



Apprenticeships, Skills, Children and Learning Act 2009

2009 CHAPTER 22

PART 4

THE CHIEF EXECUTIVE OF SKILLS FUNDING

CHAPTER 1

ESTABLISHMENT AND MAIN DUTIES

The Chief Executive

81 The Chief Executive of Skills Funding

- (1) There is to be a Chief Executive of Skills Funding.
- (2) In this Part that person is referred to as “the Chief Executive”.
- (3) The Chief Executive is to be appointed by the Secretary of State.
- (4) Except as provided for in section 107, 108 or 109, the Chief Executive is to perform the functions of the office in relation to England only.
- (5) Schedule 4 makes further provision about the Chief Executive.

Apprenticeship functions

82 Apprenticeship functions

- (1) The Secretary of State may direct the Chief Executive to arrange for apprenticeship functions specified in the direction to be carried out on behalf of the Chief Executive by a person designated by the Chief Executive.

Status: This is the original version (as it was originally enacted).

- (2) The Secretary of State may give directions to the Chief Executive—
- (a) as to the performance of apprenticeship functions;
 - (b) as to the description or identity of the person to be designated under subsection (1);
 - (c) as to the terms of arrangements under that subsection;
 - (d) requiring the Chief Executive to secure that the person designated under subsection (1) reports to the Secretary of State, in such form and at such times as may be specified in the direction, on the performance of apprenticeship functions which are the subject of arrangements under subsection (1).
- (3) A designation of a person under subsection (1) may be made only with the person's consent.
- (4) Arrangements made by virtue of subsection (1) may be made on terms that permit sub-delegation; and the power conferred by subsection (2)(c) includes power to give directions as to—
- (a) the arrangements for any such sub-delegation;
 - (b) functions which may be sub-delegated;
 - (c) the description or identity of persons to whom functions may be sub-delegated.
- (5) In this section, “apprenticeship functions” means functions of the office which relate to—
- (a) apprenticeship certificates;
 - (b) recognised English frameworks and the specification of apprenticeship standards for England;
 - (c) apprenticeship training;
 - (d) apprenticeship places (within the meaning of section 93), including functions under section 104 relating to apprenticeship places;
 - (e) the provision of advice and assistance to the Secretary of State under section 106.
- (6) Terms used in subsection (5)(a) and (b) have the same meanings as in Chapter 1 of Part 1.
- (7) Regulations may provide—
- (a) for any provision relating to a function of the office made by or under any Act—
 - (i) not to apply, or
 - (ii) to apply subject to prescribed modifications,
 in relation to the function where the function is the subject of arrangements under subsection (1);
 - (b) for references to the Chief Executive in any such provisions to be construed in prescribed circumstances as, or as including, references—
 - (i) to a person designated under subsection (1), or
 - (ii) to a person to whom functions are sub-delegated under subsection (4),
 subject to such exceptions or modifications as may be prescribed.

Apprenticeship training for persons aged 16 to 18 and certain young adults

83 Apprenticeship training for persons aged 16 to 18 and certain young adults

- (1) The Chief Executive may secure the provision of facilities for suitable apprenticeship training for persons—
 - (a) who are over compulsory school age but under 19, or
 - (b) who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
- (2) In deciding for the purposes of subsection (1) whether apprenticeship training is suitable for persons for whom facilities are provided, the Chief Executive must have regard (in particular) to—
 - (a) the persons' ages, abilities and aptitudes,
 - (b) any learning difficulties the persons may have,
 - (c) the quality of the training,
 - (d) the locations and times at which the training is provided.
- (3) In exercising the power conferred by subsection (1), the Chief Executive must have regard (in particular) to the desirability of—
 - (a) encouraging diversity of apprenticeship training available to persons;
 - (b) increasing opportunities for persons to exercise choice;
 - (c) enabling persons to whom Part 1 of the [Education and Skills Act 2008 \(c. 25\)](#) applies to fulfil the duty imposed by section 2 of that Act (duty to participate in education or training).
- (4) Subsections (6) and (7) of section 15ZA of the [Education Act 1996 \(c. 56\)](#) (meaning of learning difficulty) apply for the purposes of this section as they apply for the purposes of that section.
- (5) In this Part “apprenticeship training” means training provided in connection with—
 - (a) an apprenticeship agreement,
 - (b) any other contract of employment, or
 - (c) any other kind of working in relation to which alternative English completion conditions apply under section 1(5).

84 Arrangements and co-operation with local education authorities

- (1) The Chief Executive may enter into arrangements with local education authorities in England under which the Chief Executive is to secure the provision of apprenticeship training by virtue of section 83.
- (2) The Chief Executive must co-operate with a local education authority in England where the authority is—
 - (a) making any determination as to the provision of apprenticeship training that should be secured under section 15ZA(1) of the [Education Act 1996](#) (duty in respect of education and training for persons over compulsory school age: England), or
 - (b) securing the provision of any apprenticeship training under that section.

85 Encouragement of training provision etc for persons within section 83

- (1) The Chief Executive must—
- (a) encourage employers to participate in the provision of training within the Chief Executive’s remit for persons who are within section 83(1)(a) or (b);
 - (b) encourage employers to contribute to the costs of training within the Chief Executive’s remit for such persons.
- (2) For the purposes of subsection (1)(a), participating in the provision of training includes participating by entering into—
- (a) an apprenticeship agreement, or
 - (b) any other contract of employment in connection with which training is provided.

