



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 2 **E+W**

#### SUPPORT FOR PARTICIPATION IN EDUCATION OR TRAINING: YOUNG ADULTS WITH LEARNING DIFFICULTIES AND YOUNG PEOPLE IN ENGLAND

##### *Provision of support services*

#### 68 **Support services: provision by [F1local authorities] **E+W****

(1) A [F1local authority] in England must make available to young persons and relevant young adults for whom it is responsible such services as it considers appropriate to encourage, enable or assist the effective participation of those persons in education or training.

<sup>F2</sup>(2) .....

(3) For the purposes of this section <sup>F3</sup>... , a [F1local authority] makes services available if it—

- (a) provides them, or
- (b) makes arrangements with another [F1local authority] or another person for their provision.

(4) In carrying out its functions under this section, a [F1local authority] must—

- <sup>F4</sup>(a) .....
- (b) have regard to any guidance issued by the Secretary of State.

(5) Nothing in this section requires a [F1local authority] to make services available to a young person or relevant young adult for whom it is responsible if—

- (a) another [F1local authority] in England is also responsible for the person, and
- (b) services are being provided to the person by, or under arrangements made by, the other authority in exercise of its functions under subsection (1).

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#### Textual Amendments

- F1** 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. 15(2)**
- F2** S. 68(2) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 28(3)(a)(i)**, 82(3); S.I. 2012/1087, **art. 3**
- F3** Words in s. 68(3) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 28(3)(a)(ii)**, 82(3); S.I. 2012/1087, **art. 3**
- F4** S. 68(4)(a) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 28(3)(a)(iii)**, 82(3); S.I. 2012/1087, **art. 3**

#### Commencement Information

- I1** S. 68 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(a)**

### <sup>F5</sup>69 **Directions** **E+W**

.....

#### Textual Amendments

- F5** S. 69 repealed (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 28(2)**, 82(3); S.I. 2012/1087, **art. 3**

### 70 **[<sup>F1</sup>local authorities]: supplementary powers** **E+W**

- (1) A [<sup>F1</sup>local authority] in England—
- (a) may provide, secure the provision of or participate in the provision of services under arrangements entered into by it with another [<sup>F1</sup>local authority] in pursuance of any function of that other [<sup>F1</sup>local authority] under section 68, and
  - (b) may provide, secure the provision of or participate in the provision of services for encouraging, enabling or assisting the effective participation in education or training of—
    - (i) young persons, or
    - (ii) relevant young adults,
 (including such persons from other areas) otherwise than in accordance with section 68 or paragraph (a).
- (2) Nothing in or done under section 68 <sup>F6</sup>... or this section is to be taken to prejudice any powers which a [<sup>F1</sup>local authority] has with respect to the exercise of its functions otherwise than under those sections.

#### Textual Amendments

- F1** 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. 15(2)**
- F6** Words in s. 70(2) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 28(3)(b)**, 82(3); S.I. 2012/1087, **art. 3**

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### Commencement Information

**I2** S. 70 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(a\)](#)

## 71 **Provision of support on conditional basis: learning and support agreements** **E**

**+W**

- (1) Services provided for young persons in pursuance of section 68 or 70(1)(b) may include the provision of support on a conditional basis.
- (2) For the purposes of this section—
  - (a) “support” provided for a person means any form of support and includes, in particular—
    - (i) support in the form of medical or social care, including care provided otherwise than to that person,
    - (ii) support in the form of incentives, including allowances and payments, and
    - (iii) other financial assistance;
  - (b) support is provided for a young person on a conditional basis if it is provided under arrangements (a “learning and support agreement”) under which its provision is subject to the young person's agreement to fulfil conditions (“learning and support conditions”).
- (3) Subsections (4) to (6) apply where support is provided for a young person on a conditional basis by virtue of subsection (1).
- (4) The learning and support agreement must include provision (whether or not in the form of a learning and support condition) relating to the young person's participation in education or training.
- (5) The person providing the support (the “service provider”) must consider that providing it on a conditional basis would be desirable in the interests of encouraging, enabling or assisting the young person—
  - (a) to fulfil the duty imposed by section 2, in a case where the young person is a person to whom Part 1 applies, or
  - (b) in any case, to participate effectively in education or training.
- (6) The learning and support conditions must be conditions—
  - (a) determined in consultation between the service provider and the young person, having regard to an assessment of the young person's needs conducted by the service provider and the young person for the purposes of this section, and
  - (b) to which in the course of that consultation the young person has agreed;
 and the service provider must make arrangements for the learning and support conditions to be reviewed periodically.
- (7) Learning and support agreements made by virtue of subsection (1) do not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (8) Subsection (1) is subject to section <sup>F7</sup>68(4).

