



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 2

#### [<sup>F1</sup>LOCAL AUTHORITY] FUNCTIONS

##### *Persons detained in youth accommodation*

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

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

“**CHAPTER 5** 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.

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- (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.

### **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 [F1local 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 [F1local 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

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- (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.

### **562D Appropriate special educational provision: arrangements between [F<sup>2</sup>local authorities]**

- (1) This section applies where special educational provision is secured for a person in circumstances where section 562C applies.
- (2) A [F<sup>1</sup>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 [F<sup>1</sup>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

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- (b) asks only for information which the person requires for the purposes of, or in connection with, the provision of education or training for 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>F1</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>F1</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>F1</sup>local authority] were maintaining a statement under section 324 for the person.

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- (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: [F<sup>2</sup>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 [F<sup>1</sup>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 [F<sup>1</sup>local authority].
- (5) The [F<sup>1</sup>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 [F<sup>1</sup>local authority] under section 324, and
  - (b) of the identity of that authority.
- (9) Nothing in this section requires any [F<sup>1</sup>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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- (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 [F1local 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 [F1local 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 [F1local 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);
- “the home authority”—

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- (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>F1</sup>local authority] who are <sup>F3</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>F1</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>F1</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

- 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. 16(2)**
- F2** 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)**
- F3** 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**

#### Commencement Information

- I1** S. 50 in force at 1.9.2010 for specified purposes for E. by [S.I. 2010/303](#) , art. 6, **Sch. 5** (with arts. 9-11)
- I2** S. 50 in force at 1.4.2011 for specified purposes for W. by [S.I. 2011/829](#) , **art. 2(b)**

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**Commencement Orders yet to be applied to the Apprenticeships, Skills, Children and Learning Act 2009**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2009/3341 art. 2](#) commences (2009 c. 22)
- [S.I. 2010/2413 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/829 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/882 art. 2](#) amendment to earlier commencing SI 2010/303 art. 7 Sch. 6