Education and training for persons aged 19 or over etc.

86 Education and training for persons aged 19 or over and others subject to adult detention

- (1) The Chief Executive must secure the provision of reasonable facilities for—
- (a) education suitable to the requirements of persons who are aged 19 or over, other than persons aged under 25 who are subject to learning difficulty assessment,
 - (b) education suitable to the requirements of persons who are subject to adult detention, and
 - (c) training suitable to the requirements of persons within paragraphs (a) and (b).
- (2) This section does not apply to the provision of facilities to the extent that section 87 applies to the provision of those facilities.
- (3) Facilities are reasonable if (taking account of the Chief Executive’s resources) their quantity and quality are such that the Chief Executive can reasonably be expected to secure their provision.
- (4) In discharging the duty under subsection (1) the Chief Executive must—
- (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and skills required in different sectors of employment for employees and potential employees;
 - (d) take account of facilities the provision of which the Chief Executive thinks might reasonably be secured by other persons;
 - (e) act with a view to encouraging diversity of education and training available to individuals;
 - (f) act with a view to increasing opportunities for individuals to exercise choice;
 - (g) have regard to the desirability of enabling persons subject to adult detention to continue programmes of education or training which they have begun;
 - (h) have regard to the desirability of the core entitlement and the additional entitlement being satisfied for persons subject to adult detention but aged under 19 who have elected for them;
 - (i) make the best use of resources.

- (5) For the purposes of this section a reference to the provision of facilities for education or training (except so far as relating to facilities for persons subject to adult detention) includes a reference to the provision of facilities for organised leisure-time occupation in connection with education or (as the case may be) training.
- (6) For the purposes of this section—
 - “education” includes full-time and part-time education;
 - “training” includes—
 - (a) full-time and part-time training;
 - (b) vocational, social, physical and recreational training;
 - (c) apprenticeship training.
- (7) In this Part, “organised leisure-time occupation” means leisure-time occupation, in such organised cultural training and recreational activities as are suited to the requirements of persons who fall within subsection (1)(a) or (b), for any such persons who are able and willing to profit by facilities provided for that purpose.
- (8) Sections 17B to 17D of the [Education Act 1996 \(c. 56\)](#) (core and additional entitlements: interpretation) apply for the purpose of subsection (4)(h) as they apply for the purpose of section 17A of that Act (duties of local education authorities in relation to the core and additional entitlements).

87 Learning aims for persons aged 19 or over: provision of facilities

- (1) The Chief Executive must secure the provision of proper facilities for relevant education or training for persons falling within subsection (3) which is suitable to their requirements.
- (2) Relevant education or training is education or vocational training provided by means of a course of study for a qualification to which paragraph 1 of Schedule 5 applies.
- (3) The persons falling within this subsection are persons who—
 - (a) are aged 19 or over, and are not persons aged under 25 who are subject to learning difficulty assessment,
 - (b) do not have the qualification in question or one (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level, and
 - (c) satisfy such conditions as may be specified in regulations.
- (4) Facilities are proper if they are—
 - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
 - (b) of a quality adequate to meet those needs.
- (5) In discharging the duty under subsection (1) the Chief Executive must—
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
 - (b) take account of the different abilities and aptitudes of different persons;
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
 - (d) act with a view to encouraging diversity of education and training available to individuals;
 - (e) act with a view to increasing opportunities for individuals to exercise choice;

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

(f) make the best use of the Chief Executive’s resources.

(6) For the purposes of this section—

“education” includes full-time and part-time education;

“training” includes full-time and part-time training.

88 Learning aims for persons aged 19 or over: payment of tuition fees

(1) Functions under this Part must be exercised by the Chief Executive so as to secure that a course of study for a qualification to which paragraph 1 of Schedule 5 applies is free to a person falling within subsection (2) if it is provided for the person by virtue of facilities whose provision is secured under section 87.

(2) A person falls within this subsection if, at the time of starting the course in question, the person—

(a) is aged 19 or over,

(b) does not have the qualification in question or one (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level, and

(c) satisfies such conditions as may be specified in regulations.

(3) Functions under this Part must be exercised by the Chief Executive so as to secure that a course of study for a qualification to which paragraph 2 of Schedule 5 applies is free to a person falling within subsection (4) if it is provided for the person by virtue of facilities whose provision is secured under section 86.

(4) A person falls within this subsection if, at the time of starting the course in question, the person—

(a) is aged at least 19 but less than 25,

(b) does not have the qualification in question or one (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level, and

(c) satisfies such conditions as may be specified in regulations.

(5) The Secretary of State may by order—

(a) amend subsection (2)(a) by substituting a different age for the age for the time being referred to;

(b) amend subsection (4)(a) by substituting a different age for either of the ages for the time being referred to.

(6) For the purposes of this section, a course is free to a person if no tuition fees in respect of the provision of the course for the person are payable by a person other than—

(a) the Chief Executive, or

(b) a body specified by order by the Secretary of State for the purposes of this section.

