



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 4

#### THE CHIEF EXECUTIVE OF SKILLS FUNDING

### CHAPTER 1

#### ESTABLISHMENT AND MAIN DUTIES

*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—

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- (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,

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- (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;
  - (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.

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- (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.