



# Learning and Skills Act 2000

## 2000 CHAPTER 21

### PART II

#### NATIONAL COUNCIL FOR EDUCATION AND TRAINING FOR WALES

##### *The Council*

### **30 The Council**

- (1) There shall be a body corporate called the National Council for Education and Training for Wales or Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant.
- (2) The Council is to consist of not less than 10 and not more than 12 members appointed by the National Assembly for Wales (the National Assembly) and the National Assembly must appoint one of them as chairman.
- (3) In appointing a member the National Assembly must have regard to the desirability of appointing a person who has experience relevant to the Council's functions.
- (4) Schedule 4 contains provisions about the Council.
- (5) The Council's functions are to be carried out in relation to Wales only.

##### *Main duties*

### **31 Education and training for persons aged 16 to 19**

- (1) The Council must secure the provision of proper facilities for—
  - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19,
  - (b) training suitable to the requirements of such persons,
  - (c) organised leisure-time occupation connected with such education, and
  - (d) organised leisure-time occupation connected with such training.

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- (2) Facilities are proper if they are—
  - (a) of a quantity sufficient to meet the reasonable needs of individuals, and
  - (b) of a quality adequate to meet those needs.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
  - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
  - (b) take account of the different abilities and aptitudes of different persons;
  - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
  - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
  - (e) make the best use of the Council’s resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.
- (5) For the purposes of this section—
  - (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training;
  - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

## **32 Education and training for persons over 19**

- (1) The Council must secure the provision of reasonable facilities for—
  - (a) education (other than higher education) suitable to the requirements of persons who have attained the age of 19,
  - (b) training suitable to the requirements of such persons,
  - (c) organised leisure-time occupation connected with such education, and
  - (d) organised leisure-time occupation connected with such training.
- (2) Facilities are reasonable if (taking account of the Council’s resources) the facilities are of such a quantity and quality that the Council can reasonably be expected to secure their provision.
- (3) In performing the duty imposed on it by subsection (1) the Council must—
  - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped;
  - (b) take account of the different abilities and aptitudes of different persons;
  - (c) take account of the education and training required in different sectors of employment for employees and potential employees;
  - (d) take account of facilities whose provision the Council thinks might reasonably be secured by other persons;
  - (e) make the best use of the Council’s resources and in particular avoid provision which might give rise to disproportionate expenditure.
- (4) Provision is not to be considered as giving rise to disproportionate expenditure only because that provision is more expensive than comparable provision.

- (5) For the purposes of this section—
- (a) education includes both full-time and part-time education;
  - (b) training includes both full-time and part-time training;
  - (c) training includes vocational, social, physical and recreational training;
  - (d) higher education is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) References in this Part to post-16 education are to—
- (a) education falling within section 31(1)(a) or subsection (1)(a) above, and
  - (b) organised leisure-time occupation connected with such education.
- (7) References in this Part to post-16 training are to—
- (a) training falling within section 31(1)(b) or subsection (1)(b) above, and
  - (b) organised leisure-time occupation connected with such training.

### **33 Encouragement of education and training**

The Council must—

- (a) encourage individuals to undergo post-16 education and training;
- (b) encourage employers to participate in the provision of post-16 education and training;
- (c) encourage employers to contribute to the costs of post-16 education and training.

#### *Main powers*

### **34 Provision of financial resources**

- (1) The Council may secure the provision of financial resources to—
- (a) persons providing or proposing to provide post-16 education or training;
  - (b) persons providing or proposing to provide goods or services in connection with the provision by others of post-16 education or training;
  - (c) persons receiving or proposing to receive post-16 education or training;
  - (d) persons providing or proposing to provide courses falling within paragraph 1(g) or (h) of Schedule 6 to the Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level);
  - (e) institutions within the further or higher education sector (within the meaning of section 91 of the Further and Higher Education Act 1992) which provide or propose to provide secondary education (other than post-16 education);
  - (f) persons undertaking or proposing to undertake research relating to education or training;
  - (g) persons providing or proposing to provide facilities designed to form links between (on the one hand) employers and (on the other) persons who provide or receive education or training;
  - (h) persons carrying out means tests under arrangements made under section 37;
  - (i) persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).

