

Learner Support Programme

Education
Maintenance
Allowance
Provider Guidance
2009/10

June 2009

Of interest to all stakeholders and Providers
involved in delivering the Education
Maintenance Allowance

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Introduction

This document has been updated for the 2009/10 academic year (1 September 2009 to 31 August 2010). Do not use this document after August 2010. Please check the website to make sure that you are using the correct version.

This guidance sets out what Providers should do to operate the **Education Maintenance Allowance (EMA)** scheme in their organisations for 2009/10 and how to get the best from it. It is not intended to offer definitive advice on every possible situation but it does offer a framework within which Providers can make sensible decisions based on EMA policy and their own experiences of dealing with learners. It should be read in conjunction with the *Learner Assessment and Payment System (LAPS) Operational Manual*, EMA Marketing and Communications Guidance and the Learning and Skills Council (LSC) Funding Guidance 2009/10.

This guidance is intended to give advice to all Providers, that is: Providers offering further education (FE) provision and Providers of LSC-funded Entry to Employment (E2E) and Programme-led Apprenticeships (PLA). It replaces the EMA guidance for 2008/09 and for the first time this guidance is presented as one document. Where advice is aimed specifically at either FE Providers or E2E and PLA Providers, this is made clear throughout the guidance. Any changes to the guidance during the year will be made online and Providers are advised to check the website to ensure that they are using the most up-to-date version.

There are also two telephone helplines to offer support to Learning Providers, and to young people and their parents or carers. These are:

- Learner Support Service Provider helpline:
0845 600 7979
- Learner Support Service learner helpline:
0800 121 8989

The young person has an option to prevent the helpline from speaking to anyone else about their application form.

Ian Pursglove
Young People's Learner Support Director

June 2009

Background and overview

EMA is a strand of the LSC's Learner Support Programme which aims to remove finance as a barrier to participation in learning. EMA is a weekly payment of £10, £20 or £30 depending upon household income. (Eligible learners starting an E2E programme will automatically receive the highest rate of EMA weekly payment, irrespective of household income.) It is paid directly to young people who stay in learning after reaching the statutory leaving age, that is, after the end of their compulsory schooling. Young people may also receive bonuses if they remain on their learning programme, make good progress and achieve the standards of behaviour and effort agreed with the Provider. Bonuses and how they work are described in the section 'Attendance and bonuses' (page 21). Young people may get EMA support for up to three years.

The Learner Support Service (LSS) will consider age and household income when assessing a young person's eligibility. This is based on the information in their application form and supporting financial evidence. (Household income for learners undertaking an E2E course will be disregarded.) The LSS will issue either a Notice of Entitlement (NoE) explaining how much the young person will receive should they enrol on a valid learning programme, or a letter explaining the reasons why they are not entitled to receive EMA. Full details of the evidence required are contained in the Guidance Notes accompanying the application form.

The young person needs to attend their learning programme and meet the standards of behaviour and effort agreed at the start of their programme in order to receive their weekly attendance payments. Learners can expect to receive an EMA payment into their bank account three working days (or four days for some building society accounts) after it has been authorised by their Provider.

EMA administration funding

The LSC believes that all Providers are now well placed to administer EMA without any additional financial support and as such will not be making administration funding payments in future. Administration funding has been paid to Providers

since EMA was implemented nationally in 2004, and has enabled Providers to establish robust systems and processes in order to administer EMA in an appropriate manner. Providers of E2E programmes and PLA were paid their final allocation of this funding in 2008/09.

Local partners

The success of the EMA scheme in any area will depend on the commitment of partners. Some EMA responsibilities will be set nationally across organisations. Others will be agreed by local partners taking into account local circumstances such as the presence, priorities and resources of each partner organisation. The national roles and responsibilities of various local partners can be found in:

- LSC Policy Summaries at readingroom.lsc.gov.uk/lsc/National/nat-policysummaries0809-nov07.pdf;
- Connexions Information Note at ema.lsc.gov.uk/ema-guidance/information-connexions; and
- EMA Marketing and Communications Guidance at ema.lsc.gov.uk/ema-guidance/guidance-2009-10.

The Learner Support Service

System developments within the Learner Support Service

As many of you are aware, we took the decision during December 2008 to replace the organisation that ran the Helpline, Assessment and Payment Body (HAPB) with Capita. Capita is the organisation that previously ran the EMA scheme successfully for a number of years for the LSC.

Capita is developing a new IT system to administer and deliver all elements of the Learner Support programme (EMA, Adult Learning Grant (ALG), Care to Learn, Dance and Drama Awards, Sixth Form College Childcare, Free Childcare for Training and Learning for Work and the Residential Support Scheme).

As such, the current Interim Learning Provider Portal (ILPP) will be replaced by a new system: the Learner Assessment and Payment System (LAPS) in time for the 2010/11 academic year.

What is changing?

LAPS will be fully available for the 2010/11 academic year and until then we will continue to run the current ILPP. A phased approach will be used to transfer to the new LAPS system. The reasons for this are:

- to provide time for the new LAPS system to be developed, tested and any issues resolved in advance of the 2010/11 academic year;
- to allow sufficient time for training and understanding of the new system;
- to allow for additional functionality to be built into the system such as a Learning Provider Portal and the ability to integrate new technologies like SMS; and
- to allow all schemes to be administered by a single system.

The LAPS system will be similar to the EMASYS system previously provided by Capita, although it is being developed to be more usable, stable and to allow for the additional schemes and functionality mentioned above.

What will happen and when?

The system changes will be introduced gradually over the next 12 months. **These changes will apply to EMA and ALG only for the 2009/10 academic year.**

We will first implement a facility to allow learners to request application forms online. We will provide further details of this shortly.

Following the above implementation, the main elements of the next phases will be:

- late June/July 2009 – we will run a series of road shows to provide training for the Learning Provider Portal and to allow Learning Providers the chance to look at the new LAPS system, and for us to provide instruction on how to use the new functionality;
- summer 2009 – the new Learning Provider Portal provided as part of LAPS; and
- autumn 2009 onwards – remaining LAPS system developments rolled out ready for the 2010/11 academic year.

Planning of these phases is in progress and we will keep you up-to-date with developments.

What help is available to support me?

A training system for the new Learning Provider Portal is being developed that will explain the changes and provide instructions on the new functionality. This will be supported by a number of regional road shows. Details of these events and the availability of the portal will follow shortly.

We will provide details of the changes over the coming months via our Learner Support Service Stakeholder e-bulletin at lsc.gov.uk/Providers/moneytolearn/lss/ebulletins/.

Additional support

The LSS Provider helpline will be able to help with your queries on **0845 600 7979**.

The LSC/Capita field force, headed by Bryan Walsh, will be able to provide further information, support and advice. You can find their contact details on the LSC website at lsc.gov.uk/Providers/moneytolearn/lss/faq/training.htm.

Summary of policy changes for 2009/10

Change	Brief description
1. How the guidance is presented	For the first time the guidance is available as one document covering both FE provision and E2E and PLA provision. It should be used as the main source of advice for all Providers delivering EMA.
2. Change to Contract Parts 1 and 2	Contract Parts 1 and 2 have been renamed EMA Agreement. The purpose of the documents has not changed.
3. EMA administration funding	Clarification that EMA administration funding is no longer payable can be found within this guidance.
4. Jury service advice within Annex 1	Includes new information specific to those undertaking E2E/PLA programmes.
5. How we refer to the Learning Provider Portal (LPP)	Any references to the LPP have been replaced with the new Learner Assessment and Payment System (LAPS).
6. New advice for E2E Providers to be found in the section 'Applying for EMA' (page 7)	E2E Providers have a role in completing Part A of a learner's EMA application form and can find this advice within this guidance. Please note: E2E declaration forms are no longer used.
7. Audit information at Annex 3a and 3b	The advice for Providers of E2E and PLA is contained within Annex 3b while advice for schools and colleges is contained within Annex 3a. Please note: records specific to EMA should be retained on paper.
8. Valid learning provision trial	This section may be updated later in the year following evaluation of the valid provision trial criteria.
9. Foundation Learning Tier (FLT)	Please see 'Applying for EMA' (page 7) for new advice on FLT.

Applying for EMA

This section sets out the role of the Provider in the application process and the role of the LSS in the assessment process. In summary, the Provider should help to support the learner to apply for EMA and the LSS will carry out the assessment of the application.

The EMA Guarantee

Learners who were income assessed and have been paid EMA during the 2008/09 academic year do not need to re-apply. The EMA Guarantee means that they will be eligible for support at the same level until the end of the academic year in which they turn 19.

Learners who received an EMA payment during 2008/09 will automatically receive a continuing entitlement letter and an EMA Agreement. Providers should use this continuing entitlement letter in exactly the same way as the EMA NoE; that is, to add the learner to the payment system using the Learner Support reference number.

Some learners may choose to reapply if their household income has reduced and they may be eligible for EMA at a higher rate.

Learners who are enrolled on E2E programmes that will not extend beyond 31 August 2009 and who have not received a full income assessment in the 2008/09 EMA year are not eligible for the EMA Guarantee and should reapply for support in 2009/10.

The Foundation Learning Tier

The Foundation Learning Tier (FLT) is an overarching brand for a major programme of reform of qualifications below Level 2. It involves the development and implementation of a series of progression pathways made up of provision at Entry Level and Level 1 of the Qualifications and Credit Framework (QCF).

The LSC wishes to ensure that as many eligible young learners as possible are able to claim EMA and wishes to be clear about eligibility for EMA for learners following the FLT including those entering a progression pathway. Learners participating in the FLT should be encouraged to apply for EMA. The

normal EMA eligibility criteria will be used to assess a learner's application.

The special EMA arrangements that apply to eligible learners on E2E programmes, where the maximum weekly payment of £30 is payable without an income assessment, will also apply to learners on E2E under FLT. In all other cases a full income assessment will be carried out as part of the EMA application process.

The Provider role in the EMA application process

The LSC actively encourages young people to apply early for EMA support regardless of the learning option they choose to pursue. It is important to encourage early application while reminding parents to include relevant evidence of income that relates to the correct tax year.

