



# Audit Commission Act 1998 (repealed)

## 1998 CHAPTER 18

### PART III

#### STUDIES, PERFORMANCE STANDARDS AND OTHER FUNCTIONS

##### *Studies and related functions*

#### **33 Studies for improving economy etc. in services.**

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations—
  - (a) for improving economy, efficiency and effectiveness in [<sup>F1</sup>the exercise of the functions of best value authorities and the provision of services provided by other bodies subject to audit]; and
  - (b) for improving the financial or other management of bodies subject to audit.
- (2) The studies which the Commission is required to undertake or promote under subsection (1) include, in particular—
  - (a) studies designed to enable the Commission to determine what directions it should give under section 44; and
  - (b) studies of information published in pursuance of directions under that section which are designed to enable the Commission to determine, in relation to each financial year, what comparative information to publish itself about the standards of performance achieved by bodies which are relevant bodies for the purposes of that section.
- (3) In undertaking or promoting studies under subsection (1) relating to a health service body (services of which are excluded from studies under section 34) the Commission may take into account the implementation by the body of—
  - (a) any particular statutory provision or provisions, and
  - (b) any directions or guidance given by the Secretary of State (whether pursuant to any such provision or otherwise);

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but this subsection does not entitle the Commission to question the merits of the policy objectives of the Secretary of State.

- (4) The Commission may undertake or promote other studies relating to the provision by bodies subject to audit of their services besides the studies referred to in subsection (1) and section 34.
- (5) The Commission shall publish or otherwise make available its recommendations and the result of any studies under this section and, in the case of studies relating to a health service body, shall, on request, provide the Comptroller and Auditor General with all material relevant to the studies.
- (6) Before undertaking or promoting any study under this section, other than a study within paragraph (a) or (b) of subsection (2), the Commission shall—
  - (a) consult such associations of [<sup>F2</sup>best value authorities] or other bodies subject to audit as appear to it to be concerned;
  - (b) consult such associations of employees as appear to it to be appropriate; and
  - (c) in the case of any health service bodies, also consult the Secretary of State and the Comptroller and Auditor General.

#### Textual Amendments

- F1** Words in s. 33(1)(a) substituted (27.9.1999 subject to art. 3(2)(b) of S.I. and otherwise 1.10.1999) by 1999 c. 27, s. 22(4)(a); S.I. 1999/2169, art. 3(2), Sch. 2; S.I. 1999/2815, art. 2
- F2** Words in s. 33(6)(a) substituted (27.9.1999 subject to art. 3(2)(b) of S.I. 1999/2619 and otherwise 1.10.1999) by 1999 c. 27, s. 22(4)(b); S.I. 1999/2619, art. 3(2), Sch. 2; S.I. 1999/2815, art. 2

#### Modifications etc. (not altering text)

- C1** S. 33(1) modified (4.1.2000 (E.) and 1.4.2000 (W.)) by 1999 c. 8, s. 21(2); S.I. 1999/2793, art. 2(2); S.I. 2000/1041, art. 2(b)

### 34 Reports on impact of statutory provisions etc.

- (1) In addition to the studies referred to in section 33(1), the Commission shall undertake or promote studies designed to enable it to prepare reports as to the impact—
  - (a) of the operation of any particular statutory provision or provisions, or
  - (b) of any directions or guidance given by a Minister of the Crown (whether pursuant to any such provision or otherwise),
 on economy, efficiency and effectiveness in the provision of local authority services and of other services provided by bodies subject to audit other than health service bodies, or on the financial management of such bodies.
- (2) The Commission shall publish or otherwise make available its report of the results of any study under this section, and shall send a copy of any such report to the Comptroller and Auditor General.
- (3) Where the Comptroller and Auditor General has received a copy of any such report he may, subject to subsection (4), require the Commission to provide him with any information obtained by it in connection with the preparation of the report, and for that purpose the Commission shall permit any person authorised by him to inspect and make copies of any documents containing such information.

