

# **The Audit Commission and the Audit (Miscellaneous Provisions) Bill**

[Bill 3 of 1995/96]

**Research Paper 95/121**

**30 November 1995**



The Audit (Miscellaneous Provisions) Bill would amend the constitution of the local government and NHS finance watchdog the Audit Commission, in order to enable it to undertake joint studies of English local authority social services departments with the Social Services Inspectorate. The proposed joint studies, which arise from the Citizen's Charter initiative, will supplement existing inspections and "value for money" studies with reviews of whole social services departments. The studies are intended to combine the specialist, professional expertise of the SSI with the financial and analytical skills of the Audit Commission.

The Bill would also amend the law to allow local authorities in England and Wales to publish their Citizen's Charter performance indicators in free newspapers; and alter the financial year of the Audit Commission and its Scottish sister organisation, the Accounts Commission. This paper describes the Bill and gives the background to the joint studies proposal. It also provides an overview of the local government functions of the Audit Commission.

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<sup>1</sup> Jo Roll, Education & Social Services Section

<sup>2</sup> Edward Wood, Home Affairs Section



## **I Introduction and Summary: The Purpose Of The Bill**

The main purpose of the Bill is to amend the constitution of the Audit Commission in order to enable it to undertake joint studies of English local authority social services departments with the Social Services Inspectorate.<sup>1</sup> The Bill gives the Audit Commission a new function, subject to different rules from those governing existing functions, but it does not amend the Commission's NHS functions or the rules governing its existing local authority functions. Nor does it deal explicitly with the Social Services Inspectorate, which is an integral part of the Department of Health.

The existing functions of the Audit Commission are broadly to audit individual health and local authorities (including police and fire authorities) and in various ways to promote "economy, efficiency and effectiveness" in local government and the NHS. Within the social services field, recent examples of the latter include a report on the co-ordination of community child health and social services for children and bulletins on the progress that local authorities are making with implementing the community care legislation.

The Social Services Inspectorate conducts separate studies of particular social services functions judged by national standards as well as special investigations. Recent examples of topics on which the SSI has published reports include an overview of the home care arrangements for people at home in six local authorities; an overview report of the inspection of complaints procedures; and the education of children looked after by local authorities.

The proposed joint studies will supplement existing inspections and "value for money" studies with reviews of whole social services departments. They are intended to combine the specialist, professional expertise of the SSI with the financial and analytical skills of the Audit Commission. The Bill deals with changes to the Audit Commission's constitution that are necessary to make such studies possible rather than with the nature of the studies, which has been outlined in a consultation document and for which a detailed guide is being developed. The aim is to have the guide ready by next Spring .

The joint studies are one of the latest developments arising from the Citizen's Charter although they also build on the longer-standing history of social services inspections and of the Audit Commission. The Charter approach is reflected in the basic aim of the proposed studies which is to assess how well the local population, including user, carer and taxpayer, is served by its social services authority.

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<sup>1</sup> The full title of the Audit Commission is The Audit Commission For Local Authorities And The National Health Service in England and Wales.

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Provisions in the Bill relating to this new function of the Audit Commission differ from existing ones governing its local authority functions, particularly by giving greater prominence to the role of central government. Currently, although the Audit Commission is appointed by the government and can receive directions from the Secretary of State for certain purposes, it is generally intended to operate independently and there are various legal provisions designed to ensure this.

For example, neither the Commission nor its members are Crown Servants; reports of local audits are made to the relevant local authority and not to the Secretary of State; local authorities cannot be mentioned in the comparative studies without their permission; there are restrictions on passing information about individual authorities to the Secretary of State; fees from local authorities finance both the audits and the comparative studies and there are no central government grants or subsidies. In contrast, the reports of the new joint reviews will be published by the government; in order to make joint reviews possible, restrictions on passing on information are being removed (for this purpose only); and funding for the Audit Commission's contribution to the reviews is to come from central government.

The Bill would also amend the law to allow local authorities in England and Wales to publish their Citizen's Charter performance indicators in free newspapers. Finally, it would alter the financial year of the Audit Commission and its Scottish sister organisation, the Accounts Commission.

These points are explained more fully in the following sections of this paper.

## II Background

### A The Audit Commission

#### 1. The Commission's Functions

The Audit Commission was established under Part III of the *Local Government Finance Act 1982*. It works independently of the Government and has three major functions:

##### **District & NHS Auditors**

The Audit Commission appoints external auditors to local authorities ("district auditors") and NHS bodies in England and Wales. The Commission is also responsible for auditing police authorities and fire and civil defence authorities (but not the Metropolitan Police). Auditors are appointed from the Commission's own arm's length auditing agency District Audit, or from private sector firms of accountants<sup>2</sup>. Auditors appointed by the Commission express an opinion on the accounts of the bodies audited and must satisfy themselves that those bodies have made proper arrangements for securing economy, efficiency and effectiveness. If a district auditor has serious concerns about a local authority's accounts he has powers to take action directly or through the High Court; this may involve the surcharging of any councillors and officers responsible and in some cases the disqualification of councillors.

##### **The Three "E"s**

The Commission carries out studies of the economy, efficiency and effectiveness of services provided by bodies it audits, and of the effect of Government legislation, regulations and directions on local authorities.

##### **Performance Indicators**

It is responsible for devising Citizen's Charter performance indicators which every local authority must collect and publish locally to facilitate the comparison of councils' performance. The Audit Commission publishes national comparative information on the performance indicators.

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<sup>2</sup> The current list of firms from which district auditors are appointed is Binder Hamlyn, Coopers & Lybrand, Ernst & Young, Kidsons Impey, KPMG, Price Waterhouse, Robson Rhodes and Touche Ross [Butler Review, p3].

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A recent review of the work of the Audit Commission carried out by PJ Butler (at the Commission's behest) identified two major themes which lie behind the work of the Commission, district auditors and NHS auditors:<sup>3</sup>

**Regularity and Probity**, which concerns the maintenance of proper accounting systems and the systems for ensuring honesty and integrity on the part of those responsible for public funds and property.