The role for the Provider in the application process will vary depending on whether the learner already has an EMA NoE or is in the process of applying.

- For those learners who have already got an NoE or for those learners who are eligible under the EMA Guarantee and have a continuing entitlement letter, register them on LAPS so they can begin to receive EMA payments. Agree their EMA Agreement or E2E Passport or PLA Individual Learning Plan (ILP) for learners on E2E or PLA.
- For those learners who have not yet applied for EMA or received their NoE in advance, raise young people's awareness of EMA, encourage and support them to apply (including helping learners to open a bank account) and issue application packs.
- E2E Providers may find they are presented with the EMA 2009/10 application form by learners who are enrolling on an E2E programme. It is important that Providers complete the section on page 1 of Part A of the form to verify the learner's E2E status as this will allow their forms to be processed under the special arrangements for E2E learners. Providers will need to supply their UPIN, their Provider name, contact number

and a postcode. Although E2E learners are not required to have an income assessment in order to receive payments of £30, learners are still encouraged to complete Parts B and C of the application form so that their eligibility for EMA can be assessed should they progress to FE or PLA provision.

If a learner asks for help with their application form, then the Provider should give general advice only (unless the learner is thinking of enrolling on an E2E programme, in which case see the advice for E2E Providers above). More detailed questions, particularly regarding the income assessment, should be referred to other information sources such as the EMA website (www.direct.gov.uk/ema) and the learner helpline.

Application packs

Please see the section 'Marketing and support materials', page 30.

Bank accounts

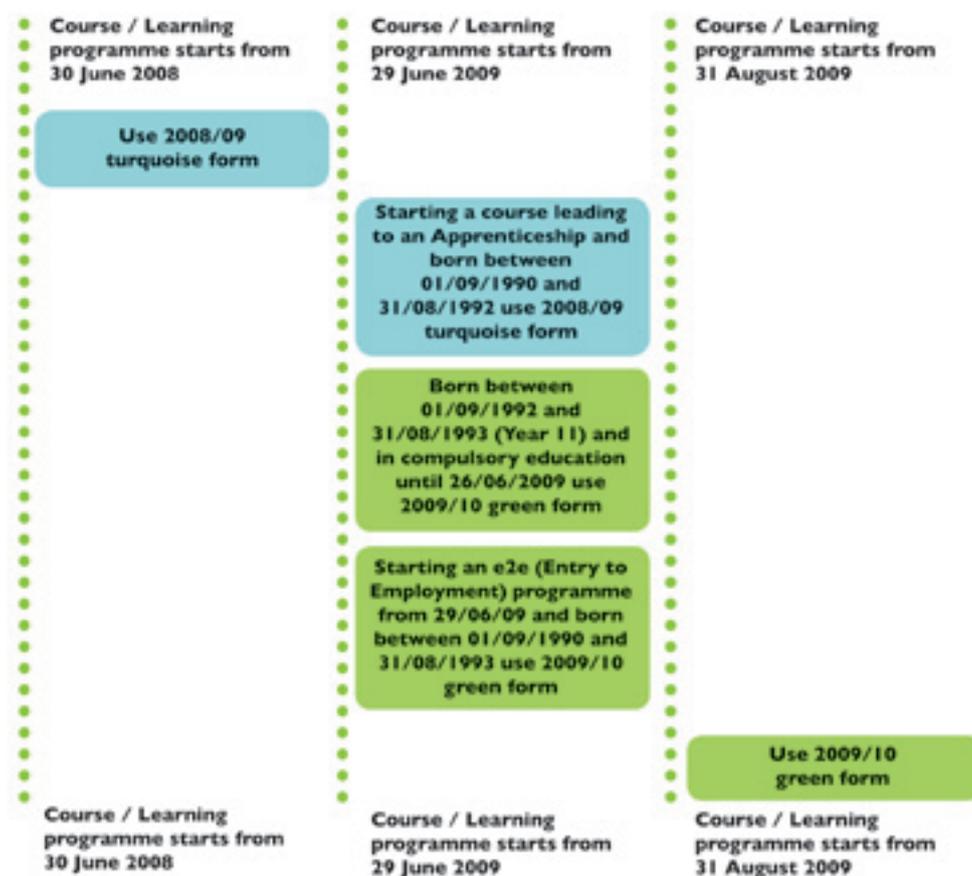
The learner must have their own bank account to access EMA support. The only exception to this is where the bank judges a young person as being incapable of managing their own financial affairs. Parents or carers of learners in these circumstances should ring the learner helpline for more information.

Information on bank accounts is available from the Financial Services Authority (FSA) website at moneymadeclear.fsa.gov.uk/publications or call their helpline on **0845 606 1234**.

The LSC has produced information to help young people open a bank or building society account. This can be found at the back of the *Guidance Notes for EMA Year 2009/10 – Helping you fill in the EMA Application Form* and is a tear-off page that the young person can take to their local bank or building society to help them to open a basic bank account.

Further information on basic bank accounts can also be found in the FSA leaflet *Basic Bank Accounts – Your Questions Answered* which can be downloaded from the FSA website.

Figure 1: New EMA applicants for 2009/10: which application form?



The Learner Support Service role in assessment

EMA assessment is carried out by the LSS. This section gives details of the age and household income criteria used by the LSS in the assessment of applications.

The LSS can also offer support to Providers, young people and their parents or carers on a range of issues such as income assessment.

Age

EMA eligibility is not based on the cohort that the learner is in, but on the age of the learner. EMA may begin only after compulsory education has been completed.

If the learner's date of birth shows them to be outside (either above or below) the entitlement range for EMA support the application will be rejected (see Table 1).

Learners who become 19 while in receipt of EMA will continue to receive it until the end of that academic year. Learners applying for EMA aged 19 are not eligible and should be referred to the ALG if they are undertaking an FE course only.

Learners aged 15 who have completed compulsory education are able to apply for EMA. If they satisfy the eligibility criteria they can receive EMA payments as long as they reach their 16th birthday by 31 August 2009.

All learners up to the age of 19 starting an eligible learning programme during the period 29 June 2009 to 29 August 2010 will be eligible to apply for EMA support.

Adult Learning Grant (applies only to FE courses)

Learners in receipt of EMA who turn 19 should be encouraged to exhaust their EMA entitlement before applying for ALG.

If a learner wishes to change to ALG, they should be encouraged to consider whether this is the best option for them: that is, to think about the EMA bonuses they may be entitled to as well as the weekly payment, to establish whether they will be better off financially; and to consider whether they will achieve their first full Level 2 or first full Level 3 qualification by the time their EMA entitlement is exhausted. If not they may wish to 'save' ALG (and the potential two further years of support to help them achieve the qualifications they need) until later.

Learners who do make this choice are able to apply (one month prior to their 19th birthday) and receive ALG once they turn 19 if they meet the criteria for the scheme.

Learners who have not previously been eligible for EMA can apply for ALG one month prior to their 19th birthday, with payments starting once they turn 19 if they meet the scheme criteria.

Household income

This explanation is not intended to be exhaustive. Applicants should refer to the application form and accompanying Guidance Notes for full details. Evidence to support an application must be original documentation.

Applications received at the LSS that meet the age criterion will be assessed financially based on

Table 1: Age checks

EMA year 2009/10	Date of birth year range	Age on 31 August 2009
Eligible to start receiving EMA from 29 June 2009 at the earliest	01/09/1992 – 31/08/1993	16
	01/09/1991 – 31/08/1992	17
	01/09/1990 – 31/08/1991	18

household income. Where social security benefits were received in the relevant tax year, Part C of the application form should be completed and sent with the rest of the application form to the LSS to be assessed. The LSS will then make the necessary checks with the Department for Work and Pensions (DWP). Where the LSS is unable to confirm the details with the DWP, it will contact the adult named in the application form to obtain further information.

Applications that do not meet the age or financial criteria will be issued with a letter stating the reason for rejection, explaining what to do if the learner wants their application to be reassessed by the LSS, and providing contact details for other support.

There are three EMA weekly payment bands: £10, £20 and £30. The allocation of the payment amount is based on household income (see Table 2). **(Please note:** eligible learners starting an E2E programme will automatically receive the highest rate of EMA weekly payment of £30, irrespective of household income.)

Income earned by the young person will not affect their entitlement to EMA. EMA does not prevent individuals taking up help from Discretionary Learner Support nor does it affect benefits that they, or their family, receive. However, a learner in receipt of Jobseeker's Allowance (JSA) will not be eligible to receive EMA payments. The only exception to this is where a young person is in receipt of JSA (severe hardship) or JSA (income based) under Prescribed Group 1. See 'Learners who are estranged', page 11, for more details.

Assessment of applications

Income Support, JSA (income based), Pension Credit applications

For applications that confirm that the household was on Income Support, JSA (income based), income-related Employment and Support Allowance (ESA) or Pension Credit for the whole of the preceding tax year, the applicant will be entitled to the full rate of EMA.

Tax Credit Award Notice (TCAN) applications

A TCAN should be presented as evidence for families whose household income has been assessed under the tax credits system for the relevant tax year. The relevant tax year is defined as the most recent complete tax year prior to the start of that EMA year. For EMA applications for the 2009/10 year, the TCAN must show income for the 2008–09 tax year. Normally this will be the TCAN notifying the parent(s) about the Tax Credit Award for the 2009–10 tax year.

Non-TCAN applications

Employed people

Where a TCAN cannot be provided, all relevant evidence relating to income in the 2008–09 tax year must be provided. This will typically consist of P60 statements showing earned income, but can include benefits in kind as described in the application form Guidance Notes.

Self-employed

Self-employed persons who cannot provide a TCAN may provide their most recent SA302 form for the tax year 2008–09. Alternatively a Part D (Declaration of Self-Employed Income) can be completed. The LSS will issue a Part D form if this is required.

