



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 2

#### LEA FUNCTIONS

##### *Education and training for persons over compulsory school age*

#### **41 Education and training for persons over compulsory school age: general duty**

Before section 15A of the Education Act 1996 (c. 56) insert—

##### **“15ZA Duty in respect of education and training for persons over compulsory school age: England**

- (1) A local education authority in England must secure that enough suitable education and training is provided to meet the reasonable needs of—
  - (a) persons in their area who are over compulsory school age but under 19, and
  - (b) persons in their area who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
- (2) A local education authority may comply with subsection (1) by securing the provision of education or training outside as well as within their area.
- (3) In deciding for the purposes of subsection (1) whether education or training is suitable to meet persons' reasonable needs, a local education authority must (in particular) have regard to—
  - (a) the persons' ages, abilities and aptitudes;
  - (b) any learning difficulties the persons may have;
  - (c) the quality of the education or training;
  - (d) the locations and times at which the education or training is provided.

*Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are not valid for this point in time.*

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- (4) In performing the duty imposed by subsection (1) a local education authority must—
- (a) act with a view to encouraging diversity in the education and training available to persons;
  - (b) act with a view to increasing opportunities for persons to exercise choice;
  - (c) act with a view to enabling persons to whom Part 1 of the Education and Skills Act 2008 applies to fulfil the duty imposed by section 2 of that Act;
  - (d) take account of education and training whose provision the authority think might reasonably be secured by other persons.
- (5) A local education authority must, in—
- (a) making any determination as to the provision of apprenticeship training that should be secured under subsection (1), or
  - (b) securing the provision of any apprenticeship training under that subsection,
- co-operate with the Chief Executive of Skills Funding.
- (6) For the purposes of this section a person has a learning difficulty if—
- (a) the person has a significantly greater difficulty in learning than the majority of persons of the same age, or
  - (b) the person has a disability which either prevents or hinders the person from making use of facilities of a kind generally provided by institutions providing education or training for persons who are over compulsory school age.
- (7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which the person is or will be taught is different from a language (or form of language) which has at any time been spoken in the person's home.
- (8) In this section—
- “apprenticeship training” means training provided in connection with—
- (a) an apprenticeship agreement (within the meaning given in section 32 of the Apprenticeships, Skills, Children and Learning Act 2009),
  - (b) any other contract of employment, or
  - (c) any other kind of working in relation to which alternative English completion conditions apply under section 1(5) of that Act (meaning of “completing an English apprenticeship”);
- “education” includes full-time and part-time education;
- “training” includes—
- (a) full-time and part-time training;
  - (b) vocational, social, physical and recreational training;
  - (c) apprenticeship training.
- (9) The references in subsection (1) to—
- (a) persons in a local authority's area who are over compulsory school age but under 19, and

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- (b) persons in a local authority's area who are aged 19 or over but under 25 and are subject to learning difficulty assessment, do not include persons who are subject to a detention order.

### 15ZB Co-operation in performance of section 15ZA duty

Local education authorities in England must co-operate with each other in performing their duties under section 15ZA(1).”

#### Commencement Information

**II** S. 41 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

## 42 Encouragement of education and training for persons over compulsory school age

After section 15ZB of the Education Act 1996 (c. 56) (inserted by section 41) insert—

### “15ZC Encouragement of education and training for persons over compulsory school age: England

- (1) A local education authority in England must—
- (a) encourage participation in education and training by persons in their area who are within section 15ZA(1)(a) or (b);
  - (b) encourage employers to participate in the provision of education and training for such persons.
- (2) For the purposes of subsection (1)(b), participating in the provision of training includes participating by entering into—
- (a) an apprenticeship agreement (within the meaning given in section 32 of the Apprenticeships, Skills, Children and Learning Act 2009), or
  - (b) any other contract of employment in connection with which training is provided.
- (3) In this section “education” and “training” have the same meanings as in section 15ZA.”

#### Commencement Information

**I2** S. 42 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

## 43 LEA directions: children over compulsory school age

- (1) Chapter 1 of Part 3 of the School Standards and Framework Act 1998 (c. 31) is amended as follows.
- (2) In section 84(6) (admissions code: interpretation) for the definition of “child” substitute—

““child” includes a person who has not attained the age of 19, except in sections 96 and 97 in so far as those sections apply in relation to Wales;”.

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(3) After section 96(3) (direction to admit child to specified school) insert—

“(3A) A direction under this section to admit a child shall not specify a school which has in place admission arrangements that make provision for selection by ability falling within section 99(2)(c) unless the child satisfies the selection criteria.”

#### Commencement Information

**I3** S. 43 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

## 44 Power to require provision of education by further education institution

(1) Before section 52 of the Further and Higher Education Act 1992 (c. 13) insert—

### “51A Duty to provide for named individuals: England

- (1) This section applies to an institution in England within the further education sector which provides education suitable to the requirements of persons over compulsory school age but under the age of 19.
  - (2) A local education authority may by notice given to the governing body of such an institution—
    - (a) require them to provide specified individuals with such education falling within subsection (1) as is appropriate to the individuals' abilities and aptitudes;
    - (b) withdraw such a requirement.
  - (3) A local education authority may specify an individual in a notice under subsection (2) only if the individual—
    - (a) is in the authority's area, and
    - (b) is over compulsory school age but under the age of 19.
  - (4) Before giving a notice under subsection (2) imposing a requirement on a governing body, a local education authority must consult—
    - (a) the governing body, and
    - (b) such other persons as the authority think appropriate.
  - (5) The governing body of an institution within subsection (1) must secure compliance with a requirement that has been imposed under subsection (2) and has not been withdrawn.
  - (6) In deciding whether to require a particular institution to provide education to a particular individual under subsection (2) a local education authority in England must have regard to any guidance given from time to time by the Secretary of State.”
- (2) In section 52 of that Act—
- (a) in subsection (1) after “institution” insert “ in Wales ”;
  - (b) in the title, at the end insert “ : Wales ”.

