ADMINISTRATIVE SCHEME UNDER SECTION 14 OF THE EDUCATION ACT 2002 GOVERNING THE PAYMENT OF EDUCATION MAINTENANCE ALLOWANCES

General

1. Under Section 14 of the Education Act 2002 (the Act) the Secretary of State may make arrangements for financial assistance to be given to young people to enable them to undertake education after they have reached compulsory school leaving age. Section 17 of the Act provides that arrangements under Section 14 may be exercised otherwise than by the Secretary of State. From 1 April 2005, the Secretary of State has delegated responsibility for the Education Maintenance Allowance (EMA) scheme to the Learning and Skills Council (LSC). The LSC has made arrangements for Capita (the HAPB) to administer the payments of EMA from November 2008. This document sets out the manner in which the EMA scheme is to operate.

2. The reader is also referred to the LSC guidance produced in connection with some aspects of the EMA scheme for more detail.

Definitions

3. Terms used in this administrative scheme are defined as follows:

*Academic year* means the period of 12 months beginning on 1 September;

*EEA migrant worker* means an EEA national who is a worker in the United Kingdom;

*EMA year* means the period of 12 months beginning on 1 September. For those young people leaving Year 11, their first EMA year will begin on the day after they leave compulsory education, for 2009/10 this will be 29 June 2009, and end on 31 August 2010;

*Household income* is income as defined and calculated for the purposes of child tax credit in The Tax Credits (Definition and Calculation of Income) Regulations 2002 as amended from time to time;

*Helpline Assessment and Payment Body (HAPB)* means the service and function provided by Capita under paragraph 1 of this scheme;

*European Community* means the territory comprised by the Member States of the European Community as constituted from time to time;

*European Economic Area (EEA)* means the European Community and, subject to the conditions laid down in the EEA Agreement, the area comprised by the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein;

*Recognised provider* means (a) a school maintained by a local education authority, (b) an independent school, (c) an academy, (d) an institution within the further education sector (e) an LSC approved provider or (f) any other educational institution which the Secretary of State considers appropriate;

*Relevant person* means any adult named on the application form as forming part of the household, the learner, or any sibling living in the same household as the learner;
**Full-time education** means a programme of education provided by a recognised provider, such that the young person’s timetable taken across all courses would require him or her to be in a class, or other taught or guided study session, (including practical work), for at least twelve hours per week or sixteen hours per week for Entry to Employment and Programme Led Apprenticeships;

**Learning programme** means full-time education (as defined above), or an LSC-funded Entry to Employment programme (E2E), or a Programme Led Apprenticeship (PLA). During the period of the LSC valid provision trials all programmes meeting the valid provision criteria (attached at annexe 1) will be in scope for EMA.

**Learning agreement** is a document that sets out the learning goals which relate to the young person’s learning progress and are agreed between the young person and the recognised provider;

**Learning session** means a period for which a recognised provider monitors and reports attendance;

**Settled** has the meaning given by section 33(2A) of the Immigration Act 1971;

**The Swiss Agreement** means the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons signed at Luxembourg on 21 June 1999 and which came into force on 1 June 2002;

**Turkish worker** means a Turkish national who is ordinarily resident in the UK and who is, or has been, lawfully employed in the UK.

Words in this Scheme signifying one gender include the other gender.

**Young person’s entitlement**

4. Subject to paragraph 19, a young person shall be eligible to receive EMA payments if he satisfies the following conditions:

(a) He is participating in full-time education up to and including Level 3, or an LSC funded E2E or PLA or participating in provision meeting the valid provision criteria currently being trialled by the LSC (set out at annex 1).

(b) The learning programme at paragraph 4(a) is planned to be of ten weeks or more duration;

(c) He is:

- A person who is ‘settled’* in the UK, and who has been ordinarily resident in the UK for at least the three years prior to the start of his learning programme; or

- A national of any Member State of the European Community (including Gibraltar), or the spouse or civil partner or child of such a person, and who has been ordinarily resident in the EEA, or Switzerland, for at least the three years prior to the start of his learning programme; or
• An EEA migrant worker, or the spouse, civil partner or child of such a person, who is ordinarily resident in the UK at the start of his learning programme, and who has been ordinarily resident in the EEA or Switzerland for at least the three years prior to that; or

• The child of a Swiss National who is entitled to support in the United Kingdom by virtue of article 3(6) of Annex 1 to the Swiss Agreement, who is ordinarily resident in the UK at the start of his learning programme, and who has been ordinarily resident in the EEA or Switzerland for at least the three years prior to that; or

• The child of a Turkish worker, who is ordinarily resident in the UK at the start of his learning programme, and who has been ordinarily resident in the EEA, Switzerland or Turkey for at least the three years prior to that; or

• A person who is recognised as a refugee by the UK Government, or the spouse or civil partner or child of such a person, or who has been granted Humanitarian Protection, or has EU Temporary Protection.

d) Subject to paragraph 5, the household income of his parent(s), guardian(s) or carer(s) does not exceed £30,810 in the fiscal year\(^1\) prior to the EMA year for which EMA is to be paid. This condition does not apply where:

• The young person has applied for EMA whilst in custody, (i.e. in a Young Offender's Institution, Secure Training Centre, or Secure Children's Home) and does not already have a Notice of entitlement for that EMA year;
• The young person is in Local Authority care, with foster parents or is a care leaver;
• The young person is a parent. In this case they will be assessed on their own income and that of their partner (but not of their carer regardless of whether or not they live with the carer);
• A young person who is estranged from their parents/carers will have to provide proof of receipt of Income Support and will be assessed within the scheme rules; or
• The young person is participating in a E2E Programme.

e) His date of birth falls during the period beginning on 1 September 1990 and ending on 31 August 1993 inclusive.

