring the link between the Review and our proposals to deliver our healthy relationships agenda in schools, there is greater scope to maximise their impact.
59. Supporting measures to ensure schools embed violence against women, domestic abuse and sexual violence more generally are also being considered.

- **Proposal related to workplace policies**

60. The proposal in the White Paper regarding workplace policies has been overtaken by progress made through the Public Service Leadership Group in implementing the Welsh Government's 10,000 Safer Lives Project. An element of this project was concerned with workplace policies.
61. In September 2013, following training events and correspondence from the Minister for Local Government and Government Business to the Chief Executives of over 40 organisations in Wales, Public Services were asked to confirm a finalised and implemented workplace policy. All Public Services included in the correspondence have now implemented or reviewed their Workplace policies on violence against women (the most prevalent form of gender-based violence), domestic abuse and sexual violence.
62. Officials have reviewed the policies to ensure they comply with best practice guidance and will monitor how they are implemented within organisations.

- **Proposal related to safe accommodation**

63. Evidence shows over the last 5 years around 880 households are accepted as homeless each year where the main reason for loss of home is the violent breakdown of a relationship. This accounts for around 15 per cent of all households accepted as homeless¹².

¹² <http://wales.gov.uk/statistics-and-research/homelessness/?lang=en>

64. The White Paper recognised the importance of the provision of a spectrum of safe accommodation options, informed by risk assessment and the choice of the service user. This work is being considered further in light of the changes being made as a result of the Housing (Wales) Bill, currently before the National Assembly. This Bill proposes where a person is homeless or threatened with homelessness a Local Authority will have a duty to take reasonable steps to prevent or relieve homelessness. In addition to these duties Local Authorities will also be under a duty to secure the provision of information and advice relating to preventing homelessness, securing accommodation when homeless and accessing any other support available.
65. If a person with whom a dependant child resides or might be reasonably expected to reside was without accommodation the Local Authority would be under a duty to secure interim accommodation whilst fulfilling any duties owed under the new Housing (Wales) Bill in relation to homelessness.
66. In due course a Bill related to 'Renting Homes' will be introduced into the Assembly. It is intended provision will be made in that Bill for a statutory 'prohibited conduct term' to be included in every rental contract for housing. Combined with a more flexible approach to joint tenancies, this will enable perpetrators of domestic abuse to be evicted while leaving the victim and any children to remain in their home.

5. Power to make subordinate legislation

67. The Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill contains provisions to make subordinate legislation. The following table sets out in relation to the provisions:
- a. the person upon whom, or the body upon which, the power is conferred;
 - b. the form in which the power is to be exercised;
 - c. the appropriateness of the delegated power;
 - d. the applied procedure (affirmative, negative, no procedure) if any.

Summary of powers to make subordinate legislation

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 5(3)(b)	Welsh Ministers	Direction	Provides the Welsh Ministers the flexibility to direct local authorities and Local Health Boards to review their strategy in the event circumstances suggest a review should take place, for example in the event the Welsh Ministers decide to review the National Strategy.	No statutory procedure.	Relates to the review of Local Strategies and therefore the circumstances in which the direction would be used may change from time to time. Therefore no statutory procedure provides the Welsh Ministers the flexibility to react quickly to changes in circumstances ensuring the timely review of strategies at a local level.
Section 6(2)	Welsh Ministers	Regulations	Provides the Welsh Ministers the flexibility to prescribe additional information or further assessments which must be taken into account in preparing local strategies.	Negative	Prescribes technical matter of detail which may change from time to time.

Section 12(1) Power to issue statutory guidance	Welsh Ministers	Guidance	Suitable for guidance as it enables the Welsh Ministers to provide relevant authorities with up to date information on best practice and how an authority should exercise its functions to contribute to the overarching objectives set in the Bill. Guidance provides flexibility as it may be necessary to update it on a regular basis.	Procedure as set out in section 13 of the Bill (Consultation and National Assembly for Wales procedures). The Welsh Ministers required to consult on draft guidance, and to lay draft guidance before the Assembly. The guidance may not be issued if Assembly resolves not to approve draft.	The requirement for consultation is to ensure the views of those impacted by any guidance are fully taken into account. The requirement to lay the draft guidance before the National Assembly and to receive approval provides an opportunity for scrutiny.
Section 16(2) Direction power	Welsh Ministers	Directions	This direction power will apply to particular authorities and will be made in specific circumstances which will require the Welsh Ministers to respond quickly where required to do so.	No statutory procedure.	Provides the Welsh Ministers with the flexibility to react quickly to secure compliance with guidance issued under section 12.
Section 22(3) Commencement	Welsh Ministers	Order	Suitable for Order as provision relates to coming into force date to be decided by the Welsh Ministers.	No statutory procedure.	These orders will be confined to commencement and are technical in nature.

6. Regulatory Impact Assessment

68. A Regulatory Impact Assessment has been prepared in accordance with Standing Order 26.6(vi) as is attached at Part 2.

Part 2 – Regulatory Impact Assessment

7. Options

69. This regulatory impact assessment is structured around each element of the Bill, as follows:
- A. The Duty to Prepare and Report on National Strategies;
 - B. The Duty to Prepare and Report on Local Strategies;
 - C. The Power to Issue Statutory Guidance and the Duty to Follow Such Guidance;
 - D. Appointment of a Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence.
70. A number of options were considered for the delivery of the policy aims behind each of the main elements of the Bill. The options are identified below. Each of the options has been examined in terms of how far they would achieve the Welsh Government’s policy objectives. The costs and benefits of each option are set out in Chapter 8 of this Explanatory Memorandum.

A. The Duty to Prepare and Report on National Strategies

Option 1 – Do Nothing/ Keep using Existing Strategies

71. Do nothing is not an applicable option as the final report for the current National Strategy, ‘*The Right to be Safe*’, was published in June 2014. There would therefore be no overarching National Strategy in place if this option was taken forward.

Option 2 – Produce a Non Legislative National Strategy

72. This option would involve producing a new National Strategy, outside of legislation, to replace the existing strategies.

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives.

73. This option involves including provision in the Bill for a specific duty to be placed on the Welsh Ministers to prepare and develop National Strategies to tackle gender-based violence, domestic abuse and sexual violence in terms of prevention, protection and support for victims.
74. This option would require the Welsh Ministers to review the National Strategy within six months of a general election of the National Assembly and at any other time.

B. The Duty to Prepare and Report on Local Strategies

Option 1 – Do Nothing

75. Doing nothing in this case means not imposing a specific duty on Local Authorities and Local Health Boards to prepare, publish and report on Local Strategies for tackling gender-based violence, domestic abuse and sexual violence.
76. Some Local Authorities currently include actions for tackling domestic abuse in their Single Integrated Plans (SIPs). However, the currently published SIPs and supporting needs analyses do not all address the issues of gender-based violence, domestic abuse and sexual violence, as there is no specific statutory requirement to do so.

Option 2 - Use Existing Legislation to Implement Change

77. An alternative option is not to specifically include provision for Local Strategies in this Bill, but instead to use existing legislation to require Local Authorities and Local Health Boards to set objectives relating to gender-based violence, domestic abuse and sexual violence. This would involve using a range of existing legislative mechanisms to try and achieve the policy intent.
78. These include exploring the possibility of making joint regulations with the UK Government under section 6 of the Crime and Disorder Act 1998 in relation to the reduction of crime and re-offending. Section 6 requires specified Public Bodies to prepare a strategy for the purpose of reducing crime and disorder, combating misuse of drugs, alcohol and any other substances and the reduction of re-offending. The specific matters which must be addressed within crime and disorder strategies are prescribed by regulations. Regulations can specify the objectives to be addressed in a strategy and performance targets in respect of those objectives including the reduction of a particular crime or disorder. Regulations could therefore provide that crime and disorder strategies must in particular address crimes associated with gender-based violence, domestic abuse and sexual violence.
79. This option could also involve making regulations under section 40 of the National Health Service (Wales) Act 2006. Section 40 requires Local Authorities and Local Health Boards to jointly formulate and implement a strategy for the health and well-being of the people of their area. Regulations may provide for particular matters which strategies must address and therefore as with crime and disorder strategies, the regulations could be re-made to specifically refer to gender-based violence, domestic abuse and sexual violence as matters which must be addressed by strategies.
80. In addition to the new regulations, this option could also rely on section 15 of the Social Services Well-being (Wales) Act 2014, which places a duty on

Local Authorities to make provision for a range and level of services for a number of purposes including to contribute towards preventing or delaying the development of people's needs for care and support, reducing the needs for care and support and preventing abuse or neglect. It also requires Local Health Boards to have regard to the importance of such preventative services in the exercise of their functions. The provision could therefore result in enhanced services being provided by Local Authorities and Local Health Boards to seek to prevent gender-based violence, domestic abuse and sexual violence.

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

81. Introducing a Bill provides a specific focus on these issues. It enables a specific duty to be placed on Local Authorities and Local Health Boards to prepare and publish Local Strategies outlining how they propose to improve arrangements for tackling the issues of gender-based violence, domestic abuse and sexual violence in terms of prevention, protection and support for victims. It also provides the provision to require them to report on the progress of the strategies on a yearly basis.

C. Power to Issue Statutory Guidance and the Duty to Follow Such Guidance

Option 1 – Do Nothing

82. This option would mean the Welsh Government would not provide Local Authorities and Local Health Boards with any guidance regarding preventing gender-based violence, domestic abuse and sexual violence, and the protection and support of victims. This option would not provide the opportunity for the Welsh Government to share best practice or promote consistent high quality service provision across Wales. Under this option it would be for each Local Authority and Local Health Board to determine individually how best to achieve the objectives of prevention, protection and support.

Option 2 - Use Non-statutory Guidance to Implement Change

83. This option involves the Welsh Government issuing non-statutory guidance to Local Authorities and Local Health Boards regarding preventing gender-based violence, domestic abuse and sexual violence, and the protection and support of victims. This option provides an opportunity for the Welsh Government to share best practice and promote consistent high quality service provision. Under this option, Local Authorities and Local Health Boards would be encouraged to follow the guidance issued by the Welsh Government, but the guidance would not be enforceable. A Local Authority or Local Health Board could therefore choose to ignore the guidance in its entirety.

84. Under this option the guidance could, amongst other things, address awareness raising through, for example, public education, the Ask and Act process, training for staff, multi agency fora and sharing of information. Asking and acting is aimed at providing the support to encourage front line professionals who come into regular contact with victims of gender-based violence, domestic abuse and sexual violence to ask potential victims about abuse or violence in certain circumstances, and where appropriate, to act so suffering and harm is reduced. Information sharing is concerned with encouraging the safe and legal sharing of information on victims of abuse and violence to ensure appropriate action is taken so suffering and harm is reduced.

Option 3 – Provide the Welsh Ministers with a power to issue guidance and requirement for specified bodies to follow

85. This option involves providing the Welsh Ministers with a power to issue guidance to relevant authorities¹³ in support of the purpose of prevention, protection and support. Under this option the guidance could, amongst other things, address awareness raising through, for example, public education, the Ask and Act process, training for staff, multi agency fora and sharing of information.
86. This option provides that any guidance issued by the Welsh Ministers under this power would have to be followed by the specified authorities. These authorities could depart from the guidance if they identified an alternative way of doing so. In such circumstances the authority would need to publish details of the alternative approach. In the event the Welsh Ministers were unconvinced the published approach would not be as effective as the approach set out in the guidance published by the Welsh Ministers, this option provides a reserve power of direction for the Welsh Ministers to require authorities to follow the guidance. Such guidance could require relevant authorities to implement best practice and assist in the promotion of consistency and high quality standards across Wales.

D. Appointment of a Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence - Including the Functions, Plans and Reporting Arrangements

Option 1 – Do Nothing

87. Under this option there would be no specific leadership role created to assist in the achievement of preventing, protecting and supporting victims of gender-based violence, domestic abuse and sexual violence.

¹³ Local Authorities, Local Health Boards, Fire and Rescue Authorities and NHS Trusts.