Table 2: EMA weekly rates

Household income in the tax year 2008–09	Weekly rates to be paid
Up to £20,817	£30
More than £20,817 but less than or equal to £25,521	£20
More than £25,521 but less than or equal to £30,810	£10
More than £30,810	Not eligible for EMA (weekly or bonus payments)

Other means

Declaration of any other income received in 2008–09 tax year – such as personal pension plan statements; state retirement pension notification; statements of interest from savings; dividend vouchers; and certificates from trustees – will be required.

There are a number of sources of income that we do not count towards the EMA income assessment: tax credits; Housing Benefit and maintenance received from a former partner. Further details are contained within the application form Guidance Notes.

Non-standard assessments

Learners in the care of a local authority or foster parents

Learners in the care of a local authority (including those with foster parents) will automatically qualify for the full rate of EMA and no evidence of income is required. However, they must provide a letter from the local authority on appropriate letter-headed paper as evidence; a photocopy will not be sufficient.

Learners who are parents

A learner who is a parent and has care of their child(ren) when they apply for EMA should contact the LSS on the learner helpline, as special arrangements apply – that is, the young parent is income-assessed on their own income only and not that of the wider household in which they live. Please see question A12 on the application form for 2009/10 and the accompanying Guidance Notes.

Teenage parents in England may also qualify to have their childcare and associated travel costs paid up to a maximum of £160 per child per week outside London, and £175 per week in London through the Care to Learn scheme. The parent must use Ofsted-registered childcare provision.

For further details about the Care to Learn scheme the young parent should contact the learner helpline.

Learners living with a partner

A learner who is living with a partner when they apply for EMA will be classed as a household in their own right. Their partner's income will be assessed as the household and will need to be declared on Part B of the application form. Please see question A8 on the application form for 2009/10 and the accompanying Guidance Notes.

Learners who are estranged

A learner who is estranged must provide proof of receipt of Income Support using Part C of the application form or provide evidence of receiving Care Leavers Allowance. Their parents' or carers' income does not need to be declared. **Please note:** EMA is paid in addition to these benefits and will not affect the amount of Income Support or Care Leavers Allowance the young person receives.

Learners in receipt of JSA (severe hardship) or JSA (income based) under Prescribed Group 1 may apply for EMA with an accompanying letter from their Connexions adviser confirming they are in receipt of JSA (severe hardship) or JSA (income based) under Prescribed Group 1. However, these learners must switch their claim to Income Support before they can get EMA payments and this must be confirmed on their Learning Agreement. This is to avoid potential delays for learners who want to enter learning without having to wait to apply for EMA until they have switched their claim to Income Support.

For further information on benefits and how they relate to EMA, the EMA and Benefits Information document can be found in the EMA guidance supporting documents section of the website at ema.lsc.gov.uk/ema-guidance/supporting-documents-2009-10.

Young offenders in custody

Young offenders who have not previously applied for EMA, and who are serving a custodial sentence or are on remand in a young offender institution (YOI), Secure Training Centre (STC) or a Secure Children's Home (SCH) will be able to apply for EMA while in custody.

Applications received by the LSS before a young offender leaves custody will be assessed in the same manner as applications from learners in local authority care or foster care. No evidence of income from parents or carers will be required.

If assessed as eligible the learner will be entitled to the full £30 EMA weekly payment once they leave custody and enrol on a valid learning programme. It is important to note that payments will only be made for learning which is undertaken after the individual has been released from custody, even if the learning programme started while serving their sentence.

The intention of this policy is to support learners to apply for EMA who may not have been able to do so previously because their parents or carers have not been able to complete the income assessment, or supply the required income evidence. Therefore, we will only allow learners to apply for EMA while in custody if they have not already been assessed for EMA. If a learner has previously applied and been assessed as eligible or ineligible for EMA before entering custody, then this assessment will continue to apply when the learner leaves custody and enrolls on a valid learning programme.

To apply for EMA while in custody, an original letter on letter-headed paper must be sent with the application form, from a member of the young person's Youth Offending Team (YOT). It will be used as proof that the applicant is a young offender in custody, and will need to contain the following information:

- name of young person
- date of birth
- period of detention
- date of release
- name of YOT supervising officer
- signature of young person
- signature of YOT supervising officer
- address of young person on release (if known).

In order to process the application form properly, it is important that question A2 of the application form is completed using the address of the institution that the young person is detained in.

If it would be preferred that correspondence about the young person's application goes to an address other than the one entered on the form, for example to the young person's YOT or Connexions adviser, then please request this in the covering letter completed by the YOT that supports the application.

Exceptional changes in circumstances

There are certain exceptional changes in household circumstances which will impact on a learner's entitlement to EMA if they happen after receiving the NoE. These are:

- a person whose income was taken into account in determining financial eligibility has died;
- 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 their parents, guardians or someone else whose income was taken into account in determining financial eligibility;
- the young person has been taken into the care of the local authority; and
- the young person has become a parent with responsibility for their child.

If the learner is already in receipt of the maximum weekly EMA entitlement no action is required. Otherwise, they must call the learner helpline if any of the listed changes occur (Carers or Connexions advisers may act on their behalf as necessary with the permission of the learner).

Depending on the revised circumstances, it may be possible that the weekly payment can be increased. In no circumstances will the weekly payment be reduced. Learners not in receipt of EMA may become eligible during the year due to a change in the circumstances listed. They should call the learner helpline to request an application form and explain their situation before they apply.

* 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.

Enrolling individuals on a valid learning programme

This section sets out the specific requirements for EMA that Providers must take into account when registering learners on LAPS, and gives details of how to set up the EMA Agreement and the EZE Passport/PLA ILP for learners on EZE/PLA.

EMA registration should occur as a part of the more general enrolment process, but Providers' enrolment processes must take account of and check EMA-specific requirements related to guided learning hours, learning programme length and learning programme validity.

Where the learner attends only at a sub-contractor (who will not have direct access to LAPS) then a photocopy of the agreed EMA Agreement will be required by the LAPS user to enrol the learner.

When registering the learner, a Provider needs to make sure that the learner has signed the EMA Agreement. This is a generic document, valid across all Providers, and contains the learner's obligations regarding attendance and expected standards of behaviour and effort, and the Provider's obligations to report payment decisions.

Entitlement to free learning

Local authorities and LSC area partnership teams should ensure that Providers fulfil their responsibilities in ensuring that enrolled learners meet the prescribed residency criteria for learning.

Information on the residency criteria for both FE and EZE/PLA programmes can be found in the LSC Funding Guidance 2009/10.

Residency

EMA residency rules are narrower than those the LSC generally uses in funding learning programmes. These arrangements have been agreed by the Department for Children, Schools and Families (DCSF).

Providers are not required to check a learner's residency eligibility for EMA. Learners themselves will self-certify their eligibility when completing the EMA application form by selecting the option(s) relevant to their personal circumstances. Although learners will self-certify their residency eligibility, they should

be aware that we may contact them at any point to ask them to prove their eligibility.

In order to meet the EMA residency criteria, the young person must be:

- a person who is 'settled' in the UK, and has been ordinarily resident in the UK for at least the three years prior to the start of their learning programme ('settled' means having either indefinite leave to enter or remain (ILE/R) or having the right of abode in the UK);
- British citizens and certain other people who have the right of abode in the UK:
 - those with the European Community, United Kingdom of Great Britain and Northern Ireland passports;
 - British Dependent Territory Citizens (now known as British Overseas Territory Citizens);
 - those whose passports have been endorsed to show they have right of abode in the UK;
 - those who have a certificate of naturalisation or registration as a British citizen; or
- a national of any European Union (EU) country (including Gibraltar), or the spouse or civil partner or child of an EU national, who has been ordinarily resident in the European Economic Area (EEA), or Switzerland, for at least the three years prior to the start of their learning programme; or
- an EEA migrant worker with the right to work in the UK, or the spouse, civil partner or child of an EEA migrant worker, who is ordinarily resident in the UK at the start of their learning programme, and has been ordinarily resident in the EEA or Switzerland throughout the three-year period prior to that; or
- the child of a Swiss national who is ordinarily resident in the UK at the start of their learning programme, and who has been ordinarily resident in the EEA or Switzerland for the three-year period prior to that; or
- the child of a Turkish migrant worker who has the right to work in the UK, and who is ordinarily resident in the UK at the start of their learning

programme, and who has been ordinarily resident in the EEA, Switzerland or Turkey for 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, or have been granted humanitarian protection, or EU temporary protection.

Temporary absences

Absences totalling six months are counted as temporary and disregarded for residency eligibility when determining if a learner has been ordinarily resident in the UK/EEA for the three years prior to beginning their learning programme. Absences between six months and three years can be counted as temporary, provided the absence was always intended to be temporary, and evidence is available to support the claim.

Temporary absences and children of Armed Forces personnel

If a learner has been accompanying a parent or carer on an official overseas posting, they will be exempt from having to have been ordinarily resident in the UK/EEA for the three years prior to beginning their learning programme.

If the circumstances described above for temporary absences are applicable to a learner, they should contact the learner helpline which will provide further advice and guidance on their eligibility. The helpline will also advise learners about relevant information that may be required to prove their eligibility, and how to submit this for assessment.

Providers supporting young people with their application for EMA, and who wish to know more about the policy on temporary absences, should contact the Provider helpline.

Children of Armed Forces personnel serving overseas

Learners attending a Service Children's Education school in Germany or Cyprus may be able to receive EMA as if they were studying or training in England. They should contact their school, or contact Service Children's Education on (0049) 2161 908 2294 or at scschools.com for further advice.

Learners will not be eligible for EMA if any of the following apply:

- they are an asylum seeker; or
- they have discretionary leave or exceptional leave to enter or remain (ELE/R).

If a learner meets the eligible residency conditions at some future point, they should contact the learner helpline.

For a summary of residency criteria, definitions of residency terms and further information about temporary absences, please see the separate residency supporting document, available on the EMA website ema.lsc.gov.uk/ema-guidance/supporting-documents-2009-10.

Young people resident in England, Scotland, Wales or Northern Ireland

If a young person intends to study in England and they are resident in England, Scotland, Wales or Northern Ireland they must apply for EMA through the English LSS.