**Value for Money (VFM)**, which concerns securing economy, efficiency and effectiveness in public services.

The **Code of Audit Practice** which governs the work of district auditors appointed by the Commission states that

In considering both overall management arrangements and specific services, it is not part of the audit to question policy but auditors should consider the effects of policy and examine the arrangements by which policy decisions are reached.<sup>4</sup>

The Audit Commission is occasionally confused with another financial watchdog, the National Audit Office, which is an entirely separate organisation. The Audit Commission is concerned exclusively with local government and the NHS whereas the NAO, which is headed by the Comptroller and Auditor General, audits and carries out VFM studies of all Government departments and a wide range of public bodies.

## 2. Membership of the Commission

The Environment, Health and Welsh Secretaries must appoint jointly between fifteen and twenty commissioners who comprise the commission.<sup>5</sup> A new Chairman, Roger Brooke, was announced on 7 November 1995.<sup>6</sup> Mr Brooke is chair of Candover Investments plc and is on the CBI's economic affairs committee. He is a former managing director of EMI, director and vice chairman of Pearson Longman and managing director of Scienta SA. He was also a Conservative councillor at the Royal Borough of Kensington & Chelsea. The former

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<sup>3</sup> The Butler Review of the Audit Commission, July 1995, p3

<sup>4</sup> Updated Code of Audit Practice for Local Authorities and the National Health Service in England and Wales, version dated 23.6.95, para 43.

<sup>5</sup> *Local Government Finance Act 1982*, s11

<sup>6</sup> HC Deb Vol 265, c 749W.



Chairman of the Commission, Sir David Cooksey, stood down in order to take up the position of Chairman of the Local Government Commission.<sup>7</sup>

The chief officer of the Audit Commission (known as the Controller of Audit) is appointed by the Commissioners, subject to the approval of the Secretary of State.<sup>8</sup> The Commission has had three Controllers to date; all three have adopted a high-profile approach. The current Controller is Andrew Foster who was formerly a local authority director of social services and was subsequently Deputy Chief Executive of the NHS Management Executive. The two previous controllers, Sir John Banham and Howard Davies, both went on to become Director-General of the CBI.

### 3. Reviews of The Audit Commission

In January 1993 the Department of the Environment published a financial management review of the Audit Commission. The review concerned itself solely with financial management as "the recent extension of the remit of the Audit Commission to encompass NHS bodies and performance indicators for local authorities was evidence that Ministers were content in policy terms".<sup>9</sup>

The review generally gave the Commission "a clean bill of health":

The Audit Commission is found to be well organised and generally efficient, and to have good systems for ensuring propriety. Its financial monitoring, control and forecasting systems are well developed and provide a suitable level of detail. The Audit Commission has consistently striven to improve value for money; has been keen to develop workable means of delegating responsibility to the regions; and has been ahead of most other public bodies in developing systems of performance pay and staff incentives.<sup>10</sup>

There were however a number of areas where improvements or changes were recommended by the DoE. These included the introduction of tendering for the appointment of district and NHS auditors; the strengthening of the Commission's corporate planning process; and the preparation of a framework document setting out the Commission's relationship with the

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<sup>7</sup> The body which makes recommendations to the Government on structural, boundary and electoral changes in local government.

<sup>8</sup> *Local Government Finance Act 1982*, Schedule 3

<sup>9</sup> Financial Management Review, p iii

<sup>10</sup> *Ibid*, p iii

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Government departments which have responsibility for the various areas of its activity (Health, Environment and the Welsh Office).<sup>11</sup> The steps which the Commission intended to take in response to the FMR were set out by the then Chairman Sir David Cooksey in a letter to the then local government minister John Redwood, dated 7.5.93. The Commission's arms-length District Audit Service has subsequently been exposed to annual market testing (details are given in subsequent Annual Reports) and the recommended framework document was issued in June 1994.<sup>12</sup>

More recently the Audit Commission commissioned a review of its own activities. The review was carried out by Mr PJ Butler, Chairman of European Passenger Services Ltd and a former Senior Partner with KPMG. Butler praised the independence and high reputation of the Audit Commission. He noted that the Commission has paid great attention to its national VFM studies but suggested that equal attention now needed to be paid to improving the quality and influence of local VFM audits. He observed that:

Audited bodies often suggest that local VFM audit work is of variable quality. Many hold the view that audits are not sufficiently tailored to local circumstances, either because audit tools are not well enough focused on local needs, or because auditors are not sufficiently sensitive to local circumstances in using them.<sup>13</sup>

Butler came to the following conclusions:

The impact of the Commission's work on the costs of local services appears much less than it could be, even allowing for the fact that the auditors' powers are limited to recommending change rather than being able themselves to implement it. In terms of the quality of local services, judgements are more difficult, but here, too, it seems reasonable to conclude that a greater impact could be achieved.

The Commission already has a major programme for improvement addressing many of the areas of weakness identified in this Report, particularly in respect of VFM auditing. In addition, the Commission is about to begin a programme to develop better comparative databases. It should also take action to improve its communication with audited bodies.<sup>14</sup>

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<sup>11</sup> Ibid, p v

<sup>12</sup> Accounting for Independent Audit: A joint statement of responsibility and accountability. Audit Commission, DoE, DoH, Welsh Office.

<sup>13</sup> Butler Review, op cit, p10

<sup>14</sup> Ibid, p5

Butler called on the Commission to monitor more effectively what improvements occur at a local level and to use conservative estimates as targets for achievement and be more consistent in its use of figures to support predicted national opportunities for improvement.<sup>15</sup> The Audit Commission's response to Butler will be contained in a strategy document to be published in 1996.

