



Department  
for Education

# **Participation of young people in education, employment or training**

**Statutory guidance for local authorities**

**September 2016**

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## Summary

### About this guidance

1. This is statutory guidance from the Department for Education (the department). A local authority must have regard to it when exercising its functions relating to the participation of young people in education or training. The annexes to this guidance contain departmental advice to help recipients understand what the department considers the statutory provisions to mean in particular circumstances.

### Review date

2. The department will keep this guidance under review and will publish updated versions when they are needed.

### What legislation does this guidance refer to?

3. This guidance is issued under sections 18 and 68(4) of the Education and Skills Act 2008 (ESA 2008) in relation to sections 10, 12 and 68 of that Act.

### Who is this guidance for?

4. This guidance is for all local authorities in England.

## Main points

5. The law requires all young people in England to continue in education or training until at least their 18th birthday, although in practice the vast majority of young people continue until the end of the academic year in which they turn 18. Please see Annex 1: defining participation for further information. Improvements are being made to careers education and guidance, and the government's ongoing reforms to technical education and training, apprenticeships, traineeships, and supported internships are continuing to improve the offer for young people. The proportion of young people not in education, employment and training (NEET) fell again to a record low level in 2015.
6. Whilst the department provides the framework to increase participation and reduce the proportion of young people NEET, responsibility and accountability lies with local authorities. Local authorities have a critical role to play in supporting young people to access education and training – and therefore in understanding the characteristics and current activity of the young people in their area. The role of local authorities is outlined in their broader participation duties, as well as in their Raising the Participation Age (RPA) related duties. This guidance sets out these duties, as well as the crucial roles that schools, colleges and training providers have with regard to post-16 participation.
7. The department monitors the performance of local authorities in delivering their duties, and specifically in their tracking and supporting of 16 and 17 year olds, using data collected by authorities and submitted to the National Client Caseload Information System (NCCIS). NCCIS includes data showing the numbers of young people participating in education or training, those who are not participating, those who are NEET or those whose current activity is not known.

## Responsibilities of local authorities

8. The government's approach is to give local authorities freedom and flexibility to decide how to fulfil their statutory duties. That is why we are only specifying key activities to help them to fulfil those duties. Local authorities must have regard to the following guidance when deciding how to organise and resource their services.

## Duties on local authorities relating to participation

9. Local authorities have broad duties to encourage, enable and assist young people to participate in education or training. Specifically these are:
  - To secure sufficient suitable education and training provision for all young people in their area who are over compulsory school age but under 19 or aged 19 to 25 and for whom an Education, Health and Care (EHC) plan is maintained. This is a duty

under the Education Act 1996<sup>1</sup>. To fulfil this, local authorities need to have a strategic overview of the provision available in their area and to identify and resolve gaps in provision.

- To make available to all young people aged 13-19 and to those between 20 and 25 with special educational needs and disabilities (SEND), support that will encourage, enable or assist them to participate in education or training under Section 68 of ESA 2008<sup>2</sup>.

10. Tracking young people's participation is a key element of these duties. Local authorities are required to collect information about young people so that those who are not participating, or are NEET, can be identified and given support to re-engage. Robust tracking also provides the local authority with information that will help to ensure that suitable education and training provision is available and that resources can be targeted effectively.

11. In addition, ESA 2008 placed two RPA-related duties on local authorities with regard to 16 and 17 year olds:

- Local authorities must promote the effective participation in education and training of 16 and 17 year olds in their area with a view to ensuring that those persons fulfil the duty to participate in education or training<sup>3</sup>. A key element of this is identifying the young people in their area who are covered by the duty to participate and encouraging them to find a suitable education or training place. Guidance on this duty is included at paragraphs 39 to 42.
- Local authorities must make arrangements – i.e. maintain a tracking system - to identify 16 and 17 year olds who are not participating in education or training<sup>4</sup>. Putting in place robust arrangements to identify young people who are not engaged in education or training or who have left provision enables local authorities to offer support as soon as possible. Guidance on this duty is included in paragraphs 43 and 44.

## Funding

12. Local authorities are expected to meet any costs incurred in the delivery of the above from their overall budgets, including central government grants.

13. Funding for education and training provision for 16 to 19 year olds and those aged 19-25 with an EHC plan is provided to schools, colleges and training providers by the

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<sup>1</sup> Sections 15ZA and 18A of the Education Act 1996 (as inserted by the Apprenticeships, Skills and Children and Learning Act 2009) and Part 3 of the Children and Families Act 2014.

<sup>2</sup> Section 68 Education and Skills Act 2008 as updated by Section 20 of the Children and Families Act 2014.

<sup>3</sup> Section 10 Education and Skills Act 2008.

<sup>4</sup> Section 12 Education and Skills Act 2008.