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- (4) No information shall be required by the Comptroller and Auditor General under this section in respect of any particular body.
- (5) The Comptroller and Auditor General shall from time to time lay before the House of Commons a report of any matters which, in his opinion, arise out of studies of the Commission under this section and ought to be drawn to the attention of that House.
- (6) Before undertaking or promoting any study under this section the Commission shall consult—
  - (a) the Comptroller and Auditor General;
  - (b) any Minister of the Crown who appears to it to be concerned;
  - (c) such associations of local authorities or other bodies subject to audit as appear to it to be concerned; and
  - (d) such associations of employees as appear to it to be appropriate.

### **35 Studies at request of bodies subject to audit.**

- (1) The Commission may, at the request of the body concerned, promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operations of any body subject to audit.
- (2) Before making the request the body shall consult—
  - (a) such associations of employees, or
  - (b) in the case of a health service body, such other organisations,as appear to it to be appropriate.
- [<sup>F3</sup>(2A) Before exercising the power of the Greater London Authority to make a request under subsection (1) above, the Mayor of London shall consult the London Assembly.]
- (3) The Commission shall charge the body such fees for services provided under this section as will cover the full cost of providing them.

#### **Textual Amendments**

**F3** S. 35(2A) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), Sch. 8 para. 9 (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4

### **[<sup>F4F4</sup>35A Studies for functional bodies at request of Greater London Authority.**

- (1) The Commission may, at the request of the Mayor of London, promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operation of any functional body or the London Pensions Fund Authority.
- (2) Before making a request under subsection (1), the Mayor of London shall consult—
  - (a) the body concerned;
  - (b) the London Assembly; and
  - (c) such associations of employees as appear to him to be appropriate.
- (3) The Commission shall charge the Greater London Authority such fees for services provided under this section as will cover the full cost of providing them.

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- (4) This section is without prejudice to the power of a functional body or the London Pensions Fund Authority to make a request under section 35(1).]

#### Textual Amendments

- F4** S. 35A and crossheading inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 10** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**

### 36 Studies at request of educational bodies.

- (1) The Commission may promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operations of a body in the first column in the Table below if requested to do so by the body (or one of the bodies) specified in relation to it in the second column—

<i>Subject of study</i>	<i>Requesting body</i>
A higher education funding council.	The council.
The governing body of an institution within the higher education sector.	The governing body or the higher education funding council.
A funding agency under Part I of the <sup>M1</sup> Education Act 1994.	The agency.
The governing body of an institution receiving financial support under Part I of the Education Act 1994.	The governing body or the appropriate funding agency.
A further education funding council.	The council.
The governing body of an institution within the further education sector.	The governing body or the appropriate further education funding council.
<sup>F5</sup> ...	...
<sup>F5</sup> ...	...
<sup>F5</sup> ...	...
<sup>F5</sup> ...	...

- (2) The Commission may, at the request of a higher education funding council or a further education funding council, give the council advice in connection with the discharge of the council's functions under section 124B(2)(b) of the <sup>M2</sup>Education Reform Act 1988 or paragraph 18(2)(b) of Schedule 7 to that Act.
- (3) The Commission may, at the request of a higher education [<sup>F6</sup>corporation or further education corporation]—
- (a) advise them in connection with the appointment of persons to audit their accounts; and
  - (b) arrange for their accounts for any financial year to be audited by such of the Commission's officers as the corporation <sup>F7</sup>... may appoint.

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- (4) In subsection (3)—
- (a) “higher education corporation” and “further education corporation” have the same meaning as in the <sup>M3</sup>Further and Higher Education Act 1992, and
  - (b) references to the accounts of a higher education corporation include references to any statement of accounts prepared by the corporation under paragraph 18 of Schedule 7 to the Education Reform Act 1988.
- (5) The Commission shall charge the body at whose request any services are provided under this section such fees as will cover the full cost of providing them.
- (6) This section shall be construed as one with the <sup>M4</sup>Education Act 1996; and references in any enactment to the Education Acts include a reference to this section.