#### 4. Some Other Views of the Audit Commission's Role in Local Government

Martin Loughlin, Professor of Law at the University of Manchester, discusses the Audit Commission at some length in his book **Administrative Accountability in Local Government**.<sup>16</sup> He suggests that the organisational style of the Commission owes much to the recruitment of John Banham as its first Controller:<sup>17</sup>

Banham did not come from accountancy but from the world of management consultancy. With Banham came the organisational style and management theories that had been developed by McKinsey & Co, his former employers.

Loughlin observes that this approach was consolidated by the appointment of Banham's successor Howard Davies, another former employee of McKinsey & Co.<sup>18</sup>

The presentational style of the Commission owes much to the priority given to image projection by management consultancy and very little to traditional public sector reporting. As Day and Klein suggest, the Audit Commission "has invested heavily in giving itself a high public profile".<sup>19</sup> The Commission spends a great deal of time over the presentation, as well as the content, of its publications which are "glossy productions, using graphs, charts and diagrams to get their message across".<sup>20</sup> The reports often obtain widespread media coverage and the Controllers of Audit have achieved a relatively high media profile. This is not simply a point about cosmetics,

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<sup>15</sup> Ibid, p10

<sup>16</sup> Joseph Rowntree Foundation, 1992. See especially chapters 3,6 & 7.

<sup>17</sup> Ibid, pp33-4

<sup>18</sup> Banham went on to become Director General of the CBI. He was succeeded at the CBI by Howard Davies. In 1992 Banham was appointed by Michael Heseltine as Chairman of the Local Government Commission, which advises the Environment Secretary on local government reorganisation in England. He departed from this position in March 1995 in circumstances which led many commentators to believe that he had in effect been dismissed. In April 1995 it was announced that Davies was to leave the CBI to become the Deputy Governor of the Bank of England.

<sup>19</sup> P Day & R Klein, *Inspecting the Inspectorates*, Joseph Rowntree Foundation, 1990, p65

<sup>20</sup> Ibid, p17

however, since presentational style is indicative of perceived role and strategies available for achieving regulatory objectives.<sup>21</sup>

Loughlin sums up by asserting that the style of the Commission is self-promotional: "It has a message to sell and it sells it hard". Nevertheless he identifies a certain amount of unease about the methodology behind some of the Commission's findings, and the manner in which they are presented, reflected for example by the Secretary of the Society of Metropolitan Treasurers

who felt that the Commission's figures tend to become enshrined in tablets of stone even though there were doubts about the methodology and how the calculations are reached.<sup>22</sup>

Professor Loughlin also analyses the Commission's approach to its remit of securing the three 'E's, economy, efficiency and effectiveness. Here too he detects a strong debt to the style of McKinsey and Co.<sup>23</sup> Loughlin suggests that there are inherent tensions within the VFM role of the Commission: in practice, he claims, a local authority or indeed any organisation is likely to place relative emphasis on one of the 'E's at the expense of the others.<sup>24</sup>

This may reveal some basic tensions; the promotion of economy, for example, may lead to inefficiency and/or ineffectiveness. In the early years of the Audit Commission, the emphasis seemed to be placed very much on the search for economies and the effectiveness dimension of the VFM role tended to be neglected. More recently, the Commission has begun to recognise the need to address more systematically the issue of effectiveness.

The Labour Party's attitude towards the Commission has shifted somewhat since the last election. Its April 1992 manifesto proposed the replacement of the Audit Commission with a new Quality Commission. In addition to carrying out the Audit Commission's existing functions it would have "[ensured] councils provide high-quality, value-for-money services, with clear avenues for complaint and redress".<sup>25</sup> A Labour consultation paper of January 1991 identified a number of criticisms of the Audit Commission which had been made by organisations and individuals within local government, for example that it had concentrated on economy and efficiency to the exclusion of effectiveness, that it had issued questionable

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<sup>21</sup> Loughlin, Op Cit, p34.

<sup>22</sup> Ibid, p37. Quotes *Local Government Chronicle*, 3.8.90, "Auditor's savings figures doubted".

<sup>23</sup> Ibid, p38.

<sup>24</sup> Ibid, p42.

<sup>25</sup> It's Time to Get Britain Working Again, p20

legal advice in areas which were not properly its concern, that it had "espoused too enthusiastically the concept of competitive tendering" and that it had "failed to recognise the importance of local democracy in the working of local authorities".<sup>26</sup> The consultation paper suggested that it would be a mistake to leave the Audit Commission alongside the new Quality Commission as this would be to separate quality issues from financial issues.

The plan to replace the Audit Commission has now been abandoned, however. The current Labour policy paper on local government, **Renewing Democracy, Rebuilding Communities**<sup>27</sup> proposes that councils would be required to produce local performance programmes which would set out each council's objectives and priorities for each service and would establish performance targets. The Audit Commission would be given the task of monitoring standards of service provision in local government and ensuring that councils' targets had been achieved:

The Audit Commission has done a lot of good work, but we believe it is still too concerned about reducing costs while not placing enough importance on ensuring high standards of performance and believe it should give greater emphasis to this. We believe the commission should be refocused to incorporate a standards inspectorate, which would present a professional report to local councils and local people on a council's record in reaching, exceeding or falling short of the targets it has set itself. The Audit Commission could also assess against comparable councils the stringency of the targets a council set in the first place. This external professional input would help councillors and local people make a more informed judgement about their council.

In addition to widespread discussion of the VFM role of the Audit Commission, there has been a certain amount of criticism of the effectiveness of district auditors, whom the Audit Commission is responsible for appointing and supervising. Labour's Environment spokesman Frank Dobson has drawn attention to the way that the district audit service failed to stop corruption and mismanagement in Lambeth and has called for the district audit service to be strengthened.<sup>28</sup> Steve Bundred, Camden's director of finance, has described the standard of external (district) audit in local government as "at best patchy and at worst poor".<sup>29</sup> This tallies to some extent with the findings of the Butler Review set out above, which recommended that the Commission should "pay more attention to improving the quality of [local] VFM audits and focus on maximising their practical impact".<sup>30</sup>

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<sup>26</sup> The Quality Commission, Labour Party Policy Directorate, pp4-5.

