



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 1

#### DUTY TO PARTICIPATE IN EDUCATION OR TRAINING: ENGLAND

### CHAPTER 2

#### LOCAL EDUCATION AUTHORITIES AND EDUCATIONAL INSTITUTIONS ETC

#### *Duty to promote fulfilment of duty imposed by section 2*

#### **10 Local education authority to promote fulfilment of duty imposed by section 2**

A local education authority in England must ensure that its functions are (so far as they are capable of being so exercised) exercised so as to promote the effective participation in education or training of persons belonging to its area to whom this Part applies with a view to ensuring that those persons fulfil the duty imposed by section 2.

#### *Duty to promote good attendance*

#### **11 Educational institutions: promotion of good attendance**

- (1) The governing body of an institution in England to which this section applies must exercise its functions (so far as they are capable of being so exercised) so as to promote the participation, through regular attendance, of persons to whom this Part applies and for whom the institution provides education or training in that education or training.
- (2) This section applies to—
  - (a) a community, foundation or voluntary school;
  - (b) a community or foundation special school;
  - (c) a pupil referral unit;
  - (d) an institution within the further education sector.

- (3) For the purposes of this section, “governing body”—
- (a) in relation to a pupil referral unit maintained by a local education authority, means any management committee established for the unit by virtue of paragraph 15 of Schedule 1 to the Education Act 1996 (c. 56) or, if there is no such committee, the authority, and
  - (b) in relation to an institution within the further education sector has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13).

*Duty to identify persons not fulfilling duty imposed by section 2*

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

A local education authority in England must make arrangements to enable it to establish (so far as it is possible to do so) the identities of persons belonging to its area to whom this Part applies but who are failing to fulfil the duty imposed by section 2.

*Information*

**13 Notification of non-compliance with duty imposed by section 2**

- (1) Where—
- (a) arrangements have been made for a person to whom this Part applies to participate in education or training provided by an educational institution in England,
  - (b) the person is not participating in that education or training at a time when the arrangements call for the person to be so participating, and
  - (c) the responsible person has reasonable cause to believe that in consequence of that failure to participate the person is failing to fulfil the duty imposed by section 2,

the responsible person must give notice to the appropriate service provider of those circumstances.

- (2) Where a local education authority—
- (a) itself provides services in exercise of its functions under section 68(1), and
  - (b) receives a notice under subsection (1) relating to a person to whom this Part applies who belongs to the area of another local education authority,
- it must as soon as reasonably practicable give notice to the service provider for the other local education authority of the circumstances notified to it under subsection (1).
- (3) Subsection (4) applies where, in exercise of its functions under section 68(3)(b), a local education authority makes arrangements with another person (“the provider”) for the provision of services.
- (4) The arrangements must secure that, as soon as reasonably practicable after receiving a notice under subsection (1) relating to a person to whom this Part applies who belongs to the area of another local education authority, the provider gives notice to the service provider for the other local education authority of the circumstances notified to the provider under subsection (1).

## (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);

“service provider”, in relation to a local education authority, means—

- (a) where the authority itself provides services in exercise of its functions under subsection (1) of section 68, the authority;
- (b) where, in exercise of its functions under subsection (3)(b) of that section, the authority makes arrangements for the provision of services, the person providing those services;

“the appropriate service provider”, in relation to an educational institution, means the service provider of the local education authority in whose area the institution is situated.

**14 Educational institutions: duty to provide information**

## (1) Relevant information about a pupil or student—

- (a) who is attending an educational institution in England, and
- (b) to whom this Part applies,

must, on request by a local education authority in England, be provided by the responsible person to the authority.

## (2) A local education authority may request information under subsection (1) only for the purpose of enabling or assisting it to exercise its functions under this Part.

## (3) For the purpose of 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

---

*Status: This is the original version (as it was originally enacted).*

---

(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” and “responsible person” have the same meanings as in section 13.

## **15 Supply of social security information**

(1) Social security information may be supplied to a local education authority in England for the purpose of enabling or assisting the authority to exercise its functions under this Part.

(2) In this section “social security information” means personal information about a 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 person, means—

- (a) the person’s name, address and date of birth, and
- (b) the name and address of a parent of the 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 enabling or assisting the exercise of any function of a local education authority under this Part,
- (b) for the purpose of the provision of services in pursuance of section 68 or 70(1) (b),
- (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 two 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.

## 16 Supply of information by public bodies

(1) Any of the persons or bodies mentioned in subsection (2) may supply information about a person to a local education authority in England for the purpose of enabling or assisting the authority to exercise its functions under this Part.

(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 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).

## 17 Sharing and use of information held for purposes of support services or functions under this Part

(1) Any persons within subsection (2) may provide relevant information to each other.

(2) Those persons are—

- (a) a local education authority in England, and
- (b) a service provider of that authority.

(3) Information provided under subsection (1) may only be used by the person to whom it is provided for a purpose which is a relevant purpose in relation to that person.

(4) A local education authority in England may use relevant information held by it for any relevant purpose.

(5) A local education authority in England may provide relevant information to any other such authority for a purpose which is a relevant purpose in relation to that other authority.

(6) A service provider of a local education authority in England may provide relevant information to any other service provider of that or any other such authority for a purpose which is a relevant purpose in relation to that other service provider.

(7) In this section—

“relevant information”, in relation to a person providing or holding information, means information which—

- (a) is held by the person for a relevant purpose, and
- (b) is about a young person or a relevant young adult in England;

“relevant purpose”—

- (a) in relation to a local education authority, means the purpose of, or a purpose connected with, the exercise of any function of the authority—

---

*Status: This is the original version (as it was originally enacted).*

---

- (i) under this Part, or
- (ii) under or by virtue of sections 68 to 78;
- (b) in relation to a service provider of a local education authority (other than the authority in question), means the purpose of providing services of the kind mentioned in section 68(1);
  - “service provider”, in relation to a local education authority in England, means—
    - (a) where the authority itself provides services in exercise of its functions under subsection (1) of section 68, the authority;
    - (b) where, in exercise of its functions under subsection (3)(b) of that section, the authority makes arrangements for the provision of services, the person providing those services.
- (8) In subsection (7)—
  - (a) “young person” means a person who has attained the age of 13 but not the age of 20, and
  - (b) “relevant young adult” means a person who—
    - (i) has attained the age of 20 but not the age of 25, and
    - (ii) 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.

### *Guidance*

## **18 Guidance**

In exercising its functions under this Part, a local education authority must have regard to any guidance given by the Secretary of State.