



Audit Commission Act 1998 (repealed)

1998 CHAPTER 18

PART IV

GENERAL

Information etc.

48 Provision of information and documents to Commission.

- (1) Without prejudice to any other provision of this Act, the Commission may require—
 - (a) any body subject to audit, and
 - (b) any officer or member of such a body,to provide the Commission or a person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Act of the Commission or of that person, including the carrying out of any study under section 33 or 34.
- (2) Subsection (1) does not apply to functions under section 36.
- (3) For the purpose of assisting the Commission to maintain proper standards in the auditing of the accounts of a body subject to audit the Commission may require that body to make available for inspection by or on behalf of the Commission—
 - (a) the accounts concerned; and
 - (b) such other documents relating to the body as might reasonably be required by an auditor for the purposes of the audit.
- (4) A person who without reasonable excuse fails to comply with a requirement of the Commission under subsection (1)(b) is guilty of an offence and liable on summary conviction—
 - (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.

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- (5) Any expenses incurred by the Commission in connection with proceedings for an offence under subsection (4) alleged to have been committed by an officer or member of a body, so far as not recovered from any other source, are recoverable from that body.

49 Restriction on disclosure of information.

- (1) No information relating to a particular body or other person and obtained by the Commission or an auditor, or by a person acting on behalf of the Commission or an auditor, pursuant to any provision of this Act [^{F1}or of Part I of the Local Government Act 1999] or in the course of any audit or study under any such provision shall be disclosed except—

- (a) with the consent of the body or person to whom the information relates;
- (b) for the purposes of any functions of the Commission or an auditor under this Act [^{F2}or under Part I of the 1999 Act];

[^{F3}(ba) to the Commission for Social Care Inspection for the purposes of its functions under Chapter 5 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003;

(bb) to the National Assembly for Wales for the purposes of its functions under Chapter 4 of that Part of that Act;]

(c) in the case of a health service body, for those purposes or for the purposes of the functions of the Secretary of State and the Comptroller and Auditor General under [^{F4}the National Health Service Act 2006][^{F5} or for the purposes of the functions of the Commission for Healthcare Audit and Inspection under Chapter 3 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003] ;

[^{F6}(ca) to Her Majesty's Chief Inspector of Education, Children's Services and Skills for the purposes of his functions under Chapter 4 of Part 8 of the Education and Inspections Act 2006;]

(d) for the purposes of the functions of the Secretary of State relating to social security;

[^{F7}(da) for the purposes of any function of the Auditor General for Wales under the Public Audit (Wales) Act 2004 or (in relation to a health service body) under the Government of Wales Act 1998;]

[^{F8}(dd) to the Mayor of London, where the information relates to the Greater London Authority or a functional body;]

[^{F9}(de) for the purposes of the functions of an ethical standards officer or the Public Services Ombudsman for Wales under Part 3 of the Local Government Act 2000;]

[^{F10}(e)

(f) for the purposes of any criminal proceedings.

[^{F11}(1A)

- (2) References in subsection (1) to studies and to functions of the Commission do not include studies or functions under section 36.

[^{F12}(2A) A person who is, or acts on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, may also disclose such information—

- (a) in accordance with section 41(4); or

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- (b) in any other circumstances, except where the disclosure would, or would be likely to, prejudice the effective performance of a function imposed or conferred on the person by or under an enactment.
- (2B) An auditor who does not fall within subsection (2A), or a person acting on his behalf, may also disclose such information except where the disclosure would, or would be likely to, prejudice the effective performance of a function imposed or conferred on the auditor by or under an enactment.
- (2C) A person who does not fall within subsection (2A) or (2B) may also disclose such information in accordance with consent given by the Commission or an auditor.
- (2D) Section 49ZA makes further provision about consent for the purposes of subsection (2C).]
- (3) A person who discloses information in contravention of [F13this section] is guilty of an offence and liable—
- (a) on summary conviction, F14... to a fine not exceeding the statutory maximum
F14
...
- F15(b)