(7) In subsection (6) “tuition fees”, in relation to a course, means—

(a) the fees charged in respect of the course by the person providing it, and

(b) such fees in respect of other matters relating to the course (such as undergoing a preliminary assessment or sitting an examination) as may be specified in regulations.

89 Sections 87 and 88: supplementary

- (1) Regulations may make provision as to circumstances in which—
 - (a) despite having a specified qualification, a person is to be treated for the purposes of section 87 or 88 as not having that qualification;
 - (b) despite not having a specified qualification, a person is to be treated for any of those purposes as having that qualification.
- (2) A condition specified in regulations under section 87 or 88 may, in particular, relate to—
 - (a) the possession, or lack, of a specified qualification;
 - (b) the completion of, or failure to complete, a course for a specified qualification.
- (3) A reference in subsection (1) or (2) to a specified qualification is to a qualification specified, or of a description specified, in the regulations.
- (4) Regulations under this section, or under section 87 or 88, may confer a function (which may relate to the administration of an assessment and may include the exercise of a discretion) on a person specified, or of a description specified, in the regulations.
- (5) Nothing in section 87 or 88 applies to the provision of facilities, or to courses of study, for persons subject to adult detention.
- (6) Part 2 of Schedule 5 makes further provision for the purposes of sections 87 and 88.

90 Encouragement of education and training for persons aged 19 or over and others subject to adult detention

- (1) The Chief Executive must—
 - (a) encourage participation by persons within section 86(1)(a) and (b) in education and training within the Chief Executive’s remit;
 - (b) encourage employers to participate in the provision of education and training within the Chief Executive’s remit for persons within section 86(1)(a);
 - (c) encourage employers to contribute to the costs of education and training within the Chief Executive’s remit for such persons.
- (2) For the purposes of subsection (1)(b), participating in the provision of training includes participating by entering into—
 - (a) an apprenticeship agreement, or
 - (b) any other contract of employment in connection with which training is provided.

The apprenticeship offer

91 Duty to secure availability of apprenticeship places

- (1) The Chief Executive must exercise the functions of the office in such a way as to secure that apprenticeship places are available in sufficient number and variety for there to be suitable apprenticeship places available for all persons—
 - (a) who have elected under section 92 for the apprenticeship offer, and
 - (b) for whom places have not already been made available under the apprenticeship offer.

- (2) For the purposes of subsection (1), an apprenticeship place is suitable for a person if it is—
- (a) in one of the two available sectors chosen by the person under section 92,
 - (b) at the appropriate level, and
 - (c) within the person’s reasonable travel area.
- (3) Regulations may make provision as to circumstances in which an apprenticeship place is to be treated as having been, or as not having been, made available for a person under the apprenticeship offer.
- (4) In securing the provision of facilities for apprenticeship training for the purpose of meeting the requirement imposed by subsection (1) the Chief Executive must make the best use of the Chief Executive’s resources.

92 Election for apprenticeship offer

- (1) A person who—
- (a) is within subsection (2), (3) or (4), and
 - (b) satisfies the apprenticeship offer requirements at level 2 or level 3 (see section 95),
- is entitled to elect for the apprenticeship offer at that level.
- (2) A person within this subsection is one who—
- (a) is over compulsory school age, and
 - (b) is aged under 19.
- (3) A person within this subsection is one who is not within subsection (2) and—
- (a) is a person aged under 21 towards whom a local authority in England has the duties provided for in section 23C of the [Children Act 1989 \(c. 41\)](#) (continuing functions in respect of certain formerly looked after children), or
 - (b) is a person to whom section 23CA of that Act applies, in relation to whom a local authority in England is the responsible local authority (within the meaning of that section).
- (4) A person within this subsection is one who—
- (a) is not within subsection (2), and
 - (b) is of a prescribed description.
- (5) If regulations under subsection (4)(b) describe a person by reference to an age or an age range, the age, or the upper age of the age range, must be less than 25.
- (6) A person who elects for the apprenticeship offer must choose two available sectors.
- (7) A person who elects for the apprenticeship offer and satisfies the apprenticeship offer requirements both at level 2 and at level 3 must choose one of those levels.
- (8) The Secretary of State may make arrangements for the making of elections and choices of apprenticeship sectors and levels under this section.
- (9) The Secretary of State may delegate the functions conferred by subsection (8) (and may do so on terms which allow sub-delegation).

93 Meaning of “apprenticeship place”

- (1) For the purposes of section 91, “apprenticeship place” means a place consisting of arrangements which—
 - (a) are arrangements for—
 - (i) employment, and
 - (ii) training or study,leading to the issue of an apprenticeship certificate under section 3 relating to an apprenticeship framework (“the related framework”), and
 - (b) satisfy subsection (2).
- (2) The arrangements must relate to each of the standard English completion conditions specified in section 1(3) in relation to the related framework and must include, in particular—
 - (a) arrangements for employment under an apprenticeship agreement in connection with the related framework,
 - (b) arrangements for a course, or courses, of training leading to the competencies qualification identified in the related framework, to be provided by—
 - (i) a college or other institution, or
 - (ii) the employer under the apprenticeship agreement, and
 - (c) in relation to each other qualification specified in the related framework, arrangements for study or training, whether provided by means of a course or otherwise.
- (3) A reference to training in subsection (2)(b) or (c) does not include a reference to training provided by an employer to a person while the person is carrying out work for the employer under an apprenticeship agreement.

