

# **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.

## **Provision of services and assistance**

### ***Section 107: Provision of services***

296. This section re-enacts section 11 of the Further Education and Training Act 2007, but conferring functions on the Chief Executive of Skills Funding rather than the LSC. It provides the powers for the Chief Executive to provide services for individuals and to bodies exercising education and training functions in relation to those functions. It enables the Chief Executive to offer support services such as management information systems, software management systems, payroll administration, human resources functions, finance services and procurement services, including to people and to bodies outside England where that is appropriate, and required by the devolved administrations. Such services may include the provision of accommodation or facilities where that is appropriate to the delivery or provision of the service.
297. The Chief Executive may provide these services to: publicly-funded education and training providers (including schools and universities); publicly-funded institutions that have functions relating to the provision of education and training; and persons or bodies specified by order (who may or may not be publicly funded but have functions relating to education or training).
298. *Subsection (3)* provides that the terms and conditions of such arrangements may include provision for making payments to the Chief Executive in respect of costs incurred in performing any function under the arrangements. This might be used where the delivery of services requires the Chief Executive to incur costs that might not normally be incurred in the delivery of services in England alone. This might include costs associated with adapting systems, providing “additional” services, or simply providing the service to devolved administrations.
299. *Subsection (4)* defines “permitted recipients”, which are those persons with whom the Chief Executive may make arrangements under this section and *subsection (8)* defines “the appropriate national authority”.
300. The orders specifying additional persons or bodies as permitted recipients may be made by the Secretary of State or, where a person or body has education and training functions only in Wales, Scotland or Northern Ireland, by the relevant devolved administration.
301. In Wales, Scotland and Northern Ireland, these services will be supplied only with the consent of the respective devolved administrations. Separate consent will be required from each administration for each type of service.
302. The Chief Executive will need to obtain the consent of the Secretary of State before making arrangements to provide support services to a person or body operating in Wales, Scotland or Northern Ireland.
303. An example of such a support service is the Further Education Data Service which the Government intends that the Chief Executive will operate as a shared service across the Further Education and skills sector. This service will collect information from colleges and providers and produce and disseminate reports on performance of the further education sector to all those with a direct interest in the performance of particular colleges and providers, for example the colleges and providers themselves; local education authorities and the Young People’s Learning Agency.
304. Another example of such a support service is the Managing Information Across Partners (MIAP) Learner Registration and Learner Record Service through which the Chief Executive will provide services, when requested to do so, which support the sharing of data with the aim of benefiting individual learners. The Chief Executive will manage these services on behalf of participating partners. The Welsh Assembly and Northern Ireland Government have already asked the LSC to provide such services and this section will enable the Chief Executive to carry out the same functions.

***Section 108: Assistance with respect to employment and training, Section 109: Assistance with respect to employment and training: Northern Ireland***

305. Sections 108 and 109 give the Chief Executive the same powers as the LSC currently has under section 12 and 13 of the Further Education and Training Act 2007, to allow him or her to take part in arrangements in relation to Wales, Scotland and Northern Ireland for assisting persons to select, train for, obtain and retain employment. Consent of the Welsh and Scottish administrations will be required for arrangements made by the Secretary of State in relation to Wales and Scotland. The consent of the Secretary of State will be required for arrangements made by all the devolved administrations which involve the Chief Executive. Arrangements may include a loans scheme for learners such as Career Development Loans (CDLs) or its successor Professional and Career Development Loans (under which commercial lenders provide loans to help pay for learning) which operate throughout Great Britain and are currently administered by the LSC on behalf of the devolved administrations.

**Miscellaneous**

***Section 110: Research, information and advice***

306. This section sets out the role of the Chief Executive in relation to research and the provision of information and advice, and the establishment of systems for collecting information. The Chief Executive has a duty to report to the Secretary of State on such matters as the Secretary of State may require. In practice, this is likely to include information about progress towards the Government's targets and priorities in connection with post-19 learning; a description of the Chief Executive's learning and skills funding strategy; and information on the application of funding. This will also include information about apprentices aged 16 to 18.
307. Subsection (4) gives the Chief Executive the power to provide information to any person designated by the Secretary of State, in relation to a function of the Chief Executive. This will, for instance, enable the Chief Executive to provide the Office of Qualifications and Examinations Regulation (Ofqual) (if so designated) with information to assist with the establishment and maintenance of the framework of qualifications and monitoring of the standards of qualifications.
308. Subsection (6) allows the Chief Executive to secure the provision of facilities and services for providing information, advice or guidance about education or training or connected matters.

***Section 111: Power to confer supplementary functions on Chief Executive***

309. This section enables the Secretary of State to confer by order additional functions on the Chief Executive, which are connected to the functions of the Secretary of State and relevant to the provision of facilities for education or training within the remit of the Chief Executive.