



# 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

#### *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 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;

---

*Status: This is the original version (as it was originally enacted).*

---

- (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.
- (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

---

*Status: This is the original version (as it was originally enacted).*

---

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—

---

*Status: This is the original version (as it was originally enacted).*

---

- (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.

---

*Status: This is the original version (as it was originally enacted).*

---

- (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.