



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 4

#### THE CHIEF EXECUTIVE OF SKILLS FUNDING

### CHAPTER 3

#### CHIEF EXECUTIVE'S FUNCTIONS: SUPPLEMENTARY

#### *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

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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;

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“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.