



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 2

#### SUPPORT FOR PARTICIPATION IN EDUCATION OR TRAINING: YOUNG ADULTS WITH LEARNING DIFFICULTIES AND YOUNG PEOPLE IN ENGLAND

##### *Provision of support services*

#### **68 Support services: provision by local education authorities**

- (1) A local education authority in England must make available to young persons and relevant young adults for whom it is responsible such services as it considers appropriate to encourage, enable or assist the effective participation of those persons in education or training.
- (2) Subsection (1) is subject to any direction given by the Secretary of State under section 69.
- (3) For the purposes of this section and section 69, a local education authority makes services available if it—
  - (a) provides them, or
  - (b) makes arrangements with another local education authority or another person for their provision.
- (4) In carrying out its functions under this section, a local education authority must—
  - (a) comply with any direction given by the Secretary of State under section 69, and
  - (b) have regard to any guidance issued by the Secretary of State.
- (5) Nothing in this section requires a local education authority to make services available to a young person or relevant young adult for whom it is responsible if—
  - (a) another local education authority in England is also responsible for the person, and

- (b) services are being provided to the person by, or under arrangements made by, the other authority in exercise of its functions under subsection (1).

## **69 Directions**

- (1) The Secretary of State may give directions to a local education authority—
  - (a) specifying the services to be made available to young persons and relevant young adults in the exercise of the authority's functions under section 68(1);
  - (b) specifying the descriptions of individual who may be involved, in ways specified in the direction, in the provision of such services;
  - (c) requiring the authority to secure that any person by whom such services are provided (whether the authority or any other person) co-operates with—
    - (i) any person providing services under section 74;
    - (ii) any person exercising functions, or providing services, which relate to social security or are connected with finding suitable employment, education or training for young persons or relevant young adults;
  - (d) as to the names and symbols to be used, in ways specified in the direction, in connection with services provided in pursuance of section 68(1);
  - (e) imposing requirements as to—
    - (i) the keeping of records, or
    - (ii) the provision of information to local education authorities and persons providing services in pursuance of section 68(1),
 in connection with the provision of such services.
- (2) The Secretary of State may direct a local education authority to exercise its functions under section 68(1) in such a way that the person who provides services (whether the local education authority or any other person), or such services as are specified in the direction, as a result of the exercise of those functions is a person who also—
  - (a) exercises such functions, or
  - (b) provides such services,
 as are specified in the direction.
- (3) Functions or services specified under subsection (2)—
  - (a) need not relate to education or training, and
  - (b) may, in particular, be functions or services relating to social security.
- (4) A direction under this section may be varied or revoked by a later direction.
- (5) Different directions may be given under this section in relation to different descriptions of service.

## **70 Local education authorities: supplementary powers**

- (1) A local education authority in England—
  - (a) may provide, secure the provision of or participate in the provision of services under arrangements entered into by it with another local education authority in pursuance of any function of that other local education authority under section 68, and
  - (b) may provide, secure the provision of or participate in the provision of services for encouraging, enabling or assisting the effective participation in education or training of—

(i) young persons, or  
(ii) relevant young adults,  
(including such persons from other areas) otherwise than in accordance with section 68 or paragraph (a).

(2) Nothing in or done under section 68 or 69 or this section is to be taken to prejudice any powers which a local education authority has with respect to the exercise of its functions otherwise than under those sections.

## **71 Provision of support on conditional basis: learning and support agreements**

(1) Services provided for young persons in pursuance of section 68 or 70(1)(b) may include the provision of support on a conditional basis.

(2) For the purposes of this section—

(a) “support” provided for a person means any form of support and includes, in particular—

(i) support in the form of medical or social care, including care provided otherwise than to that person,

(ii) support in the form of incentives, including allowances and payments, and

(iii) other financial assistance;

(b) support is provided for a young person on a conditional basis if it is provided under arrangements (a “learning and support agreement”) under which its provision is subject to the young person’s agreement to fulfil conditions (“learning and support conditions”).

(3) Subsections (4) to (6) apply where support is provided for a young person on a conditional basis by virtue of subsection (1).

(4) The learning and support agreement must include provision (whether or not in the form of a learning and support condition) relating to the young person’s participation in education or training.

(5) The person providing the support (the “service provider”) must consider that providing it on a conditional basis would be desirable in the interests of encouraging, enabling or assisting the young person—

(a) to fulfil the duty imposed by section 2, in a case where the young person is a person to whom Part 1 applies, or

(b) in any case, to participate effectively in education or training.