If a young person intends to study in Scotland, Wales or Northern Ireland they should contact the relevant authority for an application form at:

- Scotland: emascotland.com
- Wales: studentfinancewales.co.uk
- Northern Ireland: emani.gov.uk

Similar eligibility and entitlement rules apply to EMA administered in England, Scotland, Wales or Northern Ireland. If the student is not sure where they will study, they should apply to the assessment authority in each of the countries that they are considering.

Receipt of other funding

Learners cannot receive EMA if they are an employed apprentice, or in receipt of any of the following:

- European Social Fund programme allowances
- a Dance and Drama Award
- ALG
- JSA
- a flat-rate allowance for full-time volunteering
- an NHS bursary.

Employer top-ups (in E2E and PLA programmes)

Under EMA arrangements, weekly employer top-ups are not to be made to EMA learners. If a learner was being paid an additional weekly allowance or top-up, this payment would count as a wage. Therefore, the young person and their family would not be able to claim their family benefits, such as Child Tax Credit and Child Benefit. However, EMA does not affect other benefits that a household can receive, and independent learners can combine EMA payments with benefits such as Income Support. For information on one-off incentive payments that learners may receive, see 'Bursary payments' below.

Bursary payments

A one-off payment as an incentive to join an industry or a specific school or college, or a periodic bonus in recognition of achievement or to reward a learner's particular effort are acceptable and can also be paid alongside EMA. Regular maintenance payments would not be acceptable and will render the learner ineligible for EMA; these payments may also represent double-funding if combined with EMA.

Part-time work

A learner on an FE course may undertake part-time work so long as it does not exceed 24 hours a week. Their EMA entitlement and any benefits their family may receive will not be affected. Any part-time work that the learner pursues should not, however, be in conflict with the terms of the EMA Agreement between the learner and their Provider.

Where an employer wishes to offer an apprentice (on a PLA programme) paid part-time work outside their Apprenticeship, the LSC would not necessarily wish to prevent that (under Child Benefit regulations a learner may work for up to 24 hours a week before they are classified as being independent). However,

we would expect that the Provider would query with the employer why the PLA learner has achieved a level of competence which means they are capable of holding down part-time employment, but are not being employed directly during the week. Such a learner should be encouraged to progress to the employer-led phase of their Apprenticeship as soon as possible.

E2E learners are able to undertake part-time employment which is not part of E2E, but this should not initially exceed more than 10 hours a week as it is expected that an E2E learner who can work for longer than this would be ready to progress from E2E to a positive destination. An E2E learner's benefit entitlement under EMA would be unaffected so long as they do not work for more than 24 hours a week in accordance with Child Benefit regulations.

Learners in receipt of EMA and Income Support would need to consider that the level of Income Support they receive is reduced in proportion to the level of income generated from any such part-time work.

Valid learning provision trial

In order for a learning programme to be considered valid for the purposes of EMA, it must meet the following criteria:

- be of at least 12 guided learning hours per week (for E2E and PLA programmes, a minimum of 16 hours per week is required in line with the LSC Funding Guidance 2009/10) and for a minimum of 10 weeks (this is not new); and
- all provision must come within a recognised quality control system – that is, provision must be inspected by a public body that assures quality (for example, Ofsted).

And it must be one of the following:

- funded or co-financed by the LSC in England;
- lead to a qualification that is accredited by the Qualifications and Curriculum Authority pursuant to Section 24 of the Education Act 1997; or
- lead to a qualification that is approved by the Secretary of State pursuant to Section 98 (this includes Section 96/97) of the Learning and Skills Act 2000.

Providers that are already accessing EMA will continue to do so. However, Edubase will no longer

be used as a criterion for adding new Providers. All new Providers wishing to administer EMA payments will have to meet the trial criteria.

The trial, which commenced in November 2007 and will run for up to 18 months, includes some local authority funded learning programmes; however, these learning programmes must meet the trial criteria.

Please note: this section may be subject to change following evaluation of the valid provision trial.

Valid learning programme

A valid learning programme for the purposes of EMA is:

- an LSC-funded E2E/PLA programme; or
- a non-advanced learning programme, up to and including Level 3.

This may also include provision that is operated by a third party Provider under a formal sub-contracting arrangement (approved by the LSC, subject to the valid provision trial criteria).

Guided learning hours within FE

Guided learning hours are defined as all times when a member of staff is present to give specific guidance towards the learning aim being studied on a programme. This definition includes lectures, tutorials and supervised study in, for example, open learning centres and learning workshops.

Guided learning hours do not include hours where supervision or assistance is of a general nature and is not specific to the study of the learners – for example, time spent undertaking enrichment activities that are not a required element of the learning aim. For information on study leave, see Annex 1.

Home study

There are circumstances in which home study can count for EMA payment – for example, study leave for exams or situations where an individual has to study at home for medical reasons but undertakes 12 or more hours of guiding learning in a week. The key point in these situations is that the learner must be enrolled with a Provider.

Learners who choose to study at home through distance learning or who are self-educated or parent-educated cannot receive EMA.

E2E

E2E is a dynamic approach to learning designed to equip young people to become independent, self-motivated, informed and empowered to take control of their lives. Its primary aim is to enable learners to progress into employment with training or on to further learning programmes as soon as possible. It comprises three interdependent core strands:

- basic and Key Skills;
- vocational skills and development; and
- personal and social development.

Further information on provision eligible for E2E can be found in the LSC Funding Guidance 2009/10.

E2E is a full-time LSC-funded programme and planned attendance should be 30 hours a week for a minimum of 10 weeks. Learners may start by attending for 16 hours a week, but must build this up to 30 hours as soon as possible.

The average length of stay on E2E is 22 weeks. E2E programmes that are longer than 22 weeks are subject to regular formal reviews to identify whether E2E is best serving the needs of the learner.

PLA

A PLA provides young people with the opportunity to develop their vocational skills and employability through periods of off-the-job training in a Provider's training centre or by gaining experience of work in a non-employed placement. PLA operates within the full Apprenticeship framework.

Programme length for PLAs

To be eligible for EMA, a learning programme must have a minimum of 10 weeks' anticipated learning. Where a programme has an anticipated length of less than 10 weeks before the learner progresses to a paid employer-led Apprenticeship, it is reasonable that a Provider should push for the learner to be directly employed from the outset of their Apprenticeship. This is the LSC's strong preference on apprentice recruitment. In the event this proves impossible, but the Apprenticeship will last longer than 10 weeks, the Provider may sign the learner up for an anticipated duration of 10 weeks, and de-register the learner at the end of their provision, so there can be no incidence of double-funding (between wages and EMA). However, we would expect this mode of delivery to be the exception rather than the rule.

Self-employed apprentices

Learners who are self-employed are defined as employed for the purposes of LSC funding and as such are out of scope for EMA.

Setting up an EMA Agreement (Attendance, behaviour and effort)

The learner will have received an NoE from the LSS, together with the EMA Agreement. The learner does not need to hand over the NoE, which says how much EMA the learner is entitled to and is confidential.

The EMA Agreement sets out the responsibilities of the learner and the Provider for the learner to receive a weekly payment. Providers can choose to link their Codes of Conduct to the EMA Agreement. Providers should use their judgement to consider whether significant lateness to a learning session should be deemed as an absence. Inappropriate behaviour from a learner may also result in an absence leading to their losing a weekly payment. When registering for EMA, the learner signs the EMA Agreement and in doing so they commit to the standards agreed with their Provider.

The Provider must also sign the EMA Agreement and in doing so they are:

- committing to offer an appropriate learning programme for that learner;
- confirming that the learner has enrolled on a valid learning programme; and
- agreeing to report the learner's weekly payment authorisations and periodic bonus authorisations to the LSS.

In signing the EMA Agreement with the learner, the Provider must explain:

- the attendance monitoring system that operates in the organisation including attendance patterns and standards of learner behaviour and effort, unless this was covered when the learner enrolled on their learning programme;
- the Provider's position on authorised and unauthorised absences and the implications of abusing the scheme;
- the learner's responsibility to notify the Provider of any absences as quickly as possible (ideally in advance if the absence is planned, or as early as possible on the day for unplanned absences

due to illness and so on) and tell the learner who they should contact, how and by when;

- the query and appeals process operated by the Provider for disputed stopped payments. **Please note:** recourse is always through the Provider who makes payment decisions. The LSS will have no knowledge of the reasons for stopped payments, therefore the Provider should always inform the learner, within two days, if they are not going to receive their EMA, and why this action is being taken;
- that if the learner receives an incorrect payment from the LSS, the recourse to appeal is through the learner helpline;
- that learners will be expected to sign the EMA Agreement (Bonus) or EZE Passport or PLA ILP, which will cover conditions for receipt of EMA bonuses; and
- further sources of support and advice to the learner regarding EMA, both within the Provider and outside (this could include the learner helpline number and possibly local contact information for Connexions).

Providers must give this information to the learner in writing to confirm the Provider's approach to managing EMA, and as a reference for the learner. This information may be embedded within the EZE Passport or PLA ILP for learners on EZE/PLA programmes.

Where a sub-contractor agrees the EMA Agreement on a Provider's behalf, the Provider must require them to follow the same process described above. It is the Provider who is accountable for the entry to LAPS and the subsequent payment decisions.

One copy of the EMA Agreement is retained by the learner and the other by the Provider. The Provider must retain this for six years for audit purposes.

Adding learners to LAPS

The EMA Agreement contains the learner's EMA number which is used to link the learner with their personal record on LAPS. (A sample NoE and EMA Agreement can be found in the supporting documents section of the EMA website at ema.lsc.gov.uk/ema-guidance/supporting-documents-2009-10). You will need the learner's EMA number to add the learner to LAPS. This makes a link between the learner's entitlement for EMA and their enrolment with the Provider, and activates

requests for weekly payment authorisations on LAPS. The EMA number is also barcoded to speed up this process for Providers that use barcode readers.