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**Commencement Information**

**I4** S. 44 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

PROSPECTIVE

*The core and additional entitlements*

**45 Duties in relation to the core and additional entitlements**

After section 17 of the Education Act 1996 (c. 56) insert—

*“The [<sup>F1</sup>core entitlement]: England*

**17A Duties in relation to the [<sup>F2</sup>core entitlement]**

(1) A [<sup>F3</sup>local authority] in England must exercise their functions in such a way as to secure that the [<sup>F4</sup>core entitlement is] satisfied in relation to persons in their area who are over compulsory school age but under 19.

<sup>F5</sup>( 2 ) . . . . .

<sup>F5</sup>( 3 ) . . . . .

<sup>F5</sup>( 4 ) . . . . .

<sup>F5</sup>( 5 ) . . . . .

(6) In exercising their functions as required by this section, a [<sup>F3</sup>local authority] in England must have regard to any guidance given from time to time by the Secretary of State.

(7) In this section—

<sup>F6</sup> . . .

<sup>F6</sup> . . .

<sup>F6</sup> . . .

“ the core entitlement ” has the meaning given by section 17C.

<sup>F7</sup>( 8 ) . . . . .

(9) The [<sup>F8</sup>reference in subsection (1)] to persons in a [<sup>F3</sup>local authority]'s area who are over compulsory school age but under 19 [<sup>F8</sup>does] not include persons who are subject to a detention order.

**17B Entitlement to education and training for 16 to 18 year olds**

. . . . .

**17C The core entitlement**

[<sup>F10</sup>(A1) A person over compulsory school age but under 19 has the core entitlement.]

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- (1) The core entitlement is an entitlement to follow a course of study in each of the core subjects chosen by the person [<sup>F11</sup>who has ] the entitlement (the “chosen core subjects”).
- (2) The core subjects are—
  - (a) mathematics;
  - (b) English;
  - (c) information and communication technology.
- (3) The core entitlement is satisfied in relation to a person if a course of study in each of the chosen core subjects is made available to the person at a school or institution.
- (4) A person's entitlement to follow a course of study in one of the chosen core subjects ceases if—
  - (a) a course of study in the subject is made available to the person, but
  - (b) the person does not begin the course of study before reaching the age of 19.

[<sup>F12</sup>(5) In this section “ course of study ” means a course of education or training leading to a qualification specified, or a qualification of a description specified, by the Secretary of State by order for the purposes of this subsection.  
 ]

#### 17D The additional entitlement

.....”

#### Textual Amendments

- F1** Words in s. 45 substituted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(2)** , 82(2)(b)
- F2** Words in s. 45 substituted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(3)(f)** , 82(2)(b)
- F3** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**
- F4** Words in s. 45 substituted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(3)(a)** , 82(2)(b)
- F5** Words in s. 45 omitted (15.1.2012) by virtue of [Education Act 2011 \(c. 21\)](#) , **ss. 30(3)(b)** , 82(2)(b)
- F6** Words in s. 45 omitted (15.1.2012) by virtue of [Education Act 2011 \(c. 21\)](#) , **ss. 30(3)(c)** , 82(2)(b)
- F7** Words in s. 45 omitted (15.1.2012) by virtue of [Education Act 2011 \(c. 21\)](#) , **ss. 30(3)(d)** , 82(2)(b)
- F8** Words in s. 45 substituted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(3)(e)** , 82(2)(b)
- F9** Words in s. 45 omitted (15.1.2012) by virtue of [Education Act 2011 \(c. 21\)](#) , **ss. 30(4)** , 82(2)(b)
- F10** Words in s. 45 inserted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(5)(a)** , 82(2)(b)
- F11** Words in s. 45 substituted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(5)(b)** , 82(2)(b)
- F12** Words in s. 45 inserted (15.1.2012) by [Education Act 2011 \(c. 21\)](#) , **ss. 30(5)(c)** , 82(2)(b)
- F13** Words in s. 45 omitted (15.1.2012) by virtue of [Education Act 2011 \(c. 21\)](#) , **ss. 30(6)** , 82(2)(b)

*Boarding accommodation: persons subject to learning difficulty assessment*

#### 46 Boarding accommodation: persons subject to learning difficulty assessment

After section 514 of the Education Act 1996 (c. 56) insert—

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### **“514A Provision of boarding accommodation for persons subject to learning difficulty assessment**

- (1) A local education authority in England may secure the provision of boarding accommodation in connection with the provision of education or training for a person in their area who is—
  - (a) over compulsory school age but under 25, and
  - (b) subject to learning difficulty assessment.
- (2) A local education authority may secure the provision of boarding accommodation under subsection (1) either within or outside their area.
- (3) For the purposes of subsection (1) it is immaterial who provides, or secures the provision of, the education or training.
- (4) In this section “education” and “training” have the same meanings as in section 15ZA.”

