

Role of External Review in Improving Performance: Supporting Document 5

Examples of Legislation Governing External Review of Public Services

This note compiles extracts from legislation currently in force, which set out some of the powers and duties for some of the bodies that have responsibility for external review of public services (HM Inspector of Constabulary, HM Crown Prosecution Service Inspectorate, OfSTED, the Audit Commission).

These extracts illustrate that ministers, and inspectorates, have a degree of flexibility under legislation to alter the scale, scope and timing of inspections.

Police Act 1996

54. - (1) Her Majesty may appoint such number of inspectors (to be known as Her Majesty's Inspectors of Constabulary as the Secretary of State may with the consent of the Treasury determine, and of the persons so appointed one may be appointed as chief inspector of constabulary.

(2) The inspectors of constabulary shall inspect, and report to the Secretary of State on the efficiency and effectiveness of, every police force maintained for a police area.

(3) The inspectors of constabulary shall carry out such other duties for the purpose of furthering police efficiency and effectiveness as the Secretary of State may from time to time direct.

(4) The chief inspector of constabulary shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.

(5) The inspectors of constabulary shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.

Local Government Act 1999 amendment of Police Act 1996

24. - (1) Section 8(2) of the Police Act 1996 (local policing plans) shall be amended by -

(a) the omission of the word "and" after paragraph (b), and

(b) the insertion of the following after paragraph (c)-

" ,

and

(d) any action proposed for the purpose of complying with the requirements of Part I of the Local Government Act 1999 (best value)."

(2) In section 54 of that Act (inspectors of constabulary) after subsection (2) there shall be inserted-

"(2A) The inspectors of constabulary may inspect, and report to the

Public Services Productivity Panel

Secretary of State on, a police authority's compliance with the requirements of Part I of the Local Government Act 1999 (best value)."

(3) In section 55(1) of that Act (publication of reports) after "section 54(2)" there shall be inserted "or (2A)".

Crown Prosecution Inspectorate Act 2000

2. - (1) The Chief Inspector shall-

(a) inspect or arrange for the inspection of the operation of the Crown Prosecution Service,

(b) report to the Attorney General on any matter connected with the operation of the Service which the Attorney General refers to him, and

(c) submit an annual report to the Attorney General on the operation of the Service.

(2) The Attorney General shall lay before Parliament a copy of any report which he receives under subsection (1)(c).

(3) The Chief Inspector may designate an inspector to discharge his functions during any period when he is absent or unable to act.

Local Government Act 1999

7. - (1) A performance plan published by a best value authority for a financial year under section 6 shall be audited by the authority's auditor.

(2) An audit of a performance plan is an inspection for the purpose of establishing whether the plan was prepared and published in accordance with section 6 and any order or guidance under that section.

(3) Subsections (1), (2) and (4) to (7) of section 6 of the Audit Commission Act 1998 (auditor's right to documents and information) shall have effect in relation to an auditor's functions under this Part as they have effect in relation to his functions under that Act.

(4) In relation to an authority's performance plan the auditor shall issue a report-

(a) certifying that he has audited the plan,

(b) stating whether he believes that it was prepared and published in accordance with section 6 and any order or guidance under that section,

(c) if appropriate, recommending how it should be amended so as to accord with section 6 and any order or guidance under that section,

Public Services Productivity Panel

(d) if appropriate, recommending procedures to be followed by the authority in relation to the plan,

(e) recommending whether the Audit Commission should carry out a best value inspection of the authority under section 10, and

(f) recommending whether the Secretary of State should give a direction under section 15.

(5) An auditor shall send a copy of his report relating to an authority's performance plan-

(a) to the authority,

(b) to the Audit Commission, and

(c) if the report recommends that the Secretary of State give a direction under section 15, to the Secretary of State.

(6) Copies of a report shall be sent in accordance with subsection (5)-

(a) by 30th June of the financial year to which the relevant performance plan relates, or

(b) by such other date as the Secretary of State may specify by order.