#### Textual Amendments

- F5** Words in s. 36(1) repealed (1.4.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**
- F6** Words in s. 36(3) substituted (1.4.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 225** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**
- F7** Words in s. 36(3)(b) repealed by 1998 c. 31, s. 140(1)(3), **Sch. 30 para. 225(b)**, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

#### Marginal Citations

- M1** 1994 c. 30.  
**M2** 1988 c. 40.  
**M3** 1992 c. 13.  
**M4** 1996 c. 56.

### 37 Social services studies for Secretary of State.

- (1) At the request of the Secretary of State, the Commission may assist the Secretary of State in any study designed to improve economy, efficiency, effectiveness and quality of performance in the discharge of social services functions by local authorities.
- (2) In this section “social services functions” means—
- (a) any function under any enactment for the time being specified in Schedule 1 to the <sup>M5</sup>Local Authority Social Services Act 1970; and
  - (b) any function for the time being designated by an order made by the Secretary of State under section 2(2) of the 1970 Act as being appropriate for discharge through a local authority’s social services committee.
- (3) In the following provisions of this section “study” means a study of a description mentioned in subsection (1).
- (4) If the Commission requires—
- (a) a local authority included in a study, or
  - (b) an officer or member of such an authority,
- to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.

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- (5) If the Commission requires a local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.
- (6) Any information obtained under a requirement under subsection (4) or (5) may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with the discharge of social services functions by local authorities.
- (7) In subsections (4) and (5) “authorised person” means a person authorised by the Commission for the purposes of this section.
- (8) Any report of a study in which the Commission assists the Secretary of State shall be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not provide assistance under subsection (1) unless before it does so the Secretary of State has agreed to pay the Commission an amount equal to the full costs incurred by the Commission in providing the assistance.

#### **Marginal Citations**

**M5** 1970 c. 42.

### **38 Benefit administration studies for Secretary of State.**

- (1) The Secretary of State may request the Commission to conduct or assist the Secretary of State in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by local authorities of functions relating to the administration of housing benefit and council tax benefit.
- (2) In the following provisions of this section “study” means a study which the Commission is requested to conduct, or assist the Secretary of State in conducting, under subsection (1).
- (3) If the Commission requires—
  - (a) a local authority included in a study, or
  - (b) an officer or member of such an authority,
 to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.
- (4) If the Commission requires a local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.
- (5) Any information obtained under a requirement under subsection (3) or (4) may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with housing benefit or council tax benefit.
- (6) In subsections (3) and (4) “authorised person” means a person authorised by the Commission for the purposes of this section.

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- (7) The Commission shall send to the Secretary of State a copy of any report of a study; and the Secretary of State or the Commission may send a copy of a report of a study to any local authority to which the study relates.
- (8) Any report of a study may be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not conduct, or assist the Secretary of State in conducting, a study unless before it does so the Secretary of State has made arrangements for the payment of such reasonable amount as may be agreed between him and the Commission in respect of the study.

### **39 Social security references and reports to Secretary of State.**

- (1) The Commission or an auditor may refer to the Secretary of State any matter arising from an audit or study under this Act if it appears that it may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.
- (2) The Commission may send to the Secretary of State a copy of any report of which a copy is sent to the Commission under section 10(2) and which contains observations on the administration by a local authority of housing benefit or council tax benefit.

### **40 Studies relating to registered social landlords.**

- (1) The [<sup>F8</sup>Relevant Authority] and the Commission may agree one or more programmes of comparative studies designed to enable the Commission to make recommendations for improving economy, efficiency and effectiveness of registered social landlords.
- (2) Where the [<sup>F9</sup>Housing Corporation] and the Commission fail to agree a programme proposed by either of them, either of them may refer the matter to the Secretary of State who may direct that the programme be carried out either without modifications or with modifications specified in the direction.
- [<sup>F10</sup>(2A) Where the Secretary of State and the Commission fail to agree a programme proposed by the Secretary of State, the Secretary of State may direct that the programme be carried out either without modifications or with modifications specified in the direction.]
- (3) Where a programme is agreed or is directed to be carried out, the Commission shall ensure that studies giving effect to the programme are carried out by it or on its behalf.
- (4) It shall be a term of every such programme that the [<sup>F11</sup>Relevant Authority] make good to the Commission the full costs incurred by the Commission in carrying out the programme.
- (5) The Commission shall publish reports on the studies carried out under this section.
- (6) Before publishing any such report the Commission shall show a draft of it to the [<sup>F11</sup>Relevant Authority] and shall consider whether to revise the draft in the light of the comments made by the [<sup>F11</sup>Relevant Authority].

