



Education  
Funding  
Agency

# **16 to 25 high-needs funding arrangements: additional information**

**Academic year 2014 to 2015 and  
preparation for 2015 to 2016**

**May 2014**

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## Introduction

We published Version 1.0 of the additional information document in November 2013 to support local authorities and institutions to finalise arrangements for the academic year 2013 to 2014 and to inform preparations for 2014 to 2015.

We welcome the feedback from authorities and institutions that this document and our high needs web page have improved access to information and helped raise understanding of the high needs system. We recognise there is more to be done to improve understanding and will work with our partners to develop communications further.

We have updated Version 2.0 to include the completion of the high needs place review for 2014 to 2015, looking ahead to the Special Educational Need (SEN) reforms introduced in the Children and Families Act 2014 and the funding arrangements for 2015 to 2016. We have also updated a number of the sections from Version 1.0 to provide greater clarity.

We hope that you find this information useful.

# 1. Funding arrangements for Post-16 Students

## Defining a high needs student

1. For funding purposes, a high needs student is defined as (i) a young person aged 16-18 who requires additional support costing over £6,000; and (ii) any young person aged 19-25 subject to a Learning Difficulty Assessment (LDA), or, from September 2014, an Education, Health and Care plan (EHC plan) who requires additional support costing over £6,000. High needs funding for 16 to 25 year olds consists of both place funding (Elements 1 and 2) and top up funding (Element 3). In all instances, top up funding (Element 3) has to be agreed by the local authority with an institution, and a contract must be in place between the two parties. If the local authority does not agree to pay top up funding for a student, then they are not counted as high needs for funding purposes.
2. Institutions are not funded in the same way for students who require additional support which costs less than £6,000. Institutions do not receive Elements 2 and 3 and local authorities do not commission places or provide specific additional funding. Further information on funding for lower cost students is in paragraph 14.

## A high needs student study programme

3. The majority of young people with high needs attending a school, college or specialist post-16 institution (independent specialist provider) will be subject to either a statement of SEN, an LDA or, from September 2014, an EHC plan. Local authorities must use the evidence from the statement, LDA or EHC plan to make consistent, effective and robust assessments of the support the young person will need to move towards a positive outcome.
4. We expect a local authority and an institution to work together to agree a suitable study programme for the young person, which must be tailored to their individual aspirations and support needs. A full-time course has a minimum duration of 540 hours and there is no set maximum or cap of 600 hours. We would not expect local authorities or colleges to set an arbitrary maximum number of hours for the study programmes, but instead to provide the number of hours required by the student to complete the programme.
5. A local authority and an institution must also agree a support package to enable the young person to participate effectively in the study programme. The educational costs of the support package should be met through Elements 2 and 3. Other costs should be met from contributions from health and social services where appropriate. Local authorities will need to secure agreement on how costs are to be shared between the relevant budget holders – those both inside the local authority and outside (e.g. health).

## Overview of the high needs funding system

6. The high needs funding system has two parts: place led funding and top up funding.
7. Place led funding ensures the number and distribution of places in the system reflects need and provides financial stability for institutions (especially specialist institutions) to help with longer term planning of staffing and infrastructure.
8. Top up funding is paid from local authorities' high needs budget to meet the individual needs of children and young people with high needs, over and above the funding provided to institutions through place led funding.
9. Details of the [2014 to 2015 high needs place funding arrangements](#) across pre and post 16 by institution type are available on GOV.UK.

## Place funding for Post-16 Students (except for post-16 students in special schools)

10. The three elements to high needs funding for post-16 students who are not in special schools, are Element 1 and 2 place funding and Element 3 top up funding.

### Element 1

11. Place funding is made up of two components. Element 1 is paid to institutions and represents the funding that all students at the institution attract for their basic programmes. It does not take into account the additional support costs of high needs students. For maintained schools this funding is passported through local authorities as the sixth form grant.
12. We fund the majority of institutions with post-16 provision on a lagged student basis, using the national post-16 funding formula. For these institutions, the total of Element 1 for the academic year 2014 to 2015 is based on the number of students recruited in 2013 to 2014. Where Element 1 is allocated on a lagged basis, institutions should not seek funds from local authorities for any shortfall in Element 1 in 2014 to 2015. A shortfall will be rectified in the lagged allocation for 2015 to 2016 unless otherwise agreed between the institution and the LA, for example where there is growth in an institution's place numbers.
13. We have allocated Element 1 funding to specialist post-16 institutions using the places submitted by local authorities in December 2013, or the academic year 2013 to 2014 unadjusted R06 data returned by the institution if this was higher.
14. The average funding per student varies at different institutions under the post-16 national funding formula. This is because the formula takes account of differences in the mix and balance of provision and differences in the socio-economic