(f) He is not in custody in a Young Offenders' Institution, Secure Children's Home, Secure Training Centre or HM Prison during the learning programme.

5. Learners who participate in an E2E programme will receive the full weekly rate of EMA regardless of their household income subject to meeting the other EMA eligibility criteria. They do not therefore need to satisfy the condition in paragraph 4(d).

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\(^1\) The UK fiscal year runs from April 6 to April 5.
6. If a young person does not satisfy all of the conditions in paragraphs 4 or 5 but the person can demonstrate that exceptional circumstances apply, then the LSC or the Secretary of State may determine that the person is eligible to receive EMA payments in any event.

7. A young person who is eligible to receive EMA payments under paragraphs 4, of this Scheme shall be eligible to receive EMA payments for up to three EMA years immediately after the young person leaves compulsory education. (subject to para 8)

Withdrawal of payments

8. No weekly EMA payment will be made, unless the conditions set out in paragraph 19, are satisfied. Bonus payments will not be paid unless the conditions set out at para 20 or 21 (as applicable) are satisfied.

Structure and level of payments, and assessment

9. EMA shall consist of two forms of payment:
   (a) a weekly payment to the young person; and
   (b) intermittent bonus payments.

10. Subject to paragraph 5 the weekly payment is determined according to the following table:

<table>
<thead>
<tr>
<th>Household income</th>
<th>Weekly amount to be paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £20,817</td>
<td>£30</td>
</tr>
<tr>
<td>More than £20,817 but less than or equal to £25,521</td>
<td>£20</td>
</tr>
<tr>
<td>More than £25,521 but less than or equal to £30,810</td>
<td>£10</td>
</tr>
</tbody>
</table>

11. A range of bonuses will be paid in accordance with paragraphs 20 and 21.

The EMA Guarantee

12. A young person who is eligible to receive EMA payments will receive the same level of payment for up to 3 years or until their 20th birthday, whichever is sooner, irrespective of any increase in his household income, provided that he continues to satisfy the conditions set out in paragraph 4.

13. If there is a decrease in the young person’s household income he may apply to be reassessed the following EMA year. If he is assessed at the higher rate he will receive the higher rate for the remainder of the 3 years provided that he continues to satisfy the conditions set out in paragraph 4.

14. Where the LSC becomes aware that the household income assessment has
been made on inaccurate or incomplete information provided by the young person or a member of his household, the LSC may reduce the amount of EMA payment or cease making EMA payments to the young person for the remainder of the EMA Guarantee period.

15 Learners receiving non-income assessed EMA whilst undertaking an E2E programme are not eligible for the EMA Guarantee.

**Reassessment of Income mid year**

16. Where a young person has not been eligible to receive any EMA payment or the maximum level of weekly EMA payment on the grounds of household income but he satisfies the conditions set out in paragraph 4, he may apply to be reassessed at any point if one or more of the following conditions are fulfilled:

- a person whose income was taken into account in determining financial eligibility has died; or
- a relevant person* becomes disabled, as defined in the Disability Discrimination Act 1995; or
- since the assessment of income was made, the young person has become estranged from his parents, guardians or someone else whose income was taken into account in determining financial eligibility; or
- the young person has been taken into the care of the Local Authority; or
- the young person has become a parent with care of his child.

17 Where a young person is reassessed as being eligible to receive EMA or a higher level of weekly payment, payments may be backdated to the date on which the HAPB received the application for reassessment, except where someone whose income was taken into account has died, in which case payments may be backdated to the date of that person’s death.

18 In carrying out its function of assessing eligibility for EMA, including reassessment under paragraph 16, the LSC:

   a) will specify the documentary evidence that must be provided in support of the application, including evidence about financial circumstances, personal identity, age and residence; and

   b) may require additional evidence if it has reason to believe that the evidence provided is incomplete or inaccurate, or if such a request is consistent with a strategy agreed to reduce the risk of incorrect payments being made for reasons of fraud or inadvertent provision of incorrect information.