Option 2 – Introduce an Assembly Bill to Appoint a Commissioner

88. This option would provide for the creation and appointment of a Commissioner to consider the issues of gender-based violence, domestic abuse and sexual violence. Under this option, an office to support an independent Commissioner would need to be created, as such a structure does not currently exist. As with option 3, legislation would be required to create such an entity.

Option 3 - Introduce an Assembly Bill to place a duty on the Welsh Ministers to appoint a Ministerial Adviser

89. This option involves the creation of a statutory advisory 'Ministerial Adviser' role to consider the issues of gender-based violence, domestic abuse and sexual violence. Under this option, an office to support the Ministerial Adviser is not required, as they would work alongside the existing official structures within the Welsh Government. This option places a duty on the Welsh Ministers to appoint such a Ministerial Adviser, thus enshrining the role in statute. This option also enshrines the functions of such a Ministerial Adviser in statute.

8. Costs and Benefits

90. This chapter contains the cost benefit analysis of the options detailed at Chapter 7.

Costs

91. Currently the Violence against Women and Domestic Abuse Branch in the Welsh Government has a revenue budget of £4m in 2014/15. The Welsh Government programme costs associated with this Bill will be met from this budget.

A. The Duty to Prepare and Report on National Strategies

Option 1 – Do Nothing/ Keep using Existing Strategies

92. Under this option, the existing strategies would not be updated or replaced and as such there are no additional costs associated with this option.
93. The cost of producing the current Right to be Safe Strategy was approximately £11,100. This is based on one Executive Band 2 (EB2) civil servant working full time on the strategy for a period of 8 weeks¹⁴. The strategy has now been completed and the final report was published on the Welsh Government website in June 2014. The cost of taking forward the actions in the Right to be Safe Strategy was met from the annual revenue budget of the Violence against Women and Domestic Abuse Team, Welsh Government.

Option 2 – Produce a Non Legislative National Strategy

94. There would be a cost to the Welsh Government in producing, publishing and implementing new National Strategies with regards to gender-based violence, domestic abuse and sexual violence.
95. The staff cost of producing a strategy is estimated as £11,100. This is based on the cost of producing the current strategy and assumes one EB2 Civil servant working full time on a National Strategy for a period of 8 weeks¹⁵.
96. The Right to be Safe Implementation Board has already been established by the Welsh Government with a membership of key stakeholders. There are no direct costs associated with the establishment and running of the Right to be

¹⁴Welsh Government staff costs presented in this RIA are based on the Central Services Operation Team's Pay Band Costs. Gross pay cost includes: salary; and employers national insurance and pension contributions.

¹⁵*Ibid*

Safe Board. The cost to the Welsh Government of providing secretariat support to the Board is estimated to be £1,200. This is based on one Management Band 2 (MB2) spending 8 days a year supporting the Board. The Board's remit is to have oversight of the Welsh Government's strategy for tackling all forms of violence against women (which is the most prevalent form of gender-based violence) and domestic abuse. The new draft strategy would be submitted to the Board for consultation and consideration, followed by an open on-line consultation of 12 weeks. As the consultation would be on-line there would be no distribution or printing costs. The cost to the Welsh Government of analysing the consultation responses and any subsequent re-drafting is incorporated in the EB2 staff costs for producing the strategy outlined above.

97. The cost to the Welsh Government of taking forward a new strategy is estimated based on the work of one EB2 civil servant working full time (at a gross cost of £66,587 per annum) on the implementation and annual reporting of the strategy and other elements of the Bill, plus one MB2 civil servant working full time (at a gross cost of £38,731) on the implementation of the strategy and other elements of the Bill.
98. Therefore the administrative costs are estimated to total £106,518 per annum. This cost would be accommodated within existing Welsh Government Departmental programme budgets.
99. It is important to note however, the roles identified above will cover more than just the implementation of the strategy. The posts will also be responsible for delivering other elements of this Bill, such as, the development and publication of reports; providing guidance on and scrutinising Local Strategies (element B of the Bill); the development, consultation and implementation of guidance (element C); engaging with the Ministerial Advisor (element D); and consultation with the relevant sectors on this work. However, as the majority of this work will also be part of the National Strategy these costs are difficult to separate out. The cost identified above, £106,518 per annum, includes all these responsibilities and therefore the Welsh Government administrative costs are not identified separately for the other elements of the Bill.
100. The cost of implementing a National Strategy would need to be considered at the time of development. As outlined above, the Welsh Government would undertake a public consultation prior to finalising a National Strategy.
101. The table summarises the estimated gross administrative costs for this option.

Table 1. Costs of Option 2 (and Option 3)

	2014-15	2015-16	2016-17	2017-18	Total
Welsh Government (£)					
Preparing a National Strategy		11,100			11,100
Supporting implementation ¹		106,500	106,500	106,500	319,500
Total		117,600	106,500	106,500	330,600

¹ On going annual costs for the Welsh Government support includes the time to report on the national strategy.

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

102. The cost of developing and implementing a strategy is expected to remain the same regardless of whether it is statutory or non-statutory. The Welsh Government costs under this option are therefore as set out in Table 1.

103. Under this option, the Welsh Government will be required to publish a set of National Indicators against which to measure progress made towards achieving the objectives set out in the National Strategy. The current Programme for Government includes a number of indicators relating to gender-based violence, domestic abuse and sexual violence which are reviewed and updated on an annual basis. There are therefore no additional costs associated with having to develop, publish or update these indicators.

B. The Duty to Prepare and Report on Local Strategies

Option 1 – Do Nothing

104. There are no additional costs associated with this option. As noted above, a number of Local Authorities already include the issue of domestic abuse within their SIPs. Those which do not will not be required to do so under this option.

Option 2 - Use Existing Legislation to Implement Change

105. There will be a cost to Local Authorities and Local Health Boards under this option as they will be required to complete a Local Strategy on gender-based violence, domestic abuse and sexual violence.

106. The estimated staff costs for creating a Local Strategy will be approximately £8,300 per local area. This cost is split between the Local Authority and the Local Health Board and is estimated as 10% of the time of a Local Authority Principal Officer at point 49 on the authority pay scale (£42,032 per annum)¹⁶

and 10% of a Band 7 time of a NHS employee at point 34 of the pay scale (£40,558 per annum)¹⁷. This equates to approximately £182,600 for Wales as a whole on the current basis of 22 Local Authorities in Wales.

107. As the publication requirements are already set out in the relevant existing legislation, this option does not impose any new publication requirements and therefore there are no additional costs.
108. Local Authorities should already be, and in this option would continue to, carry out this work as part of the production of their SIPs, which they all currently complete. Therefore the costs of preparation and publication should already be accommodated in their budgets.

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

109. As with option 2 there would be costs to Local Authorities and Local Health Boards as they would be required to complete a Local Strategy on gender-based violence, domestic abuse and sexual violence.
110. Also as with option 2, the estimated costs for creating a strategy are anticipated to be approximately £8,300 per Local Authority split between the Authority and Local Health Board (see option 2). The total cost across Wales is therefore estimated to be approximately £182,600 (every five years) on the current basis of 22 Local Authorities in Wales.
111. Each strategy should take account of the most recent needs assessment for the local area. These needs assessments are a requirement under section 14 of the Social Services and Well-being (Wales) Act 2014 and as such this does not represent an additional cost from this Bill.
112. The Bill does not impose how the strategies should be published. Local Authorities currently publish their SIPs on their website and it is anticipated they would take the same approach for these Local Strategies.
113. Each year, the Local Authority and Local Health Board will be required to produce a report setting out the progress made towards achieving the objectives set out in the Local Strategy. The estimated cost for a Local Authority and Local Health Board to produce this report is anticipated to be approximately £1,650 per annum. This is based on 2% of the time of a Local Authority Principal Officer at point 49 on the authority pay scale (£42,032 PA)¹⁸ and 2% of a Band 7 time of a NHS employee at point 34 of the pay scale (£40,558 PA)¹⁹. This represents an annual cost of £36,300 across the whole of Wales on the current basis of 22 Local Authorities in Wales.

¹⁶ From the National Joint Council Salary Scale 2013-2014

¹⁷ NHS Pay Scales

¹⁸ From the National Joint Council Salary Scale 2013-2014

¹⁹ NHS Pay Scales

114. Again, the Bill does not impose how the reports should be published and so it is assumed Local Authorities will publish the report on their existing website.

115. Under this option, there would be a cost to the Welsh Government for producing guidance for Local Authorities and Local Health Boards on their strategies; in scrutinising the reports and strategies from them combined; and ensuring they are in line with the National Strategy and guidance set out by the Welsh Government. This function would fall to the existing resources within the Welsh Government as costed within the section on the preparation and reporting of the National Strategy (see summary Table 1 for the cost of these resources per annum).

116. The table summarises the estimated costs across Wales, excluding Welsh Government costs, for this option.

Table 2. Costs of Option 3.

	2014-15	2015-16	2016-17	2017-18	Total
Welsh Government¹ (£)					
N/A	0	0	0	0	0
Local Authorities & Local Health Boards (£)					
Preparing a Local Strategy			182,600		182,600
Reporting on the Local Strategy ²				36,300	36,300
Total (£)	0	0	182,600	36,300	218,900

¹ On going annual costs for the Welsh Government support are included with the time on the national strategy (see Table 1).

² On going annual cost to report on the local strategies.

Summary Table of Estimated Costs for the Options for the Duty to Prepare and Report on Local Strategies

Table 3. Summary Table for All Options

<u>Organisation Incurring Costs</u>	<u>Cost Type</u>	<u>Area of Cost</u>	<u>Cost (£)</u>
Option 1			
N/A	N/A	Total	0
Option 2			
Local Authority	Preparing a Local Strategy	Staff Costs	4,200
Local Health Board		Staff Costs	4,100
		Publication Costs	0
		Total (per LA & LHB)	8,300
		Total (across Wales)	182,600
Option 3			
Local Authority	Preparing a Local Strategy (initial)	Staff Costs	4,200
Local Health Board		Staff Costs	4,100
		Publication Costs	0
		Total (per LA & LHB)	8,300
		Total (across Wales)	182,600
Local Authority	Reporting on a Local Strategy (per annum)	Staff Costs	840
Local Health Board		Staff Costs	810
		Publication Costs	0
		Total (per LA & LHB)	1,650
		Total (across Wales)	36,300

C. Power to Issue Statutory Guidance and the Duty to Follow Such Guidance

Option 1 – Do Nothing

117. As this option does not require the production of any guidance there are no costs associated with this option.

Option 2 - Use Non-statutory Guidance to Implement Change

118. The costs associated with this option are the cost of producing any guidance and the subsequent implementation costs. There are a number of potential aspects upon which the Welsh Government may wish to issue guidance to assist authorities in achieving the policy aims. It is not however, clear at this stage the exact aspects upon which guidance would be issued to authorities. There are a number of key areas which were mentioned in the White Paper and upon which the Welsh Government has prepared example draft guidance. As such, the costs below are based on the example draft guidance. The costs associated with issuing guidance on either a statutory or non-

statutory basis are assumed to be the same. This assumes full compliance with non-statutory guidance in order to provide a complete picture of the potential costs. The Welsh Government would undertake a public consultation prior to issuing either non-statutory or statutory guidance.