Education Funding Agency (EFA)<sup>5</sup>; 16-18 year olds' apprenticeship funding is routed to providers by the Skills Funding Agency<sup>6</sup>, and for those students with high needs by the relevant local authority through a system of top up funding<sup>7</sup>. Local authorities receive a high needs allocation within the Dedicated Schools Grant (DSG) which includes funding for post-16 high needs students.

14. Where local authorities feel that there is a specific gap in provision that cannot be addressed by existing providers, there is a process by which this can be brought to the attention of the EFA for consideration and action as appropriate<sup>8</sup>. Re-engagement programmes should be used to support young people who are NEET back into learning where available and appropriate. Examples of re-engagement provision may include programmes funded by the European Social Fund (ESF) and the Youth Engagement Fund. Other ways of re-engaging young people are often sourced locally and further information, along with re-engagement principles, is set out in Annex 3.

15. The 16 to 19 Bursary Fund provides targeted support to help young people to overcome any specific financial barriers to participation<sup>9</sup>. The majority of this funding is administered by schools, colleges and training providers; funding for the most vulnerable young people is administered by EFA. Local authorities can seek to work with institutions in their area to coordinate and support the delivery of the Bursary Fund. Local authorities also administer the fund in respect of their own direct provision, including local authority maintained schools with sixth forms.

## **Delivering the broad duties on local authorities to support participation**

16. This section relates to local authorities' broader participation duty under section 68 of ESA 2008. This applies to all young people aged 13 to 19 and to those between 20 and 25 with SEND.

17. Local authorities should provide strategic leadership in their areas to support participation in education, training and employment - working with and influencing partners by:

- ensuring a focus on participation is embedded and communicated throughout the authority's services for children and young people;
- ensuring the services for young people in the local area come together to meet the needs of young people – including funding for education and training places and re-engagement provision;

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<sup>5</sup> For further information see [gov.uk](http://gov.uk) [16-18 Funding Guidance](#).

<sup>6</sup> For further information see [gov.uk](http://gov.uk) [SFA Funding Rules](#).

<sup>7</sup> For further information see [gov.uk](http://gov.uk) [High Needs Funding](#).

<sup>8</sup> For further information see [gov.uk](http://gov.uk) [16-to-19-education-market-entry](#).

<sup>9</sup> For further information see [gov.uk](http://gov.uk) [16-to-19-bursary-fund-guide-for-2016-to-2017](#).

- agreeing ways of working with other partners such as Local Enterprise Partnerships (LEPs), Jobcentre Plus, employers, voluntary and community sector organisations, health services (including mental health services), youth offending teams, the police, and probation services; and
- working with neighbouring authorities, especially where young people routinely travel out of the area to access education and training, for work or other services.

18. To discharge this duty, local authorities must collect information about young people in their area in order to identify those who are not participating, or who are at risk of not doing so, and to target their resources on those who need them most. The information collected must be in the format specified in the NCCIS Management Information Requirement. In a change from the previous requirement, local authorities are now required to collect and record information about young people up to and including academic age 17 - and up to age 25 for those with an EHC plan<sup>[10]</sup>. Local authorities should make sure they are using information they have about children and young people with statements of SEN and with EHC plans to keep track of their participation.

19. To meet this requirement, local authorities need to have arrangements in place to confirm the current activity of these young people at regular intervals. This may be through the exchange of information with education and training providers, and other services within the local authority area such as health (including mental health services), youth offending teams and Jobcentre Plus, as well as through direct contact with young people.

20. Local authorities are required to put arrangements in place to identify those 18-year-olds who are NEET or at risk of becoming NEET and provide them with support, but they are not required to track **all** 18-year-olds or return data about this cohort to the department.

21. The department publishes annual scorecards that rate aspects of local authority performance. This includes how well they are tracking young people's activity against the national average, helping them to identify where they can improve and ensuring the public can better hold them to account.

22. Section 72 of ESA 2008 places a duty on educational institutions to provide information to local authority services in order for them to deliver their duties under section 68. Sections 76 and 77 provide additional data sharing powers to support local authorities to deliver their duties under section 68. Local authorities should agree data sharing agreements with education providers and other public bodies that set out the information they will provide, when it will be provided and how they will ensure that data is passed securely.

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<sup>10</sup> For further information see gov.uk [NCCIS management information requirement](#).



23. Local authorities are expected to work with schools to identify pupils under the age of 16 who are in need of targeted support or who are at risk of not participating post-16. They will need to agree how these young people can be referred for intensive support, drawn from the range of education and training support services available locally. For example, this may include engagement programmes and mental health services. Local authorities should pay particular attention to pupils not in mainstream education (such as those not on school rolls), those attending FE colleges or alternative provision, those in the care system, and those in youth custody.

