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 Business Services Limited to administer the payment of EMA to young people. This document sets out the manner in which the EMA scheme is to operate.

2. The reader is also referred to the 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 from 1 September in one year to 31 August in the next year;

*EMA year* means the period from the 1 September in one year to 31 August in the next year. For those young people leaving Y11, their first EMA year will run from the day after they leave compulsory education to the 31 August in the next year;

*Civil Partnership* means a relationship between two people of the same sex (“civil partners”) which is formed when they register as civil partners of each other, as defined in the Civil Partnership Act 2004. For civil partnerships made overseas refer to Schedule 20 of the Civil Partnership Act 2004, as amended by SI 2005/3129;

*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;

*Assessment and Payment Body (APB)* means the service and function provided by Capita Business Services Limited 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;
**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;

**learning programme** means full-time education (as defined above), or; an LSC-funded Entry to Employment programme (“E2E”), or; a Programme Led Apprenticeship (“PLA”) (formerly known as Programme Led Pathways);

**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;

**progression bonus payment** means a bonus payment payable in respect of E2E or PLA, upon satisfactory progression for that programme.

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

**Young person’s entitlement**

4. A young person shall be entitled to receive EMA payments if he fulfils the following conditions:

(a) he is participating in full-time education (as defined) up to and including Level 3, or an LSC funded E2E or PLA;

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

(c) In respect of the **2006/07 EMA year** he must be:

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

- a national of any European Union (EU) country or the spouse or civil partner or child of an EU national, and been ordinarily resident in the European Economic Area (EEA) for at least the three years prior to the start of his learning programme; or

- an EEA migrant worker or the spouse or civil partner or child of an EEA migrant worker, who is ordinarily resident in the UK at the start of the learning programme and has been ordinarily resident in the EEA throughout the three year period prior to that; or

- recognised as a refugee by the UK Government, or the spouse or civil partner or child of a refugee, have been granted Humanitarian Protection, or have EU Temporary Protection; or

- a person who has indefinite leave to enter or indefinite leave to remain **and** who received EMA payments in 2005/06.
In respect of the **2007/08 EMA year** he must be:

- a person who is ‘settled’ in the UK, and 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 European Union (EU) country or the spouse or civil partner or child of an EU national, and been ordinarily resident in the European Economic Area (EEA) for at least the three years prior to the start of his learning programme; or
- an EEA migrant worker or the spouse or civil partner or child of an EEA migrant worker, who is ordinarily resident in the UK at the start of the learning programme and has been ordinarily resident in the EEA throughout the three year period prior to that; or
- recognised as a refugee by the UK Government, or the spouse or civil partner or child of a refugee, have been granted Humanitarian Protection, or have EU Temporary Protection.

(d) In respect of the **2006/07 EMA year**, the household income of his parent, guardian or carer does not exceed £30,810 in the fiscal year prior to the EMA year for which EMA is to be paid; or

In respect of the **2007/08 EMA year**, the household income of his parent, guardian or carer does not exceed £30,810 in the fiscal year prior to the EMA year for which EMA is to be paid. Household income will not be assessed where:

- The young person has applied for EMA whilst in custody, (ie in a Young Offender’s Institution, Secure Training Centre or Secure Children’s Home); or
- The young person is in Local Authority care, with foster parents or is a care leaver

(e) In respect of the **2006/07 EMA Year**:

- he ceased to be of compulsory school age (as defined by Section 8 Education Act 1996\(^1\)) at the date specified by the Secretary of State for 2006 (30 June 2006); or

\(^1\) Section 8(3) of the Education Act 1996 provides:

“A person ceases to be of compulsory school age at the end of the day which is the school leaving date for any calendar year.

(a) if he attains the age of 16 after that day but before the beginning of the school year next following;
(b) if he attains that age on that day; or
(c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age.”

From 1998 onwards the” school leaving date” is the last Friday in June: SI 1997/1970.

“School year” is defined in section 579(1) of the Education Act 1996 (as amended) thus:

“School year”. In relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first such term to begin after the following July.”
• he has his 17th or 18th or 19th birthday in the academic year 2006/07; or

• he has his 20th birthday in the academic year 2006/07 and is resident in an area in which an EMA pilots scheme operated in the academic year 2003/04 and has a certificate from a Connexions Personal Advisor which states that he should be eligible to receive EMA payments for the academic year 2006/07.

In respect of the 2007/08 EMA Year:

• he ceased to be of compulsory school age (as defined by Section 8 Education Act 1996) at the date specified by the Secretary of State for 2007 (29 June 2007); or

• he has his 17th or 18th or 19th birthday in the academic year 2007/08; or

• he has his 20th birthday in the academic year 2007/08 and has a certificate from a Connexions Personal Advisor which states that he should be eligible to receive EMA payments for the academic year 2007/08.

5. If conditions (a) to (e) are satisfied, then the young person has a general eligibility to receive EMA payments. If not all of the conditions (a) to (e) are satisfied, but a young person has demonstrated that exceptional circumstances apply, then the young person has a general eligibility to receive EMA payments at the discretion of the LSC.

