



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 2

STANDARDS

CHAPTER 5

SOCIAL SERVICES: FUNCTIONS OF CSCI

Provision of social services

76 **Introductory**

- (1) The CSCI has the general function of encouraging improvement in the provision of English local authority social services.
- (2) In exercising its functions under subsection (1) and sections 77 to 81 in relation to the provision of such services the CSCI shall be concerned in particular with—
 - (a) the availability of, and access to, the services;
 - (b) the quality and effectiveness of the services;
 - (c) the management of the services;
 - (d) the economy and efficiency of their provision and their value for money;
 - (e) the availability and quality of information provided to the public about the services;
 - (f) the need to safeguard and promote the rights and welfare of children; and
 - (g) the effectiveness of measures taken by local authorities for the purpose specified in paragraph (f).

Status: Point in time view as at 01/04/2004.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Chapter 5. (See end of Document for details)

Commencement Information

II S. 76 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(a\)](#)

77 Information and advice

- (1) The CSCI is to keep the Secretary of State informed about the provision of English local authority social services.
- (2) The CSCI may at any time give advice to the Secretary of State on any matter connected with the provision of English local authority social services.
- (3) The CSCI may in particular under subsection (2) give advice to the Secretary of State on any changes which it thinks should be made, for the purpose of securing improvement in the quality of services provided by local authorities in England in the exercise of the functions referred to in section 43(3)(a) and (b) of the Care Standards Act 2000 (c. 14) (adoption and fostering functions), in the standards prepared and published from time to time under section 23 of that Act.
- (4) When requested to do so by the Secretary of State, the CSCI must give him advice or information on such matters connected with the provision of English local authority social services as may be specified in the request.
- (5) The CSCI may give advice to the Secretary of State or any local authority in England about the establishment or conduct of any inquiry held, or to be held, by the Secretary of State or the authority in relation to the provision of English local authority social services.

Commencement Information

I2 S. 77 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(a\)](#)

78 Review of studies and research

- (1) The CSCI may review—
 - (a) studies and research undertaken by others in relation to the provision of English local authority social services;
 - (b) the methods used in such studies and research; and
 - (c) the validity of the conclusions drawn from such studies and research.
- (2) Where the CSCI conducts a review under this section it must publish a report.

Commencement Information

I3 S. 78 in force at 1.4.2004 for E. by [S.I. 2004/759](#), [art. 4\(2\)\(a\)](#)

79 Annual reviews

- (1) In each financial year the CSCI must conduct a review of the English local authority social services which are provided by, or pursuant to arrangements made by, each local authority in England.

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- (2) After conducting a review under subsection (1) in respect of a local authority the CSCI must award a performance rating to that authority.
- (3) The CSCI is to exercise its functions under this section by reference to criteria from time to time devised by it and approved by the Secretary of State.
- (4) The CSCI must publish the criteria devised and approved from time to time under subsection (3).
- (5) The CSCI is to exercise its functions under this section in any financial year in accordance with any timetable specified in relation to that year by the Secretary of State.
- (6) In exercising its functions under this section the CSCI must take into account guidance issued to local authorities under section 7 of the Local Authority Social Services Act 1970 (c. 42).
- (7) In exercising its functions under this section in relation to the functions referred to in section 43(3)(a) and (b) of the Care Standards Act 2000 (c. 14) (adoption and fostering functions), the CSCI must take into account the standards prepared and published from time to time under section 23 of that Act.
- (8) For the purposes of this section, the CSCI may carry out an inspection of—
 - (a) the local authority being reviewed;
 - (b) any person providing an English local authority social service pursuant to arrangements made by the authority.
- (9) The Secretary of State may, after consulting the CSCI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CSCI before the award of a performance rating under this section.

Commencement Information

I4 S. 79 partly in force; s. 79 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I5 S. 79 in force at 1.4.2004 for E. insofar as not already in force by [S.I. 2004/759](#), [art. 4\(2\)\(a\)](#)

80 Other reviews and investigations

- (1) The CSCI has the function of conducting other reviews of, and investigations into, the provision of English local authority social services.
- (2) The CSCI may in particular under this section conduct—
 - (a) a review of the overall provision of English local authority social services;
 - (b) a review of the provision of any English local authority social service of a particular description; or
 - (c) a review of, or investigation into, the provision of any English local authority social service by a particular person or persons.
- (3) If the Secretary of State so requests, the CSCI must conduct—
 - (a) a review under subsection (2)(a);
 - (b) a review under subsection (2)(b) of an English local authority social service of such description as may be specified in the request; or

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- (c) a review or investigation under subsection (2)(c) in relation to the provision of such services as may be specified in the request by such person, or persons of such description, as may be so specified.
- (4) In exercising its function under this section the CSCI must take into account guidance issued to local authorities under section 7 of the Local Authority Social Services Act 1970 (c. 42).
- (5) In exercising its function under this section in relation to the functions referred to in section 43(3)(a) and (b) of the Care Standards Act 2000 (c. 14) (adoption and fostering functions), the CSCI must take into account the standards prepared and published from time to time under section 23 of that Act.
- (6) For the purposes of this section, the CSCI may carry out an inspection of—
 - (a) any local authority in England;
 - (b) any other person providing an English local authority social service.
- (7) Where the CSCI conducts a review or investigation under this section, it must publish a report.
- (8) The Secretary of State may, after consulting the CSCI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CSCI before the publication of a report under this section.