Providers should add learners to LAPS as soon as they have enrolled on a valid learning programme (one or more valid learning programmes), but not before. **Please note:** learners cannot be paid until they have been added to LAPS.

A learner can only be added to LAPS if:

- he or she has enrolled on a valid learning programme of at least 12 guided learning hours per week (or 16 hours for E2E/PLA programmes) for a period of at least 10 weeks. This learning programme may be split between one or more Providers;
- the Provider has satisfied itself regarding the learner's identity and residency (for education funding purposes); and
- the learner and the Provider have both signed the EMA Agreement.

In registering a learner for EMA the Provider is certifying that these conditions have been satisfied.

The Provider will also need to set up date ranges (study patterns) on LAPS to identify weeks when learners are following guided learning hours and are expected to receive EMA payments. In FE, most learners will be following learning programmes with common term dates that can be set up on the system before enrolment. The software provided by the LSS will prompt this. In cases where learners' study pattern dates do not match those set as standard, specific study pattern dates will need to be set up on LAPS for these learners. **Please note:** in some circumstances if the Provider does not set the exact start date it may have an impact on the learner receiving back-dated payments.

Providers who deliver both FE and E2E/PLA programmes need to ensure they enrol a learner on the correct programme type. For more information, please refer to the *LAPS Operational Manual*.

Setting up an EMA Agreement (Bonus)

Bonuses are the second part of the EMA 'something for something' regime. They reward the learner for attaining agreed learning goals including the standards of effort and behaviour agreed at the start

of the programme. They also provide incentives to return to learning after holidays.

The Provider and the learner need to sign a suitable document (EMA Agreement (Bonus)) to show clearly the conditions that must be satisfied for the learner to receive their bonuses. This document is sometimes referred to as a Learning Agreement or Learning Plan and is separate from the EMA Agreement (Attendance, behaviour and effort).

A standard template will inform the learner of the learning goals that they need to achieve to receive a bonus payment. The precise interpretation of the achievement of learning goals is for individual teachers, tutors and Providers to decide. Weekly attendance, punctuality and behaviour and effort should be considered when making decisions about bonus payments. A statement must be included that learners agree to abide by the rules of the EMA scheme.

In general this should involve:

- completion of all or most coursework, to a standard and within a timescale that can reasonably be expected of the particular learner;
- attendance at any public examinations associated with the learning programme; and
- standards of learner behaviour and effort.

Providers can use the generic EMA Agreement (Bonus) template at Annex 2. Best practice is to adapt the EMA Agreement (Bonus) to reflect the particular needs of learners. This is especially valuable where learners have special difficulties or needs, resulting either from previous levels of attainment or personal or social issues. The bonus payment should provide an incentive to learners, so it is important to set goals which are stretching but which the learner has a realistic chance of achieving. Bonus payments should not at this time be linked to the achievement of specific grades or withheld until exam results are known.

Both the learner and the Provider should retain a copy of the signed EMA Agreement (Bonus) document. The Provider should retain this for six years.

Setting up an E2E Passport or PLA ILP

The Provider and the learner need to sign a suitable document at the start of the learning programme to show clearly the conditions that must be satisfied

for the learner to accrue their EMA bonuses. For E2E and PLA, the E2E Passport and PLA ILP have been deemed suitable documents.

For E2E learners, the E2E Passport is not complete until a Connexions personal adviser has agreed that the provision is appropriate for the young person.

Learners will be presented for payments as soon as they are added to LAPS. Bonus payments will be accrued at a rate of £5 a week. The only exception to this is where a Connexions adviser decides that a potential E2E learner should progress to another, more appropriate, form of provision, such as employment, FE or an Apprenticeship. In these circumstances, the Provider may authorise payment of any accrued bonus amount to the learner. If a learner progresses within the first 10 weeks of their programme, the accrued bonus to that point can be paid.

Both the learner and the Provider should retain a copy of the signed document. The Provider should retain this for six years.

Additional information about enrolment

Learners attending more than one Provider

Where a learner attends more than one Provider, each Provider should be referenced on the EMA Agreement or E2E Passport/PLA ILP. In this case it is for local agreement between the Providers as to which will be the lead for administering EMA, as a learner can only be added to one Provider at any one time. This Provider will sign the EMA Agreement and report payment decisions to the LSS. The other Provider(s) involved must agree a process for reporting the learner's attendance, behaviour and effort to the Provider that reports weekly and bonus payment decisions to the LSS.

Change of learning programme

Where a review of the learning programme results in a material change of learning programme at the same Provider, the EMA Agreement (Bonus) or E2E Passport or PLA ILP will be replaced or amended, but will remain valid provided that the change is signed by the learner and the Provider concerned. There is no need to notify the LSS of changes to the content generated in this way.

Where a review of the learning programme leads to a reduction in hours of study, the Provider must check that the revised learning programme duration meets the minimum required guided learning hours. Otherwise, the learning programme will not be valid for EMA purposes.

Transfer to a different Provider

If a learner transfers between Providers while continuing on the same learning programme, a relationship must exist between the two responsible Providers. The first Provider should maintain administration of EMA, liaising with the second Provider regarding payments. This would function in the same way that Providers administer EMA on behalf of sub-contractors, ensuring a full audit trail of evidence for weekly payment decisions is kept. Where it is not practical for the first Provider to maintain administration functions, the Provider helpline should be consulted for guidance on how to proceed.

Where a Provider's funding contract is not renewed by the LSC, the learners attached to that Provider will need to be transferred in bulk, if it has been agreed that they will be taken on by a new Provider. Providers who are in this position should contact the Provider helpline for further advice.

Change of Provider

Please refer to the *LAPS Operational Manual*.

Leaving a Provider

Please refer to the *LAPS Operational Manual*.

Lost documents

If a learner claims to have been accepted as eligible for EMA but has lost their documents, they can request a copy from the learner helpline. A replacement NoE with the EMA Agreement document will be posted to the learner once reasonable checks have been carried out and their identity is established. Providers should not add the learner to LAPS until they have signed the EMA Agreement.

Learner has not yet applied for EMA

At enrolment for a learning programme some learners will ask about EMA without having applied for it. Encourage those learners to apply as soon as possible with the simple message that the sooner they apply the sooner they will be able to receive payments.

Successful EMA applications received before, or within 28 days of, the start of a learning programme will be eligible to receive back-dated payments to the start of the learning programme. EMA applications received in excess of 28 days from the learning programme start date will be eligible to receive back-dated payments to the Monday of the week of receipt at the LSS.

Attendance and bonuses

Overview

This section of the guidance is presented in two main parts: weekly attendance and bonuses.

Providers need to report on both aspects for each EMA learner to the LSS in order for an EMA payment to be made. And in both cases the principle is to reach a decision, be it a 'Yes' or 'No', as early as possible following the period in question.

The administration of EMA is subject to audit and all aspects of attendance monitoring and decision-making in respect of EMA and any local attendance policy is a component part of this. Local agreements on attendance are useful in clarifying and standardising interpretations of authorised and unauthorised absence for both local partners and learners. For more details on local agreements please see Annex 1.

Weekly attendance

The standard weekly activities can be broken down into several stages. The Provider must take the actions illustrated in Figure 2.

Recording attendance information

Recording and collating attendance and authorised or unauthorised absence information is central to making EMA weekly payment decisions. Providers can use or build on any existing methods to monitor and record attendance, as long as they are sufficiently robust to capture EMA learner attendance accurately, thus reducing the scope for learner fraud. It would not be acceptable for a Provider to implement an attendance monitoring system that relies on learners self-certifying their attendance. Best practice is to ensure that all staff fully understand that attendance monitoring will control whether EMA payments are paid, and so needs to be undertaken carefully. For EMA purposes, the minimum requirement is two attendance controls or learning sessions per day, although attendance monitoring may already be undertaken more frequently by Providers (lesson by lesson, period by period, or am/pm). In instances where a learner has incurred an unauthorised absence during a week but has made up that time during subsequent

weeks, they will not qualify retrospectively for payment of the withheld weekly allowance.

Providers must decide on and implement an attendance policy, which they may be monitored on. Within that, they must define what full attendance means for their learners and also the standards of behaviour and effort required and then apply them fairly. Many localities have local area agreements on attendance procedures, so that learners are treated consistently. The attendance policy and standards of behaviour and effort adopted by a Provider must be made clear to EMA learners as part of their induction process.

Collating weekly attendance information

Each week all the records for each learning session that Providers monitor need to be collated as the basis for:

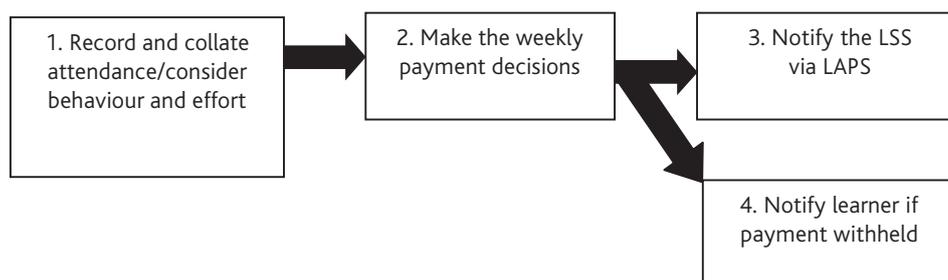
- actions to take in respect of weekly attendance (see Figure 2);
- making weekly payment decisions; and
- seeking further information from learners where there is insufficient information to make a 'pay' or 'don't pay' decision.

Where a sub-contractor is required to provide information on the attendance of the learner, the Provider will need to arrange for the information to be provided in time for payment decisions to be made.

Attendance data and reasons for authorised or unauthorised absences and other information must be retained in a suitable format for a minimum of six years for audit purposes.

Deciding on payments

Providers will translate collated information about attendance into decisions on whether to pay or not pay EMA. In general, a learner should only be paid where they have attended all the learning as agreed in their EMA Agreement and met the standards of behaviour and effort required. If a learner breaches the agreed attendance and behaviour policy, the learner should receive no EMA payment for that week, and the Provider should make a 'don't pay'

Figure 2: Actions to take in respect of weekly attendance

decision on LAPS. Annex 1 gives guidance that they should follow in taking such decisions.