(7) Subject to subsection (8), the reference in subsection (1) to an authority's auditor is, in respect of a financial year, a reference to the auditor or auditors appointed to audit the authority's accounts for the previous financial year.

(8) If a person who would by virtue of subsection (7) be an authority's auditor in respect of a financial year or one of an authority's auditors in respect of a financial year-

(a) is no longer eligible for appointment under section 3 of the Audit Commission Act 1998, or

(b) is not willing to act,

the reference in subsection (1) to the authority's auditor is, in respect of that financial year, a reference to an auditor or auditors appointed by the Audit Commission.

(9) Section 3 of the 1998 Act shall apply to an appointment under subsection (8) as if it were an appointment of a person to audit the authority's accounts under section 2(1) of the 1998 Act.

10. - (1) The Audit Commission may carry out an inspection of a best value authority's compliance with the requirements of this Part.

(2) If the Secretary of State directs the Commission to carry out an inspection of a specified best value authority's compliance with the requirements of this Part in relation to specified functions, the Commission shall comply with the direction.

(3) Before giving a direction under subsection (2) the Secretary of State shall consult the Commission.

Public Services Productivity Panel

(4) In carrying out an inspection, and in deciding whether to do so, the Commission shall have regard to-

- (a) any relevant recommendation under section 7(4)(e), and
- (b) any guidance issued by the Secretary of State.

14. - (1) The following shall be substituted for section 139A(1) and (2) of the Social Security Administration Act 1992 (reports on administration of housing benefit and council tax benefit)-

"(1) The Secretary of State may authorise persons to consider and report to him on the administration by authorities of housing benefit and council tax benefit.

(2) The Secretary of State may ask persons authorised under subsection (1) to consider in particular-

- (a) authorities' performance in the prevention and detection of fraud relating to housing benefit and council tax benefit;
- (b) authorities' compliance with the requirements of Part I of the Local Government Act 1999 (best value).

25. - (1) In arranging for or carrying out-

- (a) inspections of best value authorities, or
 - (b) inquiries or investigations in relation to best value authorities,
- a person or body to whom this section applies shall have regard to any guidance issued by the Secretary of State for the purposes of securing the coordination of different kinds of inspection, inquiry and investigation.

(2) This section applies to-

- (a) the Audit Commission;
- (b) an inspector, assistant inspector or other officer appointed under section 24(1) of the Fire Services Act 1947 (inspectors of fire brigades);
- (c) Her Majesty's Chief Inspector of Schools in England;
- (d) Her Majesty's Chief Inspector of Schools in Wales;
- (e) a person carrying out an inquiry under section 7C of the Local Authority Social Services Act 1970 (inquiries);
- (f) a person carrying out an inspection under section 48 of the National Health Service and Community Care Act 1990 (inspection of premises used for provision of community care services);
- (g) a person conducting an inspection under section 80 of the Children Act 1989 (inspection of children's homes, &c.) or an inquiry under section 81 of that Act (inquiries in relation to children);
- (h) a person authorised under section 139A(1) of the Social Security Administration Act 1992 (reports on administration of housing benefit and council tax benefit);
- (i) an inspector appointed under section 54 of the Police Act 1996 (inspectors of constabulary).

(3) The Secretary of State may by order provide for this section to apply to a person or body specified in the order.

Public Services Productivity Panel

(2A) A person may be authorised under subsection (1)-

- (a) on such terms and for such period as the Secretary of State thinks fit;
- (b) to act generally or in relation to a specified authority or authorities;
- (c) to report on administration generally or on specified matters."

(2) In section 139C(1) of that Act (reports) for the words from "in particular" to the end there shall be substituted "in particular-

- (a) in the prevention and detection of fraud relating to benefit, or
- (b) for the purposes of complying with the requirements of Part I of the Local Government Act 1999 (best value)."

Education Act 1997

38. - (1) The Chief Inspector-

- (a) may, and
- (b) if requested to do so by the Secretary of State, shall,

arrange for any local education authority to be inspected under this section.