(6) The learning and support conditions must be conditions—

(a) determined in consultation between the service provider and the young person, having regard to an assessment of the young person’s needs conducted by the service provider and the young person for the purposes of this section, and

(b) to which in the course of that consultation the young person has agreed;

and the service provider must make arrangements for the learning and support conditions to be reviewed periodically.

(7) Learning and support agreements made by virtue of subsection (1) do not create any obligations in respect of whose breach any liability arises in contract or in tort.

(8) Subsection (1) is subject to section 68(2) and (4).

## **72 Educational institutions: duty to provide information**

- (1) Relevant information about a pupil or student who is attending an educational institution in England must be provided by the responsible person to a person involved in the provision of services in pursuance of section 68 or 70(1)(b), on a request by that person.
- (2) A request under subsection (1) by a person involved in the provision of services in pursuance of 68 or 70(1)(b) may be made only for the purposes of the provision of those services.
- (3) In subsection (1), “relevant information” means—
  - (a) the name, address and date of birth of the pupil or student;
  - (b) the name and address of a parent of the pupil or student;
  - (c) information in the institution’s possession about the pupil or student.
- (4) Information within subsection (3)(c) must not be provided under subsection (1) if—
  - (a) the pupil or student concerned, in the case of a pupil or student who has attained the age of 16, or
  - (b) a parent of the pupil or student concerned, in the case of a pupil or student who has not attained the age of 16,
 has instructed the responsible person not to provide information of that kind under this section.
- (5) In this section—
 

“educational institution” means—

  - (a) a community, foundation or voluntary school,
  - (b) a community or foundation special school,
  - (c) a city technology college, a city college for the technology of the arts or an Academy,
  - (d) a pupil referral unit,
  - (e) an institution within the further education sector, or
  - (f) an institution in receipt of funding from the Learning and Skills Council for England;

“responsible person” means—

  - (a) in relation to a school within paragraph (a) or (b) of the definition of “educational institution”, the governing body;
  - (b) in relation to an institution within paragraph (c) or (f) of that definition, the proprietor;
  - (c) in relation to a pupil referral unit, the local education authority by which it is maintained;
  - (d) in relation to an institution within the further education sector, the governing body within the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13).

## **73 Educational institutions: access and facilities**

- (1) The responsible person in relation to an educational institution in England, must, on a request by a person involved in the provision of services in pursuance of section 68 or 70(1)(b)—

- (a) permit that person to have access to a pupil or student attending the institution on the institution's premises at reasonable times, and
  - (b) make available to that person, so far as is reasonably convenient, facilities on the institution's premises for providing services to individual such pupils or students or groups of such pupils or students.
- (2) A request under subsection (1) by a person involved in the provision of services in pursuance of section 68 or 70(1)(b) may be made only for the purposes of the provision of those services.
- (3) Subject to subsection (4), “educational institution” and “responsible person” have the same meanings in subsection (1) as in section 72.
- (4) In relation to a pupil referral unit for which there is a management committee established by virtue of paragraph 15 of Schedule 1 to the Education Act 1996 (c. 56), “responsible person” means that committee.

#### **74 Internet and telephone support services etc**

- (1) The Secretary of State may provide or secure the provision of services for encouraging, enabling or assisting the effective participation of young persons and relevant young adults in England in education or training.
- (2) The services which may be provided under subsection (1) are services provided by means of—
- (a) the publication whether electronically or otherwise of information, advice and guidance;
  - (b) the provision, in response to requests by young persons and relevant young adults, of information, advice or guidance to those persons by telephone or other electronic means.
- (3) In securing the provision of those services the Secretary of State may, in particular, make arrangements with other persons for the provision of services.
- (4) Arrangements under subsection (3) may include provision—
- (a) for grants, loans and other kinds of financial assistance to be provided by the Secretary of State (whether or not on conditions);
  - (b) requiring persons with whom arrangements are made to have regard to guidance issued by the Secretary of State.
- (5) For the purposes of this section, a young person or relevant young adult is in England if he or she is a person for whom a local education authority in England is responsible.

