

# **PUBLIC AUDIT (WALES) ACT 2004**

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## **EXPLANATORY NOTES**

### **TERRITORIAL EXTENT AND DEVOLUTION**

#### **Part 2, Chapter 4: General**

##### ***Section 54: Restriction on disclosure of information***

117. This section places restrictions on the disclosure of certain information relating to a particular body or person. The restrictions apply where information is acquired by the Auditor General, an appointed auditor (or by a person acting on behalf of the Auditor General or an appointed auditor) in the course of exercising their functions under:

- Part 2 of the Act
- Part 1 of the Local Government Act 1999 (functions in relation to the best value regime)
- The new section 145C of GOWA (inserted by section 5 of the Act), dealing with studies relating to registered social landlords in Wales.

The information must not be disclosed unless in accordance with the exceptions listed in section 54(2). One of the exceptions is that the disclosure is made for the purposes of any functions of the Auditor General for Wales, or of an auditor, under Part 2 of the Act or Part 1 of the Local Government Act 1999. Thus section 54 does not obstruct the Auditor General or an auditor from putting into the public domain any information which should be put there for the proper exercise of that person's functions.

118. Disclosing the information in contravention of section 54(2) constitutes an offence under section 54(3).

119. **Section 54** mirrors the provisions of section 49 of the ACA. At the time of the passage of the Act, section 49 of the ACA was under review by the Department of Constitutional Affairs with a view to its amendment or repeal by order under section 75 of the Freedom of Information Act 2000. This is because section 49 is a provision capable of preventing the disclosure of information under section 1 of the Freedom of Information Act. In order to ensure that section 54 remains consistent with section 49, section 54(6) gives the Secretary of State (in practice, the Secretary of State for Wales) an order-making power to amend or repeal section 54 in such a way as to reflect amendments to or repeal of section 49 of the ACA. The order-making power cannot be used so as to make section 54 more restrictive of the disclosure of information than it currently is. Any order made under section 54(6) would be subject to approval by both Houses of Parliament, in the same way as an order under section 75 of the Freedom of Information Act, amending or repealing section 49 of the ACA, would be.