

EDUCATION AND INSPECTIONS ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 8 – Inspections

Chapter 4 – Inspection and review of Local Authorities in England

Section 135: Functions to which this Chapter applies and related activities

581. Chapter 4 makes provision for the Chief Inspector to undertake inspections and annual reviews of the performance of local authorities' functions, and sets out which of those functions are within the Chief Inspector's remit for these purposes. The functions within the Chief Inspector's remit are those listed in paragraphs (a) to (e) of *subsection (1)*, and such other functions as may be prescribed by regulations by the Secretary of State under *subsection (1)(f)*. The functions under the Children Act 2004 mentioned in *subsection (1)(c)* include the appointment of a director and lead member for children's services. The Chief Inspector's powers of inspection and review include powers in relation to the exercise by local authorities of their general powers to promote the economic and social well-being of their areas under the Local Government Act 2000 (see the definition of "related activity" in *subsections (2) to (4)*).

Section 136: Inspection of local authorities in England

582. This section sets out the general inspection duties of the Chief Inspector in respect of the performance of local authorities' functions to which the Chapter applies. The functions to be inspected are as set out in the note on section 135 (local authority functions to which this Chapter applies).

583. The Chief Inspector may carry out an inspection of the performance of the functions, including anything done in pursuance of those functions under arrangements made by the local authority (see section 142). This will enable the Chief Inspector to inspect (for example) any of a local authority's children's social services functions that are discharged through arrangements with private or charitable providers of children's homes. In carrying out his inspection the Chief Inspector must also inspect any related activities.

584. The section also requires the Chief Inspector to carry out an inspection of a specified local authority where the Secretary of State requests him to do so (*subsection (3)*). The inspection may cover all of the local authority functions to which Chapter 4 applies, or such functions as are specified in the Secretary of State's request.

Section 137: Reports of inspections under section 136

585. This section provides for the Chief Inspector to make a written report of any inspection of a local authority conducted under section 136 (inspection of local authorities in England). The Chief Inspector must send a copy of the report to the local authority and the Secretary of State. The local authority must prepare a written statement setting out the action it proposes to take in the light of the report and the timetable for doing so.

The authority must publish the report, and action plan, in accordance with regulations to be made by the Secretary of State.

586. The Chief Inspector may publish the report in such manner as he considers appropriate.

Section 138: Annual reviews of local authorities in England

587. This section sets out the requirement for the Chief Inspector to undertake an annual review of local authorities' performance of functions to which the Chapter applies and of related activities (see section 135: functions to which this Chapter applies and related activities). Having carried out such a review the Chief Inspector is required to award a performance rating for each authority. The intention is that these performance ratings will feed, alongside ratings for other services, into the annual comprehensive performance assessment for local authorities which is led by the Audit Commission.

Section 99 of the Local Government Act 2003 provides that the Audit Commission must from time to time produce a report on its findings in relation to the performance of English local authorities in exercising their functions, and that the report must categorise each local authority according to how the authority has performed in exercising its functions.

Section 139: Power of entry

588. This section provides the Chief Inspector with a power of entry for the purpose of carrying out inspections of local authorities under section 136 (inspection of local authorities in England), or annual reviews of local authorities under section 138.

589. The inspector may at any reasonable time enter any premises for the purposes of the inspection or review, though his power does not extend to domestic premises within the meaning in this Part (see section 159) unless those premises are a school.

Section 140: Power to inspect documents etc.

590. This section provides that, where the Chief Inspector exercises his power of entry for the purpose of carrying out inspections of local authorities under section 136 (inspection of local authorities in England), or annual reviews of local authorities under section 138, he may require the production of documents, including computer records; inspect, take copies or remove them from the premises; inspect computers; and inspect the state and management of the premises.

591. The section provides that a person who, without reasonable excuse, obstructs the exercise of powers under this section or section 139, or fails to comply with a requirement under this section, is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500) (*subsection (9)*).

Section 141: Power to require information etc.

592. This section provides that the Chief Inspector may at any time ask for information relating to the functions he inspects under this Chapter or related activities (see section 135: functions to which this Chapter applies and related activities), from a local authority in England (as defined in section 159: interpretation), or anyone delivering those functions under arrangements made by the local authority.

593. A person who, without reasonable excuse, fails to comply with requirements of the section is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

Section 142: Interpretation etc.

594. This section sets out various definitions required for the purposes of Chapter 4.