Where a decision not to pay has been made on the basis of inappropriate behaviour and/or effort, Providers must ensure that this decision is reported to their EMA administrator and must retain details of the reason for non-payment for audit purposes. The behaviour and effort criteria will have been agreed with the learner at the start of the programme.

Absences may be reviewed some time after the actual event and retrospectively agreed as authorised absence (and thus counted as attendance). This might happen where the learner is late in submitting relevant evidence. In such cases, where this was the only unauthorised absence in the week, the learner may be eligible for back-payment of their EMA. Providers should make and input all decisions as soon as possible. Best practice would be to require the learner or their tutor to hand in additional evidence within two weeks and make it clear that a decision to back-date a payment can only be made during this period. If an attendance pattern cannot be proved within this timeframe then a 'No' decision can be made and input to LAPS.

Payment authorisation must be carried out by someone specifically authorised to do so by the Provider. The decision must be auditable. No decision should be made if there is insufficient evidence on which to base it. Decisions relating to a particular week should not be used to adjust payments so as to address earlier decisions made in error. Where Providers have sub-contracted delivery, Providers themselves are responsible and accountable for any inaccurate entries.

Where public holidays fall within any week, or where term ends part-way through a week, the Provider should make a payment authorisation for the learner for that week providing that they have attended all their scheduled learning sessions. An example of this is the May Day bank holiday, which normally falls during term. If a learner has satisfactory attendance in that week other than the Monday, the payment for that week should be made. This applies even if this means that for this week the learner's number of guided learning hours falls below the required minimum.

Learning outside term time in FE

In the case of a short field trip (or other activity) outside term time, but which is an integral part of the learner's planned learning programme, the Provider must come to a decision as to whether this constitutes sufficient guided learning to warrant an EMA payment. Payments should not be made if there have been fewer than 12 hours of learning activity in the week in question. The payment authorisation is to be made applying the same rules as authorising term-time attendance. However, as the timing of the activity will fall outside the standard study pattern set on LAPS, these learners will need to be set up with an individual study pattern which includes the dates of the activity. This will allow the system to present those learners for payment in the week in question.

Term time and holiday payments in FE

EMA payments are made during term time but not normally during holiday periods. The exception to this is guided learning activities which take place outside term time, such as special tuition programmes or field trips, and unpaid work experience. Payments should not be made for 'reading' and 'catch-up' weeks that coincide with term and half-term breaks.

Learner fraud

Providers should consider whether there is potential for learner fraud within their processes and put strategies in place to reduce and identify such instances. Those Providers that operate a system whereby learners themselves are responsible for producing evidence from tutors that they have attended as required may have a greater risk of incidents of learner fraud.

If fraud is identified, the principle will be to seek recovery of all of the overpaid money. There are a number of different scenarios. If the learner has remained in learning it may be possible to recover from LAPS, as defined in the section on 'Overpayment' (see page 25). However, if the learner has left, then alternative procedures will be required. All instances of fraud must be reported to the LSS via the Learning Provider helpline.

Notifying the LSS of weekly payment decisions

Please refer to the *LAPS Operational Manual*.

Timing

Please refer to the *LAPS Operational Manual*.

Notifying the learner if a weekly payment is being withheld

Where a weekly payment is withheld, the Provider must inform the learner within two days in writing, or by a suitable alternative method, to ensure that the learner understands the reason why payment has been withheld. This should be communicated before payment is due. Providers are no longer required to retain documentary evidence of notification of non-payment decisions. The controls testing phase of EMA audits will include a check on the adequacy of the procedures that are in place for the notification of non-payment decisions to learners. Learners must

also be notified if their payment will be delayed due to administrative delay at the Provider.

Bonuses

All learners in receipt of EMA may be eligible for bonus payments if they satisfy the conditions described in this section.

Bonus rules: long course (academic year) model

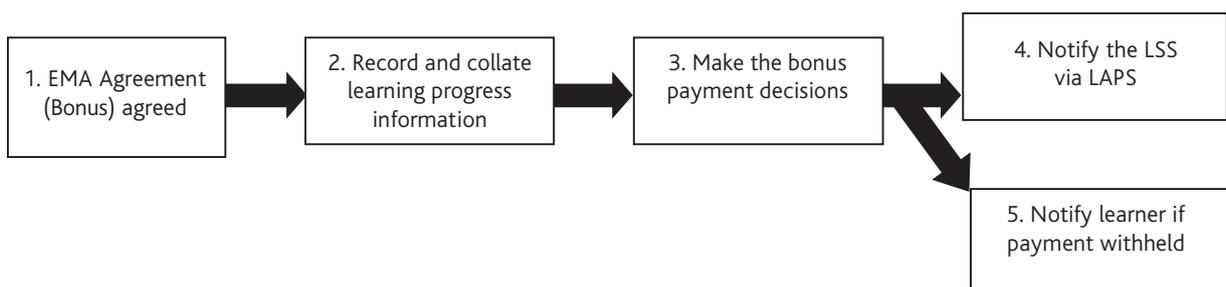
The bonus rules outlined below apply to all learners enrolled on a long course FE learning programme, that is, one that follows the traditional academic year. All bonus payments are £100. The bonus rules are as follows.

- Learners who are enrolled, added to LAPS and attend prior to January, and who return to study after Christmas, will be eligible to receive a January bonus.
- Learners who are enrolled, added to LAPS and attend between January and the end of the EMA year will be eligible to receive a July bonus.
- Learners continuing into second and third years of study, and who remain eligible for EMA, can be paid bonuses in January and July of the first year and any subsequent years.

The January and July bonus decision and payment process

The January and July bonus decision and payment process can be broken down into several stages which are similar to the weekly payment process (see Figure 3).

Figure 3: January and July bonus process



The **January bonus** is payable only when the learner has achieved satisfactory progress against learning goals as set out in the EMA Agreement (Bonus) relating to coursework in the autumn term, and they have returned to learning in January. When making bonus payment decisions Providers should consider whether the learner has achieved the required standards of effort and behaviour and attendance patterns as agreed at the start of the programme.

The **July bonus** payment depends on satisfactory performance against learning goals as set out in the EMA Agreement (Bonus). In addition the learner must have attended any public examinations they were scheduled to complete during this period. When making bonus payment decisions Providers should consider whether the learner has achieved the required standards of effort and behaviour and attendance patterns as agreed at the start of the programme. Providers should not include additional payment criteria, for example achievement of specified examination grades. Providers must only authorise payment of a July bonus once all of the relevant conditions have been met.

For further advice on authorising bonus payments on LAPS, please refer to the *LAPS Operational Manual*.

Bonuses in E2E and PLA

Bonuses for E2E and PLA learners are structured differently but are equitable with bonuses in EMA for school and college learners.

The bonus payment system is designed to reward learners for progression through their learning programme. Bonuses are awarded at the discretion of the Provider to individuals who have achieved their learning goals. Examples of objectives which could trigger bonus payments include completion of Key Skills qualifications, a collection of National Vocational Qualification (NVQ) modules and satisfactory completion of a significant period on work placement or other personal goal. Learners must also meet agreed behaviour and effort standards set by the Provider. It is for the Provider to agree the most appropriate milestones based on each individual's ability and aspirations. It is recommended that Providers spread individual bonuses across the learner's planned programme dates so that the learner always has something to aim for throughout their learning.

The E2E/PLA bonuses are not triggered by calendar dates like the FE bonuses. This will ensure that E2E and PLA learners progress and are rewarded for continued retention and achievement, regardless of when their E2E or PLA provision begins.

Bonus rules: short course model

The bonus rules outlined below apply to all learners enrolled on FE short courses, those on E2E programmes and those on PLA.

At the start of learning, the learner and Provider will agree the criteria that must be met for payment of bonuses and should include progress against or achievement of learning goals, effort and behaviour and could also include an agreed attendance pattern.

The bonus rules outlined apply to all learners enrolled on a short course, that is, those who do not follow the traditional academic year. Bonus payments are accumulated at a rate of £5 per week. The Provider and learner agree the criteria for the bonus payments and their frequency at the start of the learning programme. The Provider (in agreement with the learner) can choose when to pay the accumulated bonuses and use them to their best effect to encourage and motivate the learner.

This would not normally occur before the learner had completed the first 10 weeks of the programme. However, should a learner leave before they complete 10 weeks but have achieved agreed learning goals, the Provider can authorise the accrued bonus amount to be released. For further advice on authorising bonus payments on LAPS, please refer to the *LAPS Operational Manual*.

The bonus decision and payment process

The bonus decision and payment process can be broken down into several stages which are similar to the weekly payment process (see Figure 4).

Notifying the learner that the bonus is being withheld

Where a bonus decision is determined by the Provider and a payment is withheld, the Provider must ensure that the young person understands why this action is being taken. This should be communicated before payment is due, in writing, or by an alternative means providing that it is sufficiently robust to provide evidence of notification if subsequently required for audit purposes. The Provider must keep a record of the reasons for any stoppage of payment and the subsequent notification to the learner. Clear records of decisions to pay or not to pay must be maintained for reference in the case of learner queries and appeals.

Additional information about attendance and bonus payments

Payment queries

If a learner does not receive a payment which they were expecting, their first step is to check with their Provider to see if the payment was authorised. If the payment was authorised but has not been received then Providers should advise the learner to call the learner helpline.

Back-payments

Back-payments may be authorised as a result of:

- a delayed or deferred decision;
- a changed decision from unauthorised to authorised absence, resulting in a changed payment decision;

- a successful appeal against a stoppage of payments; or
- late provision of an NoE to a Provider, and where the entitlement date shown on LAPS is earlier than the current week.

For information on back-dating payment decisions as a result of a learner's application being received at the LSS after the start of their learning programme, please see the section 'Learner has not yet applied for EMA' (page 19).

Providers should resolve back-payments quickly. For more information about this, please refer to the *LAPS Operational Manual*.