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- (2) The Council may secure the provision of financial resources under subsection (1)—
  - (a) by providing resources itself;
  - (b) by making arrangements for the provision of resources by another person;
  - (c) by making arrangements for the provision of resources by persons jointly (whether or not including the Council).
- (3) In exercising its power under subsection (1)(c) the Council may secure the provision of financial resources by reference to any fees or charges payable by the person receiving or proposing to receive the education or training or to any other matter (such as transport or childcare).

### **35 Financial resources: conditions**

- (1) If the Council itself provides financial resources it may impose conditions; and the conditions may include any provisions described below.
- (2) The conditions may—
  - (a) require the Council or a person designated by it to be allowed access to a person's accounts and documents and to be given rights in relation to a person's computers and associated apparatus and material;
  - (b) require a person to whom financial resources are provided to give to the Council information it requests for the purpose of carrying out its functions.
- (3) The conditions may require a person providing or proposing to provide education or training (the provider) to make arrangements providing for all or any of the following—
  - (a) for the provider to charge fees by reference to specified criteria;
  - (b) for the provider to make awards by reference to specified criteria;
  - (c) for the provider to recover amounts from persons receiving education or training or from employers (or from both);
  - (d) for amounts to be determined by reference to specified criteria where provision is made under paragraph (c);
  - (e) for specified exemptions to operate where provision is made under paragraph (c);
  - (f) for the provider to make provision specified in a report of an assessment conducted under section 140.
- (4) The conditions may—
  - (a) relate to the provision made (or to be made) with respect to disabled persons by a person providing or proposing to provide education or training;
  - (b) require a person providing education or training to publish at specified intervals statements containing information of a specified description about the facilities for education or training provided by him with respect to disabled persons.
- (5) The conditions may—
  - (a) enable the Council to require the repayment (in whole or part) of sums paid by the Council if any of the conditions subject to which the sums were paid is not complied with;
  - (b) require the payment of interest in respect of any period in which a sum due to the Council in accordance with any condition is unpaid.

- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

### **36 Funding of school sixth-forms**

- (1) The Council may make a grant to a local education authority—
- (a) on the condition that the grant be applied as part of the authority's local schools budget for a financial year, and
  - (b) with a view to the grant being used for the purposes of, or for purposes connected with, the provision by schools of education suitable to the requirements of persons above compulsory school age.
- (2) A grant made under this section may be made on conditions in addition to the condition mentioned in subsection (1)(a) (including conditions of a kind which could be imposed under section 35).
- (3) "Local schools budget" has the same meaning as in Part II of the School Standards and Framework Act 1998 (framework for maintained schools).

### **37 Assessments and means tests**

- (1) The Council may develop schemes for the assessment of the performance of persons in providing post-16 education and training.
- (2) The Council may take the assessments into account in deciding how to exercise its powers under section 34.
- (3) The Council may—
- (a) carry out means tests;
  - (b) arrange for other persons to carry out means tests.
- (4) The Council may take the results of the tests into account in exercising its power under section 34(1)(c).

### **38 Qualifying accounts and arrangements**

- (1) The Council may promote—
- (a) the holding of accounts which qualify under section 104;
  - (b) the making of arrangements which qualify under section 105.
- (2) The Council—
- (a) may be specified as a body with which arrangements under section 105 may be made;
  - (b) may be designated by the National Assembly under section 107(1) or (3) and may act in accordance with such a designation;
  - (c) may make arrangements under provision made under section 108(5)(d);
  - (d) may be designated by the National Assembly in exercise of a power conferred on it under section 108(6)(b) or (7)(b) and may act in accordance with such a designation.

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### **39 Further education: governors**

- (1) The Council may appoint a person to be a member of the governing body of an institution which—
  - (a) falls within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992), and
  - (b) mainly serves the population of Wales.
- (2) But no more than two members of the governing body of a given institution may at any given time have been appointed under this section.