24. Local authorities should also pay particular attention to children and young people with SEND, who are significantly less likely to participate than their peers without SEND, and provide targeted support where needed to enable them to participate. Where children and young people have an EHC plan, local authorities have a duty to ensure that the annual review of the EHC plan from Year 9 onwards includes a focus on preparing for adult life, including employment. This review should be focused on the child or young person's needs and aspirations, and include discussion about the next steps after school, and a pathway into further or higher education or employment. Statements of SEN must also be reviewed annually and there must be consideration of the move into post-16 education and beyond. The responsibilities placed on young people by RPA should also be built clearly into these reviews and discussions.

25. Every young person who reaches the age of 16 or 17 in any given academic year is entitled to an offer of a suitable place, by the end of September, to continue in education or training the following year. Local authorities are required to lead the September Guarantee process for:

- 16 year olds who are educated in their area; and
- 17 year olds who are resident in their area.

26. Local authorities should work with schools and post-16 providers to identify those young people eligible for an offer, understand their post-16 plans and any offers they have received, and record this information on their Client Caseload Information (CCIS) databases. Young people who do not have post-16 plans or an offer of a place are at risk of becoming NEET in September. Identifying these young people early enables services to provide additional advice and support about the options available, and to alert the EFA to any emerging gaps in provision. Local authorities will want to agree with schools who is best placed to offer support after the end of the summer term. They will also need to work with neighbouring authorities to establish offers made by schools, colleges and other post-16 education providers outside their authority's area.

27. The Year 12 September Guarantee applies to all students, but particular attention should be paid to 17 year olds who are studying one year courses, often at entry level or level 1. These young people are at a greater risk of becoming NEET either part way through Year 12 or at the end of the academic year.

28. A significant proportion of young people are educated outside the area where they live or move between local authority areas. In the event of a local authority being told about a young person who is resident in another local authority area, they must inform the home authority as quickly as possible. Local authorities may learn of young people moving into their area from other services, such as Jobcentre Plus, or from other local authorities. Local authorities must record these young people on their CCIS database and co-operate fully with other authorities in order to minimise the risk of young people slipping through the net.

29. Local authorities are required to report to the department based on the requirements set out in the NCCIS Management Information Requirement this includes information on the number or proportion of young people in each area who:

- receive an offer under the September Guarantee;
- are participating in education or training – including those meeting the duty to participate;
- are NEET; or
- whose current activity is not known.

This data is made publicly available on gov.uk on a regular basis. Destinations measures for Key Stage 4 may also use information from NCCIS to identify employment destinations.

30. Local authorities are expected to pay particular attention to young people who are NEET or whose current activity is not known. Jobcentre Plus should take a lead role in supporting young people who are NEET and on benefits to re-engage with education and training or to find work – particularly at age 18. Local authorities should maintain close links with Jobcentre Plus to ensure that all those young people who need it, get the support that is appropriate to their needs. The Department for Work and Pensions (DWP) passes basic details of 18 and 19 year olds making a new claim for benefits to local authorities each month. The local authority can use this information to inform their support for 18-year-olds and to update their records. There is guidance on [working together to support young people](#) available on gov.uk. The information includes a Memorandum of Understanding that can be agreed to allow Jobcentre Plus to share with local authorities information on young people who are NEET.

31. In certain circumstances, 16 and 17 year olds are eligible to claim Jobseeker's Allowance (JSA), Income Support (IS), Employment Support Allowance (ESA) or Universal Credit (UC). The minimum age for entitlement to UC is 18 but this is reduced to 16 to protect more vulnerable people in exceptional circumstances - mainly where they have limited capability for work, such as being responsible for a child without parental support. Whilst decisions about the payment of benefits will be made by Jobcentre Plus, any young person aged under 18 wishing to make a claim must first register with the local authority as a condition of entitlement. Local authorities must follow the processes

set out in the [guidance on benefit liaison](#), issued by DWP, to ensure that benefit regulations are adhered to, and should be aware of the [Jobseeker's Allowance Claimant Commitment](#).

## Scotland and Wales

32. To enable local authorities in England to fulfil their duty to track participation, there will be occasions when they need to approach Welsh and Scottish authorities and educational institutions for information about individual young people who are resident in England but studying in Wales or Scotland.

33. Welsh and Scottish authorities and educational institutions are not under a specific duty to provide the information but we would expect them to respond to any request reasonably to support our shared objectives of helping young people to improve their skills and attain higher levels of qualifications.

## RPA duties

### Duty on young people

34. Under Part 1 of ESA 2008 young people aged 16 and 17, who have not attained level 3 qualifications of sufficient size, are under a duty to continue in education or training until the young person's 18th birthday. The statutory duty does not extend until the end of the academic year in which the young person turns 18. Young people should however be encouraged to complete the education or training they are undertaking beyond their 18th birthday.

