



Local Government Act 2003

2003 CHAPTER 26

PART 1 **E+W**

CAPITAL FINANCE ETC AND ACCOUNTS

CHAPTER 1 **E+W**

CAPITAL FINANCE ETC

[^{F1}Risk management: England

[^{F1}12A Risk-mitigation directions **E+W**

- (1) The Secretary of State may give one or more risk-mitigation directions to a local authority in England, for the purpose of reducing or mitigating the financial risk to the authority, if—
 - (a) a trigger event has occurred in relation to the local authority, and
 - (b) the Secretary of State is satisfied that the direction is, or (as the case may be) directions are, appropriate and proportionate to the level of that financial risk.
- (2) A “trigger event” occurs if (and when)—
 - (a) a risk threshold is breached by the local authority (see section 12B);
 - (b) a report is made by the chief finance officer of the local authority under section 114(3) of the Local Government Finance Act 1988 (report to effect that authority’s expenditure is likely to exceed available resources); or
 - (c) the Secretary of State—
 - (i) gives a direction under section 16(2)(b) (request for expenditure to be, or not be, treated as capital) in respect of the local authority, or
 - (ii) makes a grant to the local authority under an enactment,for the purpose of preventing circumstances arising that would require such a report to be made.

Changes to legislation: *Local Government Act 2003, Section 12A is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) The following are “risk-mitigation directions”—
- (a) a direction that sets limits in relation to the borrowing of money by the local authority;
 - (b) a direction that requires the local authority to take action specified in the direction.
- (4) A direction under subsection (3)(a)—
- (a) may set different limits in relation to different kinds of borrowing;
 - (b) must specify the period for which any limit has effect.
- (5) A direction under subsection (3)(b)—
- (a) may (amongst other things) require the local authority to take action to divest itself of a specified asset;
 - (b) must specify the time by which any specified action must be taken.
- (6) In deciding whether or not to exercise a power to give a direction under this section, the Secretary of State must have regard to—
- (a) the likely impact of the direction on the provision of services to the public by or on behalf of the local authority;
 - (b) the duty imposed on the local authority by section 3(1) of the Local Government Act 1999 (best value duty).
- (7) In deciding whether or not to exercise a power to give a direction under this section, the Secretary of State may, in particular, take account of the likely impact of that decision on the implementation of any central government policy, project or programme.
- (8) The Secretary of State may not give a risk-mitigation direction unless the Secretary of State—
- (a) has given the local authority notice of the proposed direction, and of the right of the local authority to make written representations to the Secretary of State about it within the period specified in the notice, and
 - (b) has considered any representations made by the local authority to the Secretary of State within that period.
- (9) In this section, “financial risk”, in relation to a local authority, means the risk that the expenditure of the local authority (including expenditure it proposes to incur) in the current or any future financial year is likely to exceed, or further exceed, the resources (including sums borrowed) available to it to meet that expenditure.
- (10) This section is subject to section 12C (restriction of power to give risk-mitigation directions).]

Textual Amendments

F1 Ss. 12A-12D and cross-heading inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023](#) (c. 55), **ss. 78(2)**, 255(2)(p) (with s. 247); S.I. 2024/92, reg. 2(a)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(2A) inserted by [2007 c. 28 Sch. 14 para. 5\(2\)\(b\)](#)
- s. 24(1) s. 24 renumbered as s. 24(1) by [2007 c. 28 Sch. 14 para. 5\(3\)](#)
- s. 24(2) inserted by [2007 c. 28 Sch. 14 para. 5\(3\)](#)