Commencement Information

I6 S. 80 partly in force; s. 80 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I7 S. 80 in force at 1.4.2004 for E. insofar as not already in force by [S.I. 2004/759](#), [art. 4\(2\)\(a\)](#)

81 Failings

- (1) This section applies where the CSCI conducts—
 - (a) a review under section 79; or
 - (b) a review or investigation under section 80.
- (2) If under section 79 the CSCI awards the lowest performance rating to a local authority, the CSCI must—
 - (a) inform the Secretary of State of that fact; and
 - (b) recommend any special measures which it considers the Secretary of State should take.
- (3) If (in a case where subsection (2) does not apply) the CSCI considers that a local authority in England is failing to discharge any of its social services functions to an acceptable standard, it must—
 - (a) inform the Secretary of State of that fact; and
 - (b) recommend any special measures which it considers the Secretary of State should take.
- (4) However, in a case falling within subsection (3), if the CSCI considers that the failure is not substantial, it may instead—
 - (a) give the local authority a notice under subsection (5); and
 - (b) inform the Secretary of State that it has done so.

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- (5) A notice under this subsection is a notice which specifies—
- (a) the respects in which the CSCI considers that the local authority is failing;
 - (b) the action which the CSCI considers the authority should take to remedy the failure; and
 - (c) the time by which the CSCI considers the action should be taken.
- (6) Where under subsection (2)(b) or (3)(b) the CSCI has recommended that the Secretary of State take special measures in relation to a local authority, the CSCI must, if the Secretary of State so requests—
- (a) undertake a further review under section 80 in relation to the authority; and
 - (b) include in its report under subsection (7) of that section a report on such matters as the Secretary of State may specify.
- (7) The Secretary of State may, after consulting the CSCI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CSCI before the publication of a report under this section.

Commencement Information

I8 S. 81 partly in force; s. 81 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I9 S. 81 in force at 1.4.2004 for E. insofar as not already in force by S.I. 2004/759, art. 4(2)(a)

Other functions

82 Studies as to economy, efficiency etc

- (1) The CSCI has the function of promoting or undertaking comparative or other studies designed to enable it to make recommendations—
- (a) for improving economy, efficiency and effectiveness in the discharge by local authorities in England of their social services functions;
 - (b) for improving the management of such local authorities in their discharge of those functions.
- (2) The CSCI may also promote or undertake studies designed to enable it to prepare reports as to the impact of—
- (a) the operation of any particular statutory provisions, or
 - (b) 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 discharge by local authorities in England of their social services functions.
- (3) For the purposes of this section the CSCI may carry out an inspection of any local authority in England.
- (4) The CSCI must publish—
- (a) any recommendations made by it under subsection (1);
 - (b) the result of any studies under this section.
- (5) The Secretary of State may, after consulting the CSCI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the

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CSCI before the publication of any recommendations or the result of any studies under this section.

- (6) The CSCI must, on request, provide the Comptroller and Auditor General with any material relevant to a study under this section.

Commencement Information

I10 S. 82 partly in force; s. 82 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I11 S. 82 in force at 1.4.2004 for E. insofar as not already in force by S.I. 2004/759, art. 4(2)(a)

83 Joint working with Audit Commission

- (1) The CSCI and the Audit Commission may (without prejudice to any other power they may have to do so) exercise jointly their respective functions under section 82 above and sections 33 and 34 of the Audit Commission Act 1998 (c. 18).
- (2) The CSCI and the Audit Commission must co-operate with each other with respect to the exercise of their respective functions under section 82 above and sections 33 and 34 of the Audit Commission Act 1998.
- (3) The Secretary of State may give guidance to the CSCI and the Audit Commission as to which of them should promote or undertake studies which could be promoted or undertaken by either of them.
- (4) The CSCI and the Audit Commission must take any such guidance into account in the exercise of their functions.

Commencement Information

I12 S. 83 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(a)

84 Additional functions

The CSCI is to have such additional functions as may be prescribed in relation to the provision of English local authority social services.

Commencement Information

I13 S. 84 partly in force; s. 84 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I14 S. 84 in force at 1.4.2004 for E. insofar as not already in force by S.I. 2004/759, art. 4(2)(a)

Supplementary

85 Criteria

The Secretary of State may, after consulting the CSCI, make regulations requiring the CSCI—

- (a) to devise and publish statements of the criteria to be used in the exercise of any of its functions under this Chapter (other than section 79);

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- (b) to consult any person specified in the regulations before publishing any such statement; and
- (c) to obtain the consent of the Secretary of State before publishing any such statement.

