### The Audit Commission of Local Government in the UK

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#### **Abstract**

This paper examines the Audit Commission for local administration in the United Kingdom. The function of the Audit Commission, established in 1983 and dissolved in 2015, is to audit measures of the local authorities. However, in fact the Audit Commission has been playing roles of the policymaker and influencing policy making process beyond the auditors. In this paper I clarify the role of the Audit Commission as policymaker for local administration. This paper consists of three parts. First, I scrutinize relation between the recommendation in the annual report of the Audit Commission and public policy codified in the statutes about the housing, health and education. The relation between the Audit Commission's recommendation and the policy is shown in (1) the sale of council housing under the 'Right to Buy' and the Housing Act 1985, (2) confusion on responsibility for the community health care and the fund holding practices in the National Health Service and Community Care Act 1990, (3) the body corporate for the further education and the Education Reform Act 1988, and (4) inspection of the local education authority and School Inspection Act 1996, respectively. Second, I analyze the role of the Audit Commission from viewpoints of extension of Layfield Committee, Value for Money strategy, limitation of the Circular, and requirement of integrated recommendations. Finally, I discuss the Audit Commission as the policymaker in the UK.

Keywords: Audit Commission, Local Government, Housing Policy, Health Policy, Education Policy



#### Introduction

Although the Audit Commission looks sober, which was established under the Local Government Finance Act 1982, the role of the Audit Commission is very important. Because, though the Audit Commission looks just publishing audit results and recommendation for the local policies, the Audit Commission, in fact, has been playing the part of the central government as the policymaker for the local administration since starting time in the Thatcher Administration. In this paper I clarify the role of the Audit Commission as policymaker for local administration. Organization of this paper is threefold. First, I analyze relation between the recommendations by the Audit Commission and legislated policies in the social security fields of the local government. The social security fields which I treat in this paper are the housing policy, the health policy and the education policy. Second, I analyze the role of the Audit Commission from several viewpoints. Finally, I discuss the Audit Commission as the policymaker in the UK.

## 1 Relation between Audit Commission Report and Policy

Whenever I read the Annual report of the Audit Commission, I always find close relation between the legislated policies and the recommendation in the Annual Report. I will analyze the relation between them in detail. Especially I focus on the three fields in the local administration; the housing policy, the health policy and the educational policy.

# 1.1 Housing Policy

The housing policy made by the Thatcher Administration is nothing but the privatization like the Conservative's education policies. Though the housing policy is less ideological than the education policy, the Conservative's housing policy also aimed reduction of power conferred to the local authorities by the Parliament.

## (1) Right to Buy

The Thatcher Administration, by raising a slogan 'Right to Buy', enabled sale of the council housing to the tenants. From 1979 to 1999 more than 1.6 million dwelling houses of the local authorities were sold to individuals, therefore, number of the housing stock decreased (DETR 2000), (Durden, p. 140).

The Housing Act 1985 established provisions about Right to Buy. The section 118 is codified that if the dwelling-house is a house and the landlord owns the freehold, a secure tenant has the right to acquire the freehold of the dwelling house. The section 118 is also codified that if the landlord does not own the freehold or if the dwelling-house is a flat (whether or not the landlord owns the freehold), the secure tenant has the right to be granted a lease of the dwelling-house.

Furthermore, the section 132 of the Housing Act 1985 is codified, under the Right to Buy, that secure tenant who has the right to buy has the right to leave the whole or part of the aggregate amount on the security of a first mortgage of the dwelling-house. The new owner who acquired dwelling house with the mortgage from the local authority enjoyed tax relief by the Mortgage Interest Relief at Source called MIRAS. The mortgage interest relief at source was introduced in 1969 to help the borrowers owing the mortgage who became home-owner and had to pay the interest. Durden

criticized that Finance Act 1983, and subsequent legislation eroded the tax privileges of those with mortgages. As the Income and Corporation Taxes Act 1988 introduced interest relief for those who acquired the estate (section 354), the tax of the estate decreased. The Finance Act 1999 set limitation of the interest relief £ 30,000 (section 37). The section 38 of this Act set the interest relief for the mortgage interest payment not eligible from April, 2000. The MIRAS was abolished under the Gordon Administration in 2000.