<sup>27</sup> September 1995 version, pp10-11.

<sup>28</sup> Labour News Release PR 445/95, 23.3.95 "Law must be changed to crack down on local council wrong doing".

<sup>29</sup> *Local Government Chronicle* 24.2.95 "An inspector need not call"

<sup>30</sup> Op Cit, p48.

### **B Social Services Inspectorate (SSI)<sup>31</sup>**

Contrary to what is sometimes thought, the SSI is not an agency; it is an integral part of the Department of Health, headed by the Chief Inspector who reports directly to the Secretary of State for Health on the quality of personal social services. It was established in 1985 from the former Social Work Service of what was then the Department of Health and Social Security. SSI's responsibilities cover England only. Separate arrangements apply to Wales, Scotland and Northern Ireland. It has five main functions:

- to manage the national inspection of the quality of service to users and carers
- to contribute professional social work and personal social services knowledge and experience in advice to Ministers and the Department of Health
- to assist in putting policy into effect
- to promote high standards for social services provision and value for money in the delivery of services provision through advice and guidance to LAs and other agencies
- to conduct Department of Health business on behalf of Ministers with personal social services agencies.

In 1992 it was restructured to create two divisions, one concerned with policy and business matters, the other with inspection. Following a review of functions and staffing of the NHS and the wider Department, a new Social Care Group was established in the Department. According to the Chief Inspector's latest annual report,<sup>32</sup> the creation of the Social Care Group has enormous implications and advantages for the users of social care services, for social care work in the Department and for SSI as part of the Department: "For SSI, the broad impact is two-fold. First, inspectors in what was the Policy and Business Division from April 1995 would work in a more integrated way with administrative colleagues within the Social Care Group. Second, in line with staffing reductions in the NHS and the wider Department, staff numbers will be reduced over a period of time by at least 15%."

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<sup>31</sup> The information for this section was obtained from the Annual Reports of the Chief Inspector of Social Services and *Introducing the Inspection Division*, SSI, Department of Health, HMSO 1993.

<sup>32</sup> 4th annual report, see above para 1.6

The Inspection Division's principal activities have involved an annual programme of inspection of services provided by local authorities and independent agencies. This programme has been approved by a national Joint Steering Group which is chaired by the Permanent Secretary of the Department of Health and includes local government and lay representatives. During 1994/95 the Division carried out some 150 inspections and supporting projects, covering national inspections of 20 different aspects of social care provision. Inspections were completed of 41 local authority inspection units, 61 voluntary children's homes (inspected twice yearly), 28 secure accommodation units (inspected triennially with additional annual follow-up visits) and 33 voluntary adoption agencies (visited on a triennial basis). The Division also reported to Ministers on special inspections undertaken because of concern about the quality of children's services in Islington and Nottinghamshire.

Major activities of the Policy and Business Division included working with field agencies to secure effective implementation of the Children Act 1989, community care and other legislative and policy changes. In addition, inspectors promoted service development and monitored and assessed the impact of these policy changes on the performance of Social Services Departments and on the quality of personal social services provision.

The future role and functioning of the SSI might be affected not only by the internal Department of Health reorganisations mentioned in the annual report of the Social Services Inspectorate but also by the consultation which is currently under way on the regulation and inspection of social services. In September this year the Department issued a consultation document, *Moving Forward*. As the document points out, at the moment, the arrangements for regulating and inspecting different kinds of social services providers differ substantially, in line with the different history and legislative basis of the various statutory responsibilities. For example, one of the functions of the SSI is to carry out specific inspections (eg of voluntary children's homes) which are the responsibility of the Secretary of State.

The document also discusses various options for reform which include: a national regulatory body directly responsible for both regulation (defined as setting acceptable standards of service) and inspection; self-regulation by associations of providers and voluntary organisations; and various combinations and permutations of national and local regulation and/or inspection.

### C Citizen's Charter

The development of the Citizen's Charter is described in Library Research Paper 95/66.<sup>33</sup> This section draws briefly from that paper and mentions a few examples of developments relating to the work of the Audit Commission and the Social Services Inspectorate.

John Major announced the launch of the Citizen's Charter in a speech to the Conservative Central Council on 23 March 1991:

"It will work for quality across the whole range of public services. It will give support to those who use services in seeking better standards. People who depend on public services - patients, passengers, parents, pupils, benefit claimants - all must know where they stand and what service they have a right to expect."

In July that year a White Paper, *The Citizen's Charter* (Cm 1599) was published, setting out the Government's proposals. The Charter was to be a ten year programme to improve the standard and efficiency of public services significantly, and, as such, would "be at the heart of government policy in the 1990s."<sup>34</sup>

The creation of specific charters has been one aspect of the proposals which has attracted attention. As far as social services in general are concerned, there is no Charter although a framework charter for community care has been developed by the Department of Health and local authorities are expected to draw up their own during 1995/96.

A recent guide to social services produced by the Department of Health<sup>35</sup> said that local authorities should act on the principles set out in the Citizen's Charter and publicise them. The principles were listed as follows:

- setting clear standards
- provision of easy to understand, accessible information
- consulting users of services

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<sup>33</sup> The Citizen's Charter, Research Paper 95/66, 25 May 1995, by Antony Seely and Peter Jenkins, Business and Transport Section, House of Commons Library.

<sup>34</sup> *The Citizen's Charter*, Cm 1599 July 1991, p 4.