#### **Textual Amendments**

**F8** Words in s. 40(1) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 99(2)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

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- F9** Words in s. 40(2) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 99(3)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F10** S. 40(2A) inserted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 99(4)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F11** Words in s. 40(4)(6) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 99(5)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

#### 41 Provisions supplementary to section 40.

- (1) The Commission may, if authorised to do so by the [<sup>F12</sup>Relevant Authority]—
- (a) require a registered social landlord, or any officer or member of a registered social landlord, to supply such information as the Commission may require for the purposes of any study under section 40; and
  - (b) require a registered social landlord included in any such study to make available for inspection such documents as are reasonably required for the purposes of the study.
- (2) The Commission may require the information to be supplied, or the documents to be made available, to the Commission or to a person authorised by the Commission for the purposes of this section.
- (3) A person who without reasonable excuse fails to comply with a requirement under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Information obtained by the Commission, or by a person acting on behalf of the Commission, in the course of a study under section 40 may be disclosed by the Commission to the [<sup>F12</sup>Relevant Authority].

##### Textual Amendments

- F12** Words in s. 41(1)(4) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 100** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

#### 42 Consultancy services relating to audit of accounts of registered social landlords.

- (1) The Commission may provide the [<sup>F13</sup>Relevant Authority] with consultancy services relating to the audit of accounts of registered social landlords.
- (2) The Commission may recover from the [<sup>F13</sup>Relevant Authority] such costs incurred in providing the services as may be agreed by the [<sup>F13</sup>Relevant Authority].

##### Textual Amendments

- F13** Words in s. 42 substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 101** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

#### 43 Sections 40 to 42: interpretation.

In sections 40 to 42 the [<sup>F14</sup>“Relevant Authority”] and “registered social landlord” have the same meaning as in Part I of the <sup>M6</sup>Housing Act 1996.



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#### Textual Amendments

**F14** Words in s. 43 substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 102** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

#### Marginal Citations

**M6** 1996 c.52.

### *Performance standards of local authorities etc.*

#### **44 Publication of information as to standards of performance.**

- (1) The Commission shall give such directions as it thinks fit for requiring relevant bodies to publish such information relating to their activities in any financial year as will, in the Commission's opinion, facilitate the making of appropriate comparisons (by reference to the criteria of cost, economy, efficiency and effectiveness) between—
  - (a) the standards of performance achieved by different relevant bodies in that financial year; and
  - (b) the standards of performance achieved by such bodies in different financial years.
- (2) Where a relevant body is required by a direction under this section to publish information in relation to any financial year, it shall—
  - (a) make such arrangements for collecting and recording the information as secure that the information is available for publication and, so far as practicable, that everything published in pursuance of the direction is accurate and complete;
  - (b) within the period of nine months beginning with the end of that financial year, publish the information in accordance with the direction and by one of the methods permitted by section 45; and
  - (c) keep a document containing any information published in pursuance of the direction available for inspection by local government electors for its area.
- (3) The Secretary of State may by order vary the period for the time being specified in paragraph (b) of subsection (2) so as to fix the latest time for the publication of information in accordance with that paragraph at any such time, within the period of nine months after the end of the financial year in question, as may be specified in the order.
- (4) A local government elector for the area of a relevant body may—
  - (a) at all reasonable times and without payment, inspect and make copies of the whole or any part of a document kept available for inspection under subsection (2)(c) by the body; and
  - (b) require copies of the whole or part of any such document to be delivered to him on payment of a reasonable sum for each copy.
- (5) A person who has custody of a document kept available for inspection under subsection (2)(c) and—
  - (a) obstructs a person in the exercise of his rights under subsection (4), or
  - (b) refuses to comply with a requirement under subsection (4)(b),