circumstances of a student. The national formula provides additional funding for vocational provision which requires specialist facilities and equipment and to support institutions serving communities with high levels of economic disadvantage and/or low levels of prior attainment at 16 in English and maths. These are regarded as proxy indicators of low level additional learning support, and (alongside any formula protection funding) provide institutions with funds to help those students who need such support costing up to £6,000. Further information is provided in an [overview document](#) and in our [post-16 funding guidance](#).

15. The cash value of Element 1 paid to each institution changes each year and is an average for that institution based on historical data. Therefore variations in the value of Element 1 between individual high needs students according to what programme they are studying are not relevant to the amount that a local authority will pay in top up funding under Element 3.

16. As described in our [published technical note](#), we made no Element 1 funding deductions for the academic year 2014 to 2015 from the local authority dedicated schools grant (DSG) for post-16 students. We did not include any Element 1 funds in the high needs block for post school institutions (further education (FE), Commercial and Charitable Providers (CCPs) and specialist post-16 institutions) nor for post-16 learners in mainstream schools and academies (including special units within them).

17. Therefore, in the interests of simplicity, local authorities should continue to use a national average figure of £4,977 as the Element 1 value for all post-16 high needs students, except for those students in non-maintained special schools (NMSS) and maintained special schools (MSS). We will continue to review this approach as the new system beds in and whether to continue it in future years.

## Element 2

18. Element 2 is the second component of place funding and provides £6,000 to help meet the additional support costs for high needs students. This element of place funding is not intended for meeting the needs of students who require a lower level support costing less than £6,000.

19. We used the place information returned by local authorities in December 2013 to calculate the Element 2 allocations to institutions for the academic year 2014 to 2015. We recognise that the information submitted in December will not reflect any subsequent commissioning and placement decisions agreed by local authorities. Therefore the following principles apply:

- Element 2 places are not reserved for a specific student or local authority. Institutions are free to fill the places they have been allocated in the order that local authorities agree and commission those places; and

- Where a local authority wants to commission further places at an institution that has filled the places it has been funded for, agreement needs to be reached with the institution on the level of funding required. A local authority should not automatically be charged an extra £6,000 per head if it is agreed that the support package for additional students can be met at marginal rather than full cost for the institution. This is of course less likely in the case of students with high needs whose support is often individualised and expensive because of the nature or severity of their needs. In all cases local authorities and institutions will need to agree a mutually acceptable approach that represents best value and the local authority will need to fund this from its high needs block allocation.

20. We have published the [high needs place numbers for the 2014 to 2015](#) academic year, broken down by the local authorities who included place numbers in their high needs templates as part of the 2014 to 2015 place review exercise. This can be found on the high needs funding page on our [website](#). Please note that this data is correct as of 27 March 2014. Any changes after this date, including but not limited to schools converting to academies, contract variations, name or UPIN changes will be updated in a version to be released by the end of June.

21. We have published this breakdown in the interests of transparency and to promote collaboration between local authorities and institutions.

## **Place funding for Post-16 Students in Special Schools.**

22. We have changed the way we fund post-16 places in special schools for the academic year 2014 to 2015. A post-16 place is now funded on a single flat rate of £10,000, bringing alignment with the way pre-16 places are funded in special schools. We have also allocated an overall place number to reflect that places are not specific to individual students or authorities and special schools do not usually operate separate sixth forms in the same way as mainstream schools. This new approach does not apply to places for post-16 students in special units or resourced provision attached to mainstream schools.

23. The principles of place funding in paragraph 19 and top up funding in paragraph 25 apply equally to special schools.

24. As described in our [published technical note](#), we deducted £10,000 per place for the academic year 2014 to 2015 from the local authority dedicated schools grant (DSG) for post-16 students in special schools. Therefore any reduction in the amount of funding paid to special schools by the EFA in the academic year 2014 to 2015 compared with 2013 to 2014 should be made up by the local authority as part of top up funding.