<sup>35</sup> *Social Services: Maintaining Standards In A Changing World: an introduction for elected members and chief officers of local authorities.*



- providing courteous, helpful service
- effective complaints procedures
- value for money

There have been a number of policy initiatives designed to implement the spirit of the "Citizen's Charter" developments in the social services field. For example, a circular (LAC(94)16), issued by the Department of Health to English social services departments in April 1994, required local authorities to introduce lay assessors into inspections of residential care homes for adults and children and to increase the number of lay people on existing inspection advisory panels; reminded local authorities of the need to make inspection reports publicly available; and required them required to develop a policy statement for following up inspection reports on all homes as well as to ensure that their members received an annual assessment from the Chief Executive covering the work of the Inspection Unit, and, in particular, its even-handedness between independent sector and directly managed homes.<sup>36</sup>

As far as the Social Services Inspectorate is concerned, its latest annual report<sup>37</sup> refers to the way it has worked to take forward Citizens's Charter principles of listening to and involving users and other lay people. It says that service users, carers and lay people now contribute to the planning of most SSI inspections, including the preparation of standards and criteria by which services are judged. Service users and carers were also involved in fieldwork in inspections where their particular experience was needed beyond that of lay assessors.

Similarly, the Citizen's Charter has already affected the work of the Audit Commission. For example, the Local Government Act 1992 requires the Commission to draw up a list of indicators for measuring the performance of local government services (see part IVc below).

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<sup>36</sup> Moving Forward, see above.

<sup>37</sup> Op cit

### III Joint Studies Of Local Authority Social Services Departments

#### A Government Proposals

Although there have been no consultation documents about the proposed changes to the Audit Commission's constitution, the Government has been consulting local authorities and others working in the field about their purpose - that is, joint reviews of social services authorities.

The idea of joint reviews was set out in a consultation document, *Inspecting Social Services*, published by the Department of Health in October 1992. In general, the document described Government ideas for giving inspectors a stronger influence on services and, under the heading *Overall Inspections of Individual Social Services Departments*, it said:

Social services inspections, whether done by local authority units or the central Social Services Inspectorate, are normally of particular facilities or services. They do not include assessments of the whole range of services within the responsibility of individual social services departments.

Delivering effective services across the wide range of often vulnerable clients who need social services' help is a complex and difficult responsibility. In the Government's view the large majority of authorities tackle these challenges constructively and with determination.

It considers that all authorities would be helped by periodic external reviews of whether improvements are possible in the ways they set out to achieve their objectives or in their methods for ensuring that individual clients' reasonable expectations and entitlements are met.

The Government therefore intends to introduce such reviews. They would cover economy, efficiency and effectiveness questions which are largely the province of the Audit Commission jointly with the service assessments done largely by the Social Services Inspectorate. A timetable and details for the new arrangements will be announced next year after consultation with the Commission and local government and other interests on the various practical issues that need to be resolved.

In May 1994 the SSI and the Audit Commission sent out a letter to local authorities (CI (94) 12) which said that the proposal for joint reviews was generally welcomed in the responses to the consultation document. The letter said that the Audit Commission and the SSI had established a joint project team to develop the methodology for the reviews and a paper was attached outlining the approach. The objective was to review one fifth of all English social

Services Departments each year once the programme was fully running. In the meantime, it was intended to test the methodology in a small number of local authorities before conducting a series of pilot reviews, which with the agreement of the authorities would be published.

The annual report of the Chief Inspector, Social Services Inspectorate, 1994/95, HMSO 1995 made a brief mention of joint reviews:

Partnership also features in the Joint Reviews, to be undertaken by SSI and the Audit Commission. These reviews, announced in May (1994) and highlighted by the Secretary of State for Health at the November conference of the Directors of Social Services, are intended to improve local accountability of the services and to serve as the basis for a local action plan. A joint SSI/Audit Commission project team worked during the year to refine methodology for the reviews and carry out pilot exercises. A major consultation exercise sought the views of LAs, their Chief Executives and Directors of Social Services. Following formal consultation, a programme of Joint Reviews should begin later in 1995.

The main and most recent document on the subject is the consultation paper issued in May 1995 by the Audit Commission and the SSI, *Joint Reviews of Social Services Authorities*. The accompanying letter (CI(95)11) indicated that the timetable for implementation would take longer than originally planned. It also said that:

"The main purpose of the joint review programme being conducted by the Audit Commission and SSI is to provide local authorities and the public, particularly users and carers, with an independent assessment of how well they are being served by the local social services authority. We want joint reviews to help social services departments and to provide local people with more information about their performance."

The Consultation Paper itself said that the purpose of the reviews would be to assess how well the local population (including user, carer, and taxpayer) was served by its social services authority. It then set out the characteristics of an authority which served its population well as one which was needs led; reflected recognised values; arranged good quality services; and managed effectively and efficiently. It said that the reviews would examine how the authority met its objectives, values, and duties in response to the views and needs of its population. In doing so, they would explore two complementary areas:

- the degree to which the responses made by the social services authority are needs led rather than service led

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- the effectiveness of the policies, strategies, and management arrangements in utilising available resources to support those responses.

The process itself would be accompanied by a published review guide and a published report would be available at the end to everyone "user, carer, taxpayer, officer, and member."

The focus of the review would be on the social services authority and any formal recommendation could only be made to that authority. However, given that social services authorities had to cooperate with other agencies, the joint review team would ask to meet key figures from other agencies and should have the discretion to raise issues which relate to social services' relationship with other agencies and to include them in its report.

The document outlined some of the methods to be used by the review teams. In particular it would consult users and carers, examine front line services and outcomes in individual cases, inspect relevant documents and analyse financial practices including resource allocation and budgetary arrangements.

For example, in order to obtain the views of users and carers, the review team would conduct a series of discussions with groups of users and carers and their representatives. Individuals would be invited to write in. The assistance of the social services authority under review would be requested in setting up the discussion using existing contacts and systems. The exercise would not be a research project or even a "consumer survey." These would be beyond the resources of both the team and the authority and were in any case unnecessary for the purpose as experience had shown that discussion groups quickly revealed the major issues and were also a good test of the authority's systems for contacting and consulting users.

As for the review content, core issues would be:

- How does the social services authority help its local population find out what services are available and how to access them?
- How does the social services authority respond when enquirers make initial contact?
- How does the social services authority assess people's needs and agree objectives with users and carers, families and children?
- How is the response to needs organised?