#### **Commencement Information**

**I5** S. 46 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

### *Work experience*

#### **47 Work experience for persons over compulsory school age**

After section 560 of the Education Act 1996 insert—

#### **“560A Work experience for persons over compulsory school age: England**

- (1) A local education authority in England may secure the provision of work experience for persons in their area—
  - (a) who are over compulsory school age but under 19, or
  - (b) who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
- (2) A local education authority in England must—
  - (a) encourage participation in work experience by persons in their area who are within subsection (1)(a) or (b);
  - (b) encourage employers to participate in the provision of work experience for such persons.”

#### **Commencement Information**

**I6** S. 47 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

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VALID FROM 01/09/2010

*Persons detained in youth accommodation*

**48 Provision of education for persons subject to youth detention**

After section 18 of the Education Act 1996 insert—

**“18A Provision of education for persons subject to youth detention**

- (1) A [<sup>F3</sup>local authority] must secure that—
- (a) enough suitable education is provided to meet the reasonable needs of children subject to youth detention in their area;
  - (b) enough suitable education and training is provided to meet the reasonable needs of persons who are—
    - (i) over compulsory school age but under 19, and
    - (ii) subject to youth detention in their area.
- (2) In deciding for the purposes of subsection (1) whether education or training is suitable to meet persons' reasonable needs, a [<sup>F3</sup>local authority] must (in particular) have regard to—
- (a) the persons' ages, abilities and aptitudes;
  - (b) any special educational needs or learning difficulties (within the meaning of section 15ZA(6) and (7)) the persons may have;
  - (c) the desirability of enabling persons to complete programmes of study or training which they have begun;
  - (d) any relevant curriculum and the desirability that education received by persons subject to youth detention should be comparable with education which they could be expected to receive if they were attending a school or institution implementing a relevant curriculum;
  - (e) the desirability of the core entitlement and the additional entitlement being satisfied in relation to persons over compulsory school age but under 19 who have elected for them.
- (3) In subsection (2)(d), “relevant curriculum” means—
- (a) in relation to a [<sup>F3</sup>local authority] in England, the National Curriculum for England established under section 87 of the Education Act 2002 as subsisting for the time being;
  - (b) in relation to a [<sup>F3</sup>local authority] in Wales—
    - (i) the National Curriculum for Wales established under section 108 of that Act as subsisting for the time being, or
    - (ii) any local curriculum formed by the authority under section 116A of the Education Act 2002 (formation of local curricula for pupils in Key Stage 4) or for their area under section 33A of the Learning and Skills Act 2000 (formation of local curricula for students aged 16 to 18).
- (4) Sections 17B to 17D apply for the purposes of subsection (2)(e) as they apply for the purposes of section 17A.



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- (5) Any arrangements made by a [<sup>F3</sup>local authority] under subsection (1) for the provision by another person (the “learning provider”) of education or training must require the learning provider, in making any determination as to the education or training to be provided for a particular person (“P”), to have regard to any information within subsection (6).
- (6) The information within this subsection is—
- (a) information provided under section 562F by a [<sup>F3</sup>local authority] as to the level of P's literacy and numeracy skills;
  - (b) any other information provided under section 562F by P's home authority (within the meaning of Chapter 5A of Part 10) for the purpose of assisting a determination such as is mentioned in subsection (5).
- (7) In performing the duty imposed by subsection (1), a [<sup>F3</sup>local authority] must have regard to any guidance issued—
- (a) in the case of a [<sup>F3</sup>local authority] in England, by the Secretary of State;
  - (b) in the case of a [<sup>F3</sup>local authority] in Wales, by the Welsh Ministers.
- (8) For the purposes of subsection (1), a person is subject to youth detention in the area of a [<sup>F3</sup>local authority] if—
- (a) subject to a detention order, and
  - (b) detained in relevant youth accommodation in the area of the authority.”

#### Textual Amendments

- F3** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**

#### 49 Persons detained in youth accommodation: application of provisions

- (1) Section 562 of the Education Act 1996 (c. 56) (Act not to apply to persons detained under order of a court) is amended as follows.
- (2) In subsection (1)—
- (a) for “detained in pursuance of an order made by a court or of an order of recall made by the Secretary of State” substitute “subject to a detention order and is detained in accommodation that is not relevant youth accommodation ”, and
  - (b) for “a person who is detained in pursuance of such an order” substitute “such a person ”.
- (3) After that subsection insert—
- “(1A) For the purposes of this Act—
- (a) a person is subject to a detention order if detained in pursuance of—
    - (i) an order made by a court, or
    - (ii) an order of recall made by the Secretary of State, and
  - (b) relevant youth accommodation is accommodation which—

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- (i) is youth detention accommodation (within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000), and
- (ii) is not in a young offender institution, or part of such an institution, that is used wholly or mainly for the detention of persons aged 18 and over.”

(4) In subsection (2), for “subsection (1)” substitute “ this section ”.

(5) After that subsection add—

“(3) A child or young person who is being kept in accommodation provided for the purpose of restricting liberty is not to be regarded for the purposes of this section as detained in pursuance of an order made by a court by reason of the fact that a court has authorised the person to be kept in such accommodation under section 25(4) of the Children Act 1989 (use of accommodation for restricting liberty).”

(6) In the title, after “apply to” insert “ certain ”.