#### **75 Inspection**

- (1) Her Majesty's Chief Inspector of Education, Children's Services and Skills—
- (a) must, when requested to do so by the Secretary of State, inspect and report on the provision of services in pursuance of section 68 or 74, and
  - (b) may undertake such other inspections of the provision of those services as Her Majesty's Chief Inspector thinks fit.
- (2) A request under subsection (1)(a)—
- (a) may be in general terms or in relation to specific matters,

- (b) may relate to a specific person providing services, or to a specific class of person, and
  - (c) may relate to a specific area.
- (3) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.
- (4) Subsections (5) to (7) apply to an inspection under subsection (1) of services provided by a person in pursuance of section 68 or 74.
- (5) A person carrying out or participating in the inspection has the same powers as Her Majesty's Chief Inspector has under the following provisions of the Education Act 2005 (c. 18)—
- (a) section 10(1)(a) and (d) (right of access), and
  - (b) section 58 (computer records).
- (6) Section 11 of the Education Act 2005 (publication of inspection reports) applies.
- (7) A person who wilfully obstructs a person in carrying out or participating in the inspection—
- (a) is guilty of an offence, and
  - (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **76 Supply of social security information relating to young persons**

- (1) Social security information may be supplied to a local education authority or other person involved in the provision of services for young persons in pursuance of section 68 or 70(1)(b) for the purpose of the provision of those services.
- (2) In this section “social security information” means personal information about a young person which is held for the purposes of functions relating to social security—
- (a) by the Secretary of State, or
  - (b) by a person providing services to the Secretary of State in connection with the provision of those services.
- (3) For the purposes of subsection (2) “personal information”, in relation to a young person, means—
- (a) the person's name, address and date of birth, and
  - (b) the name and address of a parent of the young person.
- (4) A person to whom information is supplied under subsection (1) commits an offence by disclosing the information unless the disclosure is made—
- (a) for the purpose of the provision of services in pursuance of section 68 or 70(1)(b),
  - (b) for the purpose of enabling or assisting the exercise of any function of a local education authority under Part 1,
  - (c) in accordance with section 17 or any other enactment or an order of a court or tribunal,
  - (d) for the purpose of actual or contemplated proceedings before a court or tribunal,
  - (e) with consent given by or on behalf of the person to whom the information relates, or

- (f) in such a way as to prevent the identification of the person to whom it relates.
- (5) It is a defence for a person charged with an offence under this section relating to a disclosure to prove that the person reasonably believed that the disclosure was lawful.
- (6) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum, or to both.
- (7) In subsection (6)(b) the reference to 12 months is to be read in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (increase in maximum term that may be imposed on summary conviction of offence triable either way) as a reference to 6 months.

## 77 Supply of information by public bodies

- (1) Any of the persons or bodies mentioned in subsection (2) may supply information about a young person or relevant young adult to any person or body involved in the provision of services in pursuance of section 68 or 70(1)(b) for the purpose of the provision of those services.
- (2) Those persons and bodies are—
- (a) a local authority,
  - (b) the Learning and Skills Council for England,
  - (c) a Primary Care Trust,
  - (d) a Strategic Health Authority,
  - (e) a chief officer of police,
  - (f) a provider of probation services,
  - (g) a local probation board, and
  - (h) a youth offending team.
- (3) In this section—
- “local authority” has the meaning given by section 579(1) of the Education Act 1996 (c. 56) (interpretation);
  - “local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43);
  - “youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

## 78 Supplementary

- (1) In sections 68 to 77 and this section—
- “parent”, in relation to a child, has the meaning given by section 576 of the Education Act 1996 (c. 56);
  - “proprietor”, in relation to a school or other institution, means the person or body of persons responsible for its management;
  - “relevant young adult” means a person who—
    - (a) has attained the age of 20 but not the age of 25, and
    - (b) has a learning difficulty;

and subsections (5) and (6) of section 13 of the Learning and Skills Act 2000 (c. 21) (construction of references to learning difficulties) apply for this purpose;

“young person” means a person who has attained the age of 13 but not the age of 20.

- (2) For the purposes of sections 68 to 77, a local education authority is responsible for any young person or relevant young adult who is—
- (a) receiving education or training in its area,
  - (b) normally resident in its area, or
  - (c) otherwise within its area.
- (3) For the purposes of subsection (2)(a), “training” includes vocational, social, physical and recreational training.

## 79 Existing functions of Secretary of State

Sections 114 to 121 of the Learning and Skills Act 2000 (provision of support services for 13 to 19 year olds) cease to have effect.

### *Assessments relating to learning difficulties*

## 80 Assessments relating to learning difficulties

Before section 140 of the Learning and Skills Act 2000 (assessments relating to learning difficulties) insert—

### **“139A Assessments relating to learning difficulties: England**

- (1) Subsection (2) applies if a local education authority in England—
- (a) maintains a statement of special educational needs for a person, and
  - (b) believes that the person will leave school, at the end of his last year of compulsory schooling, to receive post-16 education or training or higher education.
- (2) The authority must arrange for an assessment of the person to be conducted at some time during his last year of compulsory schooling.
- (3) Subsection (4) applies if a local education authority in England—
- (a) maintains a statement of special educational needs for a person who is over compulsory school age, and
  - (b) believes that the person will leave school, during or at the end of the current school year, to receive post-16 education or training or higher education.
- (4) The authority must arrange for an assessment of the person to be conducted at some time during the current school year.
- (5) A local education authority in England may at any time arrange for an assessment to be conducted of a person—
- (a) who is within subsection (6), and
  - (b) for whom the authority is responsible.