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### Textual Amendments

- F7** Word in s. 71(8) substituted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 28(3)(c)**, 82(3); [S.I. 2012/1087](#), **art. 3**

### Commencement Information

- I3** S. 71 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(a)**

## 72 Educational institutions: duty to provide information E+W

- (1) Relevant information about a pupil or student who is attending an educational institution in England must be provided by the responsible person to a person involved in the provision of services in pursuance of section 68 or 70(1)(b), on a request by that person.
- (2) A request under subsection (1) by a person involved in the provision of services in pursuance of 68 or 70(1)(b) may be made only for the purposes of the provision of those services.
- (3) In 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
  - (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” 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 [<sup>F8</sup>(other than one within any of paragraphs (a) to (e)) in receipt of funding from a local authority, the [<sup>F9</sup>Secretary of State] or the Chief Executive of Skills Funding];

“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 [<sup>F1</sup>local authority] by which it is maintained;

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- (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).

#### Textual Amendments

- F1** 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. 15(2)**
- F8** Words in s. 72(5) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 80** (with art. 2(3))
- F9** Words in s. 72(5) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 42**; [S.I. 2012/924](#), art. 2

#### Commencement Information

- I4** S. 72 in force at 26.1.2009 by [S.I. 2008/3077](#), art. 4(a)

### <sup>F10</sup>73 Educational institutions: access and facilities **E+W**

#### Textual Amendments

- F10** S. 73 repealed (1.9.2012) by [Education Act 2011 \(c. 21\)](#), ss. 28(4), 82(3); [S.I. 2012/1087](#), art. 3

### 74 Internet and telephone support services etc **E+W**

- (1) The Secretary of State may provide or secure the provision of services for encouraging, enabling or assisting the effective participation of young persons and relevant young adults in England in education or training.
- (2) The services which may be provided under subsection (1) are services provided by means of—
  - (a) the publication whether electronically or otherwise of information, advice and guidance;
  - (b) the provision, in response to requests by young persons and relevant young adults, of information, advice or guidance to those persons by telephone or other electronic means.
- (3) In securing the provision of those services the Secretary of State may, in particular, make arrangements with other persons for the provision of services.
- (4) Arrangements under subsection (3) may include provision—
  - (a) for grants, loans and other kinds of financial assistance to be provided by the Secretary of State (whether or not on conditions);
  - (b) requiring persons with whom arrangements are made to have regard to guidance issued by the Secretary of State.
- (5) For the purposes of this section, a young person or relevant young adult is in England if he or she is a person for whom a <sup>F1</sup>local authority] in England is responsible.

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**Textual Amendments**

**F1** 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. 15(2)**

**Commencement Information**

**I5** S. 74 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(a)**

**75 Inspection E+W**

- (1) Her Majesty's Chief Inspector of Education, Children's Services and Skills—
  - (a) must, when requested to do so by the Secretary of State, inspect and report on the provision of services in pursuance of section 68 or 74, and
  - (b) may undertake such other inspections of the provision of those services as Her Majesty's Chief Inspector thinks fit.
- (2) A request under subsection (1)(a)—
  - (a) may be in general terms or in relation to specific matters,
  - (b) may relate to a specific person providing services, or to a specific class of person, and
  - (c) may relate to a specific area.
- (3) A reference in subsection (1) to the provision of services includes a reference to the management and use of resources in providing services.
- (4) Subsections (5) to (7) apply to an inspection under subsection (1) of services provided by a person in pursuance of section 68 or 74.
- (5) A person carrying out or participating in the inspection has the same powers as Her Majesty's Chief Inspector has under the following provisions of the Education Act 2005 (c. 18)—
  - (a) section 10(1)(a) and (d) (right of access), and
  - (b) section 58 (computer records).
- (6) Section 11 of the Education Act 2005 (publication of inspection reports) applies.
- (7) A person who wilfully obstructs a person in carrying out or participating in the inspection—
  - (a) is guilty of an offence, and
  - (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Commencement Information**

**I6** S. 75 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(a)**

**76 Supply of social security information relating to young persons E+W**

<sup>F11</sup>(1) .....

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- (2) In this section “social security information” means personal information about a young 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.
- [<sup>F12</sup>(3) For the purposes of subsection (2), “personal information” in relation to a young person, means the person's name, address and date of birth.
- (3A) The Secretary of State may make arrangements with a person for the supply of social security information for the purposes of the provision of services for young persons in pursuance of section 68 or 70(1)(b).
- (3B) Social security information may be supplied to—
- (a) the Secretary of State, or
  - (b) a person providing services to the Secretary of State under subsection (3A).
- (3C) A person to whom social security information is supplied under subsection (3B) may supply the information to a [local authority] or other person involved in the provision of services for young persons or relevant young adults in pursuance of section 68 or 70(1)(b) for the purpose of the provision of those services.
- (3D) Information supplied to a person in reliance on subsection (3C) or this subsection may be supplied in accordance with, or with arrangements made under, section 17(1).
- (3E) Information supplied to a person in reliance on subsection (3B), (3C) or (3D) may be disclosed—
- (a) for the purpose of the provision of services in pursuance of section 68 or 70(1)(b),
  - (b) for the purpose of enabling or assisting the exercise of any function of a [local authority] under Part 1,
  - (c) in accordance with any provision of, or made under, any other Act,
  - (d) in accordance with an order of a court or tribunal,
  - (e) for the purpose of actual or contemplated proceedings before a court or tribunal,
  - (f) with consent given by or on behalf of the person to whom the information relates, or
  - (g) in such a way as to prevent the identification of the person to whom it relates.
- (4) It is an offence for a person to disclose restricted information otherwise than in accordance with this section.
- (4A) For the purposes of subsection (4), “restricted information”, in relation to a person, means information that was disclosed to the person—
- (a) in reliance on subsection (3B), (3C) or (3D), or
  - (b) in circumstances that constitute an offence under this section.]
- (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 2 years, to a fine or to both, or

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- (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.