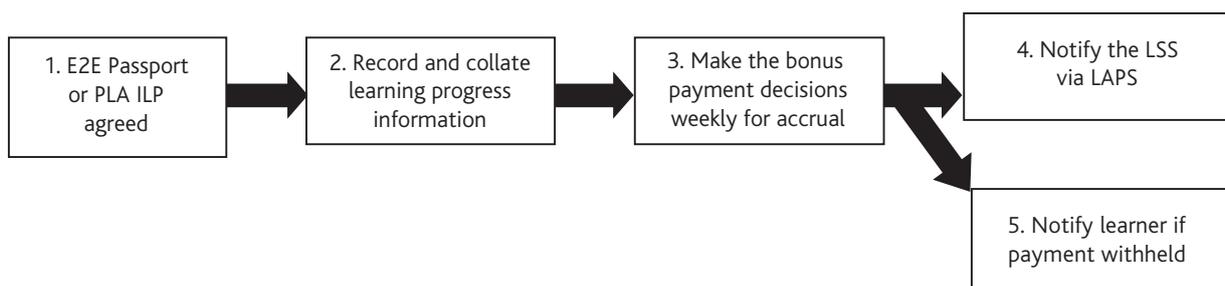
Overpayment

If the LSS becomes aware that EMA payments have been made inaccurately – for example, because of failure to disclose information on the part of the learner, a misrepresentation of data, or processing or system errors – they will take recovery action. There is a responsibility on both the learner and the Provider to notify the LSS of any potential overpayments.

A letter will be sent to the learner explaining why they have been overpaid, detailing the amount of overpayment and asking for repayment as soon as possible.

If the learner is still on their course or programme, the LSS can suggest two alternatives: either subsequent payments be withheld until the overpayment is recovered, or the learner can repay the whole amount in one payment. Until the learner confirms how they want to make repayments, the LSS will withhold future payments, as this may reduce the outstanding amount.

Figure 4: Bonus process



If a learner has left their course, and does not respond to correspondence from the LSS, the LSC has the right to take legal action to recover the overpayment. This is clearly stated in the declaration on the EMA application form.

End of year or programme

When learners have finished at a Provider for the year, for example, after summer exams, or have completed their EZE/PLA programme, administrators must record the fact on LAPS that no further payments should be made.

Appeals

Where a decision has been taken that a learner should not receive either a weekly or a bonus payment, the learner has a right of appeal, subject to the principles below.

- The Provider **must** give the learner written information about the process for appealing against payment decisions at EMA registration.
- Learners should be made fully aware of the payment conditions they must meet to receive payments **before** decisions are taken and understand they should adhere to these rules.
- The Provider should explain if a payment is going to be stopped and why. This may be a simple, evidence-based statement, for example, 'You did not attend on Tuesday afternoon without prior permission'; or 'You did not meet agreed acceptable standards of behaviour'. There is no need for the explanation to repeat the general material on how EMA works provided to the learner at enrolment. Nor is there any necessity to explain in detail why an absence has been deemed to be unauthorised. Without evidence to the contrary, absences should be considered unauthorised. The burden of proof that they should be authorised lies with the learner.
- The appeal should be handled within the Provider by someone other than the person who took the initial decision that the payment in question should not be made.
- When there is a dispute between a sub-contractor and a learner, the Provider should intervene.
- Providers should have in place existing procedures to deal with complaints and appeals and these should be used if possible for dealing with an appeal in respect of a decision on an EMA payment.
- The Provider must ensure that the learner has been given full details of why the EMA payment has been stopped prior to any hearing taking place. The procedure should provide for the learner to present his or her case and for the learner to be accompanied by a parent/carer, or someone else of their choosing, who may state the case on the learner's behalf. Legal representation is not normally appropriate.
- When communicating the decision of an appeal hearing, and in the event that a learner's case has not been upheld, the Provider must include the following in the decision letter:

In the event that you are dissatisfied with the way in which your appeal has been dealt with, you may complain to the LSC. For more information please see the LSC website www.lsc.gov.uk/ComplaintsProcedure.htm.

Records and audits

Recording and collating learning progress information/bonus payments

Providers must keep copies of the EMA Agreement or E2E Passport or PLA ILP. They need to ensure that someone sufficiently connected with the learner's progress is able to make a decision as to whether or not the learner has met the agreed learning goals. Given the nature of these goals, there may be an element of judgement in this decision.

Decisions about each learner need to be collated centrally by the Provider so that decisions about the bonus can be entered on LAPS.

Records of reasons for non-payment of EMA and supporting attendance records should be retained in a suitable format for a minimum of six years. The same applies to information about progress against learning goals and decisions about whether or not to approve the bonus payment.

Providers are no longer required to retain documentary evidence of notification of non-payment decisions for the EMA weekly allowance. The controls-testing phase of EMA audits will include a check on the adequacy of the procedures that are in place for the notification of non-payment decisions to learners.

Audit

The LSC has produced guidance for Providers on the audit arrangements for EMA. This can be found at Annex 3a and 3b within this guidance.

Sources of further information

A range of additional documents are available to Providers that offer further information on the EMA scheme. These are available in the supporting documents section of the EMA website at ema.lsc.gov.uk/ema-guidance/guidance-2009-10 and include:

- *EMA Residency 2009/10 – Supporting Information;*
- EMA and benefits information;
- an example of an application form and Guidance Notes; and
- an example of NoE and the EMA Agreement.

Providers can also readily obtain information about the EMA scheme from the website or through the Provider helpline.

Marketing and support materials

The following marketing and support materials are available for EMA in 2009/10. The marketing and support materials change each year and we ask Providers to remove old stock and replace with new stock as soon as possible. In order to ensure you have the most recent materials, please check the website lsc.gov.uk/providers/moneytolearn.

For 2009/10, many of the EMA marketing and support materials have been updated with 'hands' images, to fit with the wider 'Our Future, It's in Our Hands' national Skills Campaign.

- **Leaflet**, 'EMA, My Choice', aimed at learners and parents to give clear and simple messages about EMA (ref. LSC-P-NAT-090004). The leaflet is also available in Braille (ref. LSC-P-NAT-090004BR) and large print (ref. LSC-P-NAT-090004LP).
- **Two posters** for Learning Providers to use to promote EMA. Both posters have simple messages, including the helpline number. One poster focuses on **EMA choices** and the range of courses available (ref. LSC-P-NAT-080031) and the other on **EMA money** and how much it is worth (ref. LSC-P-NAT-080001).
- **GCSE envelopes**: A5 envelopes with EMA branding for teachers to use to give learners their GCSE results in. Also includes a flyer giving young people advice on their post-16 choices (ref. LSC-P-NAT-080005).
- **Application form** for learners to complete to apply for EMA, includes Guidance Notes (ref. LSC-P-NAT-090013).
- **Guide for Providers Working with Young People**: A5 leaflet to help Providers working with young people to advise learners and their families about EMA (ref. LSC-P-NAT-090006).
- **Learning Provider resource pack**: This pack consists of a short programme of learning designed for Year 11 students. It is made up of a booklet ('Keeping Your Options Open with EMA'), a DVD, and loose worksheets which can be photocopied and distributed to learners (ref. LSC-P-NAT-080087).
- **EMA DVD My Choice**: Also included in the resource pack, the DVD contains various information regarding post-16 options, young people's aspirations and EMA. It is in modular format to be used as a discussion base as well as being a source of valuable information (ref. LSC-P-NAT-080004).

The leaflets and posters can be viewed and downloaded from the LSC website at ema.lsc.gov.uk/resources/.

Printed copies of all materials can be ordered by contacting LSC Publications as follows. Please quote the relevant publication reference number when ordering.

LSC Publications
PO Box 5050
Sherwood Park
Annesley
Nottingham NG15 0DJ

Tel: **0845 602 2260**
Fax: **0845 603 3360**
Minicom: **0845 605 5560**
Email: lsc@prolog.uk.com

Glossary

ALG	Adult Learning Grant
DCSF	Department for Children, Schools and Families
DDA	Disability Discrimination Act 1995
DWP	Department for Work and Pensions
E2E	Entry to Employment
ELE/R	exceptional leave to enter or remain
EMA	Education Maintenance Allowance
ESA	Employment and Support Allowance
FE	further education
FLT	Foundation Learning Tier
FSA	Financial Services Authority
ILE/R	indefinite leave to enter or remain
ILP	Individual Learning Plan
ILR	Individual Learner Record
JSA	Jobseeker's Allowance
LAPS	Learner Assessment and Payment System
LSC	Learning and Skills Council
LSS	Learner Support Service
NoE	Notice of Entitlement
NVQ	National Vocational Qualification
PLA	Programme-led Apprenticeship
QCF	Qualifications and Credit Framework
TCAN	Tax Credit Award Notice
YOT	Youth Offending Team

Annex 1: Authorised and unauthorised absence

Introduction

Providers need to have a clear documented policy of attendance and authorising absence that fits within the framework set out in the following guidelines.

EMA operates under a 'something for something' approach. Each learner is required to agree and sign an EMA Agreement, which will set out what is expected of them by way of attendance, behaviour and effort, progression and completion of coursework. In general a learner should be paid EMA payments only where they have attended all the learning sessions and met the standards of behaviour and effort agreed in their EMA Agreement. If the learner has been unauthorised absent for part or all of the week, they should receive no EMA payment for that week, and the Provider should notify the LSS to that effect in its weekly return.

It is, however, acceptable for the Provider to deem an absence to be authorised. Where an absence is authorised, the learner will still be entitled to the weekly EMA payment as though they had attended in full (unless, of course, they have an unauthorised absence for a different session).

It is for Providers to decide on and implement a documented attendance policy which will be reviewed by LSC Audit. Within that, they must detail any flexibility, refer to the minimum weekly hours and define what 'full attendance' means for their learners and then apply them fairly. The policy should be available for learners, teaching staff and administration staff to follow. Many localities have local area agreements on attendance procedures so that learners are treated consistently whichever Provider they attend.