National Training Framework

119. The National Training Framework for Wales will aim to create a consistent standard of care for those who experience gender-based violence, domestic abuse and sexual violence, and an unfailing standard of service throughout the Public Service to this client group.
120. The National Training Framework will be split into six levels, each aimed at a particular audience, aligned to the requirements of those who experience gender-based violence, domestic abuse and sexual violence, with an outline of the key competencies and knowledge required at each professional level.
121. There is an opportunity cost associated with requiring groups of employees to undertake training – namely, the time which might otherwise have been spent on other job related activities. For example, the opportunity cost of a nurse receiving training under the Ask and Act element of the framework is the time spent in the training which might otherwise have been spent with patients. The value of this time is assumed to be equal to the salary for the relevant employee(s).
122. **Level 1** training will be aimed at all staff within the Public Service², with particular focus on those with public facing responsibilities. This will capture the widest audience and be delivered via an efficient method, such as eLearning, with a view to raising awareness of gender-based violence, domestic abuse and sexual violence, recognising it and knowing where to get help. It is estimated this will require a one off spend for the Welsh Government of £70,000 to procure an eLearning package and supporting materials. This will also require an EB2 level's time to develop and promote use of the package, monitor the take up and impact in the first year. It is expected the time required for promotion will decrease during subsequent financial years. The cost of the time of an EB2 is included in the full time resource identified and accounted for in Table 1 above.
123. The eLearning package will take each learner no longer than thirty minutes to complete. Whilst not a direct financial outlay, there is an opportunity cost associated with encouraging Public Sector workers in Wales to undertake this eLearning. Based on approximately 284,000 Public Sector workers in

² Please note in the context of the National Training Framework the Public Service is defined based on an estimate of 'devolved public sector workers' in Wales – this includes the devolved civil service, local authorities, health, education authorities and WGSBs. Although not devolved, Police Authorities are included as they are partly funded by the Welsh Government. 'Devolved public sector workers' excludes non-devolved civil servants (such as those working for HMRC and the DVLA), military personnel and people employed by Public Corporations (such as S4C and Cardiff Bus etc.) in Wales.

Wales and an average opportunity cost of £7 per half-hour²¹, this is estimated to be around £1,988,000 to cover completion by every member of the Public Service. A 10% annual staff turnover rate has been assumed for the Public Service which would suggest an estimated opportunity cost to the Public Service of £198,800 for completion of new staff per annum. This cost falls to the relevant Public Sector organisations.

124. **Level 2** training will be aimed at professionals who are coming into frequent contact with potential victims (such as midwives), and will aim to equip them with the necessary skills and knowledge to fulfil their duty of recognising the signs and symptoms of gender-based violence, domestic abuse and sexual violence, ‘asking’ about it and ‘acting’ on the response. Whilst this training is also aimed at a very large audience it is proposed this training be classroom based for several reasons:

- As an acknowledgement attitudinal change in relation to gender-based violence, domestic abuse and sexual violence is as important as skill development and this change is best achieved in a classroom environment.
- As an acknowledgment the requirement to Ask and Act will be intimidating for many of the professionals involved in the work and to provide a learning environment where these fears can be explored and overcome.
- To facilitate thorough explanation of the issue and to dispel the myths and judgments associated with gender-based violence, domestic abuse and sexual violence.

125. The detailed costs of provisions to support Ask and Act are outlined separately in the subsequent section and included in a separate table (see Table 5). As this section provides the full detail of how this guidance has been calculated, including a yearly breakdown of the estimated costs to the Welsh Government and opportunity costs to Public Services, they are not included in Table 4 below. However it is noted the estimated direct cost to the Welsh Government of this guidance over years 2014/2015 to 2017/2018 will be £374,000.

126. **Level 3** training will apply to any professional who has a lead responsibility for their profession (e.g. safeguarding nurses, specialist midwives, specialist social workers, school safeguarding leads). Its aim is to provide enhanced training for those with a pivotal role in victim and child protection and to ensure these professionals are skilled not only in victim focussed work but in mitigating the impact on children, and managing and acknowledging the risk posed by the abuser - specifically where the professional is working with a family.

127. The cost of level 3 training is estimated to require an initial financial outlay of £26,000 during 2016-2017 to procure a training package and to train appropriate members of the Regional Consortia in this advanced content at current market prices. The cost to cover required trainer time to deliver this

²¹ Estimated using data from the Annual Survey of Hours and Earnings (ASHE) 2013.

training is estimated as £12,300 per annum. Both costs would require direct financial outlay by the Welsh Government. An additional cost of £6,000 during 2017-2018 would sustain a larger group of trainers (therefore cost for 2017-2018 will be £18,300).

128. The opportunity cost associated with the time required by those professions deemed relevant for this training is estimated to be £62,000. As this is not an actual direct financial cost it is not proposed this would be met by the Welsh Government.
129. **Level 4** includes specialist accredited qualifications for those professionals who will be responsible for the support, risk assessment and safety management of victims (e.g. Independent Domestic Violence Advisors (IDVA), Independent Sexual Violence Advisors (ISVA), Outreach workers, floating support workers, refuge workers). It will also draw together the currently ad hoc training courses offered across Wales in specialist subjects into a national, consistent plan which is accessible across Wales.
130. There are no costs estimated for level 4 in financial years 2014-2015 and 2015-2016 due to a duplicating Home Office bursary for a specialist domestic abuse qualification which is available to Welsh applicants until 2015. Further conversations are required with the UK Government to ascertain their current plans for funding thereafter. However, in the interim an estimated cost of one IDVA training course and one ISVA training course (at £67,200 each for 24 people, based on current market costs) per annum from financial year 2016-2017 have been drafted. The vast majority of those who will access this training are employed within the charity sector. The opportunity cost of those professionals time will be £41,800 per annum from financial year 2016-2017. There is a significant amount of training on subjects related to gender-based violence, domestic abuse and sexual violence on offer across Wales. Work is required to align these courses, standardise their content and ensure coverage across Wales. It is estimated this will require an element of an EB2 level's time and this cost has already been accounted for in the two full time Welsh Government resources identified in Table 1.
131. **Level 5** provides a level of specialist managerial training, proposed for those who lead specialist organisations to ensure they support the specialist workforce in more robust ways, are better skilled at data monitoring and can work effectively and flexibly within changing commissioning environments. These posts would include community based service managers and refuge managers.
132. As a specialist training programme the intended reach of level 5 training is relatively small compared to its preceding levels. Based on the current market costs it is estimated a one off cost of £14,300 will train one specialist service manager per Local Authority during financial year 2014-2015, the opportunity cost for which will be approximately £8,100. An additional programme requirement of a proportion of an EB2 level's time will be required to monitor the outcome of the training, this cost has already been accounted for in the

two full time programme resources identified in Table 1.

133. **Level 6** will encompass a strategic engagement plan addressed at Public Service leadership to ensure they understand their responsibilities with regard to gender-based violence, domestic abuse and sexual violence as both a workforce and service user issue. The plan will be supported by the provision of audience specific, practical resource to strengthen leadership on this issue.
134. The strategic engagement plan will utilise Ministerial and senior official visits, speeches and presentations and the role of the Ministerial Advisor. The plan will use existing events, Boards, Groups and other opportunities to engage senior Public Service leadership and a specific conference for this audience, held during 2014-2015. A financial outlay of £15,000 will be required in 2014-2015. A £5000 outlay thereafter will support the creation of ongoing resource and support for this audience. Further support for this work will be provided by the two full time programme resources identified and accounted for in Table 1.
135. In total, delivery of the National Training Framework is estimated to have a direct financial cost of £439,700 over four years. This will be met by the Welsh Government from DRC and programme budgets. There is also a total opportunity cost of £2,800,100 to the Public Sector in Wales. As this is not a direct financial cost, it is not proposed this will be met by the Welsh Government. An annual cost summary of the National Training Framework is provided at Table 4. A more detailed breakdown is at Annex B²².

²² Please note this summary includes the cost of delivery of the training for Ask and Act which is also outlined as a separate cost later in the document. These costs are not duplicated, in practical terms the cost of the guidance will be the cost of preparing the documentation of the Multi Agency Fora guidance, monitoring thereafter and the costs of the National Training Framework.

Table 4. Summary of Costs of the National Training Framework (estimated)

	<u>2014-2015</u>	<u>2015-2016</u>	<u>2016-2017</u>	<u>2017-2018</u>	<u>Total per training level</u>
<i>Direct costs to Welsh Government (£)</i>					
Level 1	70,000	0	0	0	70,000
Level 2 ¹	0	0	0	0	0
Level 3	0	0	38,300	18,300	56,600
Level 4	0	0	134,400	134,400	268,800
Level 5	14,300	0	0	0	14,300
Level 6	15,000	5,000	5,000	5,000	30,000
Total per annum	99,300	5,000	177,700	157,700	439,700
<i>Opportunity costs – Public Services (£)</i>					
Level 1	1,988,000	198,800	198,800	198,800	2,584,400
Level 2	0	0	0	0	0
Level 3	0	0	62,000	62,000	124,000
Level 4	0	0	41,800	41,800	83,600
Level 5	8,100	0	0	0	8,100
Level 6	0	0	0	0	0
Total per annum	1,996,100	198,800	302,600	302,600	2,800,100

¹ Costs for level 2 of the National Training Framework are not summarised here as they are summarised later in this document. See Table 5.

Ask and Act

136. The primary objective of Ask and Act is to encourage relevant professionals to “ask” potential victims about the possibility of gender-based violence, domestic abuse and sexual violence where such abuse is suspected and to “act” so suffering and harm as a result of the violence and abuse is prevented or reduced. This will be facilitated through guidance and accompanied by a training programme delivered through the National Training Framework. As such the costs of Ask and Act are two fold - the cost of producing the guidance and the costs of running the training programme.
137. The guidance will be developed through existing Welsh Government programme resource. Please note initial drafts of the guidance have been produced, and have already been costed in this RIA as part of the Welsh Government full time resource costs under the section on Preparing and Reporting on National Strategies (see summary Table 1 costs per annum).
138. The training will be delivered through a regional, dissemination model which utilises the expertise of the Public and Specialist Services in gender-based violence, domestic abuse and sexual violence, and the structures of particular professions. A training package, supporting materials and dissemination support, will be procured, the best estimate of this cost is approximately £20,000. The provider of this package will train a national training pool of approximately 160 trainers in 2015/16, at a cost of £71,000 to the Welsh Government. These trainers will be selected based on specific criteria and could work in the Public or Third Sector. Through Regional Training Consortia, supported and monitored within a Regional and National Leadership Infrastructure, overseen by the Ministerial Adviser and Welsh Government officials, training for the relevant professions will be delivered by these “trained trainers” on a regional basis, with the aim of training every relevant profession by 2018.
139. It is therefore estimated the regional dissemination of training will have an initial total one-off cost to the Welsh Government of £91,000. This reflects the current market costs for similar programmes and will cover the creation of the training package by an expert provider (approximately £20,000 as outlined above), and the recruitment and training of the initial pool of 160 trainers (approximately £71,000 as outlined above).
140. In addition to the costs identified above, there will be an opportunity cost to Public and Third Sector organisations who nominate staff, associated with the time the 160 trainers spend away from their day-to-day activities. This one-off cost is estimated to be approximately £26,000.
141. Once trained, the 160 trainers will be expected to roll-out the regional model. The cost of delivering the training is estimated to be £77,000 per annum over the period 2015-16 to 2017-18. This cost is calculated based on the estimated time required by the trained trainers away from their regular job. As they will be providing training provision, this is considered a direct cost and

therefore it is intended this cost will be covered by the Welsh Government.

