



# Skills and Post-16 Education Act 2022

## 2022 CHAPTER 21

### PART 4

#### MISCELLANEOUS AND GENERAL

### CHAPTER 1

#### CHEATING SERVICES PROVIDED FOR POST-16 STUDENTS AT ENGLISH INSTITUTIONS

#### 26 Meaning of “relevant service” and other key expressions

- (1) [This section](#) applies for the purposes of [this Chapter](#).
- (2) “Relevant service” means a service of completing all or part of an assignment on behalf of a student where the assignment completed in that way could not reasonably be considered to have been completed personally by the student.
- (3) References to completing all or part of an assignment on behalf of a student include references to providing material to the student in connection with the assignment where—
  - (a) the student could use the material in completing the assignment or part, and
  - (b) the material—
    - (i) is prepared in connection with the assignment, or
    - (ii) has not been published generally.
- (4) For this purpose—
  - (a) where, in connection with an assignment, a student seeks the provision of a relevant service, any material provided as a result is to be regarded as provided in connection with the assignment;
  - (b) material is published generally if it—
    - (i) is available generally without payment, or

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- (ii) is included in a publication that contains other educational or training material and is available generally (such as a text book or study guide).
- (5) A person who provides, or arranges the provision of, a relevant service does so “in commercial circumstances” if—
  - (a) the person is acting in the course of business, or
  - (b) in the case of a person who provides a relevant service, its provision was arranged by another person acting in the course of business, whether the person’s own business or that of the person’s employer.
- (6) “Student” means—
  - (a) a person who is undertaking a relevant course at a post-16 institution or sixth form in England, or
  - (b) any other person over compulsory school age who has been entered to take an examination relating to a regulated qualification at a place in England.
- (7) A “relevant assignment”, in relation to a student, is an assignment (which may have been chosen by the student) which the student is required to complete personally—
  - (a) as part of the relevant course which the student is undertaking, or
  - (b) in order to obtain the qualification to which the course leads or for which the student has been entered.
- (8) In relation to an assignment that is a relevant assignment—
  - (a) “personally” includes with any assistance permitted as part of the requirement (whether or not the assignment, if completed with that assistance, would otherwise be considered to be completed personally), and
  - (b) that assistance is “permitted assistance”.
- (9) Section 30 sets out the meanings of other terms used in [this Chapter](#) (including in [this section](#)).

## **27 Offence of providing or arranging a relevant service**

- (1) It is an offence for a person to provide, or arrange for another person to provide, in commercial circumstances, a relevant service for a student in relation to a relevant assignment.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (3) In proceedings for an offence under subsection (1) it is a defence for the defendant to prove, in relation to any of the matters mentioned in subsection (4), that the defendant did not know, and could not with reasonable diligence have known, the matter.
- (4) Those matters are—
  - (a) if material is provided to the student as a result of the relevant service, that the student would or might use the material in completing all or part of the assignment;
  - (b) that the student was required to complete the assignment personally;
  - (c) that the relevant service was not permitted assistance.

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- (5) A statement in the form of a written standard term of the contract or arrangement under which the relevant service was provided or arranged—
- (a) that the student would not use any material provided as a result of the relevant service in completing all or part of the assignment,
  - (b) that the student was not required to complete the assignment personally, or
  - (c) that the relevant service was permitted assistance,
- is not, of itself, to be taken as sufficient evidence of a matter to be proved under subsection (3).
- (6) A student does not commit either of the following merely by making use of a relevant service to complete all or part of an assignment—
- (a) an offence under Part 2 of the Serious Crime Act 2007 where the offence that the student intended or believed would be committed is an offence under this section;
  - (b) an offence under this section committed by aiding, abetting, counselling or procuring the commission of an offence under this section.

## **28 Offence of advertising a relevant service**

- (1) A person who advertises a relevant service to students commits an offence.
- (2) It does not matter for the purposes of subsection (1) whether the persons to whom the relevant service is advertised are only students, or only a particular category of students, or include persons other than students.
- (3) For this purpose a person advertises a relevant service if, and only if, the person makes arrangements for an advertisement in which the person—
- (a) offers, or
  - (b) is described or presented as available or competent,
- to provide or arrange for another person to provide a relevant service.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine.

## **29 Offences: bodies corporate and unincorporated associations**

- (1) If an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person who was purporting to act in any such capacity,
- that person (as well as the body corporate) is guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to a director of the body corporate.
- (3) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in the name of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

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- (4) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.
- (5) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 apply as they apply in relation to a body corporate.
- (6) Where an offence under this Chapter committed by an unincorporated body other than a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any officer of the body or any member of its governing body, that person (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner, that partner (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly.

### 30 Interpretation of Chapter

In this Chapter, the following terms have the following meanings—

- “assignment” includes an examination and any piece of work;
- “examination” includes any form of assessment;
- “permitted assistance”, in relation to a relevant assignment, has the meaning given by [section 26\(8\)](#);
- “personally”, in relation to an assignment that is a relevant assignment, has the extended meaning given by [section 26\(8\)](#);
- “post-16 institution” means—
  - (a) a higher education provider, within the meaning of Part 1 of the Higher Education and Research Act 2017 (see section 83(1) of that Act);
  - (b) an institution within the further education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(3) of that Act);
  - (c) a 16 to 19 Academy;
  - (d) any other institution or person, other than a school, that is principally concerned with the provision of education or training suitable to the requirements of pupils who are over compulsory school age;
- “regulated qualification” means a qualification regulated by the Office of Qualifications and Examinations Regulation;
- “relevant assignment” has the meaning given by [section 26\(7\)](#);
- “relevant course” means—
  - (a) a course of any description mentioned in Schedule 6 to the Education Reform Act 1988, or
  - (b) a course—
    - (i) providing education or training in preparation for an examination relating to a regulated qualification, or
    - (ii) which a person is required to complete in order to obtain a regulated qualification;
- “relevant service” has the meaning given by [section 26\(2\)](#);
- “school” has the same meaning as in the Education Act 1996;

“sixth form” means a school, or part of a school, that is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age;

“student” has the meaning given by [section 26\(6\)](#).