# (2) Choice of Landlord by Tenant

The privatization in the housing policy extended to not only 'Right to Buy' in the Housing Act 1985 but also 'Tenant Choice' in the Housing Act 1988, that is, change of landlord. The Tenant Choice is one of the most important elements of the Conservative's housing policy. The measure of the Tenant Choice allows secure tenant to transfer from the landlord of the local authority to housing associations or private landlord (John, p. 40). The part IV of the Housing Act 1988 is codified about change of landlord. Especially, the section 93 is a core provision, where objective estate is the dwelling house of residents whom the landlord of the public sector registered as qualifying tenants. The landlord is the local housing authority in the section 1 of the Housing Act 1985, new-town corporation in the section 4 (b) of the Housing Act 1985 and housing action trust in Part III of the Housing Act 1988.

## (3) Housing Action Trust

One of the purposes of the Housing Act 1988 is establishment of the housing action trust. The section 60 is a provision about area which the corporation called housing action trust manages. This corporation is the housing association. The section 62 is a provision about the designation order by the Secretary of State to establish the housing action trust. The section 63 is a provision about primary objects of the housing action trust; security of the repair or improvement of housing accommodation, security of the proper and effective management and use of that housing accommodation, and security of the improvement of living condition in the area. The section 65 prescribes the function of the housing action trust as the function conferred on a local housing authority by Housing Act 1985 and Chronically Sick and Disabled Persons Act 1970, and function conferred on a local authority by the Land Compensation Act 1973.

### (4) Divergence of Responsibility

The Audit Commission Annual Report 1986 warned divergence of the responsibility in the community care. The Report indicated duplicated functions between government departments which cause conflicting policies and lacking of responsibility. The Report also recommended to change social service from such strategic divergence to convergence between departments. Especially, the Audit Commission indicated that it is impossible to stay long at the residential home under the local authority. The Audit Commission also reported that the district council housing department intended to comprehend community care, therefore, and made the housing department just house keeper. It is to be noticed that same indication is seen in DETR 2000.

### (5) Fraud

The Audit Commission Annual Report 1984 never emphasized 'Right to Buy' housing policy. What the Commission emphasizes is the housing benefit fraud as the risk to the local authority. The Audit Commission indicated Tenant's Arrear as the fraud which is the side effect of the housing benefit scheme. It is reported that amount of the Tenant's Arrear is more than 495,000 £ in 1982-83 and exceeded 340,000 £ in 1983-84. The Audit Commission also indicated fraud by the claimant enjoying housing benefit which involves properties in multi-occupation in urban areas (The Audit Commission Annual Report 1984, p.12).

In the 1989 Audit Commission Annual Report, the Commission gave an advice to the local authorities not to introduce a severance scheme which exceeds or is not authorized by the powers conferred on them by the statute. The severance means the conversion of an equitable joint tenancy in land into a tenancy in common. The Audit Commission also concerned the ring-fencing of the Housing Revenue. The ring-fencing aims to assign a sum of money to a particular purpose not to become part of the general resource of the organization. The Audit Commission Annual Report 1989 gave an advice that the ring-fencing scheme is unlikely to achieve the desired effect.

## **1.2** Health Policy

The National Health Service (NHS) by the Thatcher Administration pursued the privatization alike in the housing and education policies, which is characterized by the NHS purchase-provider split. This idea of the purchase-provider split led to the general practitioner fundholding (GPFH) created in 1991. The Conservative Administration removed health care service from the health authorities, and regarded the health authorities including the GP fundholder as the purchaser and the hospital as the provider. In this subsection I analyzed the health policy by interleaving the critique and recommendation in the Annual Report of the Audit Commission.

As for finance of the health and social security policies, the budgets are determined by the Department of Environment (DOE) and two sections of the Department of Health and Social Security (DHSS). The DOE administrates local government policies and finance; the DHSS (health/social services) administrates health service and social services policies; and the DHSS (social security) co-ordinates income support and maintenance. (1986 Audit Commission, p.30)

### (1) Griffith Report

In 1983 Griffiths Report published a recommendation about reorganization of the NHS, that the Secretary of State should set up, within DHSS and the existing statutory framework, a Health Supervisory Board and a full-time NHS management Board. As the recommendation, the roles of the Health Services Supervisory Board was especially emphasized, which are determination of purposes, administration of budget, strategic decisions and performance evaluation of the Health Service. Griffiths Report also recommended that the NHS Management Board should be set under the Supervisory Board as the one body; the Supervisory Board should include a chairman who can take general management in national level. Furthermore, in the recommendation on the health authority and district health authority, the Report emphasized that one local agency should be established to take responsibility for mix of services (Griffiths Report), (John, p.54).