94 Suitability and availability of apprenticeship places: further provision

- (1) This section has effect for the purposes of section 91.
- (2) An apprenticeship place is in the apprenticeship sector to which the related framework (within the meaning of section 93(1)) relates.
- (3) An apprenticeship place is at the appropriate level—
 - (a) in the case of a person who satisfies the apprenticeship offer requirements both at level 2 and at level 3, if the related framework is at the level chosen by the person under section 92,
 - (b) in the case of any other person who satisfies the apprenticeship offer requirements at level 2, if the related framework is at level 2, and
 - (c) in the case of any other person who satisfies the apprenticeship offer requirements at level 3, if the related framework is at level 3.
- (4) An apprenticeship place is within a person’s reasonable travel area if the following are within that area—
 - (a) the place, or principal place, at which the person would be required to work under the apprenticeship agreement to which the arrangements mentioned in section 93(2)(a) relate, and
 - (b) the place at which tuition or training would be provided under any course of study or training to which the arrangements mentioned in section 93(2)(b) or (c) relate.

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

- (5) In subsection (4), “reasonable travel area”, in relation to a person, means—
 - (a) the area specified under subsection (6) in which the person lives, and
 - (b) any other area within which it is reasonable for the person’s place of work, training or study to be located.
- (6) The Secretary of State must specify areas into which England is to be divided for the purposes of subsection (5)(a), and must publish any specification or revised specification under this subsection.
- (7) An apprenticeship place is not available to a person if the person is not eligible for appointment to the employment to which the arrangements mentioned in section 93(2) (a) relate because of failure to meet any published criterion.
- (8) In subsection (7), “published criterion” includes any requirement for employment of the kind in question—
 - (a) which is imposed by the employer, and
 - (b) about which information is available to persons proposing to apply for such employment.

95 Apprenticeship offer requirements

- (1) In order to satisfy the apprenticeship offer requirements at level 2 a person must—
 - (a) hold—
 - (i) a specified full level 1 qualification, and
 - (ii) specified qualifications, at level 1 or above, in English and mathematics, and
 - (b) not hold an apprenticeship certificate at level 2 or above, and must be available for employment under an apprenticeship agreement.
- (2) In order to satisfy the apprenticeship offer requirements at level 3 a person must—
 - (a) hold—
 - (i) a specified full level 2 qualification, and
 - (ii) specified qualifications, at level 2, in English and mathematics, and
 - (b) not hold an apprenticeship certificate at level 3 or above, and must be available for employment under an apprenticeship agreement.
- (3) A reference in this section to any specified qualification includes a reference to a qualification (including one awarded by a person outside England) which appears to the Chief Executive to be at a comparable or higher level.
- (4) In this section “apprenticeship certificate” means an apprenticeship certificate issued under section 3 or 4; and a reference in this section to an apprenticeship certificate at any level includes a reference to a certificate or other evidence (including a certificate awarded or evidence provided by a person outside England) which appears to the Chief Executive to be evidence of experience and attainment at a comparable or higher level.
- (5) Regulations may make provision as to circumstances in which a person who appears to the Chief Executive to have a learning difficulty is to be treated as meeting the requirements set out in subsection (1)(a) or (2)(a).

- (6) Subsections (6) and (7) of section 15ZA of the [Education Act 1996 \(c. 56\)](#) (meaning of learning difficulty) apply for the purposes of subsection (5) of this section as they apply for the purposes of that section.
- (7) Regulations may make provision as to circumstances in which a person is to be treated as being available, or not being available, for employment under an apprenticeship agreement.

96 Apprenticeship offer requirements: interpretation

- (1) This section has effect for the purposes of section 95.
- (2) A reference to a specified qualification is to a regulated qualification which is specified, or which is of a description specified, in regulations.
- (3) “Full level 1 qualification” means a qualification at the level of attainment (in terms of breadth and depth) which, in the opinion of the Secretary of State, is demonstrated by the General Certificate of Secondary Education in five subjects.
- (4) A reference to a qualification in English or mathematics at level 1 is to a qualification in that subject at the level of attainment (in terms of depth) which, in the opinion of the Secretary of State, is demonstrated by the General Certificate of Secondary Education in that subject.
- (5) “Full level 2 qualification” means a qualification at the level of attainment (in terms of breadth and depth) which, in the opinion of the Secretary of State, is demonstrated by the General Certificate of Secondary Education in five subjects, each at Grade C or above.
- (6) A reference to a qualification in English or mathematics at level 2 is to a qualification in that subject at the level of attainment (in terms of depth) which, in the opinion of the Secretary of State, is demonstrated by the General Certificate of Secondary Education in that subject at Grade C or above.
- (7) In forming an opinion for the purposes of any of subsections (3) to (6), the Secretary of State must consult the Office of Qualifications and Examinations Regulation.
- (8) In subsection (2), “regulated qualification” has the meaning given by section 130.
- (9) The Secretary of State may, by order, amend this section so as to substitute a different qualification for a qualification for the time being referred to in subsection (3), (4), (5) or (6).
- (10) The Secretary of State must consult the Office of Qualifications and Examinations Regulation before exercising the power conferred by subsection (9).

