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Providing confidential support
and information on domestic
abuse, sexual violence and
violence against women in Wales

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Welsh Women's Aid Briefing:

EU Directive on the rights, support and protection of victims of crime

Overview

As of November 2015, the European Union (EU) Directive on Victims' Rights¹ (known as the Directive) establishes minimum standards and obligations on the rights, support and protection of victims of crime in the UK.

The Directive establishes a new legal standard for victim services, and obligations include the provision of specialist services and support for victims of domestic abuse and other forms of violence against women, regardless of nationality or citizenship status, including children and young people. Support includes information, advice, practical, emotional, and psychological support.

The Directive aims to ensure that a victim of crime is recognised and treated with respect, and receives support, protection and access to justice. This covers a range of things, including setting out support services that must be available to victims and, in some instances, to their families, in accordance with their needs and the harm caused by the crime.

Member States, including Wales through the UK's membership, are required by the Directive to implement the relevant provisions. This will include national and local authorities providing funding and/or commissioning specialist support services for all victims.

The Directive contains chapters on general provisions (articles 1-2); provision of information and support (articles 3-9); participation in criminal proceedings (articles 10-17); protection of victims including those with specific needs (articles 18-24); and other provisions (articles 25-32). Key points in the Directive that are directly relevant to the provision of specialist domestic abuse and violence against women services are summarised below.

1. Provision of specialist support services

Specialist support services, as described in section 38 of the Directive, should provide types of support services like "shelter and safe accommodation, immediate medical support, referral to medical and

¹ A person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them. For a summary of European Commission priorities for victims of crime see http://ec.europa.eu/justice/criminal/victims/rights/index_en.htm . The full text of the Directive (2012/29/EU) is available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029>





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forensic examination for evidence in cases of rape or sexual assault, short and long-term psychological counselling, trauma care, legal advice, advocacy and specific services for children as direct or indirect victims. Victims should be provided with information on or referred directly to these specialist services. Public authorities are obliged to ensure these are available free of charge to victims.

2. Minimum requirement of services

Article 9(3) states that the above defined specialist support services should, as a minimum “develop and provide (a) shelters or any other appropriate interim accommodation for victims in need of a safe place... [and] (b) targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling.”

Member States need to ensure there is adequate refuge provision, advocacy support and psychological support that is targeted to the specific needs of survivors.

3. Provision of support regardless of reporting

Article 8(5) of the directive states that provision of support should not be “*dependent on victims making a complaint with regard to a criminal offence to a competent authority*” such as the police. This acknowledges that there can be barriers to survivors reporting crimes such as domestic and sexual violence but that public authorities still have a duty to ensure services are available for them to access. This means that provision should be provided to victims to self-refer to support or to be signposted by other non-criminal justice authorities or community services. These services must be confidentially accessible to survivors.

4. Care pathway for victims

Article 8(2) of the directive states that competent authorities should facilitate the referral of victims to support services. This requirement is consistent with requirements for public authorities to ‘Ask and Act’, as outlined in the Welsh Government’s National Training Framework and associated statutory guidance, that derives from the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

5. Advisory definitions

The directive includes a number of advisory definitions that outline the gendered nature of domestic and sexual violence and other forms of violence against women as well as outlining specialist service needs.

Section 17 acknowledges “women victims of *gender-based violence* and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and retaliation connected with such violence.” This section also recognises that gender-based violence is a “form of discrimination and a violation of the fundamental freedoms of the victim





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and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called ‘honour crimes’”.

Section 18 acknowledges women are affected disproportionately by violence in a close relationship. It references that the situation can be worse if the woman is “*dependent on the offender economically, socially or as regards her right to residence.*” It acknowledges that these are often hidden crimes and that they cause systematic psychological and physical trauma to the victim because the offender is a person whom the victim should be able to trust.

Further to this, section 38 acknowledges “*persons subjected to repeat violence in close relationships or victims of gender-based violence*” are particularly vulnerable due to the severity of the harm suffered as well as the relationship between victims, offenders, children and their wider social environment. Specialist support services should take into account the specific needs of victims.

Section 38 also states that “*Persons who fall victim to other types of crime in a Member State of which they are not nationals or residents, should be provided with specialist support and legal protection.*” This would include victims with no recourse to public funds or other EU nationals who may not have access to benefits or welfare support. This suggests Member States should ensure that victims of abuse without recourse to public funds can still access specialist support and legal protection.

The Code of Practice for Victims of Crime²

For non-devolved criminal justice authorities, namely Police and Crime Commissioners, police forces and courts, the Code of Practice for Victims of Crime implements relevant provisions of the EU Directive establishing minimum standards on the rights, support and protection of victims of crime (2012/29/EU); Directive 2011/92/EU combating the sexual abuse and sexual exploitation of children; and Directive 2011/36/EU preventing and combating the trafficking of human beings.

This should be adhered to in their provision of services to victims, for example, the police must make sure victims are given information about local support services and contact details for those services. It should also influence and inform their commissioning/funding of services, for example, Police and Crime Commissioners addressing the need for specialist services in their victims’ services commissioning frameworks.

Conclusion

² This Code was issued by the Secretary of State for Justice under section 32 of the Domestic Violence, Crime and Victims Act 2004. This Code is available at [http://www.cps.gov.uk/legal/v to z/code of practice for the victims of crime \(victim s code\) - legal guidance/](http://www.cps.gov.uk/legal/v%20to%20z/code%20of%20practice%20for%20the%20victims%20of%20crime%20(victim%20s%20code)%20-%20legal%20guidance/)





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These EU rules must be implemented and applied by all Member States. All Member States, must pay regard to the minimum standards as set out in the EU victim's directive, and take measures to adhere to their duties under the directive in the provision of specialist support services in accordance with the victim's needs.

The directive sets out minimum standards on the rights, support and protection of victims that should be included in needs assessment, commissioning/funding of provision and monitoring of service delivery.

Moreover, as many of the rights set up in the Directive are clear and precise, it is possible for individuals to invoke them directly before the national courts, even if their Member State has not yet fully implemented into national law.

If you have any comments or questions about this briefing, please don't hesitate to get in touch:

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