



Local Government Act 2003

2003 CHAPTER 26

PART 8

MISCELLANEOUS AND GENERAL

CHAPTER 1

MISCELLANEOUS

Contracting-out

101 Staff transfer matters: general

- (1) In exercising a power to contract with a person for the provision of services, a best value authority (in Scotland, a relevant authority) must—
 - (a) deal with matters affecting—
 - (i) who will be the employer of existing staff if a contract is entered into and carried out, or
 - (ii) what will be the terms and conditions of employment of existing staff, or the arrangements for their pensions, if their employer changes as a result of a contract being entered into and carried out, in accordance with directions given to it by the appropriate person;
 - (b) have regard to guidance issued to it by the appropriate person on matters relating to the employment or pensions of existing staff.
- (2) In subsection (1), references to existing staff, in relation to a contract for the provision of services, are to staff who before the contract is carried out are engaged in the provision of any of the services.
- (3) Where the provision of any services under a contract with a best value authority (in Scotland, a relevant authority) for their provision is to cease in circumstances where they are to be provided instead by members of the authority's staff, the authority

Status: This is the original version (as it was originally enacted).

shall comply with directions given to it by the appropriate person for the purpose of requiring it to offer employment to staff who, before the services cease to be provided under the contract, are engaged in the provision of any of the services.

- (4) The duties under Part 1 of the [Local Government Act 1999 \(c. 27\)](#) (best value) of a best value authority have effect subject to subsections (1) and (3).
- (5) The duties under sections 1 and 2 of the [Local Government in Scotland Act 2003 \(asp 1\)](#) (best value) of a relevant authority have effect subject to subsections (1) and (3).
- (6) Directions given, or guidance issued, for the purposes of subsection (1) or (3)—
 - (a) may be addressed to—
 - (i) all best value authorities (or, as the case may be, relevant authorities),
or
 - (ii) authorities of a particular description;
 - (b) may be different for different cases or authorities.
- (7) For the purposes of this section, the Secretary of State is the “appropriate person” in relation to a best value authority in Wales that is—
 - (a) a police authority established under section 3 of the [Police Act 1996 \(c. 16\)](#), or
 - (b) a fire authority constituted by a combination scheme.
- (8) In this section—

“appropriate person”, in relation to Scotland, means the Scottish Ministers;
and
“relevant authority” means—

 - (a) a council constituted under section 2 of the [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#),
 - (b) the Strathclyde Passenger Transport Authority, or
 - (c) any other body to which Part 1 of the [Local Government in Scotland Act 2003 \(asp 1\)](#) (best value and accountability) applies.