#### *Other functions*

### **40 Research and information**

- (1) The Council may carry out research relating to any matter relevant to any of its functions.
- (2) The Council must provide the National Assembly with such information or advice as the National Assembly requests about any matter in relation to which the Council has a function.
- (3) The Council may provide the National Assembly with such information or advice as the Council thinks fit about any matter in relation to which it has a function.
- (4) The Council may provide any person designated by the National Assembly with such information as the Council thinks fit about any matter in relation to which it has a function.
- (5) The Council must establish systems for collecting information which is designed to secure that its decisions with regard to education and training are made on a sound basis.
- (6) The Council may secure the provision of facilities for providing information, advice or guidance about education or training or connected matters (including employment).

### **41 Persons with learning difficulties**

- (1) In discharging its functions under sections 31, 32 and 34(1)(a) to (d) and (g) the Council must have regard—
  - (a) to the needs of persons with learning difficulties, and
  - (b) in particular, to any report of an assessment conducted under section 140.
- (2) If the Council is satisfied that it cannot secure the provision of facilities for education or training which are sufficient in quantity and adequate in quality for a person with a learning difficulty who is over compulsory school age but who has not attained the age of 19 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.
- (3) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 19 but not the age of 25 unless it also secures the provision of boarding accommodation for him, the Council must secure the provision of boarding accommodation for him.

- (4) If the Council is satisfied that it cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 25 unless it also secures the provision of boarding accommodation for him, the Council may secure the provision of boarding accommodation for him.
- (5) A person has a learning difficulty if—
  - (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions providing post-16 education or training.
- (6) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.

## **42 Equality of opportunity**

- (1) In exercising its functions the Council must have due regard to the need to promote equality of opportunity—
  - (a) between persons of different racial groups,
  - (b) between men and women, and
  - (c) between persons who are disabled and persons who are not.
- (2) As soon as is reasonably practicable after the end of each financial year of the Council it must publish a report containing—
  - (a) a statement of the arrangements made under subsection (1) and having effect in the year;
  - (b) an assessment of how effective the arrangements were in promoting equality of opportunity.
- (3) The report must also contain a statement of the arrangements which the Council has made, or proposes to make, under subsection (1) in respect of the financial year immediately following that referred to in subsection (2).
- (4) The Council must send a copy of the report to the National Assembly.
- (5) “Racial group” has the same meaning as in the Race Relations Act 1976.
- (6) Disabled persons are persons who are disabled for the purposes of the Disability Discrimination Act 1995.

## **43 Plans**

- (1) The Council must make a plan for each of its financial years.
- (2) The Council must send its plan for its first financial year to the National Assembly as soon as is reasonably practicable after the year starts.
- (3) The Council must send its plan for any subsequent financial year of the Council to the National Assembly before the year starts.
- (4) A plan for a financial year must include—

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- (a) proposals as to how the Council intends to achieve in the financial year any objectives which should be achieved in the year in conformity with directions of the National Assembly or with conditions imposed under section 49;
  - (b) the Council's financial proposals for the year;
  - (c) such other matters as the National Assembly specifies.
- (5) The National Assembly must approve the plan or require the Council to make specified alterations of it; and if alterations are required the Council must make them.
- (6) The Council must publish the plan as approved by the National Assembly or as altered in accordance with the National Assembly's requirements; and publication must be made at such time and in such manner as the National Assembly specifies.
- (7) The Council may make and publish such other plans as it thinks fit; but any such plan must not conflict with a plan for a financial year.

#### **44 Strategy**

- (1) The Council must formulate a strategy in relation to its functions and keep it under review.
- (2) The Council must incorporate in the strategy proposals as to—
- (a) how it intends to achieve any objectives contained in directions of the National Assembly;
  - (b) how it intends to achieve such objectives within any time limits contained in such directions.
- (3) The strategy must include proposals as to how the Council intends to develop the skills of persons in employment; but this does not affect the generality of subsection (1).
- (4) The Council—
- (a) may at any time send to the National Assembly a copy of the strategy as it subsists for the time being;
  - (b) must at such times as the National Assembly indicates send to the Assembly a copy of the strategy as it subsists for the time being.
- (5) The National Assembly must approve the strategy sent to it or require the Council to make specified alterations of it; and if alterations are required the Council must make them.
- (6) In exercising its functions the Council must have regard to the strategy as approved by the National Assembly or as altered in accordance with its requirements.