## **50 Persons detained in youth accommodation: further provision**

After section 562 of the Education Act 1996 (c. 56) insert—

“**CHAPTER 5A** PERSONS DETAINED IN YOUTH ACCOMMODATION Provisions applying to detained persons

### **562A Application of Act to detained persons**

- (1) In its application in relation to detained persons, this Act has effect subject to modifications prescribed by regulations made by the appropriate national authority.
- (2) The power conferred by subsection (1) may not be exercised to modify the application of a provision of this Act if—
  - (a) the provision makes special provision in relation to detained persons, or a description of detained persons,
  - (b) the application of the provision in relation to detained persons, or a description of detained persons, is excluded by provision made by this Act, or
  - (c) the provision has effect in relation to detained persons, or a description of detained persons, subject to modifications made by this Act.
- (3) References in this Chapter to a detained person are to a child or young person who is—
  - (a) subject to a detention order, and
  - (b) detained in relevant youth accommodation;
 and, in provisions applying on a person's release, also include references to a person who, immediately before release, was a detained person.

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### **562B Duty to take steps to promote fulfilment of potential**

- (1) Subsection (2) applies in relation to a detained person who is not a looked after child.
- (2) The home authority must—
  - (a) during the period of detention in relevant youth accommodation, and
  - (b) on the person's release from detention in relevant youth accommodation,take such steps as they consider appropriate to promote the person's fulfilment of his or her learning potential.
- (3) Those steps must include, where it appears to the home authority appropriate for them to do so, making arrangements for the provision, on the person's release from detention—
  - (a) of education, or
  - (b) in the case of a person who is over compulsory school age, of education or training.
- (4) Where the host authority make any determination as to the education or training to be provided for a detained person, the authority must have regard to—
  - (a) any information provided under section 562F by a [<sup>F3</sup>local authority] as to the level of the person's literacy and numeracy skills;
  - (b) any other information provided by the home authority under section 562F for the purpose of assisting any such determination.

### **562C Detained persons with special educational needs**

- (1) This section applies where, immediately before the beginning of the detention, a [<sup>F3</sup>local authority] were maintaining a statement under section 324 for a detained person.
- (2) The authority must keep the statement while the person is detained in relevant youth accommodation.
- (3) The host authority must use best endeavours to secure that appropriate special educational provision is made for the detained person while the person is detained in relevant youth accommodation.
- (4) For the purposes of subsection (3), appropriate special educational provision is—
  - (a) the special educational provision that, immediately before the beginning of the detention, was specified in the statement,
  - (b) educational provision corresponding as closely as practicable to the special educational provision so specified, or
  - (c) if it appears to the host authority that the special educational provision so specified is no longer appropriate for the person, such special educational provision as reasonably appears to the host authority to be appropriate for the person.

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### **562D Appropriate special educational provision: arrangements between [F14]local authorities]**

- (1) This section applies where special educational provision is secured for a person in circumstances where section 562C applies.
- (2) A [F3]local authority] may supply goods and services to—
  - (a) the host authority, or
  - (b) any other person making the special educational provision in question.
- (3) Goods and services may be supplied under subsection (2) only for the purpose of assisting the making or securing of that special educational provision.

### **562E Literacy and numeracy assessments**

- (1) This section applies in relation to a detained person who is detained in particular relevant youth accommodation.
- (2) The host authority must arrange for the level of the detained person's literacy and numeracy skills to be assessed as soon as reasonably practicable after the beginning of the period during which the person is detained in that accommodation.
- (3) Subsection (2) does not apply if the authority are satisfied that they have evidence of the current level of the person's literacy and numeracy skills.
- (4) The “current level” of a detained person's literacy and numeracy skills is the level of those skills at the beginning of the period during which the person is detained in the relevant youth accommodation in question.

Provision of information relating to detained persons

### **562F Provision of information about detained persons**

- (1) Any person who has provided education or training for a detained person (whether before or during the period of detention) may provide information relating to the detained person to—
  - (a) the home authority, or
  - (b) the host authority,
 for the purposes of, or in connection with, the provision of education or training for the detained person.
- (2) A [F3]local authority] must, on a request under subsection (3), as soon as practicable provide to the person making the request such information that they hold relating to a detained person as is requested.
- (3) A request is made under this subsection if it—
  - (a) is made by a person within subsection (4), and
  - (b) asks only for information which the person requires for the purposes of, or in connection with, the provision of education or training for

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the detained person (including education or training to be provided after the detained person's release from detention).

- (4) Those persons are—
- (a) any other [<sup>F3</sup>local authority];
  - (b) a youth offending team established under section 39 of the Crime and Disorder Act 1998;
  - (c) the person in charge of any place at which the detained person is detained or is expected to be detained;
  - (d) any person providing or proposing to provide education or training for the detained person.
- (5) The Welsh Ministers must, on a request by the home authority or the host authority, provide a copy of any relevant assessment report for the purposes of the exercise of any function of that authority under section 18A or this Chapter.
- (6) In subsection (5), “relevant assessment report” means a report of an assessment of a detained person conducted (whether before or during the period of detention)—
- (a) under section 140 of the Learning and Skills Act 2000, and
  - (b) by virtue of arrangements made by the Welsh Ministers.
- (7) Subsection (8) applies in relation to a detained person if it appears to the host authority that the person is to be released from detention in relevant youth accommodation.
- (8) The host authority must provide to the home authority any information they hold which—
- (a) relates to the detained person, and
  - (b) may be relevant for the purposes of, or in connection with, the provision of education or training for the detained person after the release.
- (9) The information required to be provided under subsection (8) must be provided at such time as the host authority think reasonable for the purpose of enabling education or training to be provided for the detained person after the release.
- (10) Nothing in subsections (7) to (9) requires the host authority to provide to the home authority information which it appears to the host authority that the home authority already have.
- (11) In this section any reference to the host authority, in relation to a detained person, includes a reference to any [<sup>F3</sup>local authority] in whose area the person is expected to be detained.

