



# Localism Act 2011

## 2011 CHAPTER 20

### PART 1

#### LOCAL GOVERNMENT

### CHAPTER 8

#### PAY ACCOUNTABILITY

#### **38 Pay policy statements**

- (1) A relevant authority must prepare a pay policy statement for the financial year 2012-2013 and each subsequent financial year.
- (2) A pay policy statement for a financial year must set out the authority's policies for the financial year relating to—
  - (a) the remuneration of its chief officers,
  - (b) the remuneration of its lowest-paid employees, and
  - (c) the relationship between—
    - (i) the remuneration of its chief officers, and
    - (ii) the remuneration of its employees who are not chief officers.
- (3) The statement must state—
  - (a) the definition of “lowest-paid employees” adopted by the authority for the purposes of the statement, and
  - (b) the authority's reasons for adopting that definition.
- (4) The statement must include the authority's policies relating to—
  - (a) the level and elements of remuneration for each chief officer,
  - (b) remuneration of chief officers on recruitment,
  - (c) increases and additions to remuneration for each chief officer,
  - (d) the use of performance-related pay for chief officers,

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- (e) the use of bonuses for chief officers,
  - (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and
  - (g) the publication of and access to information relating to remuneration of chief officers.
- (5) A pay policy statement for a financial year may also set out the authority's policies for the financial year relating to the other terms and conditions applying to the authority's chief officers.

**Modifications etc. (not altering text)**

- C1** S. 38(2)-(5) applied (with modifications) (25.1.2016) by [Local Government \(Wales\) Act 2015 \(anaw 6\)](#), [ss. 28\(5\)](#), [46\(1\)](#)

**Commencement Information**

- I1** S. 38 in force at 15.1.2012 for E. see s. 240(1)(b)  
**I2** S. 38 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

**39 Supplementary provisions relating to statements**

- (1) A relevant authority's pay policy statement must be approved by a resolution of the authority before it comes into force.
- (2) The first statement must be prepared and approved before the end of 31 March 2012.
- (3) Each subsequent statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates.
- (4) A relevant authority may by resolution amend its pay policy statement (including after the beginning of the financial year to which it relates).
- (5) As soon as is reasonably practicable after approving or amending a pay policy statement, the authority must publish the statement or the amended statement in such manner as it thinks fit (which must include publication on the authority's website).

**Modifications etc. (not altering text)**

- C2** S. 39(1)(4)(5) applied (with modifications) (25.1.2016) by [Local Government \(Wales\) Act 2015 \(anaw 6\)](#), [ss. 28\(5\)](#), [46\(1\)](#)

**Commencement Information**

- I3** S. 39 in force at 15.1.2012 for E., see s. 240(1)(b)  
**I4** S. 39 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

**40 Guidance**

- (1) A relevant authority in England must, in performing its functions under section 38 or 39, have regard to any guidance issued or approved by the Secretary of State.
- (2) A relevant authority in Wales must, in performing its functions under section 38 or 39, have regard to any guidance issued or approved by the Welsh Ministers.

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#### Commencement Information

- I5** S. 40 in force for E. at 15.1.2012 see s. 240(1)(b)  
**I6** S. 40 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

### 41 Determinations relating to remuneration etc

- (1) This section applies to a determination that—
- is made by a relevant authority in a financial year beginning on or after 1 April 2012 and
  - relates to the remuneration of or other terms and conditions applying to a chief officer of the authority.
- (2) The relevant authority must comply with its pay policy statement for the financial year in making the determination.
- (3) Any power of a fire and rescue authority within section 43(1)(i) [<sup>F1</sup>or (j)] to appoint officers and employees is subject to the requirement in subsection (2).
- (4) In section 112 of the Local Government Act 1972 (appointment of staff) after subsection (2) insert—
- “(2A) A local authority's power to appoint officers on such reasonable terms and conditions as the authority thinks fit is subject to section 41 of the Localism Act 2011 (requirement for determinations relating to terms and conditions of chief officers to comply with pay policy statement).”

#### Textual Amendments

- F1** Words in s. 41(3) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 1 para. 94\(2\)](#); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 38](#)

#### Modifications etc. (not altering text)

- C3** S. 41(1)(2) applied (with modifications) (25.1.2016) by [Local Government \(Wales\) Act 2015 \(anaw 6\)](#), [ss. 28\(5\)](#), [46\(1\)](#)

#### Commencement Information

- I7** S. 41 in force at 15.1.2012 for E., see s. 240(1)(b)  
**I8** S. 41 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

### 42 Exercise of functions

- (1) The functions conferred on a relevant authority by this Chapter are not to be the responsibility of an executive of the authority under executive arrangements.
- (2) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of passing a resolution under this Chapter.
- (3) The function of a fire and rescue authority within section 43(1)(i) of passing a resolution under this Chapter may not be delegated by the authority.