## (2) Divergence of Responsibility

Based on the Griffith Report, the Audit Commission Annual Report 1986 (Making a Reality of Community Care) indicated organizational fragmentation and confusion. This Annual Report warned that conflicting policies between sovereign departments result in distribution of the responsibility between the departments, where the sovereign departments are Department of Environment (DOE) and DHSS (health and social security). The Report also indicated that there exists similar organizational fragmentation in the local level. On the other hand, the community care for the individual person is implemented by the several agencies or voluntary organization. The Report indicated that the social service must converge against such organizational distribution (Audit Commission 1986, p. 49).

### (3) GP Fundholding

The National Health Service and Community Care Act 1990 established bodies as National Health Service trusts to take responsibility for the ownership and management of hospitals which were previously managed by Regional, District or Special Authorities. Section 14 of this Act is codified for application of the medical doctor as the fund holding practitioner to the Regional Health Authority. The purpose of this institutional reform is to split medical work into buyer of care: purchasers who accept budget from general tax finance, and providers of the hospital. This means separation between management of the health care and medical service. The remarkable change of the reform is the point that allows family doctor to act as the purchaser (B. Croxson, C. Propper and A. Perkins, p.2).

## (4) Audit Commission

The Audit Commission Annual Report 1993 recommended to bridge the gap between clinical staff and general management, because of poor communication between them. The Report indicated that the communication problems in the national health service are characterized by poor communication among clinical staffs, and communication based on subjective view of clinical staffs. The Report showed that reasons of the communication gap are separated works of the clinical service itself and information gap between professional staff and general management staff. This recommendation of the Audit Commission Annual Report 1993 is noteworthy in a sense that the Commission indirectly criticizes the GP fundholding established in the National Health Service and Community Care Act 1990.

Afterward North showed that how Conservative government tried to restrict the risk of the GP fundholding by restricting range of patient items to less expensive items (North, pp.139-144).

The Annual Summary of NHS Audits 1995 touched upon accountability of the GP fundholding. This Summary surveyed purchasing performance of the GP fundholders and reviewed arrangement by the authorities for monitoring of the GP fundholders. This Summary also mentioned coordinated role between District Health Authority (DHA) and increasing GP fundholders. The Annual Summary reported that number of the GP fundholders reached 2,040 and purchasing power reached £ 2.8 billion. Furthermore, the Summary announced that, if the breach occurred, the GP fundholders will be imposed sanction rather than removed from the status of the GP

fundholding.

The Annual Summary of NHS Audit 1995 mentioned current situation of the national health service: "District Health Authorities (DHAs), like Family Health Services Authorities (FHSAs), have been preparing for their formal merger on 1 April 1996. They have also had to face increasing complexity as the number of trusts has risen, along with a rapid increase in the numbers of GPFSs as co-purchasers." (Annual Summary of NHS Audit 1995, p. 14) Though this summary recognized coordination between DHA and GP fundholding, opinion of this summary was implicit: "The GPFH accountability framework represents a good starting point in developing a coordinated role between DHAs and GPFHs, but could be improved in a number of respects." (Annual Summary of NHS Audit 1995, p. 15)

### Abolition of GP fundholding

In 1997, the Department of Health made a report "The new NHS modern dependable". This report indicated little strategic coordination between Health Authorities, GP fundholders and NHS trusts. This measure can be addressed as a preparation for abolishment of the GP fundholding (The Department of Health, The new NHS modern.dependable, p.2).

The Audit Commission never directly criticized the GP fundholding. However, the critique about the GP fundholding occurred from medical doctors. They said as follows: "The essence of the problem is that fundholders were given budgets based on their activity before they became fundholders, and were subject to relatively little monitoring in how they used these funds." (B. Croxson, C. Propper and A. Perkins, p.3)

In 1997 the GP fundholding was abolished. As the reasons of the abolishment, there are many opinions; pursuit of interest of the family doctor as the GP fundholder, two-tier health service resulted from less expensive patient items decided by the GP-fundholder, and poor coordination between GP fundholder and District Health Authority.

#### 1.3 Education Policy

The principle of the education policy has been privatization alike the housing policy and the health policy since Thatcher Conservative Administration. I discuss by focusing the further education and the school inspection. Because establishment of the body corporate for the further education and the school inspection for the performance evaluation of the school are such policies that market-oriented privatization is remarkable.