- How does the social services authority ensure that policies, strategies and priorities are informed by the needs of the local population?
- How does the social services authority ensure equity, value for money, and proper control in the use of resources?

The local authority would be expected to disseminate the final report to its population and to specify publicly the action which they intended to take. However, there were no proposals for follow up by the joint review team itself. It was intended to review 20 authorities a year with a view to each authority being visited every 5 years although the figures would be readjusted in the light of decisions arising from local government reorganisation.

## **B Responses**

In response, the Association of Metropolitan Authorities said that as well as the main objective, two other objectives of the reviews were important. One was to give elected member a better understanding of how their Social Services Departments were achieving their particular policies in respect of the local community and secondly to try and cut down the overlapping inspections, audit and reviews to which local authorities were subjected by the Audit Commission and the Social Services Inspectorate: "The consultation document, however, has no guarantees in respect of the latter and has not involved members sufficiently in the planning of the scope of the reviews."

The AMA 's official submission included requests for clarification on several points and also included the following substantive points:

We are concerned that local authorities continue to be over inspected and monitored by outside agencies. Those people who are most likely to be affected by any inspections tend to be middle management who are in short supply and under pressure. Indeed many such posts have been omitted as a result of resource constraints which the reviews will doubtless be observing. As an experiment however, joint review will usefully examine the boundary between the two agencies' terms of reference and may promote a greater understanding of key issues. The search for ways to obtain optimum use of scarce resources could lead to worthwhile if at times controversial ideas.

...

The review timetable should be agreed in advance with the local authority.

...

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We believe that case files need to be kept confidential. There is going to be some difficulty here if the review team need to follow through some of the work which they do with users and carers and we think that some protocol needs to be delivered.

...

We believe that the local authority should have the right to veto an inspecting officer as is the case in London with SSI inspections. There is a continuing discussion between Directors and the SSI on how best to report on SSI inspections to local authority members; these issues become perhaps more critical as one contemplates the challenges of designing a reporting process in respect of joint reviews.

...

There needs to be some greater clarity about the involvement of users and carers and also about whether the voluntary sector and other interests are involved. There also needs to be some extensive coherent consultation exercise in which all of these roles are made clear. Whilst we believe it is important to check out users' views with case files we are concerned about confidentiality issues. It has also been pointed out to us that the voluntary sector will also be providers and will therefore have a vested interest in some of the comments about service provision. This needs to be treated carefully.

...

Local authorities should have the right of attaching their own comments/views to the report as part of the final published documents. (This mirrors practice and SSI standards on Inspection Units).

The Association of County Councils said in its response that:

The Association does not consider that the review proposals set out in the consultation document are capable of meeting the purpose of reviews identified in the document. The consultation document suggests that the purpose of review is 'to assess how well the local population ... is served by its social services authority'. The document then purports to define the characteristics of an authority which serves its population well. The characteristics apparently arbitrarily chosen are not necessarily exhaustive and they are characteristics which require further definition and the importation of value judgements which are likely to militate against an objective and uniform approach to review.

Furthermore, the consultation reveals that the process by which this significant purpose is to be achieved consists of interviewing a few users and carers, examining a few case files, and analysing select documents and information.

The consultation proposals do not indicate how the initial intention to carry out joint reviews, dating back to 1992 has been integrated with subsequent Government policy initiatives such as the community care charter process.

Another issue is the extent to which the joint review team will be available to deal with follow-up issues raised by an authority after publication of a joint review report. It would be most unfortunate if deficiencies in the process of undertaking a review had to be made public by an authority in circumstances where the review team would have no opportunity to defend its work.

Another issue concerns the linking of financial resource considerations with an assessment of the extent to which the local population is well served by its social services authority. This essential relationship appears to be somewhat glossed over in the consultation document. The range and level of service activities is bound to be heavily influence by the level of finance available.

## IV Bill Details

### A Clauses 1 and 2: Functions Of The Audit Commission

The publication of the Bill was announced in a Department of the Environment Press Notice, headed *New Bill To Extend The Powers Of The Audit Commission*, which said that the Bill provided for the Audit Commission to participate in collaborative studies, with the Social Services Inspectorate, of local authority social services departments:

"The social services provisions fulfil a manifesto commitment, and were first proposed in the Department of Health consultation paper *Inspecting Social Services* published in October 1992 as part of the programme to implement Citizen's Charter principles in social services. The purpose of the studies is to promote quality and value for money in the management and provision of social services."<sup>38</sup>

The present constitution of the Audit Commission is governed by the Local Government Finance Act 1982. The provisions relating to the Audit Commission are contained in Part III and Schedule 3 of the Act.<sup>39</sup> The current Bill, which is due for a Second Reading on 6 December 1995, amends these, mainly by adding a new Section 28AA, on collaborative studies of social services, to the original Act and by consequential amendments to Section 30 and Schedule 3 Paragraph 9(2).

This new Section 28AA is contained in Clause 1. Consequential amendments are in Clause 2. Although they give the Audit Commission a new function, subject to rules which give greater prominence to the role of central government, they do not amend the Commission's NHS functions or the rules governing its existing local authority functions. Nor do they deal with existing powers of the Social Services Inspectorate which do not need amending in order to for it to be able to undertake joint studies. Indeed, as the latter is part of the Department of Health, it is not referred to by name in the Bill, which uses the formal term, *Secretary of State*.

Provisions in the Bill relating to the Audit Commission's new function differ from those governing its existing local authority functions, particularly with respect to the role of central government. Currently, although the Audit Commission is appointed by the Secretary of State

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<sup>38</sup> Department of the Environment News Release, 17 November 1995.

<sup>39</sup> that is Sections 11-36 and Schedule 3 of the Local Government Finance Act 1982.