97 Suspension of offer

- (1) The Secretary of State may by order suspend the apprenticeship offer in an area specified in the order, for a period so specified—
 - (a) in relation to a particular apprenticeship sector, or
 - (b) in relation to a particular apprenticeship sector at a particular level.
- (2) The period specified in an order under subsection (1) must not exceed 2 years.

- (3) An apprenticeship sector is an available sector, in relation to a person’s election under section 92 for the apprenticeship offer at a particular level, unless the person lives in an area in which the apprenticeship offer is suspended in relation to that sector at that level.

98 Power to amend apprenticeship offer

The Secretary of State may by order amend—

- (a) the age for the time being specified in section 92(2)(b);
- (b) any of the requirements specified in section 95.

99 Apprenticeship offer: interpretation

- (1) In sections 91 to 98—

“apprenticeship agreement” has the meaning given by section 32(1);
“apprenticeship framework” has the meaning given by section 12;
“apprenticeship sector” means a sector specified under section 38;
“available sector” has the meaning given by section 97.

- (2) References in sections 91 to 98 to—

- (a) the level of an apprenticeship framework, or
 - (b) the apprenticeship sector to which an apprenticeship framework relates,
- are to be read in accordance with section 12(5).

CHAPTER 2

OTHER FUNCTIONS

Funding

100 Provision of financial resources

- (1) The Chief Executive may secure the provision of financial resources to—

- (a) persons providing or proposing to provide education or training within the Chief Executive’s remit;
- (b) persons providing or proposing to provide goods or services in connection with the provision by others of such education or training;
- (c) persons receiving or proposing to receive such education or training;
- (d) persons aged 18 receiving or proposing to receive education or training;
- (e) persons making loans to others receiving or proposing to receive education or training;
- (f) persons providing or proposing to provide courses falling within paragraph 1(g) or (h) of Schedule 6 to the [Education Reform Act 1988 \(c. 40\)](#) (courses in preparation for professional examinations at a higher level or providing education at a higher level);
- (g) persons undertaking or proposing to undertake research relating to education or training;
- (h) persons carrying out means tests under arrangements made under section 103;

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

- (i) persons providing or proposing to provide services relating to finding apprenticeship places under section 104;
 - (j) persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).
- (2) In performing the functions under this section the Chief Executive must make the best use of the Chief Executive’s resources.
- (3) The Chief Executive may secure the provision of financial resources under subsection (1)—
- (a) by providing the resources;
 - (b) by making arrangements for the provision of resources by another person;
 - (c) by making arrangements for the provision of resources by persons jointly (whether or not including the Chief Executive).
- (4) The Chief Executive may under subsection (1)(c) secure the provision of financial resources by reference to—
- (a) any fees or charges payable by the person receiving or proposing to receive the education or training, or
 - (b) any other matter (such as transport or childcare).

101 Financial resources: conditions

- (1) Financial resources provided by the Chief Executive may be provided subject to conditions.
- (2) The conditions may include—
- (a) information conditions;
 - (b) operational conditions;
 - (c) repayment conditions.
- (3) Information conditions are conditions which—
- (a) require the Chief Executive, or a person designated by the Chief Executive, to be given access to a person’s accounts and documents and to be given rights in relation to a person’s computers and associated apparatus and material, or
 - (b) require a person to whom financial resources are provided to give to the Chief Executive such information as the Chief Executive may request for the purpose of carrying out the functions of the office.
- (4) Operational conditions are conditions which require a person providing or proposing to provide education or training (“the provider”) to make arrangements providing for all or any of the matters mentioned in subsection (5).
- (5) The matters are the following—
- (a) the charging of fees by the provider by reference to specified criteria;
 - (b) the making of awards by the provider by reference to specified criteria;
 - (c) the recovery by the provider of amounts from persons receiving education or training or from employers (or from both);
 - (d) the determination of amounts by reference to specified criteria where provision is made under paragraph (c);
 - (e) the operation of specified exemptions where provision is made under paragraph (c);

- (f) the making by the provider of provision specified in a report of an assessment under section 139A or 140 of the Learning and Skills Act 2000 (c. 21) (assessments relating to learning difficulties).
- (6) Repayment conditions are conditions which—
- (a) enable the Chief Executive to require the repayment (in whole or part) of sums paid by the Chief Executive if any of the conditions subject to which the sums were paid is not complied with;
 - (b) require the payment of interest in respect of any period in which a sum due to the Chief Executive in accordance with any condition is unpaid.

102 Performance assessments

- (1) The Chief Executive may adopt or develop schemes for the assessment of the performance of persons in providing education or training within the Chief Executive's remit.
- (2) The Chief Executive may take the assessments into account in deciding how to exercise the powers under section 100.

103 Means tests

- (1) The Chief Executive may—
 - (a) carry out means tests;
 - (b) arrange for other persons to carry out means tests.
- (2) The Chief Executive may take the results of the tests into account in exercising the power under section 100(1)(c), (d) or (e).