142. There is also an opportunity cost associated with the time required for the relevant professions²³ to access training on Ask and Act. This is estimated to be £923,000 per annum and is based on a roll-out over 3 years (2015-16 to 2017-18), there being approximately 34,600 Public Service employees in relevant professions in Wales and an assumed average day rate of £80 per Public Service employee. This cost will fall to the relevant Public Sector organisations.
143. The benefits of the proposed Regional Dissemination Model are vast: it utilises the existing expertise which is held regionally and, with appropriate management, monitoring and leadership, creates a sustainable model through which levels of the National Training Framework can be delivered. There are cost-benefits of standardisation related to improved and integrated service models, systems, and knowledge dissemination which will have cost-savings overall. In order to achieve this sustainability investment in the Regional Consortia will be required beyond the initial outlay, during financial years 2014-2015 and 2015-2016. Through financial years 2016-2017 and 2017-2018 the centralised “train the trainer” (TTT) programme will continue and 50 new trainers will be trained per year, therefore sustaining the Regional Consortia and supporting staff turnover. This will be delivered at an estimated cost of £26,000 per annum which covers the cost of the procured central delivery. No delivery costs are assumed as the package procured in year 2 will be fit for purpose. As with the initial year of provision, there is an associated opportunity cost to Public and Third Sector organisations for the time required to train the 50 trainers. This is estimated to be approximately £8,000.
144. The aim of Ask and Act is to increase identification of those experiencing gender-based violence, domestic abuse and sexual violence and as such consideration will be given to the impact of this increased identification on specialist and Public Services. It is difficult to cost this increase at present, but Walby’s research on the costs of domestic violence suggest increased utilisation of Public Services in tackling these issues does increase the cost of services. However she also links the development of and increased utilisation of Public Services with a decrease in domestic violence, as a result of which, the costs for business and the wider society of domestic violence have declined.
145. The Welsh Government has commissioned several pieces of research to consider current, detailed local spend on specialist services, the reach and purpose of such funding. This data will inform the Welsh Government’s National Funding Strategy and will also inform the Regulatory Impact Assessment which will be undertaken before any statutory or non-statutory guidance on Ask and Act is issued for consultation. It is also expected the

²³ See Annex 3 – *Summary of the ‘Relevant Professionals’ as Highlighted in the RIA Costs for Ask and Act Guidance*. The list provided is not exhaustive and there may be additional roles which require training, based on local need.

number of clients accessing specialist and Public Services, including the Criminal Justice System, will increase (although the Criminal Justice System will not be the chosen route of many who disclose).

146. A summary table of the cost of Ask and Act is provided below.²⁴

Table 5. Summary of costs of Ask and Act

	2014-15	2015-16	2016-17	2017-18	Total
Welsh Government (£)					
Guidance ¹	0	0	0	0	0
Initial training		91,000			91,000
Regional Model		77,000	77,000	77,000	231,000
Additional train the trainer (TTT)			26,000	26,000	52,000
Total	0	168,000	103,000	103,000	374,000
Public Services² (£)					
Regional Trainers		26,000	8,000	8,000	42,000
All Trainees		923,000	923,000	923,000	2,769,000
Total	0	949,000	931,000	931,000	2,811,000

¹On going annual costs for the Welsh Government support is included in the time to report on the national strategy (see Table 1).

²These costs represent the opportunity costs associated with staff receiving training and therefore not a direct outlay for Public Services.

Multi Agency Fora

147. The Multi Agency Fora guidance will formalise and standardise existing good practice and provide a structure on which additional fora, to assess low and medium risk, can be developed to meet local need.

148. The guidance will not recommend a single model of Multi Agency work. As stated above it will seek to formalise and standardise existing good practice to ensure consistency in terms of quality of service across Wales. All areas of Wales are already engaged in multi agency work (there is full National coverage of the Multi Agency Risk Assessment Conference (MARAC) model which addresses high risk individuals) and as such no additional cost burden should be incurred by the Public Service.

149. An external expert in the development, implementation and quality assurance of multi agency fora for all levels of risk has been contracted to prepare this

²⁴ Please note these costs are also the costs of delivering level 2 of the National Training Framework (as outlined in the subsequent section). These costs are not duplicated they are separated here for clarity of cost per piece of guidance. The total costs to produce the guidance are covered through the costs of creating the Multi Agency Fora guidance, monitoring thereafter and the costs of the National Training Framework.

guidance. The cost of this contract is £7,000. This is a one-off cost to the Welsh Government.

150. Project Management and any supplementary work required will be provided from existing Welsh Government Programme resource. The costs of these are accounted for within the two full-time programme resources identified in Table 1 above, as they are difficult to separate out.
151. Ongoing monitoring of the outcomes of national Multi Agency Fora will be undertaken by the Ministerial Adviser.
152. A cost summary is provided below.

Table 6. Summary of Costs of Multi Agency Fora

Activity	Cost (£)
Development of guidance by external expert (one off)	7,000
Cost to Public Services	0
Total one off cost (2014-2015)	7,000

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

153. The costs associated with this option are the same as those outlined in option 2. As with option 2, there are a number of potential aspects upon which the Welsh Government may wish to issue statutory guidance to assist authorities in achieving the policy aims. Also as outlined, it is not clear at this stage the exact aspects upon which guidance would be issued to authorities. There are a number of key areas which were mentioned in the White Paper consultation and upon which the Welsh Government has prepared example draft guidance. As such, the costs outlined in option 2, which also apply here, are based on that example draft guidance. The costs associated with issuing it on either a statutory or non-statutory basis are the same. The Welsh Government would undertake a public consultation, including a regulatory impact assessment, before issuing either non-statutory or statutory guidance. The administrative costs to the Welsh Government of analysing the consultation responses and associated with monitoring and reporting on the implementation of the guidance are included in the two full-time Welsh Government resources identified and accounted for in Table 1. Additionally, the monitoring of the use of the guidance by Local Authorities and Local Health Boards would be part of the role of the Ministerial Adviser who has been costed in the subsequent section at Table 10.

Summary Table of Estimated Costs for the Options for the Power to Issue Statutory Guidance and the Duty to Follow Such Guidance

Table 7. Summary of Costs for All Options

<u>Organisation Incurring Costs</u>	<u>Cost Type</u>	<u>Area of Cost</u>	<u>Cost (£)</u>
Option 1			
N/A	N/A	N/A	0
Option 2 and 3			
Welsh Government	National Training Framework	Total financial outlay over 4 years	439,700
Public Services		<i>Opportunity costs over 4 years (not a direct out lay)</i>	<i>2,800,100</i>
Welsh Government	Ask and Act Guidance	Total financial outlay over 4 years	374,000
Public Services		<i>Opportunity costs over 4 years (not a direct out lay)</i>	<i>2,811,000</i>
Welsh Government	Multi Agency Fora Guidance	Total Initial Cost	7,000
Public Services		<i>Total Cost</i>	<i>0</i>

D. Appointment of a Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence - Including the Functions, Plans and Reporting Arrangements.

Option 1 – Do Nothing

154. There are no additional costs associated with this option.

Option 2 – Appoint a Commissioner

155. The costs associated with establishing a Commissioner to consider the issues of gender-based violence, domestic abuse and sexual violence fall to the Welsh Government.

156. Recruitment costs under this option are expected to be approximately £11,000 due to the post coming within the remit of the Commissioner for Public Appointments. This includes the cost of advertising the position in the local and national press, appointing an Independent Assessor to oversee the process, establishing a selection panel, providing administrative support throughout the process and candidates expenses.

157. The Welsh Government will also incur on-going costs for the salaries of the Commissioner and their support staff and also office costs.

158. It will be for the Commissioner to determine the appropriate structure of their support team. However, given the scope of the work it is anticipated the Commissioner would require a team of no more than 10 people. The proposed UK Modern Slavery Commissioner is considered to be a reasonable comparator, the cost for this role and support staff is estimated to be between £300,000 and £500,000. On this basis, it is assumed the staff costs for the Commissioner for Gender-based Violence, Domestic Abuse and Sexual Violence would be £400,000 per annum.

159. The on-going office costs for the Commissioner option, include premises, training, ICT and Communications. At this stage, there is a degree of uncertainty surrounding what these costs might be. Table 8 presents an upper and lower estimate of the potential annual costs based on the published accounts for existing Welsh Government Commissioners and pro-rated to reflect the anticipated size of the support team. The total cost is expected to be between £585,000 and £630,000 per annum.

Table 8. Estimated annual office costs

	Lower (£)	Upper (£)
Premises	45,000	50,000
Office costs	40,000	50,000
Training	10,000	10,000
Audit	5,000	10,000
Communications	20,000	25,000
ICT Expenses	15,000	15,000
Work programme	35,000	50,000
Contingency	15,000	20,000
Total	185,000	230,000

Table 9. Summary of costs of Option 2

	2014-15	2015-16	2016-17	2017-18	Total
Welsh Government (£)					
Support and monitoring ¹	0	0	0	0	0
Recruitment of a Commissioner		11,000			11,000
Commissioner and staff salaries ²		400,000	400,000	400,000	1,200,000
Office costs		185,000 230,000	185,000 230,000	185,000 230,000	555,000- 690,000
Total	0	596,000 – 641,000	585,000 – 630,000	585,000 – 630,000	1,766,000 – 1,901,000

¹On going annual costs for the Welsh Government support are included in the time on the national strategy (see Table 1).

² On going annual costs of a Commissioner post plus other office staff.

Option 3 - Introduce an Assembly Bill to appoint a Ministerial Adviser

160. The costs associated with the appointment of an independent Ministerial Adviser will fall to the Welsh Government. The costs mainly relate to the Adviser's salary but there will also be transitional costs associated with recruitment as with option 2.
161. Based on similar recruitment exercise undertaken previously under the public appointments process, the recruitment and appointment costs are estimated to be approximately £11,000. This includes the cost of advertising the position in the local and national press, appointing an Independent Assessor to oversee the process, establishing a selection panel, providing administrative support throughout the process and candidates expenses.
162. The Welsh Government wish to attract candidates with the experience and expertise to provide informed advice to the Welsh Ministers so they are able to set the agenda and develop policy in these sectors. The Ministerial Adviser will need to work confidently with Ministers and senior officers across all Welsh Government departments. Therefore although not a civil service post, the role was assessed to determine a salary level, taking into account the demands of the role. Annual salary costs for the Ministerial Adviser will be accommodated through the Welsh Government's departmental programme budget, and set within the Executive Band 1 (Grade 6) of the Welsh Government pay scale, with an average annual salary of £58,000. When on-costs (including NI contributions, pension and IT costs) are included the cost increases to approximately £75,000 per annum. However the role would be located within a Welsh Government office, therefore no additional office facilities will be required, and the administration support will be provided by

Welsh Government staff so no further resource would be required (this is the two full time programme resources identified in Table 1).

163. The remaining cost is expected to cover the travel and subsistence costs associated with the Ministerial Adviser's functions and duties.

164. The table summaries the estimated costs for appointing a Ministerial Adviser.

Table 10. Summary of costs of Option 3

	2014-15	2015-16	2016-17	2017-18	Total
Welsh Government (£)					
Support and monitoring ¹	0	0	0	0	0
Recruitment of a Ministerial Adviser		11,000			11,000
Ministerial Adviser ²		81,500	81,500	81,500	244,500
Total		92,500	81,500	81,500	255,500

¹On going annual costs for the Welsh Government support are included in the time on the national strategy (see Table 1).

² On going annual costs of a Ministerial Adviser post.

165. These estimated costs are based on a Ministerial Adviser working full time on the issues of gender-based violence, domestic abuse and sexual violence, so are the highest possible costs. It has not yet been determined if a part-time role is required and if so how often this would be.

Summary Costs for Legislation

166. The table below summarises the additional costs of legislating to achieve the policy aims to end gender-based violence, domestic abuse and sexual violence. The table considers the costs over the next four years as this is the time period specified for the National Training Framework, however some of these costs will be ongoing annual costs (as noted in the table). The costs have been taken from the rest of the Regulatory Impact Assessment.

Table 11 Summary of the additional costs of the legislation

	2014-15	2015-16	2016-17	2017-18	Total
Welsh Government (£)					
Preparing a National Strategy		11,100			11,100
Supporting implementation ¹		106,500	106,500	106,500	319,500
National Training Framework	99,300	5,000	177,700	157,700	439,700
Ask & Act		168,000	103,000	103,000	374,000
Multi-agency Fora Guidance	7,000				7,000
Recruitment of a Ministerial Adviser		11,000			11,000
Ministerial Adviser ²		81,500	81,500	81,500	244,500
Total (£)	106,300	383,100	468,700	448,700	1,406,800
Local Authorities & Local Health Boards (£)					
Preparing a Local Strategy			182,600		182,600
Reporting on the Local Strategy ³				36,300	36,300
Total (£)	0	0	182,600	36,300	218,900
Public & Third Sector (opportunity costs)⁴ (£)					
National Training Framework	1,996,100	198,800	302,600	302,600	2,800,100
Ask & Act		949,000	931,000	931,000	2,811,000
Total (£)	1,996,100	1,147,800	1,233,600	1,233,600	5,611,100
			0	0	

¹ On going annual costs for the Welsh Government support are included in the time on the national strategy (see Table 1).

