

*These notes refer to the Health and Social Care (Community Health and Standards) Act 2003 (c.43) which received Royal Assent on 20 November 2003*

# HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 2 –Standards

#### Chapter 5 – Social Services: Functions of Csci

#### Provision of social services

#### Section 79: Annual Reviews

192. *Section 79* gives the CSCI the function of undertaking an annual review of social services provided by every local authority England. This includes services ‘commissioned’ by a local authority. For example, a local authority might pay for an elderly person to be placed in a voluntary or private sector care home. In assessing how well a local authority is discharging its social services functions the CSCI will consider the extent to which ‘commissioned’ services meet the needs of those for whom they are have been ‘commissioned’.
193. Following each annual review of a local authority, the CSCI will award a performance rating (*subsection 2*). In practice this will mean the award of a ‘star rating’. ‘Star rating’ is not a term set out in the legislation. The star rating system was introduced by the Secretary of State in October 2001. Its aim is to provide a simple indicator of the level of performance of a local authority in its provision of social care services in any one year. The star ratings awarded for social services are included in the annual comprehensive performance assessment of local authorities.
194. *Subsections (3)* and *(4)* provide for the CSCI to devise and publish criteria against which these reviews will be carried out. The Secretary of State will approve such criteria. *Subsection (5)* places a duty upon CSCI to carry out any annual reviews under this section in accordance with any timetable that has been specified by the Secretary of State. The Secretary of State could specify for example that the reviews must be carried out to fit in with the timetable of the Comprehensive Performance Assessment (carried out annually of all local authorities) so that disruption to local authorities’ work was minimised.
195. When carrying out annual reviews the CSCI must take into account guidance issued to local authorities under section 7 of the LASS Act<sup>1</sup> (*subsection (6)*). *Subsection (7)* provides that when CSCI inspects a local authority’s adoption and fostering functions as part of an annual review it must also take into account standards published under section 23 of the CSA 2000 that relate to such functions (National Minimum Standards for local authority adoption and fostering services).

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<sup>1</sup> This is guidance issued by the Secretary of State to local authorities with regard to the exercise of their functions. Case law establishes that local authorities must comply with such guidance unless they have good reason not to do so.

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196. In order for the CSCI to carry out these reviews and investigations, *subsection (8)* enables the CSCI to inspect the local authority being reviewed or any person 'commissioned' on behalf of that local authority to provide a local authority social service.
197. *Section 79(8)*, together with *sections 81(8), 81(7) and 82(5)*, makes the same provision in relation to CSCI as *sections 50(6), 51(7), 52(9), 53(9) and 57(5)* make in relation to CHAI. This enables the Secretary of State, after consulting the CSCI, to issue regulations making provision as to any procedure that must be followed before the award of any performance rating or publication of any report. The purpose of such procedure is to give the reviewed body time to comment and for any comments to be considered by the CSCI.