- (6) A person within this subsection is one who—
- (a) is in his last year of compulsory schooling, or is over compulsory school age but has not attained the age of 25,
  - (b) appears to the authority to have a learning difficulty within the meaning of section 13, and
  - (c) is receiving, or in the opinion of the authority is likely to receive, post-16 education or training or higher education.
- (7) In exercising its functions under this section an authority must have regard to any guidance issued by the Secretary of State.

### **139B Assessments under section 139A: interpretation**

- (1) This section applies for the purposes of section 139A.
- (2) A statement of special educational needs is a statement maintained under section 324 of the Education Act 1996.
- (3) An assessment of a person is an assessment, resulting in a written report, of—
- (a) the person’s educational and training needs, and
  - (b) the provision required to meet them.
- (4) A local education authority is responsible for—
- (a) a person who is receiving education or training in its area;
  - (b) a person who is not receiving education or training, but who is normally resident in its area;
  - (c) a person who is not receiving education or training, and who is not normally resident in its area or that of another authority, but who is otherwise within its area and, in its opinion, likely to receive post-16 education or training or higher education.
- (5) A person’s last year of compulsory schooling is the last school year at his school during the whole or part of which he is of compulsory school age; and in the application of section 139A(6) to a person who is receiving education at an institution other than a school, that institution is to be treated for the purpose of determining his last year of compulsory schooling as though it were a school.
- (6) “Higher education” is education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (7) “Post-16 education or training” means post-16 education or post-16 training within the meaning of Part 1.
- (8) “School year” has the meaning given in section 579(1) of the Education Act 1996.

### **139C Assessments under section 139A: persons educated at home**

- (1) Section 139A applies in relation to a person who is receiving education at home, subject to the following modifications.
- (2) In section 139A(1)(b) and (3)(b), references to a person’s leaving school to receive post-16 education or training or higher education are to be construed as

references to a person’s ceasing to receive education at home in order to receive, otherwise than in a school, post-16 education or training or higher education.

- (3) References to a person’s last year of compulsory schooling are to be construed as references to the 12 month period ending when the person ceases to be of compulsory school age.
- (4) References to the current school year are to be construed as references to the period of 12 months beginning on the most recent 1st September.”

### *Careers education*

## **81 Careers education: information and advice**

(1) Part 7 of the Education Act 1997 (c. 44) (careers education and guidance) is amended as follows.

(2) In section 43 (provision of careers education in schools)—

(a) after subsection (2) insert—

“(2A) Subsection (2B) applies where, in the course of a programme of careers education provided, in pursuance of subsection (1), to registered pupils at a school in England falling within subsection (2) (a), (c) or (e), information or advice is given which—

- (a) relates to any options available in respect of 16-18 education or training, or otherwise relates to the pursuit of particular careers (at any age), or
- (b) relates to decisions or other steps to be taken in connection with any such options or careers.

(2B) Any such information must be presented in an impartial manner, and—

- (a) any such advice must be advice which the person giving it considers will promote the best interests of the pupils concerned, and
  - (b) accordingly, in giving the advice, that person must not seek to promote, contrary to the pupils' best interests, the interests or aspirations of the school or of other persons or institutions.”;
- (b) in subsection (3), after “subsection (1)” insert “(and, where applicable, subsection (2B))”;
- (c) in subsection (6), at the end insert—

““16-18 education or training” means education or training suitable to the requirements of persons who have ceased to be of compulsory school age but have not attained the age of 18;

“training”, in connection with registered pupils at schools in England, includes a voluntary or other placement apt to enable the development of any skill or competency (whether or not taking place at a time when the person concerned is still such a pupil).”

(3) In section 45 (provision of careers information at schools etc.)—

(a) at the end of subsection (2) insert—

“and, in the case of any such school in England, the reference in subsection (1) to persons attending it is a reference to persons who are registered pupils there.”;

(b) after subsection (2) insert—

“(2A) Subsection (2B) applies where registered pupils at a school in England falling within section 43(2)(a) or (c) are provided, in pursuance of subsection (1), with access to materials of the kinds mentioned in that subsection.