Apprenticeships: general

104 Assistance and support in relation to apprenticeship places

- (1) The Chief Executive—
 - (a) must provide or secure the provision of such services as the Chief Executive considers appropriate for assisting persons to find apprenticeship places, and
 - (b) may provide or secure the provision of other services for encouraging, enabling or assisting the effective participation of persons in employment and training provided for by apprenticeship places.
- (2) The services provided by virtue of subsection (1)(a) may, in particular, be or include—
 - (a) services provided by means of the publication, whether electronically or otherwise, of information, advice and guidance;
 - (b) facilities for enabling employers to advertise apprenticeship places.
- (3) In this section, “apprenticeship place” has the meaning given by section 93.

105 Promoting progression from level 2 to level 3 apprenticeships

- (1) The Chief Executive must promote the desirability of persons within subsection (2) undertaking apprenticeship training at level 3.

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

- (2) The persons are those who—
 - (a) are undertaking apprenticeship training at level 2,
 - (b) have completed an English apprenticeship in relation to an apprenticeship framework at level 2, or
 - (c) hold an apprenticeship certificate at level 2.
- (3) For the purposes of this section apprenticeship training is at a particular level if it might reasonably be expected to lead to the issue of an apprenticeship certificate at that level.
- (4) The following provisions of Chapter 1 of Part 1 apply for the purposes of this section—
 - section 1 (meaning of “completing an English apprenticeship”);
 - section 12 (meaning of apprenticeship framework and level of an apprenticeship framework).
- (5) Section 95(4) (meaning of apprenticeship certificate and level of an apprenticeship certificate) applies for the purposes of this section.

106 Advice and assistance in relation to apprenticeships

The Chief Executive must, on request, provide the Secretary of State with advice and assistance in relation to the exercise of the Secretary of State’s functions under Chapter 1 of Part 1.

Provision of services and assistance

107 Provision of services

- (1) The Chief Executive may make arrangements with a permitted recipient for the provision by the Chief Executive of services that are required by the permitted recipient in connection with the exercise of the recipient’s functions relating to education or training.
- (2) The services that may be provided under arrangements made under subsection (1) include—
 - (a) providing accommodation and other facilities to a permitted recipient or managing such facilities on behalf of a permitted recipient;
 - (b) procuring, or assisting in procuring, goods and services for use by a permitted recipient.
- (3) The terms and conditions upon which the arrangements are made may include provision for making payments to the Chief Executive in respect of expenditure incurred by the Chief Executive in performing any function under the arrangements.
- (4) In this section “permitted recipient” means—
 - (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) the Scottish Ministers;
 - (d) a Northern Ireland department;
 - (e) the Young People’s Learning Agency for England;
 - (f) a person, wholly or partly funded from public funds, who has functions relating to education or training;

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- (g) any other person specified, or of a description specified, by order made by the appropriate national authority for the purposes of this section.
- (5) Before making arrangements under which it may provide services to a permitted recipient who falls within any of paragraphs (b) to (g) of subsection (4) in connection with the exercise of the recipient’s functions relating to education or training provided in Wales, Scotland or Northern Ireland, the Chief Executive must obtain the consent of the Secretary of State.
- (6) Before making arrangements under which it may provide services to a permitted recipient who falls within paragraph (a), (e), (f) or (g) of subsection (4) in connection with the exercise of the recipient’s functions relating to education or training provided in Wales, Scotland or Northern Ireland, the Chief Executive must obtain—
 - (a) in relation to education or training provided in Wales, the consent of the Welsh Ministers;
 - (b) in relation to education or training provided in Scotland, the consent of the Scottish Ministers;
 - (c) in relation to education or training provided in Northern Ireland, the consent of the Minister for Employment and Learning in Northern Ireland.
- (7) Consent may be given under subsection (5) or (6) in relation to particular arrangements or arrangements of a particular description.
- (8) “The appropriate national authority” means—
 - (a) in relation to a person exercising functions relating only to education or training provided in Wales, the Welsh Ministers;
 - (b) in relation to a person exercising functions relating only to education or training provided in Scotland, the Scottish Ministers;
 - (c) in relation to a person exercising functions relating only to education or training provided in Northern Ireland, the Department for Employment and Learning in Northern Ireland;
 - (d) in any other case, the Secretary of State.

108 Assistance with respect to employment and training

- (1) The Chief Executive may take part in arrangements made by the Secretary of State, the Welsh Ministers or the Scottish Ministers under section 2 of the [Employment and Training Act 1973 \(c. 50\)](#) (arrangements for assisting persons to select, train for, obtain and retain employment).
- (2) Before making such arrangements in relation to Wales or Scotland in which the Chief Executive is to take part, the Secretary of State must obtain the consent of the Welsh Ministers or (as the case may be) the Scottish Ministers to the arrangements.
- (3) Before making such arrangements in which the Chief Executive is to take part, the Welsh Ministers or the Scottish Ministers must obtain the consent of the Secretary of State to the arrangements.

109 Assistance with respect to employment and training: Northern Ireland

- (1) The Chief Executive may take part in any arrangements made by the Department for Employment and Learning in Northern Ireland under section 1 of the [Employment](#)

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and Training Act (Northern Ireland) 1950 (c. 29 (N.I.)) (arrangements for assisting persons to select, train for, obtain and retain employment).

- (2) Before making such arrangements in which the Chief Executive is to take part, the Department must obtain the consent of the Secretary of State to the arrangements.