#### **45 Use of information by Council**

In carrying out its functions the Council must have regard to information supplied to it by any body designated by the National Assembly for the purposes of this section.

#### **46 Supplementary functions**

- (1) The Council may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of its other functions.
- (2) In particular it may—



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- (a) acquire and dispose of land and other property;
  - (b) enter into contracts;
  - (c) invest sums not immediately needed for the purpose of exercising its other functions;
  - (d) accept financial resources (whether as gifts or otherwise);
  - (e) accept gifts of land and other property.
- (3) But the Council has no power—
- (a) to borrow money;
  - (b) to lend money unless the National Assembly consents;
  - (c) to subscribe for or otherwise acquire shares in or securities of a company unless the National Assembly consents.
- (4) The National Assembly may by order confer or impose on the Council such supplementary powers or duties relating to the provision of post-16 education or training as the National Assembly thinks fit.
- (5) For the purposes of subsection (4) a power or duty is supplementary if—
- (a) it is exercisable in connection with functions of the National Assembly, and
  - (b) it is relevant to the provision of facilities for post-16 education or training.

#### *Miscellaneous*

### **47 Directions**

- (1) The National Assembly may give directions to the Council; and the directions may include any provisions described in subsections (2) to (4).
- (2) Directions may contain—
- (a) objectives which the Council should achieve in seeking to carry out its functions;
  - (b) time limits within which the Council should achieve the objectives;
  - (c) provision relating to the management of the Council.
- (3) Subsection (4) applies if the National Assembly is satisfied that the Council—
- (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 exercise of a power conferred or the performance of a duty imposed by or under any Act.
- (4) In such a case directions may contain such provision as the National Assembly thinks fit as to the exercise of the Council's powers and performance of its duties.
- (5) Directions may contain provision described in subsection (4) despite any enactment making the exercise of a power or performance of a duty contingent on the Council's opinion.
- (6) Directions may not concern the provision of financial resources in respect of activities carried on by a particular person or persons.
- (7) If the National Assembly asks the Council to do so, it must advise the National Assembly on the formulation of objectives and time limits.
- (8) The Council must comply with any directions given to it by the National Assembly.

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## **48 Committees**

Schedule 5 contains provisions about committees.

## **49 Grants to Council**

- (1) The National Assembly may make grants to the Council of such amounts and subject to such conditions as the National Assembly thinks fit; and the conditions may include any provisions described below.
- (2) The conditions may set the Council's budget for any of its financial years.
- (3) The conditions may—
  - (a) require the Council to use the grants for specified purposes;
  - (b) require the Council to comply with specified requirements in respect of every person (or every person of a specified class or description) in securing the provision of specified financial resources to such persons;
  - (c) enable the National Assembly to require the repayment, in whole or in part, of sums paid by it if any condition imposed is not complied with;
  - (d) require the payment of interest in respect of any period during which a sum due to the National Assembly in accordance with any condition remains unpaid.
- (4) Requirements which may be imposed under subsection (3)(b) include in particular requirements that, if the Council itself provides specified financial resources, it is to impose specified conditions.
- (5) The National Assembly may not impose conditions which relate to the Council's securing of the provision of financial resources to a particular person or persons.

## **50 Annual report**

- (1) As soon as is reasonably practicable after the end of each financial year of the Council it must prepare a report on its activities in that year and send a copy of the report to the National Assembly.
- (2) A report—
  - (a) must be in such form and contain such information as the National Assembly may specify in directions to the Council;
  - (b) must set out any other directions given to the Council under this Part in the financial year to which the report relates.
- (3) Following receipt of a copy of a report under this section the National Assembly must arrange for copies of it to be published in such manner as it thinks appropriate.

## **51 Council's financial year**

A financial year of the Council is—

- (a) the period starting with the date on which it is established and ending with the second 31 March following that date;
- (b) each successive period of 12 months.