² On going annual costs of a Ministerial Adviser post.

³ On going annual cost to report on the Local Strategies.

⁴ These costs represent the opportunity costs associated with staff receiving training and may include the Welsh Government, Local Authorities and Local Health Boards

Benefits

167. The policies considered in this RIA relate to the provision of information and ensuring appropriate leadership and strategies are in place to seek to end gender-based violence, domestic abuse and sexual violence. It has not been possible to determine the potential impact of the proposals on the number of incidents of gender-based violence, domestic abuse and sexual violence in Wales and consequently, it has not been possible to place a value on the benefits associated with the proposals. For this reason, any decision must be based upon more general considerations.
168. Such considerations include the possibility the absence of a statutory basis would increase the likelihood some organisations would fail to adopt best practice strategies in this area. This could have severely adverse consequences, but the nature of this possibility is such it is not feasible to assign a quantitative probability to it on the basis of objective evidence. Wider experience, however, suggests that across policy areas the chances of Public Bodies failing to adopt best practice are far from negligible. Given the relatively low costs and potential seriousness of the adverse consequences in the present case, a decision to proceed on a statutory basis is defensible in this context.

A. The Duty to Prepare and Report on National Strategies

Option 1 – Do Nothing/ Keep using Existing Strategies

169. As highlighted in the costs section above, this option would not incur further resources in terms of time and costs to the Welsh Government or Local Authorities and Local Health Boards. However it would not achieve the policy aim to promote National leadership, accountability and coherence at the National level for the issues regarding gender-based violence, domestic abuse and sexual violence.
170. The Welsh Government has produced strategies concerning violence against women (which is the most prevalent form of gender-based violence) and domestic abuse since 2005. The latest being the 'Right to be Safe Strategy' published in 2010 and reported on annually²⁵. The 'Right to be Safe Strategy' is due to be completed in 2014 and so there would be no overarching National Strategy in place if this option was taken forward. However there is still a need for strong National leadership and a clear strategic direction to be provided, as well as reflecting new policy and evidence in these areas.

²⁵<http://wales.gov.uk/topics/people-and-communities/safety/domestic-abuse/publications/besafe/?lang=en>

Option 2 – Publish a Non Legislative Strategy

171. As highlighted in option 1, the Welsh Government currently has non-legislative strategies concerning violence against women and domestic abuse in place, including the 'Right to be Safe Strategy' published in 2010, therefore there are no new benefits of this option except in removing the need and cost of producing new legislation.
172. A new, updated, National Strategy of this type could include further aspects which may not have been covered by existing strategies, such as female genital mutilation (FGM) and forced marriage, and could include delivery of the policy aims, and provide assistance in the successful development and implementation of Local Strategies. However, this option would not provide as strong a demonstration of the continuing commitment and leadership of the Welsh Government to tackling these issues. A non legislative solution would not enshrine the commitment to have a National Strategy in statute. Additionally, a non legislative solution for a National Strategy could be perceived as being inconsistent with a legislative solution at a local level. This in turn could result in a National Strategy not being viewed as setting the direction for Local Strategies.

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

173. A legislative requirement to have a National Strategy provides a strong demonstration of the leadership and commitment of the Welsh Government to tackling gender-based violence, domestic abuse and sexual violence for this and future Governments. Such a National Strategy would provide clear strategic direction at the highest level and would assist in the successful development and implementation of Local Strategies.
174. As with option 2, a National Strategy could also seek to ensure Local Strategies were informed and supported by the National approach to addressing gender-based violence, domestic abuse and sexual violence. The benefit of this option is if both are statutory requirements, both would be working to a common purpose set within the legislation, which would provide a more coherent approach. This would assist in achieving the policy aim of ensuring consistent consideration of prevention, protective and supportive mechanisms on the delivery of services.
175. The benefit of strong leadership was evidenced in the 10,000 Safer Lives Report²⁶. The Report noted where domestic abuse was a strategic issue for the Local Service Board it had led to effective changes across Public Sector services.

²⁶ *10,000 Safer Lives Project – Improving the way the public services respond to prevent instances of Domestic Abuse, Welsh Government, April 2012.*

Preferred option

176. The preferred option is option 3 - Introduce an Assembly Bill to Address the Policy Objectives
177. This option will assist in achieving the policy objectives as well as raising the profile of gender-based violence, domestic abuse and sexual violence in Wales. At a strategic level it will provide strong strategic direction, promoting consistency and best practice in the way in which these issues are tackled across Wales.

B. The Duty to Prepare, Publish and Report on Local Strategies

Option 1 – Do Nothing

178. This option has no new benefits as it will not change how Local Authorities and Local Health Boards currently consider and tackle issues concerning gender-based violence, domestic abuse and sexual violence.
179. The strength of the current approach is there are a wide range of innovative services and support which reflect local priorities. However, without clear strategic oversight this can result in best practice not being shared and a lack of consistency and varying standards of service provision. As highlighted in Chapter 7, SIPs are currently the main strategic planning document for a Local Authority, and would therefore, under existing legislation, be the place to contain any strategies they currently have with regards to gender-based violence, domestic abuse and sexual violence. As there is not currently a statutory requirement to have such a strategy, this can result in less than satisfactory consideration of these issues at the strategic planning stage.
180. This option would fail to provide a clear focus on gender-based violence, domestic abuse and sexual violence at the strategic level, to ensure consideration of the issues in the delivery of services. It would not therefore achieve the overarching policy aim of improving the public sector response in Wales to gender-based violence, domestic abuse and sexual violence.

Option 2 - Use Existing Legislation to Implement Change

181. There are currently numerous statutory duties on Local Authorities regarding the development of plans and strategies. The Welsh Ministers have issued guidance (Shared Purpose – Shared Delivery (Chapters 2, 3, 5 and Annex A)) in respect of the formulation of plans and arrangements, monitoring and review of implementation, and the legislative requirements of existing statutory planning duties²⁷. The benefit of this option is by issuing regulations

²⁷ The guidance is issued under s45 of the Local Government (Wales) Measure 2009, s40(7)(b) of the National Health Service (Wales) Act 2006, s25(8) of the Children Act 2004 and s12 of the Children and Families (Wales) Measure 2010.

under existing legislation to specify the consideration of gender-based violence, domestic abuse and sexual violence, it could be easily incorporated into the existing route which provides for the preparation of those strategies.

182. However, this option involves the use of regulations under a number of existing Acts, as none of the Acts alone would fully provide for the policy aims sought. Such a piecemeal approach is unlikely to achieve the policy objective of providing a particular strategic focus on these issues, which could get lost in the wider legislative requirements of these existing Acts.

183. This option also fails to demonstrate the importance the Welsh Government places on tackling gender-based violence, domestic abuse and sexual violence at both a National and Local level.

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

184. The benefit of a specific duty on Local Authorities and Local Health Boards to have a Local Strategy for tackling gender-based violence, domestic abuse and sexual violence is it ensures consideration of them as part of the strategic planning process. This will ensure leadership and accountability for tackling the issues at a local level. This will in turn raise the profile of the issue across the Public Sector by ensuring mechanisms are in place to promote consideration of the issues in the delivery of services, which in turn should lead to earlier intervention. A further benefit of a statutory requirement is providing a consistent purpose for the strategies to work towards, related to prevention, protection and support.

185. As previously highlighted, the current situation with regards to Local Authority Strategies is they are published as part of their SIPs and supporting needs analyses (see Chapter 7). However these do not always address the issues of gender-based violence, domestic abuse and sexual violence as there is no specific statutory requirement to do so, which can result in less than satisfactory consideration of these issues at the strategic planning stage and insufficient targeting of services as a result.

186. Most of the published needs analyses have some consideration of reported incidents of gender-based violence, domestic abuse and sexual violence (and, within this, most consideration is confined to domestic abuse). However, this is not done in a consistent manner with differing data sets being used by different authorities (some use police data, some use referrals to service providers etc.). The recent plans have shown consideration of the issue in the needs analysis does not always result in inclusion in the resulting plan, even where an increase in incidents is identified.

187. The benefit of this option and the aim of placing a statutory duty on Local Authorities and Local Health Boards (jointly) will specifically address this gap by ensuring together they consider gender-based violence, domestic abuse and sexual violence as part of the strategic planning process.

188. Evidence presented in the Welsh Government's 10,000 Safer Lives Report²⁸ demonstrated the importance of strategic direction and leadership in tackling these issues. The Report noted where domestic abuse was a strategic issue for the Local Service Board it had led to effective changes across Public Sector Services. Successful approaches to tackling gender-based violence, domestic abuse and sexual violence are associated with multi-agency responses, ensuring the services and expertise of partner agencies are built into the development of effective Local Strategies.

Preferred Option

189. The preferred option is option 3 - Introduce an Assembly Bill to Address the Policy Objectives.

190. This option would satisfy the policy aims by ensuring Local Authorities and Local Health Boards have a strategic focus on gender-based violence, domestic abuse and sexual violence in their local area, and raise the profile of issues across Wales.

C. Power to Issue Statutory Guidance and the Duty to Follow Such Guidance

Option 1 – Do Nothing

191. This option will not achieve the policy aim to improve the consistency, quality and join up of service provision in Wales.

Option 2 - Use Non-statutory Guidance to Implement Change

192. This option proposes the publication of non-statutory guidance to Local Authorities, Local Health Boards, Fire and Rescue Authorities and NHS Trusts on gender-based violence, domestic abuse and sexual violence.

193. The use of non-statutory guidance would not provide a requirement on the relevant authorities to follow the guidance and therefore, they could choose not to follow the guidance. As such, the specific benefits identified from having a consistent guidance on the specific aspects outlined below might not be achieved.

194. As outlined in cost section, it is not clear at this stage the exact aspects upon which guidance would be issued to authorities. There are a number of key areas which were mentioned in the White Paper consultation and upon which the Welsh Government has prepared example draft guidance. As such, the benefits below are based on that example draft guidance. The Welsh Government must consult such persons as they consider appropriate before issuing guidance under the Bill.

²⁸ *10,000 Safer Lives Project – Improving the way the public services respond to prevent instances of Domestic Abuse, Welsh Government, April 2012.*

195. The benefits of introducing the guidance proposed in the cost section are as follows.

National Training Framework Guidance

196. The National Training Framework is being developed to support a consistent approach to training, on gender-based violence, domestic abuse and sexual violence, across Wales. The benefits of the proposed regional dissemination model are vast, it utilises the existing expertise which is held regionally and, with appropriate management, monitoring and leadership creates a sustainable model through which levels of the National Training Framework can be delivered.

197. The benefits of introducing the National Training Framework are:

- to create a consistent and unfailing standard of care throughout the Welsh Public Service to those who experience gender-based violence, domestic abuse and sexual violence through a nationally standardised training and competency framework and in doing so;
- consolidate a variety of training programmes (ranging from basic awareness raising across the entire Public Service workforce to specific role related training and strategic leadership engagement) into a single, centrally managed, funded resource.

Ask and Act

198. The primary objective of Ask and Act is to require relevant professionals to “ask” potential victims about the possibility of gender-based violence, domestic abuse and sexual violence in certain circumstances and to “act” so suffering and harm as a result of the violence and abuse is reduced.

199. The Welsh Public Service has a vital role to play in supporting disclosures by clients and strengthening the services they receive. A more consistent approach to identifying victims, assessing risk and referring appropriately is required across Wales.

200. Currently Public Services in Wales do not adhere to routine or consistent protocols to better identify gender-based violence, domestic abuse and sexual violence, respond appropriately to the risks those who experience them face, the health impact, the experience of their children or to refer to specialist support. As such victims of these issues are often not identified and are missing out on vital services available to them through the Welsh Public Service and specialist sector.

201. Asking patients about abuse in some specialised health care settings is considered good practice by professionals in those fields²⁹. The National Institute of Health and Care Excellence (NICE) and the World Health

Organisation³ recommend a system of targeted (or clinical) enquiry across Health and Social Care to better identify and therefore respond to domestic violence and abuse.