6. No EMA payment will be made, however, unless the young person fulfils the conditions relevant to each payment as outlined in paragraphs 19, 20 and 21 of this Scheme.

7. A young person who is eligible to receive EMA payments under paragraphs 4, 19, 20 and 21 of this Scheme shall be entitled to receive EMA payments for up to three EMA years. Except in the circumstances described in paragraph 28, this must be the three EMA years immediately after the young person leaves compulsory education.

Structure and level of payments, and assessment

8. EMA shall consist of two forms of payment:

(a) a weekly payment to the young person; and

(b) intermittent bonus payments.

9. The weekly payment which a young person shall receive is to be 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>
10. A range of bonuses will be paid in accordance with paragraph 20.

11. Where a young person has previously received EMA payments through an EMA pilot scheme, the level of payment he will receive shall nonetheless be determined on the basis of the table in paragraph 9 using the definition of household income in paragraph 3.

12. Subject to paragraphs 14 and 15 of the Scheme, the assessment of each young person’s financial eligibility for an EMA will be valid for the whole of the EMA year for which the assessment is made. A young person must reapply for EMA for any subsequent EMA years. However, where a learning programme runs over an EMA year end, an extension may be granted to enable a young person to complete their learning programme. Further details are set out in the EMA Guidance for Providers.

13. 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, a young person may apply to be reassessed 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.
- 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 responsibility for his child.

*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”.

14. If the APB determines that one or more of the circumstances in Paragraph 13 is satisfied and that under these new circumstances the young person will become entitled to receive EMA or will be entitled to receive a higher level of weekly payment, it will notify the young person to that effect.

15. Subject to the requirements about weekly attendance in paragraph 18 of the Scheme, 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 APB 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.
16. The LSC has delegated the authority to assess eligibility for EMA (including determining the level of weekly payment) and to make EMA payments, to the APB.

17. In carrying out its function of assessing eligibility for EMA, including reassessment under paragraph 13, the APB:

   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 between the APB and the LSC to reduce the risk of incorrect payments being made for reasons of fraud or inadvertent provision of incorrect information.

The EMA contract and weekly payments

18. The following conditions govern the weekly EMA payment:

   a) 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
   
   b) a young person will only receive a weekly EMA payment if he has signed the EMA contract part 1, which signifies his acceptance of the terms governing the weekly payment of EMA.

The EMA learning agreement and bonus payments

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

   a) no young person will receive a January bonus payment unless he has received two weekly EMA payments between the first of January and the first full week in February of the relevant calendar year, and 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;
   
   b) 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;
   
   c) no young person will receive a September bonus payment unless he has received at least ten weekly payments before the end of the preceding July and has also received at least two weekly payments between the start of September and the 1st of November;
   
   d) responsibility for determining whether a young person is entitled to receive a bonus payment rests with the recognised provider which must take account of the LSC’s guidance in making such determinations;
e) 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.

20. The following conditions govern the EMA bonus payments for **E2E and PLA:**

a) no young person shall receive his first bonus payment until he has signed his learning agreement;

b) no young person shall receive his second or third bonus payments until he has satisfactorily achieved the objectives, set out in his learning agreement;

c) no young person shall receive his progression bonus payment unless he has made the required progression;

d) responsibility for determining whether a young person is entitled to an EMA bonus payment rests with the recognised provider, which must take account of the LSC’s guidance in making such determinations.

**Obligations on recognised providers**

21. 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 APB of each EMA-eligible young person they have enrolled and confirm that they and the young person have signed part 1 of the EMA contract and retain a copy of this document for three years;
- 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;
- make timely reports to the APB 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 APB when the learning agreement has been signed by a young person in full-time education and retain a copy of this document;
- notify the APB when a young person following E2E or PLA has signed his learning agreement and retain a copy of this document;
- notify the APB as to whether a bonus payment under paragraphs 19 or 20 should be made to a young person; and
- provide an appeals process to enable a young person to challenge a decision made by the recognised provider that either a weekly or bonus EMA payment
should not be made.

**Back payment of EMA**

22. 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 APB 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 APB received the application or the start date of the learning programme, whichever is later;

- any back payment is subject to the rules about weekly payments in paragraph 18.

**Prohibition of dual funding**

23. No young person may receive EMA payments in respect of any period of time in which he has received:

- Minimum Training Allowance;
- Job Seekers Allowance;
- Adult Learning Grant;
- Dance Drama Award; or
- NHS Bursaries.

**Overpayment**

24. 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 APB, which will seek to recover money according to arrangements made with the LSC.

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

26. Where the APB 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.

**Young persons who start their learning programmes after their 19th birthday**

27. A young person in full-time education (as defined in paragraph 3) may receive EMA payments in the academic year in which he has his 20th birthday if he has received an
EMA in no more than two of the three preceding EMA years and the Connexions partnership for the area in which he resides has certified to the APB that the young person should receive EMA support for the EMA year in question. The Connexions partnership will not issue such certification unless it has determined that funding will be beneficial to the young person.

28. A young person who starts E2E or PLA, after his 19th birthday will not be eligible for EMA payments.

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