Miscellaneous

110 Research, information and advice

- (1) The Chief Executive may carry out programmes of research and development connected with any matter relevant to the functions of the office.
- (2) If requested to do so by the Secretary of State, the Chief Executive must provide the Secretary of State with information or advice on such matters relating to any of the functions of the office as may be specified in the request.
- (3) The Chief Executive may provide the Secretary of State with other information or advice on any matter in relation to which the Chief Executive has a function.
- (4) The Chief Executive may provide any person designated by the Secretary of State with information about any matter in relation to which the Chief Executive has a function.
- (5) The Chief Executive must establish systems for collecting information designed to secure that decisions of the Chief Executive with regard to education and training are made on a sound basis.
- (6) The Chief Executive may secure the provision of facilities and services for providing information, advice or guidance about education or training or connected matters (including employment).

111 Power to confer supplementary functions on Chief Executive

- (1) The Secretary of State may by order confer supplementary functions on the Chief Executive.
- (2) A supplementary function is a function which is—
 - (a) exercisable in connection with functions of the Secretary of State, and
 - (b) relevant to the provision of facilities for education or training within the Chief Executive’s remit.

CHAPTER 3

CHIEF EXECUTIVE’S FUNCTIONS: SUPPLEMENTARY

Strategies

112 Strategies for functions of Chief Executive

- (1) The Secretary of State may by order specify an area in England as an area for which a body specified in the order (“a specified body”) may formulate and keep under review

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a strategy setting out how such functions of the Chief Executive as are specified in the order are to be carried out in relation to the area.

- (2) An order under subsection (1) may specify an area comprising the whole of England.
- (3) An order under subsection (1) may not specify an area in England consisting only of Greater London or a part of Greater London.
- (4) The Secretary of State may give directions and guidance to a specified body in relation to the formulation and review of its strategy, in particular in relation to—
 - (a) the form and content of the strategy;
 - (b) the updating of the strategy;
 - (c) the steps to be taken when the body is formulating or reviewing the strategy;
 - (d) the matters to which the body is to have regard when formulating or reviewing the strategy;
 - (e) the consultation to be carried out when the body is formulating or reviewing the strategy.
- (5) A specified body must—
 - (a) comply with any directions given to it under subsection (4), and
 - (b) have regard to any guidance given to it under that subsection.
- (6) The Chief Executive may pay to a specified body such sums as appear to the Chief Executive appropriate for enabling the body to meet costs and expenses incurred, or to be incurred, by it in formulating its strategy or keeping it under review.

113 Strategy for functions of Chief Executive: Greater London

- (1) Regulations must provide for the establishment of a body (“the London body”) for the purposes of this section.
- (2) The London body must—
 - (a) formulate a strategy setting out how specified functions of the Chief Executive are to be carried out in Greater London, and
 - (b) keep it under review.
- (3) Specified functions are functions of the Chief Executive specified for the purposes of this section by order of the Secretary of State.
- (4) The Secretary of State may give directions and guidance to the London body in relation to the formulation and review of its strategy, in particular in relation to—
 - (a) the form and content of the strategy;
 - (b) the updating of the strategy;
 - (c) the steps to be taken when the body is formulating or reviewing the strategy;
 - (d) the matters to which the body is to have regard when formulating or reviewing the strategy;
 - (e) the consultation to be carried out when the body is formulating or reviewing the strategy.
- (5) The London body must—
 - (a) comply with any directions given to it under subsection (4), and
 - (b) have regard to any guidance given to it under that subsection.

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- (6) Where the London body formulates a strategy under this section, or in consequence of a review of the strategy modifies it, the body must publish the strategy or modified strategy in such manner as it thinks fit.
- (7) Regulations under this section must include—
 - (a) provision for the London body to consist of the Mayor of London and such other persons as are appointed by the Mayor in accordance with the regulations;
 - (b) provision for the Mayor to be the chairman of the body.
- (8) The Chief Executive may pay to the London body such sums as appear to the Chief Executive appropriate for enabling the body to meet costs and expenses incurred, or to be incurred, by it in formulating its strategy or keeping it under review.
- (9) The Chief Executive may pay to the Greater London Authority such sums as appear to the Chief Executive appropriate for enabling the Authority to meet costs and expenses incurred, or to be incurred, by the Mayor in connection with the exercise of functions conferred on him by regulations under this section or as chairman of the London body.

114 Strategies: duty of Chief Executive

- (1) The Chief Executive must carry out any function to which a strategy under section 112 or 113 relates in accordance with that strategy.
- (2) Subsection (1) is subject to the following provisions of this section.
- (3) The Chief Executive may not carry out a function in accordance with such a strategy if doing so would entail failing to comply with a duty imposed on the Chief Executive by any provision made by or under any Act (other than subsection (1)).
- (4) If provision in a strategy under section 112 conflicts with provision in another strategy under section 112 or 113, the Chief Executive may disregard such conflicting provision in one of the strategies or in both of them.
- (5) The Chief Executive may disregard a strategy under section 112 or 113 if the body whose strategy it is, in formulating or reviewing the strategy—
 - (a) failed to comply with directions given under section 112(4) or (as the case may be) section 113(4), or
 - (b) failed to have regard to guidance given under section 112(4) or (as the case may be) section 113(4).
- (6) Nothing in subsection (1) requires the Chief Executive to carry out any functions of the office in a manner that the Chief Executive is satisfied—
 - (a) would be unreasonable, or
 - (b) might give rise to disproportionate expenditure.
- (7) If the Chief Executive proposes not to carry out, or does not carry out, a function to which a strategy under section 112 or 113 relates in accordance with the strategy—
 - (a) the Chief Executive must refer the matter to the Secretary of State;
 - (b) the body whose strategy it is may refer the matter to the Secretary of State.
- (8) On a reference under subsection (7) the Secretary of State may give such direction to the Chief Executive as the Secretary of State thinks fit as to the carrying out of the function.