35. Advice on the definitions of participation in education or training is set out in Annex 1 to this guidance. The aim is to ensure that every young person continues their studies or takes up training and goes on to successful employment or higher education.

### Duties on providers

36. ESA 2008 placed two RPA-related duties on providers with regard to 16 and 17 year olds:

- Section 11 places a duty on community, foundation or voluntary schools; community or foundation special schools; pupil referral units; and schools and colleges in the further education sector to exercise their functions, where possible, so as to promote good attendance to enable young people to meet their duty to participate.
- Section 13 places a duty on all educational institutions (maintained schools, academies, colleges, and education and training providers) to tell their local authority when a young person is no longer participating. Educational institutions

also include apprenticeship, traineeship and supported internship providers and performing arts schools who receive Dance and Drama Award funding. This duty is applicable if a young person leaves an education or training programme before completion (i.e. 'drops out') and enables local authorities to take swift action to encourage the young person to re-engage.

37. All schools will be involved in arranging the annual reviews of EHC plans and statements of SEN, and support the aims of the review (see paragraph 24). Schools should support all pupils with SEND (both those with statements or EHC plans and those without) to make as successful a transition as possible into post-16 education or training. Schools should work with post-16 providers and pass on information about each young person's needs so that the post-16 provider can put appropriate support in place from the start. The right support will help the young person to remain in education or training.

38. Schools and colleges are required to secure independent careers guidance for young people, this is explained further in Annex 2 of this guidance. Local authorities should work in local partnerships with schools, colleges and other partners to help develop the careers guidance offer. For example, this may include understanding pathways locally and embedding intelligence on the local economy. All careers guidance should have regard to the needs of those with SEND that may in some cases be different or additional to the needs of others. Destinations data are an important tool in helping schools to measure the effectiveness of their support by assessing how successfully their pupils make the transition into the next stage of education or training. Schools and colleges will be held to account for the destinations of all their leavers through the annual publication of performance tables.

## **Duty on local authorities to promote participation**

39. Under this RPA-related duty, the participation of young people in education and training should be actively promoted by local authorities (section 10 of ESA 2008).

40. Specific examples of this are:

- When developing transport arrangements and preparing their post-16 transport policy statement, local authorities should, in accordance with their duty under the Education Act 1996, ensure that young people are not prevented from participating because of the cost or availability of transport to their education or training<sup>10</sup>. [Statutory guidance](#) has been developed to help local authorities to meet their post-16 transport duty.
- Local authorities should ensure a focus on participation is embedded throughout their education and children's services; including youth offending, troubled families

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<sup>10</sup> Section 509AA Education Act 1996.

and pre-16 education teams; and social services and economic development; amongst others.

- The Children and Families Act 2014 places a duty on local authorities to develop a local offer setting out what services they expect to be available for local children and young people with SEND up to age 25. This must include post-16 education and training provision. Further information is available in the SEND Code of Practice: 0-25 Years<sup>11</sup>. The local offer is a key tool in supporting young people with SEND to make choices as they approach the end of school and successfully make the transition into post-16 education and training. Young people with SEND should be encouraged and supported to follow a coherent study programme at an appropriate level that supports their progression. Where 16-18 year olds with EHC plans are NEET, or at risk of becoming NEET, their plan should be maintained and they should be encouraged and supported to return to education and training as soon as practicably possible. Local authorities should also consider carefully the action to take when young people with EHC plans aged 18 or over leave education or training before the end of their course, seeking to re-engage them where appropriate - see paragraph 9.203 of the SEND Code of Practice: 0-25.

41. Local authorities should provide strategic leadership in their areas, working with and influencing partners (such as LEPs) locally to promote participation. Local authorities may wish to consider:

- having agreements in place for working with neighbouring authorities;
- ensuring the services for young people in the local area come together to meet the needs of young people – for example, careers advice and guidance and re-engagement provision; and
- agreeing ways of working with wider agencies including voluntary and community sector organisations and employers.

42. Sections 14-17 of ESA 2008 provide data sharing powers to encourage local authorities to promote effective participation.

## **Duty on local authorities to identify young people not participating**

43. To meet this RPA-related duty (section 12 of ESA 2008), local authorities are required to identify young people not participating so that they can ensure that these young people get the support they need. CCIS is the main source of evidence that local authorities are discharging this duty.

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<sup>11</sup> For further information see gov.uk [SEND Code of Practice: 0-25](#).

44. Local authorities are expected to act on any information they receive about a young person who has dropped out; contacting them at the earliest opportunity and supporting them to find an alternative place in education, training or employment with training that leads to relevant regulated qualifications.