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is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

- (6) In this section and sections 45 and 46 “relevant body” means any body subject to audit other than one within subsection (7).
- (7) Subject to section 47, the following are not relevant bodies for the purposes of this section and sections 45 and 46—
- (a) parish and community councils and any parish meeting of a parish not having a separate parish council;
  - (b) charter trustees constituted under section 246 of the 1972 Act;
  - (c) health service bodies;
  - (d) port health authorities;
  - (e) licensing planning committees;
  - (f) internal drainage boards;
  - (g) probation committees; and
  - (h) Passenger Transport Executives.

#### **45 Permitted methods of publishing information under section 44.**

- (1) The permitted methods of publication referred to in section 44(2)(b) are as follows.
- (2) The relevant body may publish the information in a newspaper printed for sale and circulating in its area.
- (3) If the relevant body ensures that the distribution condition is satisfied with respect to the information, it may publish the information in a newspaper or periodical publication which is produced and distributed by another person (other than a local authority company) and which is free of charge to the recipient.
- (4) For the purposes of subsection (3), a relevant body ensures that the distribution condition is satisfied with respect to information if—
  - (a) the body takes all reasonable steps to secure that a copy of a publication containing the information is distributed to each dwelling in its area; and
  - (b) in a case where the body considers that the information is of concern to persons carrying on business in its area, the body takes such steps as it considers reasonable and practicable to secure that a copy of a publication containing the information is distributed to business premises in its area.
- (5) For the purposes of subsection (3) a local authority company is any company under the control of a local authority; and section 68(1) of the <sup>M7</sup>Local Government and Housing Act 1989 (company under control of local authority) has effect for the purposes of this subsection as it has effect for the purposes of Part V of that Act.

#### **Marginal Citations**

M7 1989 c. 42.

#### **46 Directions under section 44.**

- (1) A direction under section 44 requiring the publication of information shall—

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- (a) identify the financial year or years in relation to which the information is to be published;
  - (b) specify or describe the activities to which the information is to relate; and
  - (c) make provision as to the matters to be contained in the information and as to the form in which it is to be published.
- (2) A direction under section 44—
- (a) may be given so as to apply either to all relevant bodies or to all such bodies as are of a description specified in the direction; and
  - (b) may be varied or revoked by any subsequent direction under that section.
- (3) Before giving a direction under section 44 which imposes a new requirement on a relevant body as to the publication of any information the Commission shall consult such associations of relevant bodies and such other persons as it thinks fit.
- (4) A direction under section 44 imposing a new requirement on a relevant body as to the publication of any information shall not be given any later than the 31st December in the financial year which precedes that in relation to which the information is to be published.
- (5) Where the Commission gives a direction under section 44, it shall—
- (a) publish the direction in such manner as it considers appropriate for bringing it to the attention of members of the public; and
  - (b) send a copy of the direction to every relevant body on whom duties are imposed by virtue of the direction.
- (6) References in this section to the imposition of a new requirement on a relevant body as to the publication of information are references to—
- (a) the imposition of any requirement by the first direction under section 44 to apply to that body; or
  - (b) any subsequent extension of, or addition to, either—
    - (i) the matters to be contained in the information which that body is required to publish in relation to any financial year in pursuance of directions under section 44; or
    - (ii) the activities to which any such information is to relate.

#### **47 Application to parish and community councils and charter trustees.**

- (1) The Secretary of State may by order provide for sections 44 to 46 to have effect as if—
- (a) parish and community councils in England and Wales, and
  - (b) charter trustees constituted under section 246 of the 1972 Act,
- were relevant bodies for the purposes of those sections.
- (2) The power to make an order under this section includes power—
- (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
  - (b) to make different provision for different cases, including different provision for different localities and for different bodies.

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**Changes to legislation:**

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