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#### Modifications etc. (not altering text)

- C4** S. 42(1)(2) applied (with modifications) (25.1.2016) by [Local Government \(Wales\) Act 2015 \(anaw 6\)](#), [ss. 28\(5\)](#), [46\(1\)](#)

#### Commencement Information

- I9** S. 42 in force at 15.1.2012 for E., see s. 240(1)(b)  
**I10** S. 42 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

### 43 Interpretation

- (1) In this Chapter “relevant authority” means—
- (a) a county council,
  - (b) a county borough council,
  - (c) a district council,
  - (d) a London borough council,
  - (e) the Common Council of the City of London in its capacity as a local authority,
  - (f) the Council of the Isles of Scilly,
  - (g) [<sup>F2</sup>the London Fire and Emergency Planning Authority,]<sup>F2</sup> in relation only to sections 38, 40 and 41 and this section, the London Fire Commissioner,]
  - (h) a metropolitan county fire and rescue authority, [<sup>F3</sup>or]
  - (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies<sup>F4</sup>, or
  - (j) in relation only to sections 38, 40 and 41 and this section, a fire and rescue authority created by an order under section 4A of that Act.]
- (2) In this Chapter “chief officer”, in relation to a relevant authority, means each of the following—
- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
  - (b) its monitoring officer designated under section 5(1) of that Act;
  - (c) a statutory chief officer mentioned in section 2(6) of that Act;
  - (d) a non-statutory chief officer mentioned in section 2(7) of that Act;
  - (e) a deputy chief officer mentioned in section 2(8) of that Act.
- (3) In this Chapter “remuneration”, in relation to a chief officer and a relevant authority, means—
- (a) the chief officer's salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the chief officer for those services,
  - (b) any bonuses payable by the authority to the chief officer,
  - (c) any charges, fees or allowances payable by the authority to the chief officer,
  - (d) any benefits in kind to which the chief officer is entitled as a result of the chief officer's office or employment,
  - (e) any increase in or enhancement of the chief officer's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and

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- (f) any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.
- (4) In this Chapter “terms and conditions”, in relation to a chief officer and a relevant authority, means the terms and conditions on which the chief officer holds office under or is employed by the authority.
- (5) References in this Chapter to the remuneration of, or the other terms and conditions applying to, a chief officer include—
- (a) the remuneration that may be provided to, or the terms and conditions that may apply to, that chief officer in the future, and
  - (b) the remuneration that is to be provided to, or the terms and conditions that are to apply to, chief officers of that kind that the authority may appoint in the future.
- (6) In this Chapter “remuneration”, in relation to a relevant authority and an employee of its who is not a chief officer, means—
- (a) the employee's salary,
  - (b) any bonuses payable by the authority to the employee,
  - (c) any allowances payable by the authority to the employee,
  - (d) any benefits in kind to which the employee is entitled as a result of the employee's employment,
  - (e) any increase in or enhancement of the employee's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and
  - (f) any amounts payable by the authority to the employee on the employee ceasing to be employed by the authority, other than any amounts that may be payable by virtue of any enactment.
- (7) References in this Chapter to the remuneration of an employee who is not a chief officer include—
- (a) the remuneration that may be provided to that employee in the future, and
  - (b) the remuneration that is to be provided to employees of the same kind that the authority may employ in the future.
- (8) In this Chapter—
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
  - “financial year” means the period of 12 months ending with 31 March in any year.

#### Textual Amendments

- F2** S. 43(1)(g) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 2 para. 120](#); S.I. 2018/227, [reg. 4\(c\)](#)
- F3** Word in s. 43(1)(h) omitted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 1 para. 94\(3\)\(a\)](#); S.I. 2017/399, reg. 2, Sch. para. 38
- F4** S. 43(1)(j) and preceding word inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 1 para. 94\(3\)\(b\)](#); S.I. 2017/399, reg. 2, Sch. para. 38

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#### Commencement Information

- I11** S. 43 in force for E. at 15.1.2012 see s. 240(1)(b)  
**I12** S. 43 in force at 31.1.2012 for W. by S.I. 2012/193, art. 2(a)

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