#### **562G Information to be provided where statement of special educational needs previously maintained**

- (1) This section applies in relation to a detained person if, immediately before the beginning of the detention, a [<sup>F3</sup>local authority] were maintaining a statement under section 324 for the person.

*Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Part 2 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date.*

*Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Subsections (3) and (4) apply where the home authority become aware (whether by notice under section 39A(2) of the Crime and Disorder Act 1998 (detention of child or young person: [F14]local authorities] to be notified) or otherwise)—
- (a) that the person—
    - (i) has become subject to a detention order, and
    - (ii) is detained in relevant youth accommodation, or
  - (b) that the person has been transferred from one place of accommodation to another place of accommodation which is relevant youth accommodation.
- (3) If, immediately before the beginning of the detention, the home authority were maintaining the statement, they must send a copy of the statement to the host authority.
- (4) If the home authority are or become aware that, immediately before the beginning of the detention, another [F3]local authority] were maintaining a statement for the person under section 324, they must notify the host authority—
- (a) of that fact, and
  - (b) of the identity of that other [F3]local authority].
- (5) The [F3]local authority] who, immediately before the beginning of the detention, were maintaining the statement must, on a request by the host authority, send a copy of the statement to the host authority.
- (6) Subsections (7) and (8) apply where the person is released from detention in relevant youth accommodation.
- (7) The host authority must notify the following of the person's release—
- (a) the home authority, and
  - (b) if different, the authority who, immediately before the beginning of the detention, were maintaining the statement under section 324.
- (8) If the home authority are not the authority who, immediately before the beginning of the detention, were maintaining the statement, the host authority must also notify the home authority—
- (a) of the fact that immediately before the beginning of the detention a statement was being maintained for the person by a [F3]local authority] under section 324, and
  - (b) of the identity of that authority.
- (9) Nothing in this section requires any [F3]local authority] to notify another authority of any matter of which the other authority are already aware, or to send a copy of any statement to another authority who already have a copy of it.

#### **562H Release of detained person appearing to host authority to require assessment**

- (1) This section applies in relation to the release from detention in relevant youth accommodation of a detained person in relation to whom section 562G does not apply.

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**Changes to legislation:** Apprenticeships, Skills, Children and Learning Act 2009, Part 2 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date.

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- (2) Subsection (3) applies where it appears to the host authority that the detained person will, on release, be a child within the meaning of Part 4.
- (3) If the host authority are of the opinion that the person has, or may have, special educational needs, they must, on the person's release, notify the home authority of their opinion.
- (4) Subsections (5) and (6) apply where, on release, the detained person—
- (a) will be over compulsory school age, or
  - (b) will cease to be of compulsory school age within one year.
- (5) If—
- (a) the host authority are of the opinion that the person has, or may have, a learning difficulty (within the meaning of section 15ZA (6) and (7)), and
  - (b) the home authority are a [<sup>F3</sup>local authority] in England,
- the host authority must, on the person's release, notify the home authority of their opinion.
- (6) If—
- (a) the host authority are of the opinion that the person has, or may have, a learning difficulty (within the meaning of section 41 of the Learning and Skills Act 2000 (assessments relating to learning difficulties: Wales)) and
  - (b) the home authority are a [<sup>F3</sup>local authority] in Wales,
- the host authority must, on the person's release, notify the Welsh Ministers of their opinion.

## Supplementary

### 562I Guidance

In performing their functions under this Chapter a [<sup>F3</sup>local authority] must have regard to any guidance issued by the appropriate national authority.

### 562J Interpretation of Chapter

- (1) In this Chapter—
- “the appropriate national authority” means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
- “beginning of the detention”, in relation to a person detained in relevant youth accommodation, means—
- (a) the beginning of the period of detention in such accommodation, or
  - (b) where that period is part of a continuous period, comprising periods of detention in relevant youth accommodation and in other accommodation, the beginning of that continuous period;
- “detained person” has the meaning given by section 562A(3);

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“the home authority”—

- (a) in relation to a child or young person who immediately before the beginning of the detention was, or at any time since then has been, a looked after child, means the [<sup>F3</sup>local authority] who are <sup>F15</sup>... looking after, or who have most recently been looking after, the person;
- (b) in relation to any other child or young person, means the [<sup>F3</sup>local authority] in whose area the person is ordinarily resident;

“the host authority”, in relation to a child or young person detained in relevant youth accommodation, means the [<sup>F3</sup>local authority] in whose area the child or young person is detained;

“looked after child” means a person who, for the purposes of the Children Act 1989 is a child looked after by a local authority; and references to the local authority looking after the person are to be read accordingly;

“young person” includes a person aged 18.

- (2) For the purposes of the definition of “beginning of the detention” in subsection (1), it is immaterial whether or not a period of detention is pursuant to a single order.
- (3) In determining for the purpose of subsection (1) where a child or young person is ordinarily resident, any period when the person is subject to a detention order is to be disregarded.
- (4) Regulations made by the appropriate national authority may make further provision for determining where a person is ordinarily resident for the purpose of that subsection.”

