

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Lea Functions

Education and training for persons over compulsory school age

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

98. This section inserts sections 15ZA and 15ZB into the Education Act 1996. These new sections set out the new core responsibilities being transferred to local education authorities from the Learning and Skills Council in respect of the provision of education and training for young people.
99. Section 15ZA requires local education authorities to secure enough suitable, full- and part-time, education and training opportunities to meet the reasonable needs of the following people in their area:
- young people who are over compulsory school age but under 19; and
 - learners aged 19 or over, but under 25, who have (or should have had) a learning difficulty assessment under section 139A or 140 of the Learning and Skills Act 2000,
- but the duty does not extend to persons subject to a detention order (defined in section 562(1A) inserted by section 49).
100. Responsibility for all other learners aged 19 or over will fall to the Chief Executive of Skills Funding as covered in Part 4 of the Act.
101. Local education authorities will have powers to secure this provision either within or outside their areas to enable them to secure the most appropriate provision for young people and reflect the normal means by which learners travel to their places of learning (“travel-to-learn patterns”). In securing education and training opportunities, local education authorities must take account of people’s ages, abilities and aptitudes; any learning difficulties they may have; the quality of education or training; and the locations and times at which those opportunities are provided. In performing these functions, local education authorities must also act with a view to encouraging diversity (in both type of provider and provision) and increasing opportunities for young people to exercise choice; and support those learners who are subject to the duty to participate in education or training until they reach the age of 18 (once that duty comes into force).
102. *Subsection (5)* requires a local education authority to co-operate with the Chief Executive of Skills Funding in determining and securing the provision of apprenticeship training under subsection (1).

These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009

103. Local education authorities will also have powers to fund provision for the duration of the course being undertaken by a young person, even if that course continues after they have reached the age of 19 (or 25 in the case of a learner with a learning difficulty assessment).
104. *Subsection (8)* provides definitions for education and training. “Learning difficulty assessment” is defined in section 13 of the Education Act 1996 (as amended by Schedule 2 to the Act).
105. Local education authorities will meet this duty by commissioning provision which meets the requirements set out in section 15ZA. Commissioning is a cycle of activity that ensures that the courses learners want to take — “learner demand” — is understood and the right provider is funded or contracted with to meet that demand. The Government envisages that local education authorities will work together in sub-regional groupings to plan and agree how to commission provision across an area. These groupings will reflect travel-to-learn patterns of young people. Local education authorities will develop commissioning plans (working with other local education authorities and regional partners such as the Government Offices and Regional Development Agencies) which will be signed off by the YPLA (see Part 3 of this Act) who will ensure that all local education authority plans are coherent with the plans of other local education authorities and are in budget. The YPLA will then ensure provision is funded in accordance with the planned provision.
106. Section 15ZB requires local education authorities to co-operate with each other in the exercise of their new duties under section 15ZA(1). The Government intends that this duty will support sub-regional working and reflect the need of local education authorities to work with each other in securing education and training opportunities across an area. This duty will require co-operation by a local education authority with only those other local education authorities which may provide education or training for young people in the authority’s area. In the vast majority of cases, the Government expects that this duty to co-operate will be fulfilled through sub-regional working (as described above), but it also caters for those instances where learners may need to travel to a local education authority outside the sub-regional grouping to receive their education or training.

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

107. This section inserts section 15ZC into the Education Act 1996. The new section requires local education authorities to encourage young people for whom they are responsible to participate in education and training. This will enable local education authorities to encourage full participation in education and training before the provision in section 10 of the Education and Skills Act 2008 (to promote fulfilment of the provisions to raise the participation age) comes into force in 2013. Section 15ZC also requires local education authorities to encourage employers to participate in the provision and delivery of post-16 education and training as they will have a particular role in relation to the provision of diplomas and apprenticeships.

Section 43: LEA directions: children over compulsory school age

108. This section amends the definition of a “child” in section 84 of the School Standards and Framework Act 1998 so that it includes children over compulsory school age but under 19 for the purposes of sections 96 and 97 in England. This enables a local education authority in England to use its powers under section 96 and 97 of the 1998 Act to direct a maintained school for which it is not the admissions authority to admit a particular child to its sixth form. *Subsection (3)* amends section 96(3) of that Act to ensure that any permitted academic selection criteria adopted by a school (including the school sixth form) are satisfied by the child before the local education authority may use its powers to direct the school to admit that child.

Section 44: Power to require provision of education by further education institution

109. This section inserts new section 51A into the Further and Higher Education Act 1992 and applies to England only. It replicates, for local education authorities, the Learning and Skills Council's existing power to direct institutions within the further education sector in England which provide education suitable to the requirements of young people over compulsory school age but under 19, to provide specified young people of that age and within their authority's area with such education. Before exercising this power, the local education authority must consult with the governing body of the further education institution, and anyone else it thinks appropriate. The governing body of such an institution must comply with the direction. In exercising this power, a local education authority must have regard to any guidance provided by the Secretary of State.