



# Further and Higher Education Act 1992

## 1992 CHAPTER 13

### PART I

#### FURTHER EDUCATION

#### CHAPTER III

#### GENERAL

#### [<sup>F1</sup>56A Intervention: England

[<sup>F2</sup>(1) This section applies if the Secretary of State is satisfied as to one or more of the matters listed in subsection (2) in the case of—

- (a) an institution in England within the further education sector, other than a sixth form college, or
  - (b) an institution in England which is maintained by a local authority and provides further education, other than an institution within the higher education sector,
- and, in either case, it is immaterial whether or not a complaint is made by any person.]

(2) The matters are—

- (a) that the institution's affairs have been or are being mismanaged by the institution's governing body;
  - (b) that the institution's governing body have failed to discharge any duty imposed on them by or for the purposes of any Act;
  - (c) that the institution's governing body have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any Act;
  - (d) that the institution is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training.
- [<sup>F3</sup>(e) that the education or training provided by the institution did not, or does not, adequately meet local needs.]

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**Changes to legislation:** Further and Higher Education Act 1992, Section 56A is up to date with all changes known to be in force on or before 07 May 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

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[ For the purposes of subsection (2)(e), the Secretary of State must take into account <sup>F4</sup>(2A) any approved local skills improvement plan that applied to the institution when the education or training was provided.

(2B) An approved local skills improvement plan applies to an institution if the institution provides English-funded post-16 technical education or training that is material to a specified area and the plan is for that area.

(2C) Terms used in subsection (2A) or (2B) and in section 1 of the Skills and Post-16 Education Act 2022 have the same meaning in those subsections as in that section.]

(3) If this section applies the <sup>F5</sup>Secretary of State] may do one or more of the things listed in subsection (6).

<sup>F6</sup>(4) .....

(5) <sup>F7</sup>At the same time as doing one or more of those things the <sup>F8</sup>Secretary of State] must] give the institution's governing body a notice stating—

- (a) the matter or matters listed in subsection (2) as to which the <sup>F8</sup>Secretary of State] is satisfied;
- (b) the reasons why the <sup>F8</sup>Secretary of State] is so satisfied;
- (c) the reasons why the <sup>F8</sup>Secretary of State] has decided to do that thing or those things.

(6) The <sup>F8</sup>Secretary of State] may—

- (a) remove all or any of the members of the institution's governing body;
- (b) appoint new members of that body if there are vacancies (however arising);
- (c) give to that body such directions <sup>F9</sup>as the <sup>F8</sup>Secretary of State] thinks] expedient as to the exercise of their powers and performance of their duties.

(7) The directions that may be given to a governing body under this section include <sup>F10</sup>—

- (a)] a direction requiring a governing body to make collaboration arrangements (within the meaning of section 166 of the Education and Inspections Act 2006) with such bodies and on such terms as may be specified in the direction.
- <sup>F11</sup>(b) [ a direction requiring a governing body to make a resolution under section 27A(1) <sup>F12</sup>, or take such other steps specified in the direction as may be required,] for the body to be dissolved on a date specified in the direction.]
- <sup>F13</sup>(c) [ a direction requiring a governing body to transfer property, rights or liabilities specified in the direction, and take any other steps specified in the direction in connection with the transfer in relation to property, rights or liabilities so specified.]

<sup>F14</sup>(7A) A governing body to which a direction is given requiring the body to make a resolution under section 27A(1)—

- (a) is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction, and
- (b) must, unless the Secretary of State directs otherwise, exercise its powers under section 27B to transfer property, rights or liabilities on the dissolution date.]

<sup>F15</sup>(7B) [ A direction under subsection (7)(c) requiring the transfer of property, rights or liabilities to a person specified in the direction may only be given with the consent of the person so specified.]

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- (8) Directions may be given to a governing body under this section despite any enactment making the exercise of a power or performance of a duty contingent on the body's opinion.
- [<sup>F16</sup>(9) The Secretary of State may not give a direction to a governing body under subsection (6)(c) which relates to the dismissal of a member of staff.]
- [ Before giving a direction for the transfer of property, rights or liabilities under <sup>F17</sup>(9A) subsection (7)(c), the Secretary of State must consult the Competition and Markets Authority.
- (9B) Part 3 of the Enterprise Act 2002 does not apply in relation to a merger that will result or has resulted from a direction under this section.
- (9C) The Secretary of State may give financial assistance (by way of grant, loan, guarantee or any other form) to any person in connection with the giving of a direction under this section.]
- <sup>F18</sup>(10) . . . . .
- (11) A governing body must comply with any directions given to them under this section.
- (12) An appointment of a member of a governing body under this section shall have effect as if made in accordance with the instrument of government and articles of government of the institution concerned.]

#### Textual Amendments

- F1** Ss. 56A-56C inserted (23.12.2007 for the insertion of s. 56B, 18.4.2008 in so far as not already in force) by Further Education and Training Act 2007 (c. 25), ss. 17, 32(5); S.I. 2007/3505, arts. 2(c), 5
- F2** S. 56A(1) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(h), Sch. 15 para. 7
- F3** S. 56A(2)(e) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 23(2)(a), 36(2)
- F4** S. 56A(2A)-(2C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 23(2)(b), 36(2)
- F5** Words in s. 56A(3) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 12 para. 25(3); S.I. 2012/924, art. 2
- F6** S. 56A(4) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), Sch. 12 para. 25(4); S.I. 2012/924, art. 2
- F7** Words in s. 56A(5) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 6 para. 7(4)(a); S.I. 2010/303, art. 3, Sch. 2
- F8** Words in s. 56A(5)(6) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 12 para. 25(5); S.I. 2012/924, art. 2
- F9** Words in s. 56A(6)(c) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 6 para. 7(5)(b); S.I. 2010/303, art. 3, Sch. 2
- F10** Words in s. 56A(7) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 12 para. 25(6); S.I. 2012/924, art. 2
- F11** S. 56A(7)(b) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 12 para. 25(6); S.I. 2012/924, art. 2
- F12** Words in s. 56A(7)(b) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 23(2)(e)(i), 36(2)
- F13** S. 56A(7)(c) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 23(2)(c)(ii), 36(2)
- F14** S. 56A(7A) substituted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), ss. 23(2)(d), 36(2)

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- F15** S. 56A(7B) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(e)**, 36(2)
- F16** S. 56A(9) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(7)**; S.I. 2012/924, art. 2
- F17** S. 56A(9A)-(9C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 23(2)(f)**, 36(2)
- F18** S. 56A(10) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 25(8)**; S.I. 2012/924, art. 2

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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. 16(6) inserted by [2007 c. 25 s. 14\(4\)](#)
- s. 17(2)(aa) inserted by [2007 c. 25 s. 14\(5\)\(b\)](#)
- s. 27(3A)(3B) inserted by [2007 c. 25 s. 15\(4\)](#)
- s. 27(9) inserted by [2007 c. 25 s. 15\(7\)](#)
- s. 51(1)-(2A) substituted for s. 51(1)(2) by [2007 c. 25 s. 16\(2\)](#)
- s. 76(8)(9) inserted by [2017 c. 29 s. 52\(4\)](#)
- s. 85D inserted by [2009 c. 22 s. 247](#)
- s. 85D(7) words inserted by [S.I. 2016/413 reg. 140](#) (This amendment comes into force on the day that section 85D of the Further and Higher Education Act 1992 (c. 13) comes into force. That provision is still prospective.)