#### Textual Amendments

- F3** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**
- F14** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 16(3)**
- F15** Words in s. 50 repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, Sch. 2 para. 16(4), **Sch. 3 Pt. 1**

#### 51 Detention of child or young person: [<sup>F14</sup>local authorities] to be notified

After section 39 of the Crime and Disorder Act 1998 (c. 37) insert—

##### “39A Detention of child or young person: [<sup>F14</sup>local authorities] to be notified

- (1) Subsection (2) applies where a youth offending team becomes aware that—
  - (a) a child or young person has become subject to a detention order and is detained in relevant youth accommodation, or



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- (b) a child or young person who is subject to a detention order has been transferred from one place of accommodation to another which is relevant youth accommodation.
- (2) The youth offending team must as soon as practicable notify—
- (a) the home [<sup>F3</sup>local authority], and
  - (b) the host [<sup>F3</sup>local authority],
- of the place where the child or young person is detained.
- (3) Subsection (4) applies where a youth offending team becomes aware that a person has been released having immediately before release been—
- (a) subject to a detention order, and
  - (b) detained in relevant youth accommodation.
- (4) The youth offending team must as soon as practicable notify the following authorities of the release—
- (a) the home [<sup>F3</sup>local authority];
  - (b) the host [<sup>F3</sup>local authority];
  - (c) any other [<sup>F3</sup>local authority] in whose area the youth offending team expects the person to live on release.
- (5) Nothing in this section requires a youth offending team to notify a [<sup>F14</sup>local authority] of any matter of which the authority is already aware.
- (6) In this section—
- “home [<sup>F3</sup>local authority]”, in relation to a child or young person, means the [<sup>F3</sup>local authority] which is the home authority in relation to that person within the meaning of Chapter 5A of Part 10 of the Education Act 1996 (persons detained in youth accommodation);
- “host [<sup>F3</sup>local authority]”, in relation to a child or young person who is detained in relevant youth accommodation, means the [<sup>F3</sup>local authority] for the area in which that person is detained;
- [<sup>F16</sup> “local authority” has the meaning given by section 579(1) of the Education Act 1996; ]
- “young person” includes a person who is aged 18;
- and references in this section to a person subject to a detention order and to relevant youth accommodation have the same meanings as they have in the Education Act 1996 (see section 562(1A) of that Act).”

#### Textual Amendments

- F3** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 16(2)**
- F14** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 16(3)**
- F16** Words in s. 51 inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 16(5)**

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## **52 Release from detention of child or young person with special educational needs**

(1) The Education Act 1996 (c. 56) is amended as follows.

(2) After section 312 insert—

### **“312A Children subject to detention**

(1) No provision of, or made under, this Part applies in relation to a child who is subject to a detention order and detained in relevant youth accommodation.

(2) The following provisions of this section apply where a child who has been subject to a detention order is released having, immediately before release, been detained in relevant youth accommodation.

(3) Subject to subsection (6), a statement which was maintained for the child by a [<sup>F3</sup>local authority] under section 324 immediately before the beginning of the detention is, from the child's release, to be treated as being maintained by that authority under section 324.

(4) In subsection (3) “the beginning of the detention” means—

(a) the beginning of the period of detention in relevant youth accommodation, or

(b) where that period is part of a continuous period, comprising periods of detention in relevant youth accommodation and in other accommodation, the beginning of that continuous period.

(5) For the purposes of subsection (4), it is immaterial whether or not a period of detention is pursuant to a single order.

(6) Where, on the child's release, a [<sup>F3</sup>local authority] (“the new authority”) other than the authority mentioned in subsection (3) (“the old authority”) becomes responsible for the child for the purposes of this Part—

(a) the old authority must transfer the statement to the new authority, and

(b) from the child's release, the statement is to be treated as being maintained by the new authority under section 324.”

(3) In section 328(5) (reviews of educational needs), at the end of paragraph (a) (but before “and”) insert—

“(aa) where the child concerned—

(i) has been subject to a detention order, and

(ii) immediately before release was detained in relevant youth accommodation,

on the child's release from detention,”.

### **Textual Amendments**

**F3** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**

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## *Transport in England*

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

In section 509AB(3) of the Education Act 1996 (c. 56) (provision of transport etc for persons of sixth form age in England: matters to which LEAs must have regard) after paragraph (b) insert—

“(ba) what they are required to do under section 15ZA(1) in relation to persons of sixth form age,”.

#### **Commencement Information**

**I7** S. 53 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

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

In section 509AB(6) of the Education Act 1996 (people to be consulted when preparing transport policy statements for persons of sixth form age in England), in paragraph (c), before “and” insert—

“(ca) persons in the local education authority's area who will be of sixth form age when the statement has effect, and their parents,”.

#### **Commencement Information**

**I8** S. 54 in force at 1.4.2010 by S.I. 2010/303, art. 3, Sch. 2 (with arts. 8-11)

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

(1) In section 509AB of the Education Act 1996 (provision about transport policy statements for persons of sixth form age in England), after subsection (7) insert—

“(7A) In preparing and publishing a statement under section 509AA, a local education authority must have regard (among other things) to the need to—

(a) include in the statement sufficient information about the matters that the statement must specify, and

(b) publish the statement in time,

to enable persons who will be of sixth form age when the statement has effect and their parents to take reasonable account of those matters when choosing between different establishments at which education or training is provided.”