## **Specific circumstances and exceptions**

45. The duty to participate in education or training applies to those young people resident in England. In certain circumstances, local authorities may need to make judgements about whether young people are resident in England (for example if a young person is in the country for an extended temporary period). Local authorities have discretion to make these decisions themselves based on the individual's circumstances. The EFA funding guidance sets out the criteria for eligibility for funding and this may be helpful in making these decisions.

46. The RPA legislation applies in England only but there will be cases where young people living in one part of the UK will travel to education or training in a country in which they are not resident. Young people who live in England but travel to Wales or Scotland to study are still under a duty to participate. Young people who live in Wales or Scotland but travel to England to study are not subject to the RPA legislation. If young people who are normally resident in England move to Wales or Scotland to study, local authorities should use their discretion to decide whether they are classed as resident in England.

47. Young people attending education institutions that provide a specialist education (for example Talmudic colleges) would be considered to be meeting their RPA duty without the need for further investigation. See paragraph 15 in Annex 1.

48. A 16 or 17 year old serving member of the Armed Forces who is participating in the training given to new recruits will be treated as meeting their RPA duty without the need for further investigation. See paragraphs 16 and 17 in Annex 1.

49. Young people undertaking re-engagement provision that has been put in place specifically to help a young person re-engage in sustained post-16 education or training will be meeting their RPA duty without the need for further investigation. Further information and re-engagement principles are set out in Annex 3 - effective re-engagement.

50. The government recognises there will always be a small number of young people who for medical or other good reasons require a temporary break in education or training or for a significant period cannot spend sufficient time in relevant training or work. This might include, for example, some young people who have mental health issues, a serious or short or medium term illness, or some young people with a disability. During these breaks in education or training, young people will be considered to be meeting their duty to participate. It is important that local authorities are satisfied that they have in place the

appropriate support mechanisms to enable these young people to return to education or training as soon as is reasonably possible. Young parents may also have periods when they are unable to participate – for further information on young parents please see paragraphs 21 and 22 in Annex 1.

51. There may also be young people who have longer term medical needs that affect their study but who do not have a statement of SEN or an EHC plan. These young people may be unable to fulfil the full requirement of RPA: for example they may not be able to manage full-time education or working over 20 hours per week while studying. Again, local authorities should consider these cases individually offering support but also recognising that ultimately full compliance with the duty may not be possible for some.

52. As part of their responsibility for making sure that there is sufficient, suitable education and training provision for their young people and to support them to participate, local authorities have discretion to decide whether to fund individual young people in health care establishments to continue in their further education. Any such provision and associated charges would need to be agreed with the local authority in advance.

## **Young people with diverse identities and backgrounds**

53. Young people come from a diverse range of cultures, reflecting unique social, cultural and religious backgrounds. Local authorities should take account of their duties under the Equality Act 2010 and be alert to the potentially differing needs of young people arising from a protected characteristic such as disability, sexual orientation, gender reassignment, or sex when they are supporting them to access education and training. For example, there is a higher prevalence of mental health issues among young people who may be questioning their gender identity or sexual orientation, or those who identify as lesbian, gay, bisexual or transgender (LGB&T). Young people who identify as LGB&T or may be questioning their gender identity or sexual orientation, may not actively seek support for fear that this will lead to them being identified as LGB&T when they may not be ready to identify in this way. They may have experienced bullying and hostility from their peers, or have unsupportive home environments, relating to their sexual orientation or gender identity and perceive this as a barrier to remaining in education or training. Additional sensitivity and confidentiality are paramount, and appropriate assurances must be given to those who seek support.

## Annex 1 - defining participation

1. This annex sets out further information about how the duties on young people apply.
2. The government has raised the participation age so that all young people in England are now required to continue in education or training as set out in paragraphs 5 to 7 of the main guidance document.
3. Where young people have left year 11 of compulsory education in June and have accepted an offer of a place in education or training that does not start until September, there is no requirement for them to participate during the summer holidays. Similarly, where young people are meeting their duty to participate through full-time education they should still take the usual breaks in learning (e.g. school/college holidays).
4. Where young people who would normally be under a duty to continue to participate post-16 have already attained level 3 qualifications of sufficient size, for example two A levels<sup>12</sup>, they are no longer required to participate but may benefit from support to continue their education or training, or get a job.
5. RPA does not mean staying in school, young people have a choice about how they continue in education or training post-16. The three primary ways for a young person to participate are:
  - full-time study in a school, college or with a training provider;
  - full-time work or volunteering (20 hours or more) combined with part-time education or training leading to relevant regulated qualifications; or
  - an apprenticeship<sup>13</sup> ; traineeship<sup>14</sup> or supported internship<sup>15</sup>.