(2) An inspection of a local education authority under this section shall consist of a review of the way in which the authority are performing any function of theirs (of whatever nature) which relates to the provision of education-

- (a) for persons of compulsory school age (whether at school or otherwise), or
- (b) for persons of any age above or below that age who are registered as pupils at schools maintained by the authority.

(3) A request by the Secretary of State under this section may relate to one or more local education authorities, and shall specify both-

- (a) the local education authority or authorities concerned, and
- (b) the functions of theirs to which the inspection is to relate.

(4) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (3).

Public Services Productivity Panel

(5) Any inspection under this section shall be conducted-

(a) by one of Her Majesty's Inspectors of Schools in England or (as the case may require) Wales, or

(b) by any additional inspector authorised under paragraph 2 of Schedule 1 to the School Inspections Act 1996;

but he may be assisted by such other persons (whether or not members of the Chief Inspector's staff) as the Chief Inspector thinks fit.

(6) For the purposes of this section a local education authority shall provide the Chief Inspector with such information as may be prescribed, and shall do so in such form and-

(a) within such period following a request made by the Chief Inspector in any prescribed circumstances, or

(b) at such other times,

as regulations may provide.

(7) In this section and sections 39 to 41 "the Chief Inspector" means-

(a) in relation to a local education authority in England, Her Majesty's Chief Inspector of Schools in England; and

(b) in relation to a local education authority in Wales, Her Majesty's Chief Inspector of Schools in Wales;

and in those sections references to "the inspector" in relation to an inspection under this section are references to the person conducting the inspection

Schools Inspections Act 1996

2. - (1) The Chief Inspector for England shall have the general duty of keeping the Secretary of State informed about-

(a) the quality of the education provided by schools in England;

(b) the educational standards achieved in those schools;

(c) whether the financial resources made available to those schools are managed efficiently; and

(d) the spiritual, moral, social and cultural development of pupils at those schools.

Public Services Productivity Panel

(2) When asked to do so by the Secretary of State, the Chief Inspector for England shall-

(a) give advice to the Secretary of State on such matters as may be specified in the Secretary of State's request;

(b) inspect and report on such school, or class of school, in England as may be so specified.

(3) The Chief Inspector for England shall, in addition, have the following specific duties-

(a) establishing and maintaining the register mentioned in section 7(1);

(b) giving guidance to inspectors registered in that register, and such other persons as he considers appropriate, in connection with inspections of schools in England under section 10 and the making of reports of such inspections;

(c) keeping under review the system of inspecting schools under that section (so far as it relates to schools in England) and, in particular, the standard of such inspections and of the reports made by registered inspectors;

(d) keeping under review the extent to which any requirement imposed by or under this Act, or any other enactment, on any registered inspector, local education authority, proprietor of a school or governing body in relation to inspections of schools in England is complied with;

(e) promoting efficiency in the conduct and reporting of inspections of schools in England by encouraging competition in the provision of services by registered inspectors.

(4) The Chief Inspector for England may at any time give advice to the Secretary of State on any matter connected with schools, or a particular school, in England.

(5) The Chief Inspector for England shall have such other functions in connection with schools in England, including functions with respect to the training of teachers for such schools, as may be assigned to him by the Secretary of State.

(6) In exercising his functions the Chief Inspector for England shall have regard to such aspects of government policy as the Secretary of State may direct.

(7) The Chief Inspector for England-

(a) shall make an annual report to the Secretary of State, who shall lay a copy of it before each House of Parliament;

(b) may make such other reports to the Secretary of State, with respect to matters which fall within the scope of his functions, as he considers appropriate; and

(c) may arrange for any report made by him under this subsection to be published in such manner as he considers appropriate.

(8) The Chief Inspector for England, when inspecting a school for the purposes of subsection (2)(b), shall have at all reasonable times-

(a) a right of entry to the premises of the school; and

(b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for the purposes of the inspection.

Public Services Productivity Panel

(9) It shall be an offence wilfully to obstruct the Chief Inspector for England in the exercise of his functions in relation to the inspection of a school for the purposes of subsection (2)(b).

(10) A person guilty of an offence under subsection (9) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.