(2) In section 509AA(10) of that Act (time by which transport policy statements for persons of sixth form age in England must be published) for “by substituting a different date for 31st May” substitute “to change the time by which the statement must be published”.

#### **Commencement Information**

**I9** S. 55 in force at 12.1.2010 by S.I. 2009/3317, art. 2, Sch. (with art. 3)

*Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are not valid for this point in time.*

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## 56 Complaints about transport arrangements etc for persons of sixth form age

- (1) The Education Act 1996 is amended as follows.
- (2) After section 509AD (local education authorities in England: duty to have regard to religion or belief in exercise of travel functions) insert—

### **“509AE Complaints about transport arrangements etc for persons of sixth form age in England**

- (1) A local education authority may revise a statement prepared under section 509AA to change the arrangements specified under subsection (2) or (3) of that section if, as a result of a sixth form transport complaint, they have come to consider the change necessary for the purpose of the arrangements specified under the subsection in question.
  - (2) A local education authority must revise a statement prepared under section 509AA to change the arrangements specified under subsection (2) or (3) of that section if, as a result of a sixth form transport complaint, the Secretary of State has directed them to do so.
  - (3) An authority that revise a statement under subsection (1) or (2) must publish the revised statement and a description of the revision as soon as practicable.
  - (4) The Secretary of State need not consider whether to exercise any power under sections 496 to 497A (powers to prevent unreasonable exercise of functions, etc), section 509AA(9) (power to require LEA to make additional transport arrangements), or subsection (2) of this section in response to a matter that is, or could have been, the subject of a sixth form transport complaint made to him or her unless satisfied that—
    - (a) the matter has been brought to the notice of the local education authority concerned, and
    - (b) the authority have had a reasonable opportunity to investigate the matter and respond.
  - (5) In this section “sixth form transport complaint” means a complaint that is—
    - (a) about a local education authority's exercise of, or failure to exercise, a function under sections 509AA to 509AD in relation to persons of sixth form age, and
    - (b) made by a person who is, or will be, a person of sixth form age when the matter complained of has effect, or by a parent of such a person, and “sixth form age” is to be construed in accordance with section 509AC(1).
  - (6) For the purposes of sections 509AA(8) and (9), 509AB(1) to (5), 509AC and 509AD, the revision of a statement under this section is to be treated as the preparation of a statement under section 509AA.
  - (7) Where a local education authority have published in a single document a statement prepared under section 508G and a statement prepared under 509AA, the requirement to publish a revised statement under subsection (3) is to be treated as a requirement to publish a version of the document that includes the revised statement.”
- (3) In section 509AA (provision of transport etc for persons of sixth form age), at the end insert—

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“(11) Subsection (9) is subject to section 509AE (complaints about transport arrangements etc for persons of sixth form age in England).”

#### Commencement Information

**I10** S. 56 in force at 12.1.2010 by S.I. 2009/3317, art. 2, Sch. (with art. 3)

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

- (1) The Education Act 1996 (c. 56) is amended as follows.
- (2) After section 508E (LEAs in England: school travel schemes) insert—

#### “508F LEAs in England: provision of transport etc for adult learners

- (1) A local education authority in England must make such arrangements for the provision of transport and otherwise as they consider necessary, or as the Secretary of State may direct, for the purposes mentioned in subsections (2) and (3).
- (2) The first purpose is to facilitate the attendance of adults receiving education at institutions—
  - (a) maintained or assisted by the authority and providing further or higher education (or both), or
  - (b) within the further education sector.
- (3) The second purpose is to facilitate the attendance of relevant young adults receiving education or training at institutions outside both the further and higher education sectors, but only in cases where the local education authority have secured for the adults in question—
  - (a) the provision of education or training at the institution in question, and
  - (b) the provision of boarding accommodation under section 514A.
- (4) Any transport provided under subsection (1) must be provided free of charge.
- (5) In considering what arrangements it is necessary to make under subsection (1) in relation to relevant young adults, a local education authority must have regard to what they are required to do under section 15ZA(1) in relation to those persons.
- (6) In considering whether they are required by subsection (1) to make arrangements in relation to a particular adult, a local education authority must have regard (among other things) to the age of the adult and the nature of the route, or alternative routes, which the adult could reasonably be expected to take.
- (7) Arrangements made under subsection (1) by virtue of subsection (3) to facilitate full-time education or training at an institution outside both the further and higher education sectors must be no less favourable than the arrangements made for relevant young adults of the same age for whom the authority secure the provision of education at another institution.

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- (8) A local education authority in England may pay all or part of the reasonable travelling expenses of an adult—
- (a) receiving education or training at an institution mentioned in subsection (2) or (3), and
  - (b) for whose transport no arrangements are made under subsection (1).
- (9) In this section—
- “adult” means a person who is neither a child nor a person of sixth form age,
- “sixth form age” is to be construed in accordance with section 509AC(1), and
- “relevant young adult” means an adult who is aged under 25 and is subject to learning difficulty assessment.