### Full-time education

6. Where a young person is attending full-time education at a school, they will be meeting their duty to participate.
7. For young people attending other full-time education – whether that be a sixth-form college, general further education college, independent college, or otherwise - apart from the settings below in paragraphs 8 and 9 – the definition of full-time participation is at least 540 hours of planned learning (both qualification and non-qualification hours) a year, this is around 18 hours per week. In accordance with the principles of 16-19 study programmes and EFA Funding Regulations, activities such as work experience or

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<sup>12</sup> Section 3 Education and Skills Act 2008.

<sup>13</sup> For further information see [gov.uk Apprenticeships](http://gov.uk/Apprenticeships).

<sup>14</sup> For further information see [gov.uk Traineeships](http://gov.uk/Traineeships).

<sup>15</sup> For further information see [gov.uk Supported Internships](http://gov.uk/Supported Internships).



tutorials provided by the institution, can be included within those hours. In general, young people enrolled on a full-time study programme will be meeting the duty to participate.

8. For young people who are being home educated, no hourly requirement of education applies. The amount and content of the home education is at the discretion of the home educator. In most circumstances it will be the young person themselves who states that they are home educated. If the authority believes there is some doubt in the matter, they may wish to seek confirmation of this from the parent or guardian, but on-going monitoring of the education itself is not required. If the authority has evidence to suggest that a young person who claims to be home educated is not, then they would be expected to clarify the position with the young person.

9. For young people who have been absent from the education system and are now attending a re-engagement programme, no hourly requirement of education applies. Local authorities should be satisfied that a minimum amount of contact time or learning hours are built in and that the express intention of the programme is to support the young person to move into: full-time education at a school or college; full-time work or volunteering with part-time education or training leading to a relevant regulated qualification; or an apprenticeship, traineeship or supported internship. Once re-engagement to appropriate education or training is secured, the wider requirements for participation apply.

10. Local authorities are able to determine for themselves what counts as re-engagement provision. A suggested set of non-statutory principles for re-engagement provision has been developed by representatives from the sector and this forms Annex 3 to this guidance.

## **Apprenticeships**

11. Entering into an apprenticeship agreement as set out in the Apprenticeship, Skills, Children and Learning Act 2009 satisfies the duty to participate and no further monitoring of that young person's training or employment is needed. Apprenticeship providers are included in the requirement to notify a local authority if a young person is no longer participating.

## **Traineeships**

12. Traineeships are an education and training route for young people aged 16-24 (and for young people with an EHC plan up to academic age 25). Traineeships aim to give young people the skills and vital experience they need to get an apprenticeship or other job. Traineeships are part of 16-19 study programmes therefore a young person enrolling on a traineeship would meet the duty to participate. Traineeship providers are

included in the requirement to notify a local authority if a young person is no longer participating.

## Supported internships

13. Supported internships are a structured study programme based primarily at an employer. They enable young people aged 16-24 with a statement of SEN (up to age 19) or an EHC plan (up to age 25) to achieve sustainable paid employment by equipping them with the skills they need for work, through learning in the workplace. Those young people on supported internships would be meeting their duty to participate. Supported internship providers are included in the requirement to notify a local authority if a young person is no longer participating.

## Full-time work with part-time education or training

14. Sections 5, 6 and 8 of ESA 2008 detail the requirements of this route. In order to be considered as participating, a young person must both be in full-time work and undertaking part-time education or training. The key definitions to which local authorities will need to have regard to are that:

- To count as full-time work, the job must be for 8 or more weeks consecutively and for 20 or more hours per week. The 20 hours employment can be undertaken with more than one employer. Where a young person's employment hours vary, employment of an average of 40 or more hours over a two week period can be considered as meeting the requirement.
- Full-time self-employment, holding a public office or working other than for reward (for example volunteering) should all be regarded in the same way as full-time employment. The 20 hours volunteering can be undertaken with more than one organisation and for each volunteering placement it is recommended that a written agreement is in place between the young person and the placement organiser.
- Part-time education or training alongside full-time work must be at least 280 planned qualification hours per year. There is no set pattern for how these hours should be taken and in meeting the 280 per year hourly minimum there may be periods of time when a young person might not be undertaking education or training. Part-time education or training pursued alongside full-time work must constitute education or training leading towards relevant regulated qualifications<sup>16</sup>. This education or training may be provided directly by an employer or by another organisation.

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<sup>16</sup> For further information please see The [Register of Regulated Qualifications](#) on Ofqual's website.

## **Young people attending non-registered education institutions**

15. Education institutions such as seminary or Talmudic colleges provide a specialist education and young people attending these institutions would be considered to be complying with the duty to participate beyond the age of 16. Independent colleges should, however, be encouraged to provide a balanced education based on prior achievement and to include the continued study of English and maths where appropriate.