[Section 11] and can receive directions from the Secretary of State for certain purposes [Schedule 3 Para 1], it is generally intended to operate independently.<sup>40</sup>

For example, the Act says that "the Commission shall not be regarded as acting on behalf of the Crown and neither the Commission nor its members, officers or servants shall be regarded as Crown servants" [Schedule 3 Paragraph 2]; there is no provision for grants or subsidies from central government, the Audit Commission being required to prescribe a scale or scales of fees paid by the bodies which it audits [Section 21]; audits of local authorities are submitted to them and not to the Secretary of State (although they do have to be made available to the public) [Section 18]; it is an offence to disclose information about individual authorities (eg in a report of a comparative study) without their permission [Section 30]; and although the Commission may be required to furnish the Secretary of State with information relating to its functions, the Secretary of State cannot require information relating to a particular local authority [Schedule 3 Paragraph 393]).

The main effects of the new Section 28 AA contained in Clause 1 of the Bill would be to:

- Give the Audit Commission a new function, that is to do collaborative work with the SSI (ie technically to assist the Secretary of State) on studies to improve economy, efficiency, effectiveness and quality of performance in the discharge of social services functions by local authorities. It also requires local authority officers and members to make documents available for inspection for such studies. (There is a similar requirement in Section 28 of the Local Government Finance Act 1982 for the Commission's existing functions)
- Enable the Audit Commission to pass on such information to the Secretary of State for the purposes of any of his functions which are connected with the discharge of social services functions by local authorities. As the Audit Commission may not pass on any information which relates to an individual local authority or person, Clause 2 amends Section 30 of the Local Government Finance Act 1982 so that current restriction on disclosure of information would not apply to joint studies with the SSI.
- Require the reports of the new joint (collaborative) studies to be published by the Secretary of State in conjunction with the Commission.

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<sup>40</sup> See, for example *Introduction to Accounting For Independent Audit: a joint statement of responsibility and accountability*, Audit Commission, Department of the Environment, Department of Health, June 1994

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- Enable the Commission to receive money from central government by requiring that it should not undertake these collaborative studies unless the Secretary of State has undertaken to pay the full costs.

At the time of writing there have been few responses to the Bill although the Local Government Information Unit, which is funded by its member councils and the local government trades unions, recently made a brief comment:

"As previous reports by the Audit Commission have shown (eg *Paying the Piper* and *Improving Value For Money In Local Government*) the Commission's support for actively promoting competition and for undertaking analyses which have widely been seen as simplistic must lead to concerns that the Commission may not be well disposed to any councils where lack of funding does not lead to them meeting their social services obligations in the way that councils would wish. Councils may fear that this initiative could possibly herald moves by the government to see the removal of some social service responsibilities from councils in the light of any reports of 'bad practice' that the Commission may produce."<sup>41</sup>

The earlier Butler Review of the Audit Commission<sup>42</sup> pointed to the benefits of collaboration with local authorities in carrying out current "value for money" (VFM) studies:<sup>43</sup>

"The people who are in the best position to maintain regularity and probity, and to secure services which provide VFM, are those who are responsible for the services. The Commission therefore undertakes its duties in a collaborative manner, since it considers that such an approach is most likely to generate beneficial change. It encourages its auditors to do likewise."

This theme was also taken up recently by the departing Chairman of the Commission, Sir David Cooksey.<sup>44</sup> The Local Government Information Unit's response to the Bill suggests that there are fears that the Commission's new function, which is to participate in local studies of named social services departments, will lead to an atmosphere in which collaboration between local authorities and the Audit Commission is harder to achieve.

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<sup>41</sup> Local government Information Unit, Management Committee Circular No 342, 20 November 1995.

<sup>42</sup> See the section on the Audit Commission above.

<sup>43</sup> Local Government (Scotland) Act 1973, s102(2)

<sup>44</sup> *Local Government Chronicle*, 1.9.95: "Sir David Says Trust Is Earned"

## **B      Clauses 3 and 4: The Audit and Accounts Commissions' Financial Years**

The Commission's current financial year, in common with most organisations, runs from 1st April. Its *operational year*, on the other hand, is aligned with the timetable for the finalising of local authority accounts and runs from 1st November. The Commission is concerned that this mismatch makes effective financial planning harder. A note produced by the Audit Commission explains the problem:<sup>45</sup>

- Audit fee rates are determined in line with the operational rather than financial years.
- In order to deliver studies in line with the operational year, choices on study topic are made in November or December each year although the budget is not set until March of the next year.

A number of significant decisions are therefore made each year which commit resources but are out of sequence with the budget cycle. In order to avoid ambiguity and to ensure that the Commission's planning and management processes are as effective as possible, it would seem sensible to align the financial years.

The Commission took the view that it would be impractical to change its operational year because of the timetable imposed by local authorities' accounting process. It therefore approached the Government seeking legislation to change its financial year. Clause 3 would do this and Clause 4 would make the corresponding change for the Scottish local government finance watchdog the Accounts Commission.

## **C      Clause 5: Local Authority Performance Indicators**

### **1. Local Authority Performance Indicators**

As part of its Citizen's Charter initiative the Government introduced a system of performance indicators for local authority services in England, Scotland and Wales. All councils have to publish a set of indicators locally by the end of each year.<sup>46</sup> The indicators are devised by

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<sup>45</sup> Financial and Operational Years, Audit Commission, 23.11.95

<sup>46</sup> *Local Government Act 1992*, s1

the Audit Commission and, in Scotland, the Accounts Commission. The first year's indicators were published by local authorities late in 1994.

The Audit Commission and Accounts Commission will publish national comparative information on the performance indicators each year. In England and Wales, selected information on most local services covered by the first year's indicators was published by the Audit Commission on 30 March 1995; separate information on performance indicators for the police and fire services followed on 12 April.<sup>47</sup> In Scotland, all indicators were published simultaneously by the Accounts Commission on 2 May 1995.<sup>48</sup> The reception given to the first national indicators was perhaps more muted than many observers had predicted, with perhaps greater prominence given to the police and fire service indicators.<sup>49</sup> The local government PIs for England and Wales were published during the run up to the 1995 local government elections and unsurprisingly both main parties put out material designed to show their councils in the best light.<sup>50</sup> Nevertheless most commentators were convinced that Labour's success in the elections had more to do with the party's national popularity than its performance in local government.