#### **508G LEAs in England: transport policy statements etc for young adults subject to learning difficulty assessment**

- (1) A local education authority in England making arrangements, or proposing to pay travelling expenses, under section 508F in relation to relevant young adults must consult—
- (a) any other local education authority that they consider it appropriate to consult,
  - (b) governing bodies of institutions within the further education sector in the authority's area,
  - (c) persons in the local education authority's area who will be relevant young adults when the arrangements or payments have effect, and their parents,
  - (d) the Secretary of State, and
  - (e) any other person specified by the Secretary of State.
- (2) The authority must prepare for each academic year a transport policy statement complying with the following requirements.
- (3) The statement must specify any transport or other arrangements, and any payment of travelling expenses, made or to be made in relation to the year under section 508F in relation to relevant young adults.
- (4) The statement must also specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985) which are to be provided under any scheme established under section 93 of that Act to relevant young adults receiving education or training at an institution mentioned in subsection (2) or (3) of section 508F.
- (5) The authority must publish the statement by the end of May in the year in which the relevant academic year begins.
- (6) In preparing and publishing the statement, the authority must have regard (among other things) to the need to—
- (a) include in the statement sufficient information about the matters that the statement must specify, and
  - (b) publish the statement in time,

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to enable relevant young adults and their parents to take reasonable account of those matters when choosing between different institutions at which education or training is provided.

- (7) The publication of a statement under this section in relation to an academic year does not prevent an authority from—
- (a) making additional arrangements or payments under section 508F in relation to the academic year, or
  - (b) providing additional travel concessions in relation to the academic year.
- (8) The Secretary of State may amend subsection (5) by order to change the time by which the statement must be published.
- (9) In this section—
- “academic year” has the meaning given in section 509AC,
  - “governing body” has the meaning given in section 509AC, and
  - “relevant young adult” has the meaning given in section 508F.

#### **508H Guidance: sections 508F and 508G**

In making arrangements under section 508F(1) and preparing and publishing a statement under section 508G, a local education authority must have regard to any guidance issued by the Secretary of State under this section.

#### **508I Complaints about transport arrangements etc for young adults subject to learning difficulty assessment: England**

- (1) A local education authority may revise a statement prepared under section 508G to change any matter specified under subsection (3) of that section if, as a result of a relevant young adult transport complaint, they have come to consider the change necessary for a purpose mentioned in section 508F(2) or (3).
- (2) A local education authority must revise a statement prepared under section 508G to change any matter specified in subsection (3) of that section if, as a result of a relevant young adult transport complaint, the Secretary of State has directed them to do so.
- (3) An authority that revise a statement under subsection (1) or (2) must publish the revised statement and a description of the revision as soon as practicable.
- (4) The Secretary of State need not consider whether to exercise any power under sections 496 to 497A (powers to prevent unreasonable exercise of functions, etc) or subsection (2) of this section in response to a matter that is, or could have been, the subject of a relevant young adult transport complaint made to him or her unless satisfied that—
  - (a) the matter has been brought to the notice of the local education authority concerned, and
  - (b) the authority have had a reasonable opportunity to investigate the matter and respond.

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- (5) In this section “relevant young adult transport complaint” means a complaint that is—
- (a) about a local education authority's exercise of, or failure to exercise, a function under section 508F or 508G in relation to relevant young adults, and
  - (b) made by a person who is, or will be, a relevant young adult when the matter complained of has effect, or by a parent of such a person, and “relevant young adult” has the meaning given in section 508F.
- (6) For the purposes of sections 508G(7) and 508H, the revision of a statement under this section is to be treated as the preparation of a statement under section 508G.
- (7) Where a local education authority have published in a single document a statement prepared under section 509AA and a statement prepared under 508G, the requirement to publish a revised statement under subsection (3) is to be treated as a requirement to publish a version of the document that includes the revised statement.”
- (3) In section 509AD(2) (LEAs in England: duty to have regard to religion or belief in exercise of travel functions) for the entry relating to section 508F substitute—
- “section 508F (LEAs in England: provision of transport etc for adult learners);”.
- (4) Section 509 (provision of transport etc) ceases to have effect.
- (5) Section 81 of the Education and Inspections Act 2006 (c. 40) (LEAs in England: provision of transport etc for certain adult learners) ceases to have effect.

#### Commencement Information

**III** S. 57 in force at 1.4.2010 by [S.I. 2010/303](#), [art. 3](#), [Sch. 2](#) (with [arts. 8-11](#))

### *Powers in respect of non-maintained schools*

#### **58 Power of LEAs to arrange provision of education at non-maintained schools**

- (1) The following provisions cease to have effect—
- (a) section 128 of the School Standards and Framework Act 1998 (c. 31), and
  - (b) paragraph 64 of Schedule 30 to that Act.
- (2) Accordingly, sections 16 and 18 of the Education Act 1996 (c. 56) (powers of LEAs to assist, and arrange provision of education at, non-maintained schools) continue to have effect as if the provisions mentioned in subsection (1) had never been enacted.



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**Status:** Point in time view as at 01/04/2010. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Apprenticeships, Skills, Children and Learning Act 2009, Part 2 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date.

Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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## General

### 59 Minor and consequential amendments

Schedule 2 contains minor and consequential amendments relating to the provision made by this Part.

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#### Commencement Information

**I12** S. 59 in force at 12.1.2010 for specified purposes by S.I. 2009/3317, art. 2, Sch.

**I13** S. 59 in force at 1.4.2010 for specified purposes by S.I. 2010/303, art. 3, Sch. 2 (with arts. 9-11)

**Status:**

Point in time view as at 01/04/2010. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Apprenticeships, Skills, Children and Learning Act 2009, Part 2 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.