202. Providing guidance to support such an approach would therefore lead to:

- increased confidence on the part of professionals to identify and deal appropriately with cases of gender-based violence, domestic abuse and sexual violence, as well as identifying other complex needs such as mental health and substance misuse;
- lead to increased referrals and interventions for those identified which provide specialist support based on the risk and need of the client;
- ultimately to pro-active engagement, across the Welsh Public Service, with those who are vulnerable and hidden, at the earliest opportunity, rather than only reactive engagement at the point of crisis; and
- the creation of a culture across the Welsh Public Service where the experience of gender-based violence, domestic abuse and sexual violence is an accepted area of business and where disclosure is supported, accepted and facilitated.

203. As identified in the costs section, an increase in referrals and interventions may lead to an increased demand and therefore cost to Public Services. However this increased cost is far outweighed by the decrease in the cost of lost economic output and the decrease in the human and emotional costs of the issues.³¹ The development and increased utilisation of Public Services has also been credited (in part) with contributing to a decrease in the amount of domestic violence.

204. Previous research would indicate improved work within the Public Service should provide a reduction in the total cost of domestic violence over a relatively short period of time which will outweigh the costs of increased disclosures. Walby's³² 2009 update (from 2004 research) showed the total cost of domestic violence had fallen by £23 billion to around £16 billion per year and this decrease had been partly achieved by the development and increased utilisation of Public Services. She concluded investment in Public Services to reduce domestic violence is cost effective.

²⁹ NICE (2014)

³ *World Health Organisation guidelines on responding to intimate partner violence and sexual violence against women*

³¹ It is also likely this decrease is an under-estimate as it refers only to domestic violence and not other forms of gender-based violence such as sexual violence, Forced Marriage or Female Genital Mutilation.

³² Walby, S., *The Cost of Domestic Violence: Up-date 2009*.

Multi-Agency Fora guidance

205. Those who experience gender-based violence, domestic abuse and sexual violence, often have multiple, competing needs which require a series of interventions across a spectrum of services.
206. There are already examples of Multi Agency Fora which have a solid evidence base and are operating well. However these Fora are not always consistently attended by all relevant members of the Public Service, nor are they always in receipt of referrals from these services. The guidance will outline how Public Services should collaborate within Multi Agency Fora to:
- increase the safety of those affected by gender-based violence, domestic abuse and sexual violence;
 - increase the safety of children who live with gender-based violence, domestic abuse and sexual violence;
 - hold perpetrators accountable for their actions; and
 - create effective prevention strategies.
207. A strong multi agency response to those experiencing gender-based violence, domestic abuse and sexual violence is evidenced to improve victims' safety, a number of agencies need to be involved and the number of interventions offered to each client directly relate to their safety following intervention³³.
208. Essentially evidence shows the more services and interventions co-ordinated on behalf of the victim, the more likely they are to experience cessation of the abuse.³⁴ It is also true to say that victims need not just specialist services, but a 'model of continuing safety' to address the many needs which develop over a period of abuse.³⁵ Only a small number of victims report to the police and a smaller percentage again proceed through the Criminal Justice System. Whilst a co-ordinated community response ensures the Criminal Justice System serves the needs of all victims who access it, it also acknowledges it is just one aspect of a fully functioning coordinated approach. Health, Children's Services, Safeguarding Vulnerable Adults Services, Education and Housing, in addition to a plethora of voluntary agencies who often provide specialist support in this area, are crucial in achieving an effective response to gender-based violence, domestic abuse and sexual violence.

³³ Howarth, E, et al., A, *Safety in Numbers: A Multi-Site Evaluation of Independent Domestic Violence Advisor Services*, November 2009.

<http://www.caada.org.uk/policy/research-and-evaluation.html>

Information was gained from IDVAs in 7 services in urban, suburban and rural locations. Information was gathered from 2567 victims at the point of referral and from 1247 at the close of the casework or after 4 months, whichever came first.

³⁴ *Ibid*

³⁵ *Ibid*

209. The benefits of introducing guidance on Multi-Agency Fora are:

- the formalisation of the long established understanding that a co-ordinated, multiple agency response is the only way to effectively address the risks and needs of those experiencing gender-based violence, domestic abuse and sexual violence ³⁶; and
- to support a process which is well evidenced as an effective means of addressing gender-based violence, domestic abuse and sexual violence, improving the safety and well-being outcomes of victims, contributing to a cessation of abuse and which has proven cost benefit.³⁷

Option 3 - Introduce an Assembly Bill to Address the Policy Objectives

210. This option proposes making provision in the Bill for statutory guidance to Local Authorities, Local Health Boards, Fire and Rescue Authorities and NHS Trusts on gender-based violence, domestic abuse and sexual violence.

211. It is considered this is the most appropriate mechanism identified which would provide for guidance on aspects such as awareness raising through public education, Ask and Act, training for staff, multi-agency collaboration and sharing of information.

212. As outlined previously, it is not clear at this stage the exact aspects upon which guidance would be issued to authorities. There are a number of key areas which were mentioned in the White Paper and upon which the Welsh Government has prepared example draft guidance. The specific benefits related to the example draft guidance outlined in option 2 above also apply to this option. The Welsh Government would undertake a public consultation before issuing either non statutory or statutory guidance.

213. As well as the benefits outlined in option 2, the additional benefit of this option is the relevant authorities would be under a duty to follow the guidance. The only way in which an authority could depart from the guidance was if they identified an alternative way of doing so. In such circumstances the authority would need to publish details of the alternative approach. In the event the Welsh Ministers were unconvinced of this approach, this option provides a reserve power of direction for the Welsh Ministers to require authorities to follow the guidance. This therefore provides significant weight to any guidance issued under this option.

214. Such guidance will require the implementation of best practice and will assist in the promotion of consistency and high quality standards across Wales.

³⁶ *Coordinated Community Response Model Online Toolkit*: <http://www.ccrm.org.uk/>

³⁶ *A Place of Greater Safety* - CAADA (2012) Existing high risk services across the UK cost £70M to run and for every £1 spent, £2.90 is saved

Preferred Option

215. The preferred option is option 3 - Introduce an Assembly Bill to Address the Policy Objectives
216. This option would contribute to the achievement of the policy objectives by providing consistency and ensuring the implementation of best practice in the way in which these issues are tackled across Wales.

D. Appointment of a Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence - Including the Functions, Plans and Reporting Arrangements.

Option 1 – Do Nothing

217. There are no additional benefits associated with option.

Option 2 - Appoint a Commissioner

218. There was widespread support from stakeholders in response to the White Paper both through written responses and accompanying consultation events for the Welsh Government to take action to address leadership gaps at both a National and Local level. A small number of stakeholders made the case for a 'Champion' or 'Commissioner' who could ensure all services and agencies were performing to a quality standard. Twenty five respondents, out of the 124 who directly answered the question, called for the creation of a Commissioner.
219. One of the benefits of such a role, suggested by stakeholders, was it could help gender-based violence, domestic abuse and sexual violence become a priority across the Public Sector. The role could also be key in providing an expert perspective to assist in the development and implementation of a National Strategy by the Welsh Government. However, these elements can be incorporated within the proposed Ministerial Adviser role.
220. However the establishment of a Commissioner with the oversight powers envisaged by some respondents to the consultation would require the establishment of an independent Commissioner's Office. As no current structures exist to support such an Office, this would require the creation of an entirely new entity, with the requisite support staff. The cost of establishing such an entity is prohibitively high and disproportionate to the policy aims sought. In view of the focused remit of the post, comparable models, such as the Children's Commissioner in England, cost in excess of £1.4m a year. The estimated annual costs for the proposed Modern Slavery Commissioner, their support staff and activities would be between £300,000 and £500,000.

221. In addition to the prohibitive costs, the policy rationale for such a role is to strengthen strategic leadership and accountability. In order to support the National and Local Strategies, close working relationships will be required with the Welsh Government. An entirely independent role is not therefore required to fulfil the policy objectives. There is no requirement for the role to fulfil other functions proposed by consultation respondents, for example to consider and represent individual cases, as this does not provide the strategic oversight required. It also impinges on other existing roles, such as the Public Service Ombudsman for Wales.

Option 3 - Introduce an Assembly Bill to Appoint a Ministerial Adviser

222. The White Paper consultation proposed the creation of an 'Independent Ministerial Adviser'. This was proposed as a stand alone post, without staff or offices, working directly to the Welsh Ministers.

223. Respondents welcomed the proposal for the creation of a Ministerial Adviser post, with 95 (of the 124 who directly answered the question) agreeing with the creation and proposed functions of the role.

224. As with option 2, the main benefits of the appointment of a leadership role such as a Ministerial Adviser are:

- to encourage all services and agencies to perform to a quality standard, encouraging the coordination of services, performance monitoring, information sharing and data collection;
- to provide an expert perspective to assist in the development and implementation of the National Strategy. The expertise of the Ministerial Adviser would be vital in advocating for the promotion of the objectives set in the National Strategy across Welsh Government. This is intended to ensure the experience and expertise is brought to bear across the Welsh Government and so help the development of more coherent and consistent policy and decision-making;
- to provide a focus to ensure tackling gender-based violence, domestic abuse and sexual violence is a priority across the Public Sector;
- to address the issues of strategic incoherence, inconsistency of approach and lack of leadership at both a Local and a National level in Wales (which were identified in the Task and Finish Group Report and acknowledged in the White Paper);
- to encourage and share good practice in the treatment of tackling gender-based violence, domestic abuse and sexual violence.

225. In addition, appointing the Adviser via an Assembly Bill allows for more

specific statutory functions to be added to the role to ensure they fulfil all the aims of the policy. For example the role would support the Welsh Ministers in raising awareness of the issues associated with tackling gender-based violence, domestic abuse and sexual violence.

226. The Adviser would be under a duty to report to the Welsh Ministers on a frequent basis as determined to keep the Welsh Ministers up to date on the issues in this area. The post holder could report directly to Ministers on progress achieved in pursuing the purpose of the Act – to improve arrangements for preventing gender-based violence, domestic abuse and sexual violence and protecting victims of such abuse and violence and the support of all persons affected by such abuse and violence.
227. Finally the creation of a statutory advisory role, which is appointed by the Welsh Ministers, is needed to ensure ownership of this issue at a strategic level. Tackling issues regarding gender-based violence, domestic abuse and sexual violence is a complex issue with various agencies involved, yet at present no agency has lead responsibility for this in Wales.
228. The benefits of such a leadership role were outlined in both the 10,000 Safer Lives Report³⁸ and the Robinson³⁹ report, which recognised a leadership gap in relation to domestic abuse and wider issues of violence against women (the most prevalent form of gender-based violence) and sexual violence in Wales. As Robinson et al. concluded:

“Leadership is sorely needed because there is evidence of good practice but no one at senior level to take responsibility for embedding this across Wales. Leadership is required because many of the issues are sensitive, disturbing and ‘below the radar’ of both frontline professionals and most citizens. Leadership is essential for translating policies and strategies into the sorts of services which will make a difference on the ground, through effective planning, supporting and resourcing frontline professionals. Finally, leadership is required because the Welsh Government’s commitment in this area, as indicated by this legislative initiative, must lead to an effective and sustainable programme of change.”

Preferred Option

229. The preferred option is option 3 - Introduce an Assembly Bill to Appoint a Ministerial Adviser.
230. The creation of a statutory advisory role, which is appointed by the Welsh Ministers, is needed to ensure ownership of the issue at a strategic level. The role would also seek to improve joint-working operationally, both within and

³⁸ Welsh Government, *10,000 Safer Lives Project: Final Report* (April, 2012)

³⁹ Robinson, A., Brisbane, J., Farrar, J., Hardy, P., Jones, B., Pickles, J., and Shepherd, J., *The Welsh Government’s Proposed ‘Ending Violence against Women and Domestic Abuse (Wales) Bill: Recommendations from the Task and Finish Group* (24 August, 2012)

across government departments and the identified regional structures.