*Other***115 Persons with learning difficulties**

- (1) The Chief Executive must, in performing the functions of the office, have regard to the needs of persons with learning difficulties to whom this section applies.
- (2) This section applies to—
 - (a) persons who are aged 19 or over, other than persons aged under 25 who are subject to learning difficulty assessment, and
 - (b) persons who are subject to adult detention.
- (3) For the purposes of this section, a person has a learning difficulty if—
 - (a) the person has a significantly greater difficulty in learning than the majority of persons of the same age, or
 - (b) the person has a disability which either prevents or hinders the person from making use of facilities of a kind generally provided by institutions providing education or training falling within section 86(1)(a), (b) or (c).
- (4) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which the person is or will be taught is different from a language (or form of language) which has at any time been spoken in the person's home.

116 Persons subject to adult detention

The Chief Executive must, in performing the functions of the office, have regard to the needs of persons subject to adult detention.

117 Use of information by Chief Executive

The Chief Executive must, in performing the functions of the office, have regard to information supplied to the Chief Executive by any person designated for the purposes of this section by the Secretary of State.

118 Guidance

- (1) The Chief Executive must, in performing the functions of the office, have regard to any guidance given by the Secretary of State.
- (2) Guidance under this section may include in particular guidance about—
 - (a) consultation with persons mentioned in subsection (3) in connection with the taking of decisions which affect such persons, and
 - (b) taking advice from such persons or descriptions of persons as may be specified in the guidance.
- (3) The persons are—
 - (a) persons receiving or proposing to receive education or training within the Chief Executive's remit,
 - (b) employers, or
 - (c) such other persons or descriptions of persons as may be specified in the guidance.

- (4) Guidance under this section about consultation with persons falling within subsection (3)(a) must provide for the views of such persons to be considered in the light of their age and understanding.

119 Directions: funding of qualifications

- (1) The Secretary of State may direct the Chief Executive that financial resources provided by the Chief Executive to a relevant institution or employer must be provided subject to a condition that the institution or employer does not make an excluded payment which can reasonably be said to consist of or come from financial resources received from the Chief Executive.
- (2) A direction under subsection (1) relating to a qualification may be made after any course of training or education leading to the qualification has begun.
- (3) In this section—
- “an excluded payment” is a payment which —
 - (a) is in respect of a qualification to which Part 7 applies (see section 130) that is specified or of a description specified in the direction, and
 - (b) is made to the person who awards that qualification;
- “relevant institution or employer” means an institution or employer who provides or is proposing to provide a course of training or education for persons who are aged 19 or over which leads to a qualification to which Part 7 applies.

120 Other directions relating to functions of the office

- (1) The Secretary of State may give directions to the Chief Executive containing—
- (a) objectives which the Chief Executive should achieve in carrying out the functions of the office, and
 - (b) time limits within which the Chief Executive should achieve the objectives.
- (2) The Secretary of State may give to the Chief Executive other directions as to the performance of any of the functions of the office if the Secretary of State is satisfied that the Chief Executive—
- (a) has failed to discharge a duty imposed by or under any Act, or
 - (b) has acted or is proposing to act unreasonably with respect to the performance of any function conferred by or under any Act.
- (3) The Secretary of State may give directions under subsection (2) despite any provision made by or under any Act making the performance of a function dependent on the Chief Executive’s opinion.
- (4) Directions given under this section with respect to functions conferred on the Chief Executive by or under this Part may not concern the provision of financial resources to a particular person or persons.

CHAPTER 4

GENERAL

121 Interpretation of Part

- (1) In this Part—
- “apprenticeship agreement” has the meaning given by section 32(1);
 - “apprenticeship training” has the meaning given by section 83;
 - “functions of the office” means functions of the Chief Executive conferred by or under any Act;
 - “organised leisure-time occupation” has the meaning given by section 86.
- (2) In this Part a reference to education within the Chief Executive’s remit is a reference to—
- (a) education falling within section 86(1)(a) or (b), and
 - (b) organised leisure-time occupation in connection with such education.
- (3) In this Part a reference to training within the Chief Executive’s remit is a reference to—
- (a) training falling within section 83(1),
 - (b) training falling within section 86(1)(c), and
 - (c) organised leisure-time occupation in connection with training falling within section 86(1)(c).
- (4) For the purposes of this Part a person is subject to adult detention if the person is subject to a detention order and—
- (a) aged 19 or over, or
 - (b) aged under 19 and detained in—
 - (i) a young offender institution, or part of such an institution, that is used wholly or mainly for the detention of persons aged 18 and over, or
 - (ii) a prison.