

# **APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Lea Functions**

##### **Transport in England**

152. Local education authorities have a duty under section 509AA of the Education Act 1996 to publish an annual transport policy statement setting out the transport provision they will make to facilitate the attendance of young people of sixth form age at establishments of education and training. LEAs also have a duty to make the transport arrangements they deem necessary to support adults to attend institutions of education and training. Sections 53 to 57 amend the sixth form duty so that young people and their parents will be consulted in the drawing up of transport policy statements, so that the statements provide sufficient information to inform young people's and their parents' choice between establishments, and so that the statements may be revised in response to complaints. Section 57 also re-enacts the adult transport duty and place a new duty on LEAs to set out in a transport policy statement the arrangements they will make for learners aged 19 to 24 (inclusive) with learning difficulties or disabilities.

##### ***Section 53: Provision of transport etc for persons of sixth form age: duty to have regard to section 15ZA duty***

153. Under section 41 (which inserts new section 15ZA into the Education Act 1996), LEAs will be responsible for commissioning education and training provision for young people aged 16-18. This section amends section 509AB (the sixth form transport duty) so that LEAs are required to consider what they are required to do under 15ZA(1) in relation to persons of sixth form age, when drawing up their transport policy statement for young people of sixth form age. This will ensure that transport arrangements are not made in isolation and that LEAs consider their commissioning duties, including particular relevant factors (for example, the location of the provision), when developing their local transport policy.

##### ***Section 54: Transport policy statements for persons of sixth form age: consultation***

154. Section 509AB of the 1996 Act contains requirements about the preparation of transport policy statements for people of sixth form age. Section 54 amends section 509AB to add people who will be of sixth form age when the statement has effect and their parents to the list of persons or bodies LEAs must consult when preparing the statements.

##### ***Section 55: Transport policy statements for persons of sixth form age: content and publication***

155. **Section 55(1)** amends section 509AB of the 1996 Act to insert a new subsection (7A). This requires LEAs to have regard to the need to include sufficient information in their

transport policy statement, and the need to publish the statement in good time, so that young people and their parents are able to take account of those matters when choosing an establishment.

156. *Subsection (2)* amends section 509AA of the 1996 Act so that the Secretary of State has more freedom than before to amend the provision about when statements must be published. Previously the Secretary of State could choose a deadline only within the calendar year during which the academic year started; now he or she will be free to choose an earlier deadline.

***Section 56: Complaints about transport arrangements etc for persons of sixth form age***

157. This section inserts section 509AE into the Education Act 1996, which makes provision about sixth form transport complaints. A sixth form transport complaint is a complaint about how an LEA have carried out (or failed to carry out) their transport responsibilities in relation to people of sixth form age. It can be made by a person who is, or will, be of sixth form age at the relevant time, or the person's parent.
158. Section 509AE(1) allows LEAs to revise transport policy statements to amend transport provision or financial assistance arrangements as a result of a sixth form transport complaint, if they deem this to be necessary. Section 509AE(2) requires them to do so if the Secretary of State directs them to as a result of a sixth form transport complaint. Section 509AE(3) states that any LEA who amend their statement following a complaint must publish the revised statement as soon as practicable, along with a description of the changes. Under section 509AE(4) the Secretary of State need not consider whether to use direction making powers in response to a sixth form transport complaint unless it has already been brought to the attention of the LEA concerned and the LEA have had a reasonable opportunity to investigate and respond.
159. Section 509AE(7) provides that where an authority have published their sixth form statement and their transport policy statement for adult learners in the same document, the requirement in section 509AE(3) to publish a revised statement is to be read as a requirement to publish a version of the document that includes the revised statement.
160. **Paragraphs 7 to 9** of Schedule 2 amend the Secretary of State's direction-giving powers to make clear that they are subject to section 509AE.

***Section 57: Local education authorities in England: provision of transport etc for adult learners***

161. This section inserts two new sections into the Education Act 1996.
162. New section 508F re-enacts section 509 of the 1996 Act (which is repealed) in respect of LEAs' travel duties towards adult learners. It continues to impose a duty on LEAs to make any transport or other arrangements that they consider necessary, or that the Secretary of State directs, for the purpose of facilitating the attendance of learners who are aged 19 and over at certain education institutions. Any transport provided must be free of charge. The authority may pay all or part of the reasonable travel expenses of a learner for whose transport no arrangements are made. The LEA must have regard to the age of the learner, and the nature of the route, when considering what arrangements to make.
163. *Subsection (5)* specifies that in considering what arrangements to make for relevant young adults (i.e. those aged 19-24 with learning difficulties or disabilities), the LEA must have regard to what they are required to do under section 15ZA(1). This is the duty introduced in this Act under which LEAs will be responsible for commissioning education and training provision for young people aged 16-18 as well as those aged 19-24 with learning difficulties and disabilities. This link (similar to the link made from the sixth form transport duty by section 53) will ensure that transport arrangements are

not made in isolation and that LEAs consider their commissioning duties, including particular relevant factors (for example, the location of the provision), when developing their local transport policy.

164. New section 508G places a new duty on LEAs to make available in a transport policy statement information about the travel provision they have put in place for people aged 19 to 24 (inclusive) in respect of whom a learning difficulty assessment under section 139A or 140 of the Learning and Skills Act 2000 has been carried out or is required to be carried out. LEAs may publish this information in a joint statement with their sixth form transport policy statement under section 509AA of the 1996 Act, or as a separate statement if they prefer. This measure is designed to ensure that young people with learning difficulties aged 19 to 24 (inclusive) and their parents are able to access information about what transport is available, so that they are able to make informed choices between institutions.
165. When preparing the statement, the LEA are required to consult other LEAs, education institutions, affected learners and their parents. The authority must also have regard to guidance about the preparation of the statement (section 508H).
166. Under subsections (2) to (4) of section 508G, the statement must specify any transport or other arrangements, any payment of travel expenses, and any concessionary schemes which the LEA plans to make available to this group of learners in the following academic year. Subsection (5) of that section states that the statement must be published by the end of May before the start of the relevant academic year, in line with the sixth form transport policy statement duty. Subsection (6) of the section requires the LEA to have regard to the need to supply sufficient information and the need to publish the statement in good time, so that, as with the sixth form transport policy statement duty, young people and their parents are able to use this information to help them choose their institution. Section 508G(7) enables LEAs to make additional arrangements, payments or concessions which are not included in the statement during the course of the year. Section 508G(8) allows the Secretary of State to amend subsection (5) to change the deadline for publication of the statement.
167. New section 508H allows the Secretary of State to issue guidance to support LEAs to carry out their functions under 508F and 508G. LEAs must have regard to any guidance in carrying out their functions.
168. New section 508I replicates, for learners with learning difficulties aged 19-24, the transport complaints measures being introduced in respect of the sixth form duty in section 56.