#### 1.3.1 Further Education

The Thatcher Administration regarded the establishment of the body corporate of the further education as necessary measure in order to remove the further education from the local education authority and weaken the labour controlled local authority. Though the body corporate began to function on a full scale under the Blair Administration, the 1984 Audit Commission Annual Report already paid attention to the further education. The Commission reported such a current situation that local authorities spend £1.5 billion on polytechnics and colleges of further education, and employ some 160,000 lecturers. The Commission focused on four main areas for

improving value for money: academic staffing, cost recovery, control of non-teaching costs and marketing (Audit Commission 1984, p.15). The 1985 Audit Commission Annual Report also mentioned expenditure for school maintenance. The Commission reported education costs about £12 billion a year account for around half of local authority, and audited non-teaching costs in secondary schools, over £1 billion a year (Audit Commission 1985, p.19).

One of the purposes of the 1984 and 1985 Audit Commission Annual Reports is value for money, in other words, rationalization for the further education. According to these recommendations, the Further Education Act 1985 was legislated, in which establishment of the public body is codified (Further Education Act 1985, Sections 1, 2). Furthermore, Section 132 of the Education Reform Act 1988 is written about establishment of a body corporate to be known as the Polytechnics and Colleges Funding Council (Education Reform Act 1988).

Based on the Further Education Act 1985, the Education Reform Act 1988, which is a huge consolidated education law, is characterized by the body corporate of the further education. Especially, section 132 of the Education Reform Act 1988 is stated about establishment of a body corporate to be known as the Polytechnics and Colleges Funding Council. The Further and Higher Education Act 1992 is codified that there shall be a body corporate to be known as the Further Education Funding Council for England to exercise in relation to England the functions conferred on them (Section 1). The body corporate to be known as the Further Education Funding Council for Wales is also established. Members of the Further Education Funding Council are appointed by the Secretary of State (Section 1). The council owes the duty for their area to provide full-time education for persons who have not attained the age of nineteen years (Section 2), part-time education for persons of any age over compulsory school age (Section 3), and full-time education for persons who have attained the age of nineteen years (Section 3). The council may give financial support to the governing body of any institution within the further education sector or the higher education sector (Section 5). The Secretary of State may make grant to each of the councils of amount and terms (Section 7).

For better or worse, the body corporate was obliged to manage school of the further education in a privatized manner. Kendall and Holloway pointed out several problems of the body corporate. One problem is anti-academism due to short of the budget, for example, many part-time staffs. The other problem is frauds concerning the financial probity (Kendall and Holloway, pp.164-165).

### 1.3.2 School Inspection

The Annual Report of the Audit Commission 1990 stressed the role of local education on authority inspectors and advisers, under the title of Structure for Monitoring Education and Colleges. In this report, the Commission mentioned that the local education authorities (LEAs) need independent assurance that satisfactory education is being provided, since control over teaching and learning is delegated to schools and colleges due to the Education Reform Act 1988. The Commission stressed that the assurance can be realized by the monitoring including school inspection. Furthermore, the Commission added that inspection and advice are key specific responsibilities of LEAs. The Commission criticized the LEA in the Occasional Paper in December 1989, "Losing an Empire, Finding Role: the LEA of the Future", in such a comment that the Commission does not share the view that the reduced responsibilities of the centre make LEAs redundant (Audit Commission 1990, p.21).

In response to the recommendation of the Audit Commission, two Acts are legislated, the School Inspection Act 1996 and the School Standard and Framework Act 1998. The School Inspection Act 1996 states the general duties of the Chief Inspector for England are to keep the Secretary of State informed about the quality of the education provided by schools in England, the educational standards achieved in those schools, efficient management of the financial resources and the spiritual, moral, social and cultural development of pupils at those schools. The Chief Inspector for England must also give advice to the Secretary of State on such matters as may be specified in the Secretary of State's request, and inspect and report on such schools or class of school in England as may be specified (Section 2).

The School Standard and Framework Act 1998 is applied to the maintained school. The school intervention stated in this Act is plain. The intervention is divided into two types; intervention by LEAs and intervention by Secretary of State. The LEA can exercise powers of intervention by giving the governing body a warning notice, when the standards of performance of pupils at the school are unacceptably low (Section 15). The LEA can appoint additional governors when the school falling occurs (Section 16). The LEA can also exercise power to suspend delegated budget to the maintained school when the school falling occurs (Section 17). The Secretary of State can intervene to the maintained school by appointing additional governors, when the LEA cannot exercise their power to suspend the governing body's right to a delegated budget (Section 18). The Secretary of State can also give a direction to the LEA requiring the school to be discontinued on a date specified in the direction (Section 19).

