

EDUCATION AND SKILLS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Local education authority

Legal background

Part 1: Duty to participate in education or training: England

Chapter 2: Local education authorities and educational institutions etc

Section 10: Duty to promote fulfilment of duty imposed by section 2

21. *Section 10* establishes a duty on local education authorities to promote participation in education or training of young people in their area who are subject to the duty to participate under section 2.

Section 11: Duty to promote good attendance

22. *Section 11* places a new duty on certain educational institutions in England to promote attendance for the purpose of enabling young people to meet the duty to participate under section 2. The duty applies to the governing body of community, foundation or voluntary schools, of community or foundation special schools, of pupil referral units, and of further education institutions. The LSC will be asked to place the same duty on the private providers that it funds, through its existing power to attach conditions to funding under section 6 of the 2000 Act.

Section 12: Duty to make arrangements to identify persons not fulfilling duty imposed by section 2

23. This section places a duty on local education authorities to identify those young people in their area who are subject to the duty to participate and are not participating.

Sections 13 to 17: Information

24. Educational institutions are under a duty to notify the appropriate service provider if a person is not participating in education or training and they believe that the person is not fulfilling the duty (*section 13*). If the young person belongs to a different local authority area, the notification should be passed on to the service provider for that other area. The local education authority is responsible for ensuring that this happens, either by passing on the notification, where it receives it itself, or by arranging for its service provider to do so. The section sets out to which institutions the duty applies, and who is the appropriate service provider. "Service provider" means the local education authority, where the authority provides services in exercise of its functions under *section 68* or, alternatively, where, in the exercise of those functions, the authority makes arrangements for the provision of those services, the person providing those services. These services are currently provided under arrangements made by

the Secretary of State and are known as “Connexions”. This name will be retained when the responsibility for providing the Connexions service is transferred to local education authorities in accordance with the provisions in Part 2. An institution’s local Connexions office will be the “appropriate service provider” for the purposes of this section.

25. *Section 14* sets out the information that educational institutions must provide to enable local education authorities to identify those young people who are not participating, and what information the young person (or their parent, where the young person is younger than 16) can instruct not to be provided.
26. Under *section 15*, social security information may be supplied by the Secretary of State (or a person providing services to the Secretary of State) to enable a local education authority to fulfil its functions under this Part. The section sets out under what circumstances further disclosure of this information is permissible, under what circumstances it is a criminal offence and the penalty that may be imposed.
27. *Section 16* sets out certain public bodies that may share information about a young person with a local education authority in order for it to fulfil its duty. It is primarily an enabling provision as, without it, there might be doubt as to whether the particular public body involved had the legal power to share information for the purposes of fulfilling local authority functions under Part 1. *Section 17* allows information held by local education authorities and information held by their service providers to be shared and used, either for purposes under Part 1 of the Act, or for the purposes of sections 68 to 79. The intention is that local education authorities or service providers will continue to maintain the database currently established and maintained under the 2000 Act to help them provide the right support services to young people (under Part 2 of this Act) and promote and ensure fulfilment of the duty to participate (under Part 1).

Section 18: Guidance

28. This section requires local education authorities when exercising their functions under this Part to have regard to any guidance given by the Secretary of State.