## Top Up Funding – Element 3 for all students

25. Element 3 is the funding required over and above the place funding to enable a student with high needs to participate in education and learning. Local authorities use the funds from their high needs block allocation, which is part of the DSG, to pay top up funding to institutions for their students. More detail is provided on contracting arrangements in Section 2 of this document.

## Funding looked after children

26. For looked after children with a statement of SEN, the financial responsibility for meeting the cost of top up funding (if payable) sits with the local authority that looks after the child. That local authority's responsibility for the costs may last until the child is 18 but can end earlier.

27. For looked after children with a statement of SEN the responsibility for securing SEN provision (e.g. commissioning a high needs place) sits with the local authority that has responsibility for maintaining the statement, which is the local authority in whose area the child is normally resident. Again, that local authority's responsibility may last until the child is 18 but can end earlier.

28. We have therefore retained in law the scope for the local authority responsible for the statement to recoup the costs of the top-up funding from the local authority with financial responsibility, but this inter-authority recoupment is not necessary where the local authority with financial responsibility pays the top up funding directly to the school.

29. For care leavers, who were previously looked after by a local authority, and for students in post-school institutions (i.e. FE), the responsibility for securing SEN provision and the financial responsibility currently rests with the local authority in whose area the child is normally resident. This is currently under review.

30. Neither the former nor the current 2013 inter-authority recoupment regulations relate to students in post school institutions, because the primary legislation does not allow us to make such regulations.

## Allocating high needs funding in 2014 to 2015 and beyond

31. In March 2014 we:

- Communicated the outcome of the high needs and hospital education submissions and any changes to the high needs block for the financial year 2014 to 2015 in March 2014. The final high needs block was £85m higher than the figure announced in December 2013 and included £47m for top-up funding, which we were able to distribute nationally amongst local authorities following the completion of the place funding review;

- Confirmed the deductions to be made to authorities' DSG for the high needs places that we fund directly. Please refer to paragraph 24 of the [DSG Technical Note](#) for details of how these are calculated;
- Informed all EFA funded institutions (academies, FE, specialist post-16 institutions, CCPs and NMSS) of the academic year 2014 to 2015 allocations.

32. We have previously indicated our intention to move towards a lagged data system for the academic year 2015 to 2016, which would use the latest available in-year data to make the following year's allocation.

33. We are already aware that it will not be possible to adopt a totally un-moderated data-driven system for institutions such as pupil referral units that have fluctuating numbers of pupils throughout the year, and where the autumn census will not be representative of the places needed through the year.

34. We are looking at the quality of the data that has been recorded by institutions in the current academic year and considering how well it aligns with data submitted to us by local authorities.

35. Students should only be recorded as high needs on the ILR or census where a local authority has agreed to pay Element 3 for a student and the criteria described in paragraph 1 are met. Further detail on correct recording practices will be published in May on our website. We will consider these data issues and others ahead of further communication on the funding arrangements for the academic year 2015 to 2016 in July.

## Free Meals for High Needs Students

36. The government announced in autumn 2013 that it was removing the disparity for entitled students for Free Meals between 16-18 year olds in schools/academies and those studying in FE funded institutions. The £45m allocated for this is new money and should be treated as such.

37. FE funded institutions, including specialist post-16 institutions, will receive the new monies for Free Meals for eligible students for the academic year 2014 to 2015.

38. Due to the specialist nature of provision within post 16 institutions, the cost of meals is sometimes included as part of the package of support that is agreed with local authorities.

39. In these instances, institutions should deduct the appropriate amount of funding from the total costs of the package for those students who will be eligible for a free meal. This removes the issue of double funding and allows local authorities to utilise funds elsewhere.

## 2. Contracting Arrangements

### Contracting Arrangements for Element 3

40. Local authorities should work with schools, FE and specialist post-16 institutions where they have high needs students, to set funding rates and confirm the funding that institutions will receive from the authority. The local authority must issue the provider with a contract confirming the support that is to be provided, the funding rates and payment schedules.

41. Where the institution is maintained by the authority then the document could be something less formal than a contract. We encourage local authorities to collaborate with other authorities and institutions to, where possible, establish mutually acceptable and transparent processes and approaches to funding, and develop effective and timely payment arrangements.

42. A condition of the DSG is that authorities must make top up payments to institutions for high needs students in a timely fashion and on a basis agreed with the institution. Payments should be monthly unless otherwise agreed (e.g. termly in advance). [The DSG operational guidance](#) for the financial year 2014 to 2015 can be found on our website along with a suite of [DSG materials](#).