231. Given the cross-cutting nature of the policy area, enshrining the role in statute was considered to best fulfil the key policy objective of ensuring these issues are core business across the Public Sector. This would be achieved as legislation would place a duty on the Welsh Ministers to appoint such an Adviser. The Adviser would assist the Welsh Ministers in the development of any policy which impacted on these issues.
232. In addition, enshrining the role in statute provides the credibility and authority required for the Adviser to work with Local Authorities, Local Health Boards and other key stakeholders in ensuring the effective implementation of the remaining duties in the Bill. Legislating to create such a post will future proof the role and so recognise the need for long-term policy commitment and planning in addressing these issues.

Summary

Overall Preferred Option

233. Introducing an Assembly Bill to Provide for the policy aims.
234. The overarching objective of the Bill is to improve the Public Sector response in Wales to gender-based violence, domestic abuse and sexual violence. It is intended to provide a strategic focus on these issues and ensure consistent consideration of preventive, protective and supportive mechanisms in the delivery of services.
235. Gender-based violence, domestic abuse and sexual violence remain hidden issues, the true extent of which has for too long been under the radar of public awareness. In addition to the benefits as stated for option 3 of each of the main policy aims, the overall benefit is a Bill will set out in one place for the first time the Welsh Government's legislative framework for addressing the issues of gender-based violence, domestic abuse and sexual violence in Wales in terms of prevention, protection and providing support for victims. It also provides the legislative strength to ensure these areas do not go unnoticed in the future.
236. Finally, in terms of cost and benefits, as highlighted in Part 1 of this Explanatory Memorandum, the devastating consequences for the individual and family of domestic violence was quantified by Sylvia Walby⁴. Population-based estimates applied to the Walby report suggest domestic violence costs Wales £303.5m annually – £202.6m in service costs and £100.9m to lost economic output. These figures do not include any element of human and emotional costs, which the research estimates costs Wales an additional £522.9m⁴¹. This provides a total figure of £826.4m. These figures do not

⁴ Walby, S., *The Cost of Domestic Violence: Up-date 2009*.

include other forms of gender-based violence and sexual violence which also produce significant human, emotional and financial costs to society. Based on the substantial financial costs of domestic abuse to the economy, Walby argues the additional investment in Public Services to reduce domestic violence to be cost effective.

237. The estimated additional costs of this Bill are between £1.1 million and £2 million per annum during the next four financial years (2015-16 to 2018-19). These costs need to be set in the context of the estimated annual cost of domestic abuse in Wales (identified above). Whilst it has not been possible to quantify the benefits associated with these proposals, it follows there would only need to be a relatively small impact on the number and/or severity of gender-based violence, domestic abuse or sexual violence incidents for the benefits of the proposals to outweigh the additional costs.

⁴¹ See paragraph 11.

9. Post implementation review

238. The Welsh Government's principle policy aim in this area is to reduce the rate of gender-based violence, domestic abuse and sexual violence. The Bill supports this aim by seeking an improved Public Sector response to gender-based violence, domestic abuse and sexual violence. The main aims of the Bill are to improve arrangements to:

- i) promote awareness of, and to prevent, protect and support victims of gender-based violence, domestic abuse and sexual violence;
- ii) strengthen the strategic leadership and accountability for gender-based violence, domestic abuse and sexual violence; and
- iii) improve the consistency, quality and join-up of service provision in Wales.

239. In the National Strategy we will monitor progress via a set of National Indicators.

240. In line with the arrangements for monitoring the 10,000 Safer Lives project, a range of measures for monitoring progress against this policy will be identified. These can be broken down into 2 main sets:

- **Population indicators** which help to quantify the achievement of an outcome and provide context, and can be characterised by common agreement and ownership. It is recognised no single organisation can be held to account in delivering an outcome such as "people are safe and feel safe". It is therefore unlikely we can expect there to be a discernable change in population indicators which can be directly attributed to Welsh Government-led or funded initiatives, particularly in the short term. However, the Welsh Government and the partners it funds all have a part to play and this activity may have an effect on the trend of a population indicator, along with many other organisations and factors.
- **Performance measures** as a measure of how much is done, how well a programme, agency or service system works and, crucially, whether anyone is better off as a result. This approach enables us to hold partners to account for what they have agreed to deliver in terms of individual policies, services and programmes making a difference to their client population.

241. It is recognised an assessment of the policy is challenging. For the most part quantified outcomes are likely to be difficult to discern in the absence of a counterfactual (an estimation of what would have happened in the absence of the various interventions). However implementation can be evaluated through process evaluations. This type of evaluation aims to understand the process of how policy has been implemented and delivered, and will include assessments of its effectiveness. Proposals for an evaluation framework are being developed.

PART 3 – LINKS TO IMPACT ASSESSMENTS

242. Below are provided the website links to the Welsh Government website to the following impact assessments which have been completed with relation to the Bill if further information is required on these areas:

Equality Impact Assessment

Children’s Rights Impact Assessment

Privacy Impact Assessment

Welsh Language Impact Assessment

Sustainable Development Impact Assessment

Competition Assessment Filter Test

Rural Proofing Impact Assessment

<http://wales.gov.uk/legislation/programme/assemblybills/domestic-abuse/?lang=en>

GENDER-BASED VIOLENCE, DOMESTIC ABUSE AND SEXUAL VIOLENCE (WALES) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill introduced into the National Assembly for Wales on 30 June 2014.
2. They have been prepared by the Welsh Government's Department for Local Government and Communities in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the National Assembly for Wales.
3. The Explanatory Notes should be read in conjunction with the Bill. They are not meant to be a comprehensive description of the Bill. Where an individual section of the Bill does not seem to require any explanation or comment, none is given.

Background

4. In summary the Bill makes provision to require the production of national and local strategies for tackling gender-based violence, domestic abuse and sexual violence. It provides the Welsh Ministers with the power to issue guidance to assist certain public bodies in contributing to the pursuit of the purpose of the Bill. It also provides for the creation of a post to advise the Welsh Ministers on how best to achieve the purposes set out in the Bill.

COMMENTARY ON SECTIONS

Section 1 - The purpose of this Act

5. The Bill provides for the preparation and publication of a strategy by the Welsh Ministers and strategies by local authorities and Local Health Boards acting jointly; the appointment of an advisor to assist the Welsh Ministers; a power to issue guidance to certain public bodies in Wales. The purpose of each of these proposals is to contribute to the pursuit of the purpose of the Bill. This purpose is explained by this section; the purpose is the improvement of the following:
 - arrangements for preventing gender-based violence, domestic abuse and sexual violence;
 - arrangements for protecting victims of gender-based violence, domestic abuse and sexual violence; and
 - the support given to persons affected by gender-based violence, domestic abuse and sexual violence.
6. Any reference in these notes to the purpose of the Bill is a reference to this purpose.

Sections 2 and 3 – Duty to prepare, publish and review a national strategy;

Duty to implement the national strategy

7. The Welsh Ministers are required by this section to prepare, publish and periodically review a strategy setting out how they will work towards achieving the purpose of the Bill. The strategy must specify objectives which the Welsh Ministers, in exercising their functions, are required under section 3 to take all reasonable steps to achieve. The national strategy will explain the steps the Welsh Government proposes to take to tackle the issues of gender-based violence, domestic abuse and sexual violence.
8. In line with the purpose of the Bill, the objectives specified in the national strategy and the actions identified to achieve those objectives must focus on prevention, protection and support and will specify actions that will be taken across the Welsh Government. Objectives specified in respect of prevention could include awareness raising campaigns or educational initiatives. In respect of protection and support, objectives may cover actions proposed by the Welsh Government to support the early identification of victims through the implementation of a national training programme for professionals working directly with the public.
9. Section 2 also sets out the Welsh Ministers' duties in relation to the publication and revision of national strategies. It provides that the first national strategy must be published no later than 6 months after the first Assembly election following the coming into force of the section. The next election is scheduled to be held in May 2016. Ministers must review the national strategy no later than 6 months after every subsequent Assembly election; and any new or revised strategy following such a review must be published as soon as is practicable.

Section 4 – Duty to prepare local strategies

10. This section requires a local authority and a Local Health Board any part of whose area lies within the area of the local authority to jointly prepare and publish a local strategy for contributing to the pursuit of the purpose of the Bill. There are currently seven Local Health Boards in Wales and their role is to plan, secure and deliver healthcare services in their areas.
11. Local authorities and Local Health Boards may include provisions for specific action to be undertaken by any public authority, any voluntary organisation or other person, with their agreement, whose activities are capable of contributing to the pursuit of the purpose of the Bill. For example, a local third sector domestic abuse service provider may wish to undertake a joint awareness raising campaign with a local authority and Local Health Board. If all parties were in agreement, this action could be included in the local strategy.

Section 6 – Matters to which regard must be had in preparing or reviewing a local strategy

12. Section 6 outlines a number of matters to which local authorities and Local Health Boards must have regard in preparing or reviewing their local strategy.
13. Section 14 of the Social Services and Well-being (Wales) Act 2014 requires local authorities and Local Health Boards to jointly assess the needs for care and support, support for carers and preventative services in their area. This assessment may therefore identify care and support needs relating to gender-based violence,

domestic abuse and sexual violence, which could help inform the development of local strategies. This section requires local authorities and Local Health Boards, prior to preparing or reviewing their strategy, to have regard to the most recent needs assessment prepared under section 14.

14. Regulations made under section 6 of the Crime and Disorder Act 1998, require strategic assessments in relation to crime and disorder, substance misuse and re-offending, which include an assessment of the levels and patterns of re-offending, crime, disorder and substance misuse. These assessments may therefore identify levels and patterns of gender-based violence, domestic abuse and sexual violence, which could help inform the development of local strategies. Section 6 of this Bill requires local authorities and Local Health Boards, prior to preparing and reviewing their strategy, to have regard to these strategic assessments.
15. However, in the event that Ministers consider these assessments were inadequate for the purpose of informing the development of local strategies, they will be able to exercise the regulation power in subsection (2) to require further assessments.

Section 8 – National indicators

16. This section requires the Welsh Ministers to publish national indicators which may be used to measure progress towards the achievement of the purpose of this Bill. It requires the Welsh Ministers to consult with whoever they consider relevant before publishing the indicators. This would likely include local authorities, Local Health Boards and third sector organisations working in the sector. It also requires the indicators to be laid before the National Assembly.

Such a national indicator could, for example, include incidence of domestic abuse or sexual crime, the number of individuals who have been referred to Multi Agency Risk Assessment Conferences (MARACs) and the number of public sector bodies who have domestic abuse work place policies.

Sections 11 to 14 – Meaning of “relevant authority”; Power to issue statutory guidance; Consultation and National Assembly for Wales procedures; Duty to follow statutory guidance

17. The Welsh Ministers may issue guidance to a relevant authority on how they should exercise their functions with a view to contributing to the pursuit of the purpose of the Bill. The meaning of ‘relevant authority’ is set in section 11 as a local authority, a Local Health Board (both are further defined in section 21), a fire and rescue authority in Wales and a National Health Service trust.
18. Section 12 provides examples of the types of matters the guidance might address. This could result in authorities being given guidance about ways in which they could raise awareness of issues relating to the purpose of this Bill, asking and acting, the training of staff and ways in which information they hold could be shared with others in order to achieve the purposes of this Bill. For example, the training of staff could be guided by the issuing of a National Training Framework, which relevant authorities would use as the basis of staff training in this subject area. Another example is guiding relevant authorities on how to support their staff to ask and act. Asking and acting is aimed at providing the support to encourage professionals (such as accident and emergency medical staff) who come into regular contact with victims of gender-based violence, domestic abuse and sexual violence to ask

potential victims about abuse or violence in certain circumstances, and where appropriate, to act to seek to reduce suffering and harm.

19. Section 14 places a duty on relevant authorities to follow any guidance issued under section 12 of the Bill. The aim of such a duty is to ensure a consistent and effective approach is taken to tackling the issues of gender-based violence, domestic abuse and sexual violence across Wales. A relevant authority is not subject to the duty if it thinks there is a good reason not to do so and it issues a policy statement setting out an alternative approach. This allows the relevant authority to pursue an alternative solution, for example if it provides a more appropriate solution to address local needs.