## 2. Local Publication of the Indicators

Early in 1994 the Audit Commission published guidance on how local authorities should comply with their duty to publish their 1993/4 PIs by the end of that year.<sup>51</sup> This publication indicated that the Commission had obtained legal advice that the **Local Government Act 1992** required local authorities to publish their PIs in a newspaper which was for sale rather than a free newspaper [p7].

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<sup>47</sup> Local Authority Performance Indicators, Volumes 1-3

<sup>48</sup> Performance information for Scottish Councils 1993/94

<sup>49</sup> See, for example:

ENGLAND	<i>Local Government Chronicle</i> 31.3.95 "Indicators mirror level of poverty" <i>Guardian</i> 30.3.95 "Spending watchdog offers guide to town hall efficiency" <i>Times</i> leader, 30.3.95 "Wise council" <i>Guardian</i> 5.4.95 "Reporting restrictions" <i>Financial Times</i> 12.4.95 "Police under the cosh on performance" <i>Daily Telegraph</i> 24.4.95 "Police chief joins attack on 'culture of league tables'"
SCOTLAND	<i>Scotsman</i> 3.5.95 "Councils called to account" <i>Local Government Chronicle</i> 5.5.95 "An indication of success"
WALES	<i>Western Mail</i> 30.3.95 "Welsh counties top for spending"

<sup>50</sup> "Performance Indicators", Conservative Research Department, 5.4.95; Labour news release PR 485/95, 30.3.95 "Westminster council - Audit Commission exposes Tory incompetence".

<sup>51</sup> Read All About It, HMSO, Feb 1994

The Commission advised councils that there was nothing to stop publication of the PIs in their own news-sheet or magazines *in addition* to a paid-for newspaper. They did not have to include every indicator or service but the Commission cautioned that "care should be taken not to choose indicators for publication in ways that might be misleading".<sup>52</sup> The Commission suggested some other ways in which councils might want to go further than the minimum requirements for the publication of PIs:<sup>53</sup>

- providing further information, such as explanations of local services and policy decisions and additional local measures;
- the use of comparisons, particularly with neighbouring boroughs

Paul Vevers of the Audit Commission later reported in the *Local Government Chronicle* on the results of research into local publication of PIs:<sup>54</sup>

There is... a need to get people interested in the publication on first sight. The research shows that even those people who are concerned about council services will only read the information if it grabs their attention. Many authorities put great effort into making an attractive and interesting publication. The extent to which authorities fulfilled the spirit of the initiative rather than just the letter of it is a testament to their commitment to the principle of open and accountable government.

Mr Vevers also made the following observation:

Authorities have frequently made the point that if the legislation gave them greater flexibility in how they publish the indicators, they could adopt more cost-effective methods of distribution.

On 24 May 1994 the Secretary of State for the Environment John Gummer, in response to a PQ from Jack Straw (then shadow Environment Secretary), gave a commitment to amend the 1992 Act at a convenient opportunity if necessary in order to allow publication in free newspapers:<sup>55</sup>

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<sup>52</sup> Op cit, p13

<sup>53</sup> Ibid, p7

<sup>54</sup> "Have we got news for you" 23.6.95

<sup>55</sup> HC Deb Vol 244 c96W

**Mr Straw:** To ask the secretary of State for the Environment what representations he has received from (a) local authorities, (b) local authority associations, (c) the Audit Commission, (d) publishers of free newspapers and (e) others about the requirement in the Local Government Act 1992 to publish local authority performance indicators in a paid-for newspaper; and if he will make a statement.

**Mr Gummer:** I have received a number of representations from local government, the Audit Commission, and others, including publishers of free newspapers, that the requirement of the Local Government Act 1992 for information on local authority performance indicators to be published in a paid-for newspaper should be modified to allow publication in free newspapers. We are concerned to ensure that information about an authority's performance has the widest possible circulation in the local community, and hence we are carefully considering these representations with the view, if necessary, of seeking at a convenient opportunity amending legislation to the 1992 Act.

Clause 5 of the Bill, which would apply in England, Scotland and Wales, fulfils that promise. If a free newspaper was selected, "reasonable steps" would have to be taken to ensure that a copy was distributed to each dwelling in the authority's area. In addition, if the council considered that the performance indicators were of concern to local businesses, it would have to take such steps as it considered "reasonable and practicable" to ensure that a copy of a publication containing the PIs was distributed to business premises in its area.

This concession does not go as far as most local authorities would have wished as it would prevent sole publication in a newspaper produced by the authority in question (or by an arm's length company in which a local authority has an interest). A briefing on the Bill produced by the Local Government Information Unit states:<sup>56</sup>

There may be some councils who have completely externalised the production and distribution of their council newspaper who will be able to publish their PIs in just their council newspaper as long as they can take the "reasonable steps" on distribution that are outlined above.

An increasing number of councils resolved in this second year of publication to just use their own council newspapers for publication of their PIs. It is efficient because

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<sup>56</sup> LGIU Management Committee Circular No 342, 20.11.95

council newspapers have a much higher circulation than paid-for newspapers and a better circulation than [free] newspapers. It is also cheaper for councils to place these details in their own newspapers. The proposal in the Bill would lead to increased public spending on purchasing advertising space and a lessening of the circulation of PIs.

A note provided by the DoE explains the Government's thinking on this issue:<sup>57</sup>

The Government recognises that some will be disappointed that the choice is not to be extended to the use of in-house publications. The Department considered carefully whether to extend the provision to cover these publications. The requirement to publish the indicators as a matter of public record in a newspaper which is **independent of the council** is very important, and which it is believed outweighs the arguments for the exclusive use of in-house publications.

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<sup>57</sup> Re: Audit (Miscellaneous Provisions) Bill. DoE FLG, 1.12.95

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