Commencement Information

I15 S. 85 partly in force; s. 85 in force at Royal Assent for certain purposes, see s. 199(1)(4)

86 Fees

- (1) The CSCI may from time to time make and publish provision requiring a local authority in England to pay a fee in respect of the exercise by the CSCI, in relation to that authority or to an English local authority social service provided by, or pursuant to arrangements made by, that authority, of such of its functions under section 79, 80 or 82 as may be prescribed.
- (2) The amount of a fee payable by virtue of provision under subsection (1) shall be such as may be specified in, or calculated or determined under, the provision.
- (3) Provision under subsection (1) may include provision—
 - (a) for different fees to be paid in different cases, or classes of case;
 - (b) for different fees to be paid by persons of different descriptions;
 - (c) for the amount of a fee to be determined by the CSCI in accordance with specified factors;
 - (d) for the time by which a fee must be paid.
- (4) The Secretary of State may by regulations make provision as to—
 - (a) the manner in which provision under subsection (1) is to be made and published;
 - (b) the matters to be taken into account by the CSCI before making the provision.
- (5) Before making any provision under subsection (1) the CSCI must consult such persons as appear to it appropriate.
- (6) The Secretary of State may by regulations make provision for an independent person or panel to review the amount chargeable under subsection (1) in any particular case and, if that person or panel thinks fit, to substitute a lesser amount for that amount.
- (7) For the purpose of determining the fee payable by a local authority under subsection (1) it must provide the CSCI with such information, in such form, as the CSCI may require.
- (8) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Commencement Information

I16 S. 86 partly in force; s. 86 in force at Royal Assent for certain purposes, see s. 199(1)(4)

Status: Point in time view as at 01/04/2004.

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87 Reports and information

- (1) The CSCI must make copies of any report published by it under this Chapter available for inspection at its offices by any person at any reasonable time.
- (2) Any person who requests a copy of such a report is entitled to have one on payment of such reasonable fee (if any) as the CSCI considers appropriate.
- (3) The CSCI may charge a person such reasonable fee as it considers appropriate where it provides him, at his request, with any other information relevant to the discharge of the CSCI's functions under this Chapter.

Commencement Information

I17 S. 87 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(a)

88 Right of entry

- (1) A person authorised to do so by the CSCI may, if the CSCI considers it necessary or expedient for the purposes of this Chapter, at any reasonable time enter and inspect—
 - (a) any premises owned or controlled by a local authority in England; or
 - (b) any premises falling within subsection (2), other than premises used wholly or mainly as a private dwelling.
- (2) The premises referred to in subsection (1)(b) are premises—
 - (a) which are used, or proposed to be used, by any person in connection with the provision of an English local authority social service; or
 - (b) which the CSCI reasonably believes to be so used, or proposed to be so used.
- (3) A person who proposes to exercise any power of entry or inspection conferred by this section must if so required produce some duly authenticated document showing his authority to exercise the power.

Commencement Information

I18 S. 88 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(a)

89 Right of entry: supplementary

- (1) A person authorised by virtue of section 88 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of this Chapter—
 - (a) inspect, take copies of and remove from the premises any documents or records (including personal records) relating to the discharge by the local authority of its social services functions;
 - (b) inspect any other item and remove it from the premises;
 - (c) interview in private—
 - (i) any person working at the premises; or
 - (ii) any person accommodated or cared for there who consents to be interviewed; and
 - (d) make any other examination into the state and management of the premises and treatment of persons accommodated or cared for there.

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- (2) The power in subsection (1)(a) includes—
- (a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) A person authorised by virtue of section 88 to enter and inspect premises may—
- (a) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under section 88 or this section; and
 - (b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (5) Any person who without reasonable excuse—
- (a) obstructs the exercise of any power conferred by section 88 or this section, or
 - (b) fails to comply with any requirement of section 88 or this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I19 S. 89 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(a)

90 Power to require information etc

- (1) The CSCI may at any time require any person specified in subsection (2) to provide it with any information, documents, records (including personal records) or other items—
- (a) which relates or relate to the discharge by a local authority in England of its social services functions; and
 - (b) which the CSCI considers it necessary or expedient to have for the purposes of this Chapter.
- (2) The persons referred to in subsection (1) are—
- (a) the local authority;
 - (b) a person providing an English local authority social service for the authority; or
 - (c) any NHS body.
- (3) The power in subsection (1) to require the provision of information includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.

Status: Point in time view as at 01/04/2004.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Chapter 5. (See end of Document for details)

- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I20 S. 90 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(a)

91 Power to require explanation

- (1) The Secretary of State may by regulations make provision requiring prescribed persons to provide to the CSCI, or to persons authorised by it, an explanation of—
- (a) any documents, records or items inspected, copied or provided under sections 88 to 90,
 - (b) any information provided under those sections, or
 - (c) any matters which are the subject of the exercise of any functions of the CSCI under this Chapter,
- in cases where the CSCI considers the explanation necessary or expedient for the purposes of this Chapter.
- (2) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the CSCI.
- (3) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I21 S. 91 partly in force; s. 91 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I22 S. 91 in force at 1.4.2004 for E. insofar as not already in force by S.I. 2004/759, art. 4(2)(a)

Status:

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