

# **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 2: Other functions*

##### **Funding**

##### *Section 100: Provision of financial resources*

285. This section gives the Chief Executive powers to fund other persons for the purpose of fulfilling the duties and exercising the powers vested in the Chief Executive. It provides powers for the Chief Executive to pay persons who provide or are proposing to provide education or training within the Chief Executive's remit, and to pay persons who may not be providers themselves but who supply services which support the delivery of such education and training by providers, for example, delivery of transport and other support services. The powers also provide for the Chief Executive to pay persons providing or proposing to provide information, advice or guidance about education or training or connected matters.
286. A person may be any natural or legal person and includes FE colleges, private and voluntary sector training providers and individuals. *Subsection (1)(c)* allows the Chief Executive to make direct grants to students.
287. In exercising the powers under this section, the Chief Executive must make the best use of resources. The Chief Executive may use his own financial resources – namely the grant provided by the Secretary of State; assist in the transfer of financial resources from one person to another; and do either of these jointly with other persons or assist in the transfer of financial resources from other persons who are acting jointly, for example, to jointly commission with other Government Departments, for example the Department for Work and Pensions, skills provision for people who have, or are likely to be made, redundant.
288. In order to fulfil his or her powers to fund colleges and providers, the Chief Executive will receive an annual letter setting out the available budget and the Secretary of State's priorities. The Government anticipates that under this section, the Chief Executive will exercise his or her funding powers in order to fund FE colleges, training providers and others for learning provision which responds to the choices of individuals and employers, and the wider skills needs of the economy.

##### *Section 101: Financial resources: conditions*

289. This section permits the Chief Executive to attach conditions to the financial resources which he or she makes available. *Subsection (2)* provides that these conditions may

in particular fall into three categories: information, operational or repayment. For example, information conditions may include a requirement to provide information to the Chief Executive or other persons so designated by the Chief Executive and could also enable the Chief Executive and designated persons to have access to the accounts and computers, for example, of funded persons (*subsection (3)*).

290. *Subsections (4) and (5)* define “operational conditions”; these include a requirement on the provider to charge fees by reference to specified criteria, the making of awards and recovery of costs from other persons in accordance with criteria established by the Chief Executive. Operational conditions may also place a requirement on a provider to make available provision which meets requirements identified in learning difficulty assessments conducted under section 139A or 140 of the Learning and Skills Act 2000.

### ***Section 102: Performance assessments***

291. This section re-enacts the performance assessment elements of section 9 of the Learning and Skills Act 2000, but conferring functions on the Chief Executive of Skills Funding rather than the LSC. It enables the Chief Executive to adopt or develop schemes for the assessment of the performance of individual providers of education and training. The Chief Executive may take this assessment into account when deciding which providers he or she will continue to fund under powers in section 100.

### ***Section 103: Means tests***

292. This section re-enacts the means testing elements of section 9 of the Learning and Skills Act 2000, but conferring functions on the Chief Executive of Skills Funding rather than the LSC. It enables the Chief Executive to carry out means tests or arrange for others to do so in order to establish how much financial support students may be eligible to receive in respect of the costs of education or training, which may include childcare or transport costs, or where living costs are a concern.

### ***Section 104: Assistance and support in relation to apprenticeship places***

293. This section places a duty on the Chief Executive to provide or secure provision of services to assist people to find apprenticeships. The section provides the statutory basis for the services provided by the National Apprenticeships Vacancy Matching Service launched in December 2008 which include a web based service for individuals, employers and providers which enables employers to advertise their apprenticeship vacancies through a national portal. The Government’s expectation is that the portal will provide information to assist people interested in apprenticeships to understand the opportunities that exist for them and where appropriate apply on-line for those opportunities that interest them.

### ***Section 105: Promoting progression from level 2 to level 3 apprenticeships***

294. This section places a duty on the Chief Executive of Skills Funding to promote the progression to a level 3 apprenticeship where a person has completed a level 2 apprenticeship.

### ***Section 106: Advice and assistance in relation to apprenticeships***

295. This section allows the Secretary of State to require the Chief Executive of Skills Funding to provide advice and assistance to enable the Secretary of State to discharge responsibilities for statutory apprenticeships set out in Chapter 1 of Part 1. These include responsibility for the specification of apprenticeship standards for England and giving directions and guidance in relation to the issue of English frameworks.