## **Young people joining the armed forces**

16. Serving in the armed forces provides relevant training for young people and is a valid and valuable career route. As the terms of service and training within the armed forces vary, the government has made provision that a serving member of the armed forces who is participating in the training given to new members, will be treated as meeting their duty to participate without further investigation or any requirement to deliver specific subjects or programmes. For the purposes of RPA, armed forces means the naval, military or air forces of the Crown, but not the reserve forces.

17. Young people who have been recruited to serve in the armed forces may, on occasion, have to wait for a training place. Where this is the case, young people should consider how they might use this waiting time constructively, for example by improving their maths, English and other skills, volunteering or seeking temporary employment.

## **Young people with full-time caring responsibilities**

18. In exceptional cases where a young person aged 16 or 17 has assumed a full-time unpaid caring role for another person, they will be considered to be meeting their duty to participate if they are also undertaking part-time education or training leading to relevant regulated qualifications.

19. This provision is only for that small number of young carers who have had a young carer assessment and who are willing and able to undertake a full-time caring role, and balance that with their education or training, without any adverse impact on their own health or wellbeing. Local authorities will therefore need to establish that individual circumstances have been taken into account, a proper assessment of needs for support has taken place and professional judgement has been applied.

20. Young people who are parents caring for children are not classed as being young carers.

## **Young parents**

21. Local authorities are responsible for identifying young parents who are not participating and for ensuring that there is appropriate support in place to help them

return to education or training as soon as practicable. Young parents would normally be expected to participate full-time, and may qualify for Care to Learn funding to enable them to do so<sup>17</sup>.

22. With regard to young mothers, there is no legal requirement that determines at what point a new mother should return to education and training. Local authorities could reasonably apply the same time period for which statutory maternity leave is available to those in work, although they should use their discretion and knowledge of the young mother's individual circumstances to agree a suitable return date.

## **Young people in jobs without training**

23. Those in jobs without the required training should be encouraged to take up suitable part-time education or training leading to relevant regulated qualifications alongside their work. Local authorities should be aware of their duty to secure appropriate provision<sup>18</sup> for all young people and so ensure that flexible provision is in place where needed. Local authorities should work closely with local employers to agree suitable arrangements for young people.

## **Young people in jobs with training that does not lead to relevant regulated qualifications**

24. Those in jobs with training that does not lead to relevant regulated qualifications should also be encouraged to take up part-time education or training alongside their work that does.

## **Young people taking breaks in their formal education or training**

25. Young people should not take extended time out of education and training when they are required to participate. However, there will be occasions where young people are offered positive opportunities that have an element of education and training in them, although they may not fully meet RPA criteria.

26. If the opportunity is abroad, local authorities will need to decide whether the young person is classed as being resident in England during this period (see paragraph 46 of the main guidance about residency).

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<sup>17</sup> For further information see gov.uk [Care to Learn](#).

<sup>18</sup> Sections 15ZA and 18A of the Education Act 1996 (as inserted by the Apprenticeships, Skills, Children and Learning Act 2009) and Part 3 of the Children and Families Act 2014.

27. If the young person is deemed to be resident in England by their local authority, or if the opportunity itself is in England, the local authority will need to decide whether what the young person is doing meets the duty to participate in education or training.

28. If the local authority believes that the young person is not fully meeting their RPA duty but is engaged in a positive activity that is improving their English, maths or other skills, then this would appear to be a positive outcome for the young person. We would not expect local authorities to intervene in such cases.

## Annex 2 - duties on other organisations in relation to RPA

### Careers requirement on schools and colleges

#### Schools

1. Schools are under a duty to secure independent careers guidance<sup>19</sup> for pupils in years 8-13 on the full range of education and training options, including apprenticeships<sup>20</sup>.
2. Schools are expected to work in partnership with local employers and other education and training providers like colleges, universities and apprenticeship and traineeship providers to ensure that young people can benefit from direct, motivating and exciting experience of the world of work, to develop high aspirations and inform decisions about future education and training options.
3. Revised statutory guidance<sup>21</sup> published in March 2015, outlines why schools must secure independent careers guidance for young people, what they must do to comply with their legal responsibilities in this area and the role of the governing body and head teacher in shaping the guidance and support offered by the school. The updated guidance places a greater emphasis on ensuring schools are focused on having high aspirations for all students and to ensure that all schools are clear about what is expected of them in meeting their duty.

#### Colleges

4. Funding agreements for further education colleges and sixth form colleges set out a requirement to secure independent careers guidance for all students up to and including the age of 18 and 19-25 year olds with an EHC plan. Guidance<sup>22</sup> published in March 2015 offers information which colleges may wish to draw on when interpreting the new requirement and deciding on the most appropriate forms of independent and impartial careers guidance for their students.