Sections 17-20 – Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence; Functions of the Adviser; Annual plan and annual report; Publication of reports

20. Section 17 establishes the post of Ministerial Adviser on Gender-based Violence, Domestic Abuse and Sexual Violence. The Adviser will be an individual appointed by the Welsh Ministers who will hold office in accordance with terms specified by Ministers. The section also provides that the Welsh Ministers may pay expenses, remuneration, allowances and pensions in respect of the Adviser. Ministers will also be able to provide the Adviser with the support necessary for the Adviser to exercise his or her functions (by for example, allocating Welsh Government staff to assist the Adviser and providing office space and equipment).
21. Section 18 sets out the functions of the Ministerial Adviser, all of which are related to the pursuit of the purpose of the Bill. This is a statutory advisory role and the Adviser will advise and assist the Welsh Ministers in tackling gender-based violence, domestic abuse and sexual violence. An element of the Ministerial Adviser's role will involve working with public service providers across Wales to promote best practice across the public sector. The Adviser will also have a key role in reviewing the actions being taken by local authorities, Local Health Boards, fire and rescue authorities and NHS Trusts under the duties imposed by the Bill, and advising the Welsh Ministers of the findings.
22. The section also requires local authorities, Local Health Boards, fire and rescue authorities and NHS Trusts to comply with reasonable requests for information made by the Adviser. This power allows the Adviser to access the information he or she considers necessary to inform the exercise of the functions mentioned in section 18. Relevant information for these purposes could be details of procedures and processes in place to identify and respond to victims of the abuse and violence covered by the Bill; or details of relevant training undertaken by staff for the purpose of tackling such abuse and violence
23. Under section 19, the Ministerial Adviser is required to prepare an annual plan and annual report related to the exercise of the Adviser's functions.
24. The section sets out what should be included in the plan and enables the Adviser to consult with anyone in its preparation. The plan requires the approval of the Welsh Ministers (which may be modified, with the Adviser's agreement).
25. The Adviser's annual report's must also be submitted to the Welsh Ministers. This

will enable the Welsh Ministers to have full oversight of the work of the Ministerial Adviser and ensure the role is contributing to the achievement of the purpose of the Bill.

26. The annual plans and reports required under section 19 of the Bill must be published by the Welsh Ministers under this section. This is to ensure that information about the exercise of functions by the Adviser is publicly available. This information will be of particular interest to those public and third sector organisations working in the gender-based violence, domestic abuse and sexual violence sector.
27. This section also sets out which other reports are required to be published by the Welsh Ministers. Reports included in the Adviser's annual plan must be published; while any other reports not mentioned in the annual plan may be published at the Welsh Ministers' discretion.
28. It also provides the circumstances under which information in the reports or plans of the Adviser may be removed by the Welsh Ministers prior to publication. For example, information contained in a report could allow a victim or perpetrator of domestic abuse to be identified; this could place the individual at risk of harm or prejudice a pending criminal case.

Section 21 – Interpretation

29. This section sets out the meanings of the defined terms used in the Bill (including those highlighted in section 11).
30. This section defines the terms “abuse” “domestic abuse”, “gender-based violence” and “sexual violence”, and does so by describing the behaviours which are to be considered abusive or violent for the purpose of the Bill.
31. The Bill provides that domestic abuse requires the abuser to be “associated” to the victim. An “associated person” is defined in sub-sections (2) to (4).

This includes in sub-section (2)(h) those who are in or have had an “Intimate personal relationship”. This does not require a relationship of a significant duration but would involve a level of physical or emotional intimacy whether or not the relationship is of a sexual nature. It does not extend to a relationship between family members or friends. An intimate personal relationship may exist whether the persons are the same or the opposite sex.

32. The definition of gender-based violence for the purposes of the Bill includes harassment and female genital mutilation, both of which are defined in sub-section (5).
33. Examples of gender-based violence falling within subparagraph (a) of the definition could include coercive behaviour in which, for example, a perpetrator controls, or attempts to control, everyday aspects of behaviours associated with stereotypical female roles such as how the victim dresses, household roles, care of children or sexual performance. Further examples could include forced pregnancy or abortion, forced sterilisation or virginity testing. Where the victim is associated with the abuser, such violence is also likely to fall within the definition of domestic abuse.

34. Gender-based violence falling with subparagraph (a) of the definition also includes violence, threats of violence and harassment arising from transphobic and homophobic beliefs. Verbal abuse, name-calling, threats and physical or sexual attacks could be examples of such behaviours.
35. Other examples of gender-based violence falling with subparagraph (a) of the definition could include so-called “honour based violence” such as threats to disown or ostracise the victim or emotional abuse in terms of bringing disgrace and dishonour onto the family or community.
36. Some lesbian, gay, bisexual or trans (LGBT) people may face actual or threatened forced marriage and the potential for other forms of “honour based violence” as a result of how their sexuality or gender identity is perceived within their family or community. This could include LGBT people being forced into marriage to “cure their sexuality” or address their gender issues. This may also include practices such as corrective rape. All such behaviour would fall within the definition of gender-based violence, either under subparagraph (a) as violence, threats of violence or harassment arising from beliefs relating to gender or sexual orientation or subparagraph (c) as it would constitute forcing a person to marry.
37. The definition of sexual violence for the purposes of the Bill includes exploitation and harassment, both of which are defined in sub-section (5).
38. A summary table of the behaviours is attached below:

Behaviours		Victim	Perpetrator
Gender-based violence	a. Arising from values, beliefs or customs relating to gender or sexual orientation	Anyone	Anyone
	b. Female Genital Mutilation	Women and girls	Anyone
	c. Forced Marriage	Anyone	Anyone
Domestic Abuse		Person associated with the perpetrator (see section 21(2)).	Person associated with the victim (see section 21(2))
Sexual Violence		Anyone	Anyone

ANNEX 2 - Summary Table of National Training Framework Costs

Summary of National Training Framework costs

<u>Year</u>	<u>Trainin g level</u>	<u>Activity</u>	<u>One off costs (£)</u>	<u>WG programm e costs (£)</u>	<u>Opportunit y costs to Public service (£)</u>	<u>Costs of funding regional training programme s 1.2 and 3 (£)</u>	<u>Total cost (excl oppt cost) (£)</u>	<u>Total cost inc oppt cost (£)</u>	<u>WG Total financial outlay (exc programme costs) (£)</u>
Year 1 (2014- 2015)	All	Design guidance	0	14,052	0	0	14,052	14,052	0

1	Design and development of eLearning programme and awareness raising campaign. Intensive roll out of the programme and encouragement to senior Public Service leadership to subsume completion of programme into organisational learning and development time commitment and, in longer term as part of induction training.	70,000	7,026	1,988,000	0	77,026	2,065,026	70,000
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2	Design and development of training product and implementation plan, including integration of training into existing training packages	0	11,710	0	0	11,710	11,710	0
3	No activity	0	0	0	0	0	0	0
4	Bursary for IDVA training for 100 IDVAs available across the UK.	0	0	0	0	0	0	0
	ISVA training?	0	0	0	0	0	0	0

	Mapping and delivery plan of specialist subject training across Wales and creation of consistency	0	4,684	0	0	4,684	4,684	0
5	Launch training activity	14,300	1,171	8,140	0	15,471	23,611	14,300
6	Strategic engagement plan developed and actioned for Public Service leadership with Minister for LGGB as figurehead	15,000	2,891	0	0	17,891	17,891	15,000
Year 1 Total		99,300	41,534	1,996,140	0	140,834	2,136,974	99,300

Year 2 (2015- 2016)	1	eLearning programme offered to all new employees as part of Public Service induction.	0	2,342	198,800	0	2,342	201,142	0
	2	Launch regional training model	£90,852	11,710	922,987	193,406	102,562	1,025,549	284,258
	3	Activity with Care Council Wales for integration in to CPEL programme.	0	2,342	0	0	2,342	2,342	0
	4	Delivery plan of specialist subject training across Wales	0	2,342	0	0	2,342	2,342	0
		IDVA training	0	0	0	0	0	0	0
		ISVA training	0	0	0	0	0	0	0
	5	No activity	0	0	0	0	0	0	0

	6	Strategic engagement plan developed and actioned for Public Service leadership with Ministerial Advisor as figurehead	5,000	1,652	0	0	6,652	6,652	5,000
Year 2 Total			95,852	20,388	1,121,787	193,406	116,240	1,238,027	289,258
Year 3 (2016-2017)	1	eLearning programme offered to all new employees as part of Public Service induction.	0	2,342	19,880	0	2,342	22,222	0
	2	Regional training model continues	25,958	11,710	922,987	110,199	37,668	960,655	136,157

3	Launch regional training model	26,000	0	61,144	12,229	26,000	87,144	38,229
4	Delivery plan of specialist subject training across Wales	0	2,342	0	0	2,342	2,342	0
	IDVA training	67,200	0	22,512	0	67,200	89,712	67,200
	ISVA training	67,200	0	19,296	0	67,200	86,496	67,200
5	No activity	0	0	0	0	0	0	0
6	Strategic engagement plan developed and actioned for Public Service leadership with Ministerial Advisor as figurehead	5,000	1,652	0	0	6,652	6,652	5,000
Year 3 Total		191,358	18,046	1,045,819	122,428	209,404	1,255,223	313,786

Year 4 (2017- 2018) INDICA TIVE FUNDI NG	1	eLearning programme offered to all new employees as part of Public Service induction.	0	2,342	19,880	0	2,342	22,222	0
	2	Regional training model continues	25,958	11,710	922,987	110,199	37,668	960,655	136,157
	3	Continued training model	6,000	0	61,144	12,229	6,000	67,144	18,229
	4	Delivery plan of specialist subject training across Wales	0	2,342	0	0	2,342	2,342	0
		IDVA training	67,200	0	22,512	0	67,200	89,712	67,200
		ISVA training	67,200	0	19,296	0	67,200	86,496	67,200
	5	No activity	0	0	0	0	0	0	0

6	Strategic engagement plan developed and actioned for Public Service leadership with Ministerial Advisor as figurehead	5,000	1,652	0	0	6,652	6,652	5,000
Year 4 Total		171,358	18,046	1,045,819	122,428	189,404	1,235,223	311,832
Total over 4 years		557,868	98,014	5,209,565	438,262	655,882	5,865,447	1,014,176

ANNEX 3 - Summary of the ‘Relevant Professionals’ as Highlighted in the RIA Costs for Ask and Act Guidance

Public Service organisations should consider the following professional roles to be “relevant” in the function of Ask and Act. Local Authorities and Local Health Boards, as employers of these professionals should ensure they are adequately trained (in training courses offered through the National Training Framework) and supported to implement Ask and Act in an empathic and safe way and monitor practice to ensure the clients safety and well-being is central to all work.

<i>Local Health Board</i>
<i>Midwives</i> <i>Health Visitors</i> <i>General Practitioners</i> <i>Accident and Emergency staff</i> <i>Substance misuse</i> <i>Community Psychiatric Nurses</i> <i>Mental Health Crisis team</i> <i>District nurses</i> <i>Paramedics</i>
<i>Local Authority</i>
<i>Child Protection Social Workers</i> <i>Safeguarding Vulnerable Adults Social Workers</i> <i>Safeguarding leads in Education</i> <i>School nurses</i> <i>Housing options and Homelessness officers</i> <i>Youth Offending Team Representatives</i>
<i>Fire and Rescue Authority</i>
<i>All firefighters with community based responsibilities</i>

Note - This list is not exhaustive and there may be additional roles which require training, based on local need. In order to identify whether a profession should be deemed “relevant” the following criteria should be applied:

“Relevant” criteria

A relevant professional is:

In a public facing role, coming into regular contact with the general public

and;

in a role where the experience of their client group of gender-based violence, domestic abuse and sexual violence complicates and impacts on the nature of the clients engagement with the service offered in that role.