43. We recognise that finalising placements and top up funding for the current academic year has been a new and challenging aspect of the funding system. We ask local authorities to set in advance the dates by which they plan to make decisions on placements, agree contracts, and make payments for students known to them in advance for the academic year 2014 to 2015, and to monitor their own delivery against these plans. This will aid the transition towards the more demanding timescales that will be set out for an EHC plan under the Children and Families Act from Sept 2014 (and which will therefore mainly affect placements for the academic year 2015 to 2016).

44. We recommend the following for the academic year 2014 to 2015:

- Decision on placement by 31 May 2014;
- Contract signed with institution by 30 June 2014;
- Student starts by 30 Sept 2014;
- First payment by 31 Oct 2014 (where monthly payment has been agreed).

45. Where a local authority has agreed a placement, it is unacceptable that a student is placed at an institution without a contract in place. As for 2013 to 2014, we will keep the position under review and for 2014 to 2015 we will consider whether any specific further condition of DSG should be imposed on any particular local authority that is not making timely decisions on placements and top up funding or timely

payments to institutions.

46. We urge local authorities to reduce administrative costs, particularly for institutions with students from multiple local authority areas, through adopting common commissioning approaches with neighbouring authorities and use the same contracts for high needs students across all institutions. Standard contracts, such as the National Schools and Colleges Contract, are available on the [Association of Directors of Children's Services website](#). We also encourage local authorities to share good practice in common commissioning approaches and bureaucracy reduction with other local authorities.

47. We look to institutions and local authorities to work together at regional and sub-regional levels to ease the contracting process for 2014 to 2015, including further discussion of the use of common documentation.

### Continuing Students and Element 3

48. Preserving continuity of provision for young people who have already started a course and who will continue into a new academic year is a condition of the DSG that we allocate to local authorities.

49. This requirement is set out in the [2014-15 Revenue Funding Arrangements: Operational Information for Local Authorities](#) (paragraph 63): *In relation to pupils of any age who are part-way through a course of study, in calculating rates of top-up funding to be paid in 2013-14, local authorities **must** also honour existing financial commitments. Local authorities should not seek to renegotiate or significantly change funding levels for pupil or student placements other than in exceptional circumstances. These circumstances would include instances where the placement was not delivering the expected outcomes and progress for the young person.*

50. An exceptional circumstance could arise where the needs of the student have either increased or decreased. Such a decision may be taken as a result of the outcomes of a student's annual review but it is important that both the institution and the student understand the reasons for, and nature of the changes.

51. An institution should contact the EFA at [HNS.EFA@education.gsi.gov.uk](mailto:HNS.EFA@education.gsi.gov.uk) if there is clear evidence a local authority is not entering into such an agreement, outlining the steps taken to resolve the problem. This information must include the authority having been asked to review the case and the funding commitment still not being honoured.

### Market Entry

52. New institutions can commence the market entry application process at any point during the year, although it is recommended that institutions start the process as soon as they become aware of a local authority's commissioning plans.

53. New institutions must have been included in the local authority high needs templates submitted in December 2013 to be considered for EFA funding in the academic year 2014 to 2015. Institutions also needed to have had at least ten places identified by one or more local authorities within the template returns. We have already contacted eligible institutions to begin the process, which must be completed by 31 May 2014.

54. Local authorities can choose to fully fund a place from their high needs block or through their DSG. For instance, where an institution was not identified in the high needs template, has less than 10 places identified by local authorities, or has not completed the market entry process.

55. An institution would not need to have completed the EFA market entry process, or hold an EFA contract to be named on a young person's LDA or EHC plan. It would be for the local authority to consider in fulfilling their duties, the institution most appropriate to meet a young person's needs. Where an EFA contract is not held with the institution, it would be for the local authority to fully fund the place from their high needs block or DSG.

56. Further information on the EFA market entry process for high needs funding can be found on our [website](#).

### 3. SEN Reforms – the Children and Families Act

57. The Children and Families Act, which gained Royal Assent in March 2014, places new responsibilities on local authorities and institutions from September 2014 onwards. The reforms will implement a new approach which seeks to join up help across education, health and care from birth to 25. Help will be offered at the earliest possible point, with children and young people with SEND and their parents or carers fully involved in decisions about their support and what they want to achieve. This will help lead to better outcomes and more efficient ways of working.