Textual Amendments

- F1** Words in s. 49(1) inserted (27.9.1999 subject to art. 3(2)(b) of S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, **art. 22(5)(a)**; S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- F2** Words in s. 49(1)(b) inserted (27.9.1999 subject to art. 3(2)(b) S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, **art. 22(5)(b)**; S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- F3** S. 49(1)(ba)(bb) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(10)(a)**; S.I. 2004/759, art. 9
- F4** Words in s. 49(1)(c) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 188** (with Sch. 3 Pt. 1)
- F5** Words in s. 49(1)(c) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(10)(b)**; S.I. 2004/759, art. 9
- F6** S. 49(1)(ca) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 30**; S.I. 2007/935, art. 5(gg)
- F7** S. 49(1)(da) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, **Sch. 2 para. 33**; S.I. 2005/558, art. 2, Sch. 1
- F8** S. 49(1)(dd) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 11** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F9** S. 49(1)(de) substituted for (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 59**; S.I. 2005/2800, art. 5(1)(3)
- F10** S. 49(1)(e) omitted (1.1.2005) by virtue of The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), arts. 1, **8(2)(a)**
- F11** S. 49(1A) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(2), 245(5), **Sch. 18 Pt. 12** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)
- F12** S. 49(2A)-(2D) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(3), 245(5) (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)
- F13** Words in s. 49(3) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(4)(a), 245(5) (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)
- F14** Words in s. 49(3)(a) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(4)(b), 245(5), **Sch. 18 Pt. 12** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)
- F15** S. 49(3)(b) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(4)(c), 245(5), **Sch. 18 Pt. 12** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)

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Modifications etc. (not altering text)

C1 S. 49(1): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2), Sch. 4 Pt. 1 para. 41

[^{F16}49ZA Consent under section 49(2C)

- (1) Consent for the purposes of section 49(2C) must be obtained in accordance with this section.
- (2) A person requesting consent (“the applicant”) must make a request for consent which—
 - (a) is in writing,
 - (b) states the name of the applicant and an address for correspondence,
 - (c) describes the information in relation to which consent is requested, and
 - (d) identifies the person to whom the information will be disclosed.
- (3) Consent must be given except where the disclosure would, or would be likely to, prejudice the effective performance of a function imposed or conferred on the Commission or an auditor by or under an enactment.
- (4) Consent may be given or refused orally or in writing; but where it is given or refused orally the consent or refusal must be confirmed in writing.
- (5) A refusal (or, where the refusal is oral, the confirmation of the refusal) must contain the reasons for the refusal.
- (6) A person to whom a request for consent is made must give or refuse consent not later than the twentieth working day following the day on which the request is received.
- (7) “Working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.]

Textual Amendments

F16 S. 49ZA inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(5), 245(5) (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)

^{F17}49A. Disclosure of information by or on behalf of public authorities

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Textual Amendments

F17 S. 49A repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(6), 245(5), Sch. 18 Pt. 12 (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)

50 Supply of benefit information to Commission.

The Secretary of State may supply to the Commission any information held by him which relates to housing benefit or council tax benefit and which appears to him to be relevant to the exercise of any function of the Commission.

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51 Publication of information by the Commission.

- (1) Subject to subsections (2) to (4), the Commission may publish such information as it thinks fit with respect to any of the following—
 - (a) a contravention by a body subject to audit of any obligation imposed on that body by virtue of section 44(2);
 - (b) the making by an auditor of a report under section 8 to any such body, the subject-matter of any such report and the decision made and other action taken by any such body in response to the receipt of any such report or to anything contained in it;
 - (c) a contravention by any such body of regulations made under section 27.
- (2) The information that may be published by virtue of subsection (1)(b) does not include—
 - (a) information with respect to a report made to a health service body or to any decision or other action by such a body; or
 - (b) information excluded under subsection (3)(a) of section 12 from any notice published for the purposes of subsection (2)(b) of that section.
- (3) Before publishing information under this section relating to—
 - (a) the conduct or decisions of a body subject to audit, or
 - (b) a report made to such a body,the Commission shall notify the body of its proposal to publish the information.
- (4) Information published under this section shall be published in such manner as the Commission considers appropriate for bringing the information to the attention of those members of the public who may be interested.

[^{F18}51A Co-operation with the Auditor General for Wales

The Commission must co-operate with the Auditor General for Wales where it seems to it appropriate to do so for the efficient and effective discharge of—

- (a) its functions under sections 33 and 34, or
- (b) its functions in relation to bodies mentioned in paragraph 1(g) of Schedule 2.

Textual Amendments

F18 S. 51A - S. 51B inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 34](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

51B Provision of information to Auditor General for Wales

The Commission must, on request, provide the Auditor General for Wales with any information he may reasonably require for the purpose of making comparisons, in the discharge of his functions under sections 41 and 42 of the Public Audit (Wales) Act 2004, between local government bodies in Wales and other local government bodies.]

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Textual Amendments

F18 S. 51A - S. 51B inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 34](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

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