(2B) The materials, taken as a whole, must present the pupils with (so far as relevant to them) a full range of—

(a) options available in respect of 16-18 education or training, and

(b) other options available to them (at any age) in terms of career opportunities,

and must not unduly promote any particular options over any others.”;

(c) in subsection (3), after “subsection (1)” insert “(and, where applicable, subsection (2B))”;

(d) in subsection (5), for “and careers education” substitute “, “careers education” and “16-18 education or training””.

(4) After section 45 insert—

#### **“45A Guidance as to discharge of duties**

(1) The persons responsible for discharging a relevant duty in relation to a school in England falling within section 43(2)(a), (c) or (e) must, in discharging the duty, have regard to any guidance given from time to time by the Secretary of State.

(2) A “relevant duty” means a duty under any of sections 43(3), 44(9) and 45(3).”

### *Apprenticeships*

## **82 Apprenticeships: functions of Learning and Skills Council for England**

(1) The Learning and Skills Act 2000 (c. 21) is amended as follows.

(2) In section 2 (education and training for persons aged 16 to 19), in subsection (5), after paragraph (b) insert—

“(ba) training includes training provided in connection with a contract of employment or a contract of apprenticeship;”.

(3) In section 3 (education and training for persons over 19), in subsection (5), after paragraph (b) insert—

“(ba) training includes training provided in connection with a contract of employment or a contract of apprenticeship;”.

(4) Section 4 (encouragement of education and training) is amended as follows.

(5) The existing provision is to become subsection (1) of that section.

(6) After that subsection, insert—

- “(2) For the purposes of subsection (1)(b), participating in the provision of post-16 training includes participating by entering into—
- (a) a contract of apprenticeship, or
  - (b) a contract of employment under or in connection with which training is provided.”

*School transport etc*

**83 Provision of transport etc for persons of sixth form age: duty to consider journey times**

In section 509AB of the Education Act 1996 (c. 56) (further provision about transport policy statements), in subsection (3)(c)—

- (a) for “distance from” substitute “distances, and journey times, between”; and
- (b) for “of establishments” substitute “and establishments”.

**84 Exercise of travel functions by local education authorities in England: duty to have regard to religion or belief of persons of sixth form age**

In section 509AD of the Education Act 1996 (LEAs in England: duty to have regard to religion or belief in exercise of travel functions), in subsection (1), for the words from “to any wish” to the end substitute—

- “(a) to any wish of a parent of such a person for him to be provided with education or training at a particular school, institution or other place where that wish is based on the parent’s religion or belief, and
- (b) in a case where the person in question (or any of the persons in question) is of sixth form age (within the meaning given in section 509AC(1)), to any wish of that person to be provided with education or training at a particular school, institution or other place where that wish is based on the person’s religion or belief.”

*Co-operation as regards 14-19 education and training*

**85 Co-operation as regards provision of 14-19 education and training**

- (1) The arrangements made by a children’s services authority in England (a “children’s authority”) under section 10 of the 2004 Act (co-operation to improve well-being of children) must include arrangements within subsection (2) or (3).
- (2) The arrangements within this subsection are arrangements to promote co-operation between—
  - (a) the children’s authority,
  - (b) the authority’s relevant partners, and
  - (c) the other persons and bodies (of any nature) who exercise functions, or are engaged in activities, relevant to the provision of 14-19 education or training in the authority’s area.

- (3) The arrangements within this subsection are arrangements made jointly by the children’s authority and one or more other children’s authorities to promote co-operation between—
- (a) the authorities,
  - (b) the authorities' relevant partners, and
  - (c) the other persons and bodies (of any nature) who exercise functions, or are engaged in activities, relevant to the provision of 14-19 education or training in each of the authorities' areas.
- (4) Subsection (1) is not to be read as affecting the generality of the duty imposed by section 10(1) and (2) of the 2004 Act so far as relating to education and training.
- (5) In this section—
- “the 2004 Act” means the Children Act 2004 (c. 31);
  - “children’s services authority in England” has the meaning given by section 65(1) of that Act;
  - “14-19 education” and “14-19 training” mean, respectively, education and training suitable to the requirements of persons during the period beginning with the start of the academic year in which they attain the age of 15 and ending when they attain the age of 19;
  - “relevant partner”, in relation to a children’s services authority in England, has the meaning given by section 10(4) of the 2004 Act.
- (6) For the purposes of subsection (5)—
- (a) “education” means full-time or part-time education, but does not include higher education (namely, education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 (c. 40));
  - (b) “training” means full-time or part-time training, and includes vocational, social, physical and recreational training;
  - (c) “academic year” means any period beginning with 1 August and ending with the next 31 July.