**Textual Amendments**

**F11** S. 76(1) repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 254(8), 269(4), Sch. 16 Pt. 10; S.I. 2009/3317, art. 2, Sch.

**F12** S. 76(3)-(4A) substituted for s. 76(3)(4) (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 254(9), 269(4); S.I. 2009/3317, art. 2, Sch.

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**Commencement Information**

**I7** S. 76 in force at 26.1.2009 by S.I. 2008/3077, art. 4(a)

**[<sup>F13</sup>76A Supply of information by Secretary of State or person providing services E+W**

- (1) The Secretary of State may make arrangements with any other person for the holding and supply of information in connection with, or for the purposes of, the provision of services in pursuance of section 68 or 70(1)(b).
- (2) In this section “ relevant information ”, in relation to a person by whom services are provided under section 68 or 70(1)(b), means information which—
  - (a) is obtained by a person involved in the provision of those services in, or in connection with, the provision of those services,
  - (b) relates to a person for whom those services are provided;
 but does not include information provided under section 72 of the Welfare Reform and Pensions Act 1999.
- (3) Relevant information may be supplied to—
  - (a) the Secretary of State, or
  - (b) a person providing services to the Secretary of State under this section.
- (4) Information supplied under subsection (3) may be supplied to any person involved in the provision of services in pursuance of section 68 or 70(1)(b) for the purposes of the provision of those services.
- <sup>F14</sup>(5) .....
- (6) Nothing in this section authorises the disclosure of any information in contravention of any provision of, or made under, this or any other Act (whenever passed or made) which prevents disclosure of the information.]

**Textual Amendments**

**F13** S. 76A inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 255(3), 269(4); S.I. 2009/3317, art. 2, Sch.

**F14** S. 76A(5) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 28(5), 82(3); S.I. 2012/84, art. 3



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## 77 Supply of information by public bodies **E+W**

(1) Any of the persons or bodies mentioned in subsection (2) may supply information about a young person or relevant young adult to any person or body involved in the provision of services in pursuance of section 68 or 70(1)(b) for the purpose of the provision of those services.

(2) Those persons and bodies are—

- (a) a local authority,
- <sup>F15</sup>(aa) a non-metropolitan district council for an area for which there is a county council,
- <sup>F16</sup>(b) the <sup>F17</sup>Secretary of State],
- (ba) the Chief Executive of Skills Funding,
- (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—

<sup>F18</sup>  
...

“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).

### Textual Amendments

- F15** S. 77(2)(aa) 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. 15(4)(a)**
- F16** S. 77(2)(b)(ba) substituted for s. 77(2)(b) (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 81** (with art. 2(3))
- F17** Words in s. 77(2)(b) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 43**; [S.I. 2012/924](#), art. 2
- F18** Words in s. 77(3) 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. 15(4)(b)**, **3 Pt. 1**

### Commencement Information

- I8** S. 77 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(a)**

## 78 Supplementary **E+W**

(1) In sections 68 to 77 and this section—

<sup>F19</sup>“local authority” has the meaning given by section 579(1) of the Education Act 1996;

“parent”, in relation to a child, has the meaning given by section 576 of <sup>F20</sup>that Act] (c. 56);

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“proprietor”, in relation to a school or other institution, means the person or body of persons responsible for its management;

“relevant young adult” means a person who—

- (a) has attained the age of 20 but not the age of 25, and
- (b) has a learning difficulty;

and [F21subsections (6) and (7) of section 15ZA of the Education Act 1996] (construction of references to learning difficulties) apply for this purpose;

“young person” means a person who has attained the age of 13 but not the age of 20.

- (2) For the purposes of sections 68 to 77, a [F1local authority] is responsible for any young person or relevant young adult who is—
  - (a) receiving education or training in its area,
  - (b) normally resident in its area, or
  - (c) otherwise within its area.
- (3) For the purposes of subsection (2)(a), “training” includes vocational, social, physical and recreational training.

#### Textual Amendments

- F1** 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. 15(2)**
- F19** Words in s. 78(1) 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. 15(5)(a)**
- F20** Words in s. 78(1) substituted (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. 15(5)(b)**
- F21** Words in s. 78(1) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 82** (with art. 2(3))

#### Commencement Information

- I9** S. 78 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(a)**

## 79 Existing functions of Secretary of State **E+W**

Sections 114 to 121 of the Learning and Skills Act 2000 (provision of support services for 13 to 19 year olds) cease to have effect.

#### Commencement Information

- I10** S. 79 in force at 26.1.2009 for specified purposes by [S.I. 2008/3077](#), **art. 4(b)**
- I11** S. 79 in force at 12.1.2010 in so far as not already in force by [S.I. 2009/3316](#), **art. 2**

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