#### Intensive support for pupils and students

5. Schools and colleges should also consider the needs of other students who require more sustained or intensive support before they are ready to make career

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<sup>19</sup> Section 42A of the Education Act 1997

<sup>20</sup> While the legislative requirement applies to maintained schools, many academies and free schools are subject to the duties through their funding agreements, including those which opened from September 2012 onwards and those which have moved to the updated funding agreement. Academies without the requirement are encouraged to follow this guidance in any case as a statement of good practice.

<sup>21</sup> For further information see gov.uk [Careers guidance and inspiration for young people in schools.](#)

<sup>22</sup> For further information see gov.uk [Careers guidance and inspiration: Careers guidance colleges.](#)

decisions, for example those with physical or mental health needs, those in or leaving care and those who have been young offenders.

## **Careers and SEND**

6. Careers guidance, tailored to their individual needs and aspirations, is extremely important in supporting young people with SEND to participate. High aspirations are particularly important; the overwhelming majority of young people with SEND are capable of sustained paid employment with the right preparation and support, and careers guidance should reflect this presumption.

7. Careers guidance for children and young people with SEND must be impartial and should offer the full range of education and training opportunities. This includes traineeships and apprenticeships, and if the young person has an EHC plan, supported internships, as well as opportunities to gain qualifications leading into further or higher education. Careers advice should draw on the SEND local offer published by each local authority. Schools and colleges should help young people plan a route into employment or higher education, so that they can see how post-16 education and training can help them achieve their longer term aspirations.

## **Duties on employers**

8. The duties on employers in ESA 2008 have not been brought into force at this stage<sup>23</sup>. The possibility of commencing them will be kept under review.

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<sup>23</sup> Sections 19-39 Education and Skills Act 2008.

## Annex 3 - effective re-engagement

1. For those young people who face significant barriers to participating post-16, re-engagement activity and provision can play a key role in supporting them back into education or training. Local authorities should ensure that there is a coherent set of provision available in their area, and use it as appropriate to support young people.
2. Many local and national voluntary and community sector organisations offer re-engagement programmes (often in partnership with private businesses, local authorities, and LEPs) to help re-engage young people. Re-engagement provision is also available from other sources such as ESF funded initiatives<sup>24</sup> and Youth Engagement Fund<sup>25</sup> projects. Some schools and colleges also offer re-engagement services and support.
3. Young people taking part in provision that has been put in place specifically to help them make the transition into sustained post-16 education or training will be regarded as meeting their RPA duty. However local authorities will need to reassure themselves that the re-engagement provision the young person undertakes meets the principles of effective re-engagement below and helps young people to make the transition to appropriate education or training in line with RPA.

### The principles of effective re-engagement

4. The following non-statutory principles are designed to assist commissioners and providers when making decisions about re-engagement provision in their area. Local areas should build on these as they develop their provision locally. The support and encouragement provided by local authorities to young people to meet authorities' duties described in this guidance, for example advice on CV writing or interview techniques as a stand alone support, would not normally be regarded as re-engagement provision.

#### A personalised approach...

5. Provision is tailored to the young person, taking account of appropriate background information, and responds to individual needs in order to create an appropriate path back into education or training. An on-going individual needs assessment will allow the programme to develop with the young person, focused on the range of barriers preventing them from participating.

#### ...with clearly agreed outcomes...

6. Achievable and agreed outcomes are decided with the young person and may be expressed in an individual plan. Re-engagement providers may want to consider how

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<sup>24</sup> For further information see [gov.uk European Social Fund](http://gov.uk/European%20Social%20Fund).

<sup>25</sup> For further information see [gov.uk Youth Engagement Fund](http://gov.uk/Youth%20Engagement%20Fund).



best to develop the social and emotional capabilities of the young person, whilst maintaining a focus on their sustained engagement in education or training.

### **... a minimum agreed amount of contact time or learning hours ...**

7. Re-engagement provision should include a minimum agreed amount of contact time or learning hours per week leading to progression into sustained education, employment or training.

### **... leading to progression into sustained education, employment or training...**

8. An effective re-engagement programme will lead to progression, monitored by the provider, into sustained education, employment or training. The amount of time a young person will spend on re-engagement provision will vary depending on their development needs but the focus should remain on securing progression to full-time education, training, or work with training.

### **...underpinned by appropriate information and support...**

9. Providers have an important role to play, working with local authorities where appropriate, in providing access to appropriate sources of information to help young people make informed choices about the education, training and employment opportunities available in their area, as well as to relevant sources of support, such as the financial support available to young people to continue in education or training.

### **...and strong partnership working...**

10. A number of key partnerships are needed to ensure that re-engagement programmes are as effective as possible, providing all round support to allow a range of needs to be met. Regular communication will allow appropriate referrals – between support agencies or onto an education or training provider – and continued support while the young person makes that transition.



Department  
for Education

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