58. The main local milestones are:

- April 2014 – September 2015: local authorities involve partners and parents in planning for implementation and delivery of the reformed system.
- From September 2014: local offers published following consultation; joint commissioning duty commences; new assessment and planning starts (for new entrants); personal budgets offered as part of Education, Health and Care (EHC) plans; mediation arrangements in place; local authorities should publish plans for EHC plan transfers.
- September 2014 – September 2016: young people with Learning Difficulty Assessments (LDAs) transfer to the new system.
- September 2014 – April 2018: children and young people with statements of SEN transfer to the new system.
- April 2015: New duties for young offenders with special educational needs commence.

59. We have published the following to support local authorities, institutions, young people and parents prepare for September 2014:

- An updated [implementation pack](#) in April 2014 to support authorities in preparing for their new duties. The pack includes a timeline for implementation, summarises information on local readiness, and provides answers to some frequently asked questions;
- An [implementation pack to support FE Colleges, Sixth Form Colleges, 16 to 19 academies and special post 16 institutions](#) prepare for implementation. This advice may also be of interest to independent post-16 education providers in understanding and considering what they need to do to prepare for the reforms.
- An [open letter to schools](#) summarising the reforms; and
- An [open letter to parents](#) communicating the SEN reforms

## Section 41: Approved list of independent special institutions

60. Independent special schools<sup>1</sup> and special post-16 institutions do not have a distinctive definition in law, unlike other institutions such as maintained schools and academies, FE colleges and NMSS. Such institutions therefore cannot be subject to statutory duties as a distinct group.

61. Section 41 of the Children and Families Act 2014<sup>2</sup> allows the Secretary of State, by order, to create a list of approved independent special schools<sup>1</sup> and special post-16 institutions.

62. Those independent institutions which choose to join the approved list make themselves voluntarily subject to certain duties in Children and Families Act. For example, under section 38 of the Act, an institution that is on the Secretary of State's approved list can be named as a preferred provider on a young person's ECH plan. The local authority must secure a place at that institution and the institution must admit the pupil or student.

63. Further information on the [Section 41, Secretary of State approvals process](#) is available on GOV.UK.

## Personal budgets and transport costs for young people with SEN in post-16 education

64. Under the Children and Families Act, local authorities must have clear general policies relating to transport for children and young people with SEND. These policies must be available to parents and young people and should be included in the Local Offer. Such policies must set out those transport arrangements which are over and above those required by section 508B of the 2006 Education and Inspections Act.

65. Transport should only be recorded in the EHC plan in exceptional cases where the child or young person has particular transport needs. Where the local authority names a residential provision at some distance from the family's home, the local authority must provide reasonable transport or travel assistance.

66. High needs funding cannot be used directly by local authorities to pay for transport from home to educational establishments. This funding is ring-fenced for high needs support required for an individual in school or college. However, schools

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<sup>1</sup> This includes independent educational institutions in England and independent special schools in Wales

<sup>2</sup> [http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga\\_20140006\\_en.pdf](http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga_20140006_en.pdf)

and colleges can use any of their funding, including high needs funding they have received, to make their own transport arrangements for children and young people. They cannot specifically charge the local authority for providing such a service – unless the local authority have agreed to fund transport costs from additional, non-DSG resources.

67. Local authorities fund their transport responsibilities through the grant they receive from national government, which is not ring-fenced, and through generated income, such as council tax. We estimate that around £80m was spent by local authorities on post-16 transport to education and training in 2011 to 2012 (the latest year for which data is available from section 251 returns). The data suggests that approximately half of this is spent on learners with learning difficulties and disabilities aged 16 to 24.

68. It is also the case that young people with an EHC plan can request a personal budget so they can control elements of their support. Personal budgets can include funding for transport where this has been specified in the EHC plan.

69. Personal budgets can be made up of high needs funding, health provision, social care provision and where a school or college agree, the school or college budget. Local authority commissioners and their partners should seek to align funding streams for inclusion in personal budgets and are encouraged to establish arrangements that will allow the development of a single integrated fund from which a single personal budget, covering all three areas of additional and individual support, can be made available. An EHC plan can then set out how this budget is to be used including the provision to be secured, the outcomes it will deliver and how health, education and social care needs will be met.

70. Providers also allocate the £180 million Bursary Fund direct to students and transport is the largest single item for which these funds are used. [Information for students](#) on the Bursary Fund can be found on our website.



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