



# Public Audit (Wales) Act 2004

## 2004 CHAPTER 23

### PART 2

#### LOCAL GOVERNMENT BODIES IN WALES

### CHAPTER 4

#### GENERAL

#### **51 Social security references and reports to Secretary of State**

- (1) The Auditor General for Wales may refer to the Secretary of State any matter arising from an audit or study under this Part if it appears that the matter may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.
- (2) An auditor may refer to the Secretary of State any matter arising from an audit under Chapter 1 if it appears that the matter may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.
- (3) The Auditor General for Wales may send to the Secretary of State a copy of any report—
  - (a) of which a copy is sent to the Auditor General for Wales under section 22(5) or (6), and
  - (b) which contains observations on the administration by a local authority in Wales of housing benefit or council tax benefit.

#### **52 Rights of Auditor General for Wales to documents and information**

- (1) The Auditor General for Wales has a right of access at all reasonable times to every document relating to a local government body in Wales which appears to him necessary for the purposes of his functions under this Part.
- (2) The documents relating to a body to which the right conferred by subsection (1) applies may include in particular—

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- (a) a document which is held or controlled by a person who has received financial assistance from the body by means of a grant, loan or guarantee or as a result of the taking of an interest in any property or body corporate;
  - (b) a document which is held or controlled by a person who has supplied goods or services to the body in pursuance of a contract to which the body was party or who has supplied goods or services in pursuance of a relevant sub-contract;
  - (c) a document of a description specified in an order made by the Assembly.
- (3) For the purposes of subsection (2)(b) a contract is a relevant sub-contract if its performance fulfils, or contributes to the fulfilment of, an obligation to supply goods or services to the body in another contract.
- (4) The Auditor General for Wales may require a person whom he thinks has information of the kind mentioned in subsection (5)—
- (a) to give him any assistance, information and explanation which the Auditor General for Wales thinks necessary for the purposes of his functions under this Part;
  - (b) to attend before him in person to—
    - (i) give the assistance, information or explanation, or
    - (ii) produce any document which is held or controlled by the person and to which the right conferred by subsection (1) applies.
- (5) The information is information which relates to—
- (a) a local government body in Wales;
  - (b) a document to which the right conferred by subsection (1) applies;
  - (c) a person who holds or controls such a document.
- (6) For the purpose of assisting the Auditor General for Wales to maintain proper standards in the auditing of accounts of local government bodies in Wales, the Auditor General for Wales may require a local government body in Wales to make available for inspection by him or on his behalf—
- (a) the accounts of the body, and
  - (b) any other documents relating to the body which might reasonably be required by an auditor for the purposes of an audit under Chapter 1.
- (7) Every local government body in Wales must provide the Auditor General for Wales with every facility and all information which he may reasonably need for the purposes of his functions under this Part.
- (8) Before making an order under subsection (2)(c) the Assembly must consult—
- (a) the Auditor General for Wales, and
  - (b) any associations of local authorities in Wales which appear to it to be concerned.

### **53 Rights of Auditor General for Wales to documents and information: offences**

- (1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed by the Auditor General for Wales under section 52(4).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale, and

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- (b) to an additional fine not exceeding £20 for each day on which the offence continues after he has been convicted of it.
- (3) Subsection (4) applies if—
  - (a) a person is convicted of an offence under subsection (1), and
  - (b) expenses are incurred by the Auditor General for Wales in connection with proceedings for the offence.
- (4) The expenses may be recovered from the convicted person or an appropriate person, to the extent that they are not recovered from any other source.
- (5) An appropriate person is a person who controlled the document referred to in section 52(5) at the time the requirement was imposed.