#### 2 Role of the Audit Commission

I analyze the role of the Audit Commission from viewpoints of extension of Layfield Committee, Value for Money strategy, limitation of the Circular, and requirement of integrated recommendations.

## **Extension of Layfield Committee**

The Audit Commission can be addressed as an extension of the Leyfield Committee which published the Leyfield Report 1n 1976, which evaluated the finance of the local government in comprehensive manner and gave advice to the central government. The Leyfield Committee raised a question whether the central government or local government should take responsibility for the local finance reform, In response to this question, the Green Paper 1977 concluded that the local government should take responsibility (Hepworth, p.293, Travers, pp.71-78).

## Value for Money strategy

The Audit Commission inherits its strategy, Value for Money, from the rationalization strategy by Macfarlane Report in 1980. Based on the rationalization of the education in the 1970s, the Macfarlane Report (Education for 16-19 year Olds) emphasized rationalization and cost effectiveness of the education at the local authority (Ranson, p.188). Furthermore, the background of Value for Money strategy is increasing total spending, in addition to the increasing spending of the social security, which mainly consists of the welfare, health care and education. For example, the welfare spending increased from £6.6 billion (1975) to £17.9 billion (1981) and the total spending

Table 1 UK public Spending

	Welfare	Welfare Health care Education Total		
	(£ billion)	(£ billion)	(£ billion)	Spending
1975	6.6	5.3	6.9	51.5
1981	17.9	13.4	13.9	116.1

This table was made by the author based on http://www.ulpublicspending.co.uk/

#### Limitation of the Circular

One of the reasons why the Audit Commission was established is considered due to the limitation of the Circular. The Circular is the control tool for the administration by the central government. The role of the Circular is the recommendation by the central government for the administration. However, it is clear that the Circular is not effective especially in the financial policy. In the 1980s, the Conservative Administration intended to take financial control using the block grant to reduce expenditure of the local government. Though this measure was exercised using the Circular and the legislation (Local Government, Planning and Land Act 1980, Section 48), the result was not effective. The rate-capping was newly legislated in the Local Government Finance Act 1982, but it was abolished in 1985 (John, p.11).

# **Requirement of Integrated Recommendations**

Although the Audit Commission inherited its way from the Leyfield Committee, which was an integrated committee for the local government problems, there existed several factors of the organizational divergence about local governance matter. The compartmentalized government structure, as the Audit Commission Annual Report 1986 pointed out, was the problem to be dissolved for improvement of the community care. The Audit Commission was expected not only to give integrated recommendation but also dissolve divergent organizational problems in the local governance.

However the Audit Commission sometimes keeps distance from the center, and prompts change of central policy. It is to be noticed that the Commission indicated those who own properties in multi-occupation in urban areas (1984 Audit Commission). They bought dwelling houses from the local authority and enjoyed the mortgage interest relief at source (MIRAS), which was abolished in 2000. The influence of the Audit Commission to the abolition of MIRAS cannot be denied. The situation is the same in the abolition of the GP fundholders. Though the Audit Commission mentioned "The GPFH accountability framework represents a good starting point in developing a coordinated role between DHAs and GPFHs", the Commission also pointed out "but could be improved in a number of respects." in an implicit manner. In 1997 the GP fundholding was abolished. As the reason of abolishment of the GP fundholding, the influence of the Audit Commission is more visible than the case of the MIRAS abolishment.

#### 3 Conclusion

As conclusion, I discuss the Audit Commission as the policymaker above the auditor in the UK. First, the Commission has strong power for audit and inspection about all

the local matters, which is supported by the manpower and budget. The provision of the Local Government Finance Act 1982 (Section 16) is written such that the auditor have a right of access to all such documents relating to a body whose accounts are required to be audited as appear to him necessary for the purposes of the audit. The auditor is entitled to require from any person holding or accountable for any such document, such information and explanation as he thinks necessary for those purposes. The auditor can require any such person to attend before him to give the information or explanation. The Audit Commission Act 1998 is also written about right of the auditor (Local Government Finance Act, Section 15).

Second, it is nothing to say that the Audit Commission has been at the side of the central government. The role of the Audit Commission is to induce and justify local policies of the central government under the Value for Money. The recommendation of the Audit Commission is provided along the strategy of the central government. The principle of the recommendation by the Audit Commission is the privatization strategy, which is seen in the housing policy, health policy and education policy. Typical example of this strategy is the further education, whose body corporate was established by removing power from the local education authority. The privatization strategy is the same in the Right to Buy and Tenant Choice of the housing policy, and NHS purchase-provider split of the health policy.

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