**The EMA Agreement and weekly payments**

19 The following conditions govern all weekly EMA payments:

- any adult named on the application form as forming the household, the learner, or any sibling of the learner living in the same household as the learner.
a) a young person will only receive a weekly EMA payment if he has signed the EMA Agreement, which signifies his acceptance of the terms governing the weekly payment of EMA; and
b) a young person will only receive an EMA weekly payment for a week in which he has attended every learning session for his chosen learning programme, or if this is not the case, each absence has been authorised by the recognised provider, which must take account of the relevant guidance issued by the LSC, in making such determinations; and
c) a young person will only receive an EMA weekly payment for a week in which he has also met the required standards for behaviour, effort and progression on his learning programme, as set out in his learning agreement.

The EMA learning agreement and bonus payments

20 The following conditions govern the EMA bonus payments in respect of learning programmes other than E2E and PLA:

a) no young person shall receive an EMA bonus payment unless he has signed his learning agreement, which signifies his acceptance of the conditions in this paragraph;
b) no young person will receive a January bonus payment unless he is judged to have achieved the goals set out in his learning agreement for this purpose by the recognised provider for the period from the previous September to January;
c) no young person will receive a July bonus payment unless he is judged to have achieved the goals set out in his learning agreement for the period from January to July;
d) no young person will receive an EMA bonus payment unless he is judged to have consistently met the standards of behaviour and effort expected by the learning provider.

Responsibility for determining whether a young person is entitled to receive a bonus payment rests with the recognised provider, who must take account of the LSC’s guidance in making such determinations.

21 The following conditions govern the EMA bonus payments for E2E and PLA:
a) no young person shall receive a bonus payment until he has signed his learning agreement;
b) no young person shall receive a bonus payment until he has completed a minimum of 10 weeks on his learning programme;
c) no young person shall receive any further bonus payments unless he is judged to have met criteria as agreed with his learning provider;
d) no young person shall receive any further bonus payments unless he has consistently met the standards of behaviour and effort required by the learning provider.
Responsibility for determining whether a young person is entitled to an EMA bonus payment rests with the recognised provider, who must take account of the LSC's guidance in making such determinations.

**Obligations on recognised providers**

22 Recognised providers which have EMA recipients enrolled with them agree to:

- promote the availability of EMA to their learners and prospective learners;
- ensure that staff are properly trained to administer EMA and to support learners to complete the EMA application form;
- ensure that all data provided by sub-contractors is accurate and has appropriate audit trail;
- notify the HAPB of each EMA eligible young person they have enrolled and confirm that they and the young person have signed the EMA Agreement and retain a copy of this document for six years for audit purposes;
- ensure that young people are made aware of how EMA is administered by that provider;
- ensure that attendance records are maintained for all EMA-eligible students for six years for audit purposes;
- make timely reports to the HAPB as to which EMA eligible students should or should not receive EMA payments in respect of the previous week, in accordance with paragraph 19;
- notify the HAPB when the learning agreement has been signed by a young person and retain a copy of this document;
- notify the HAPB as to whether a bonus payment under paragraphs 20 or 21 should be made to a young person; and
- provide an appeals process to enable a young person to challenge a decision made by the provider that either a weekly or bonus EMA payment should not be made.

**Back payment of EMA**

23. A young person may apply for EMA payments at any time:

- where an application is made after the start of the learning programme, and the application is received by the HAPB within four weeks of the start of the learning programme, payments may be backdated to the start of the learning programme;
- where an application is received more than four weeks after the start of the learning programme, payments may be backdated to the date on which the HAPB received the application;
- any back payment is subject to the rules about weekly payments in paragraph 19.
Prohibition of dual funding

24. No young person may receive EMA payments in respect of any period of time in which he

- has been an employed apprentice

or received:

- a Training Allowance;
- Job Seekers Allowance;
- Adult Learning Grant;
- Dance and Drama Award;
- NHS Bursaries; or
- A Flat Rate allowance for full time volunteering.

Overpayment

25. Where a recognised provider has incorrectly authorised weekly payments, resulting in an overpayment of EMA to a young person, it should recover those overpayments by stopping future weekly payments. No more than two consecutive weekly payments should be stopped in this way. If more than two consecutive weekly payments have been incorrectly authorised, or there are insufficient weekly payments remaining to allow recovery, then the provider should inform the HAPB, which will seek to recover money according to arrangements made with the LSC.

26. Where a recognised provider has incorrectly authorised bonus payments, resulting in an overpayment of EMA, then it should inform the HAPB, which will seek to recover the money according to arrangements made with the LSC.

27. Where the HAPB has mistakenly authorised payments, either through incorrect assessment of financial information, or mishandling of weekly or bonus reporting information from providers, resulting in an overpayment of EMA, it will seek to recover the money according to arrangements made with the LSC.
Valid Provision Trials

During the trials a young person will be able to apply for EMA regardless of whether the institution is registered on Edubase provided:

- the programme of study is not less than twelve guided learning hours a week for a minimum of ten weeks
- the provision is inspected by a public body that assures quality,

and is either:

I. funded or co-financed by the Learning and Skills Council in England;
   or
II. leads to a qualification that is accredited by the Qualifications and Curriculum Authority pursuant to Section 24 of the Education Act 1997 (b);
   or
III. leads to a qualification that is approved by the Secretary of State pursuant to section 98 of the Learning and Skills Act 2000 (c)