#### **54 Restriction on disclosure of information**

- (1) This section applies if information relating to a particular body or other person is obtained by the Auditor General for Wales or an auditor, or by a person acting on behalf of the Auditor General for Wales or an auditor—
  - (a) pursuant to a provision of this Part or Part 1 of the Local Government Act 1999 (c. 27), or
  - (b) in the course of an audit, study or inspection under a provision of this Part, section 145C of the Government of Wales Act 1998 (c. 38) or Part 1 of the Local Government Act 1999.
- (2) The information must not be disclosed except in accordance with any of these—
  - (a) with the consent of the body or person to whom the information relates;
  - (b) for the purposes of any functions of the Auditor General for Wales or an auditor under this Part or Part 1 of the Local Government Act 1999;
  - (c) for the purposes of the functions of the Secretary of State relating to social security;
  - (d) for the purposes of the functions of a Local Commissioner in Wales under Part 3 of the Local Government Act 2000 (c. 22);
  - (e) for the purposes of any functions of the Assembly which are connected with the discharge of social services functions by local authorities in Wales;
  - (f) in accordance with section 145C(5) or (8) of the Government of Wales Act 1998;
  - (g) for the purposes of any criminal investigation which is being or may be carried out, whether in the United Kingdom or elsewhere;
  - (h) for the purposes of any criminal proceedings which have been or may be initiated, whether in the United Kingdom or elsewhere;
  - (i) for the purposes of the initiation or bringing to an end of any such investigation or proceedings;
  - (j) for the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.
- (3) A person commits an offence if he discloses information in contravention of subsection (2).
- (4) A person guilty of an offence under subsection (3) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (5) In subsection (2) “social services functions” has the same meaning as in the Local Authority Social Services Act 1970 (c. 42).
- (6) The Secretary of State may by order made by statutory instrument amend or repeal the preceding provisions of this section.
- (7) An order under subsection (6) may be made only if—
  - (a) section 49 of the Audit Commission Act 1998 (c. 18) (restriction on disclosure of information) has been amended or repealed in the same Session as that in which this Act is passed or in any later Session;
  - (b) the Secretary of State thinks that the amendments or repeals to be made by the order under subsection (6) will (subject to paragraph (c)) have the same effect as the amendments to or repeal of section 49 of that Act;
  - (c) the order would not have the effect of imposing any further restriction on the disclosure of information under this section.
- (8) An order under subsection (6) may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

## **55 Supply of benefit information to Auditor General for Wales**

The Secretary of State may supply to the Auditor General for Wales any information held by the Secretary of State which—

- (a) relates to housing benefit or council tax benefit, and
- (b) appears to the Secretary of State to be relevant to the exercise of any function of the Auditor General for Wales.

## **56 Publication of information by Auditor General for Wales**

- (1) The Auditor General for Wales may publish information with respect to any of these—
  - (a) the making by an auditor of a report under section 22;
  - (b) the subject-matter of a report under section 22;
  - (c) the decision made and other action taken by a body in response to the receipt of a report under section 22 or to anything in a report under section 22;
  - (d) a contravention by a body of regulations made under section 39;
  - (e) a contravention by a body of an obligation imposed on the body under section 47(4).
- (2) The information that may be published under subsection (1)(a), (b) or (c) does not include information excluded under section 26(5) from an approved summary published under section 26(4)(c).
- (3) The Auditor General for Wales must inform a body before publishing information under subsection (1) relating to it.
- (4) Information published under subsection (1) must be published in any manner which the Auditor General for Wales considers appropriate for bringing the information to the attention of members of the public who may be interested in it.

## **57 Provision of information to Audit Commission**

- (1) The Auditor General for Wales must, on request, provide the Audit Commission with any information it may reasonably require for the purpose of making comparisons, in the discharge of its functions under sections 33 and 34 of the Audit Commission Act 1998 (c. 18), between local government bodies in Wales and other local government bodies.
- (2) In this section “local government body” has the meaning given in section 53(1) of the Audit Commission Act 1998.

## **58 Orders and regulations**

- (1) Any power conferred on the Assembly by this Part to make orders or regulations is exercisable by statutory instrument.
- (2) Any power conferred on the Assembly or the Secretary of State to make an order or regulations under this Part includes power—
  - (a) to make such incidental, consequential, transitional or supplementary provision as the Assembly or the Secretary of State thinks appropriate;
  - (b) to make different provision for different cases, including different provision for different localities and different bodies and descriptions of bodies.

## **59 Interpretation of Part 2**

- (1) This section applies for the interpretation of this Part.
- (2) “Auditor” in relation to accounts of a body—
  - (a) means a person appointed by the Auditor General for Wales under section 13 to act as auditor of those accounts;
  - (b) to the extent provided by section 15(3), includes a person assisting an auditor appointed under section 13 under arrangements approved under section 15(1).
- (3) “The auditor”, if there is more than one auditor, means any one of them (subject to any express provision to the contrary).
- (4) “Best value authority in Wales” means a local government body in Wales which is also a best value authority for the purposes of Part 1 of the Local Government Act 1999 (c. 27).
- (5) “Local authority in Wales” means a county council, county borough council or community council in Wales.
- (6) “Local government elector” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts.
- (7) A reference to a local government elector for an area, in relation to a National Park authority which is the local planning authority for a National Park, is to a local government elector for any area the whole or part of which is comprised in the Park.
- (8) “Statutory provision” means a provision contained in or having effect under an enactment.