

# **APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4: the Chief Executive of Skills Funding**

##### ***Chapter 1: Establishment and main duties***

##### **Education and training for persons aged 19 or over etc.**

##### ***Section 86: Education and training for persons aged 19 or over and others subject to adult detention***

251. This section sets out the general duty of the Chief Executive to secure the provision of “reasonable” facilities for the education and training of people aged 19 or over, (other than those aged under 25 who are subject to learning difficulty assessment) and those who are detained in a prison or an adult young offender institution. Facilities are “reasonable” if they are of a quality and quantity which the Chief Executive can reasonably be expected to provide taking account of the resources available to him or her (*subsection (3)*).
252. The duties do not extend to higher education, which is the responsibility of the Higher Education Funding Council for England. This is because the Education Act 1996 applies for the interpretation of this Part, and section 1(4) of that Act excludes higher education from its ambit.
253. The duty includes funding and securing delivery of education and training for those detained in prisons and adult young offender institutions, whether sentenced to imprisonment or committed to prison on remand or pending trial or otherwise. This includes 18 year olds held in adult custody (and, very rarely, those under 18), therefore aligning the category of detained people in relation to whom the Chief Executive has responsibilities with the category of people detained in the adult criminal justice system, thereby avoiding local education authorities and the Chief Executive each having responsibility for the provision of education or training in individual establishments. Local education authorities will be responsible for all those detained within the youth justice system (which includes nearly all those aged 17 and under, and those aged 18 who are close to the end of their sentence and who will therefore not transfer to adult prisons). Where a person in adult detention has already begun education or training, the Chief Executive must have regard to the desirability of those persons continuing such programmes whilst in custody. Guidance may be issued by the Secretary of State specifically concerning the provision of education and training for prisoners aged 18 or under who are held in adult detention. The Chief Executive will have to have regard to any such guidance. Feasibility of such provision as well as budgetary considerations may be taken into account.

*These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009*

254. *Subsection (4)* sets out the factors the Chief Executive must take into account in exercising his or her duty under *subsection (1)*, which include ensuring that the education and training required by different employment and industry sectors are met. It also requires the Chief Executive to act with a view to encouraging diversity in education and training; and to increasing opportunities for individuals to exercise choice.
255. The Chief Executive should make the best use of resources. This might mean that for courses and skills where demand is more limited, the Chief Executive could decide to fund places concentrated in particular geographical areas which have links to a particular industry sector, rather than providing more widespread provision for smaller groups of learners. Learners (and employers) seeking to access these more unusual courses may need to travel (or permit employees to travel) to take up the offer of a course.
256. No distinction is drawn between full-time and part-time education in the provision that the Chief Executive must secure.
257. “Organised leisure time occupation” is defined in *subsection (7)*. The Chief Executive’s duties in this regard do not apply to those who are detained in prison or adult young offender institutions; as such facilities are provided by the prison or other institution.