It is for Providers to decide whether a particular absence is to be authorised or not. In taking such decisions, they should take account of the guidance in this document and are obliged to do so under the formal scheme arrangements which have been delegated by the Secretary of State for Children, Schools and Families to the LSC. Local agreements on authorised and unauthorised absence have proved useful in clarifying and standardising interpretations

of authorised and unauthorised absence for both local partners and learners.

Advice for Providers of E2E and PLA

Providers may choose to establish parameters for agreeing tolerance levels that provide a degree of flexibility in their policy to support learners who may be experiencing difficulties settling into an agreed attendance pattern and could be likely to disengage from their programme. For example, a Provider could offer a degree of flexibility over the first three weeks of a programme so that one missed session or a late arrival would not necessarily result in the allowance being stopped but that a regular occurrence of this behaviour would, thus supporting the learner to achieve an acceptable standard of behaviour.

A further example of setting tolerance levels would be for the Provider to consider a '3 strikes' approach to late attendance and build this into their policy. This could be monitored over a two-week period before the weekly allowance is affected and provide an initial period of flexibility to support the learner to achieve an acceptable standard of attendance.

When designing an attendance policy, Providers need to ensure that the key objectives of the programme continue to be supported. Any flexibility built in to the policy should have clear parameters so that learners remain engaged but also develop acceptable standards of behaviour which prepare them for further learning opportunities and employment. It would not be appropriate, for example, to count average attendance over a period of weeks as this would not equip a young person to be able to meet the attendance requirements of a full-time FE course or an employer-led Apprenticeship.

The E2E programme gives Providers the flexibility to allow part-time attendance of a minimum of 16 hours per week in exceptional circumstances, with the expectation of a move to full-time 30 hours per week attendance as soon as possible.

General principles

In deciding whether an absence should be authorised or not, Providers should take account of three general principles.

- The assumption is that any absence should be considered to be unauthorised unless there is a valid reason otherwise. In other words, where there is an absence there is no requirement for the Provider to proactively justify its decision not to authorise the absence.
- If the claimed reason for absence could have been foreseen, the learner should have applied for authorised absence in advance. So, for example, it might be acceptable for a learner of the Jewish faith to have authorised absence on Yom Kippur if this was applied for in advance, but it would not be acceptable to miss classes without prior notification and then to claim that the absence should be authorised.
- Where the claimed reason for absence could not reasonably have been foreseen, Providers should consider whether the absence was really unavoidable. An absence which could not have been notified in advance should be notified to the Provider on the day in question. Unless, exceptionally, there is a good reason why this could not be done, the absence should not be authorised without such notification.

In operating these principles, Providers should ensure that decision-making processes are transparent and that there is an equitable application of rules across all their EMA learners.

Public holidays

Where public holidays fall within a week, or where term ends part-way through a week, the Provider should make a payment authorisation for the learner for that week, providing that they have attended all their scheduled learning sessions. An example of this is the May Day bank holiday, which normally falls during term. If a learner has satisfactory attendance in that week other than the Monday, the payment for that week should be made. This applies even if this means that for this week the learner's number of guided learning hours falls below 12.

Accrued authorised absence in E2E and PLA

There is room to accommodate authorised absences in EMA provided they form part of the EMA Agreement between the young person and the Provider and are set out in the agreement. As part of the learning patterns in E2E and PLA, learners may accrue authorised absence through regular attendance, usually at a rate of two days per calendar month of attendance. This can be treated as authorised absence for the purposes of making 'pay' or 'don't pay' decisions.

All non-employed learners who need to attend their learning programme during bank and public holidays must receive time off at least equal to the time they attended on that bank or public holiday.

Where the Provider closes down for periods, for example at Christmas or for a summer break, learners can take accrued authorised absence. Should they not have accrued sufficient authorised absences to cover that period of learning, that period cannot be treated as an authorised absence for EMA purposes and cannot be paid. However, learners will only need to use accrued authorised absence for the actual learning days which are included within their study pattern.

Absences which can be foreseen

When authorising absences, decision-makers will want to consider the following factors:

- how reasonable any case is;
- the number of absences taken by any one individual;
- exclusion from a particular class, period or day from the Provider;
- repetitions of the same excuse; and
- whether the excuse is backed up with evidence.

The following are legitimate reasons for absence.

- A medical appointment which cannot be arranged outside Provider hours.
- A particular need to look after a family member or another person for whom the learner has caring responsibilities. However, Providers should not regularly be authorising absences for a learner for this reason. Where such responsibilities are regularly interrupting attendance patterns, there

is a need to explore solutions personally with the learner. Best practice is to offer a learner with caring responsibilities a named member of staff to contact when they are unable to attend and examine whether alternative care arrangements can be made (see the DCSF's *Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: groups of pupils at particular risk*). This may result in a Provider re-negotiating a learner's attendance pattern to accommodate these commitments, while still meeting the minimum number of hours required under the EMA Agreement.

- A religious holiday.
- A visit to a university either to attend an open day or for interview, or a career-related interview.
- An appointment with a Connexions adviser (although these should normally be scheduled to avoid disruption to studies).
- A work experience placement which is an integral part of a learning programme, and for which the learner does not receive a wage.
- Participating in a significant extra-curricular activity, such as drama, music, sport or volunteering. Authorised absence should only be granted where the activity reflects a significant level of personal achievement (for example, taking part in a regional or national event), or for some other one-off event. Authorised absences under this criterion should be granted sparingly, where a pattern of frequent participation in such activities is proposed, there is a need to explore solutions personally with the learner.
- Attendance at a probation meeting.
- Attendance at a funeral.
- Severe disruption to a learner's mode of transport (for example, where a learner commutes by rail and a rail strike means there is no practical way of getting to the Provider).
- A driving test.
- A Provider representatives' meeting, for example, a Governors' meeting.
- National Union of Students official business.
- Territorial Army or cadet events.
- Study visits abroad that are an integral part of the learner's learning programme, last for no longer than four weeks, and are set out in the learner's learning agreement.

E2E and PLA absence

If a learner has to leave part-way through a week to start a job, a Provider can choose to authorise the absence to allow them to receive a final weekly payment.

Where a learner has no choice but to miss learning because of another appointment (such as a medical appointment and so on, detailed above), this may be authorised in addition to their accrued authorised absence. However, Providers must manage this carefully, drawing on the principles set out above. As this area is likely to be audited, it is recommended that robust lines are drawn up and explained to each learner as they join the programme, so that Providers can demonstrate they are authorising the expenditure of public funds legitimately and consistently.

Should an individual need an exceptional amount of additional leave or have re-occurring events of the same nature, this should be investigated and the suitability of the programme reviewed in light of the findings.

The following reasons for absence would not generally be acceptable.

- Holidays (except in E2E/PLA, see 'Accrued authorised absence in E2E and PLA', page 33).
- Part or full-time work which is not part of the learning programme.
- Leisure activities.
- Birthdays or similar celebrations.
- Babysitting younger siblings.
- Shopping.
- Driving lessons.
- Jury service.

This list is not intended to be exhaustive.

Maternity/paternity leave

For E2E/PLA learners, EMA will not be payable during periods of maternity or paternity leave. This is consistent with current employment legislation.

Absences that cannot be foreseen

Where an absence genuinely could not be foreseen, the learner should nevertheless make arrangements to tell the Provider as soon as possible on the day in

question that they will be absent. Where a learner has failed to do this, the absence should be treated as unauthorised, and therefore the learner should not receive EMA for the week in question.

The only exception to the principle in the previous paragraph is where the young person can supply a strong reason why they failed to contact the Provider. This might be because an event has been particularly disturbing or unpleasant, or because there has been a genuine practical barrier. Reasons for absence which would tend to be acceptable, so long as the Provider has been notified on the day include:

- An emergency situation involving a family member or another person for whom the learner has caring responsibilities. Sudden severe illness would be an example. Best practice is to offer a learner with caring responsibilities a named member of staff to contact when they are unable to attend and examine whether alternative care arrangements can be made (see *Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: groups of pupils at particular risk*).
- Transport problems, where these were not known about in advance, and where there is no alternative means to hand. Consultation suggested that it is reasonable to expect learners to walk a three-mile round journey if they do not have a relevant disability.

This list is not intended to be exhaustive.

Sickness

In general, isolated periods of genuine sickness need not preclude payment of EMA. However, EMA is intended to cover the costs incurred through attendance in learning, so it should not be paid if a learner is away for a full week. Also, Providers are entitled to turn down applications for authorised sickness absence if they have reason to doubt the validity. Clearly an emerging pattern of non-attendance due to sickness without explanation would be unacceptable. Experience from administering EMA has shown that a rigorous regime can be effective, and it is acceptable for a Provider to implement a policy of not automatically accepting sickness as a reason for authorised absence. The key is for Providers to set out clearly, from the outset, what their approach will be to

absences due to sickness, and to be consistent in its application.

Long-term sickness/disability

Any learning programme should be agreed between the Provider and the young person to meet the learner's needs. The 12 guided learning hours minimum should still apply. However, in respect of learners who are disabled within the meaning of the Disability Discrimination Act 1995 (DDA), the Provider will have to consider what reasonable adjustments should be made to facilitate the learner's ability to carry out the required guided learning hours, taking into account the particular needs of the learner. The DDA defines a disability as a physical or mental impairment which has a substantial and long-term (more than 12 months) adverse effect on a person's ability to do normal daily activities. Further information can be found at equalityhumanrights.com. It may be that some periods of learning at home would be appropriate as long as the Provider oversees the learning programme work and monitors its completion closely. Alternatively, some adjustments might be made such as agreeing to allow the young person to miss a particular learning session because attendance in the specific circumstances is difficult – for example, because of transport or because the learner cannot attend for long periods because of his or her disability. Providers should normally class as authorised any absence which it is satisfied is directly related to the learner's disability. Where it becomes clear that the absence is going to be long-term and that the learner will be unable to complete 12 guided learning hours for a significant length of time, then the Provider will need to consider whether it is reasonable to continue EMA payments during this period.

Partial attendance

Different Providers have different methods of recording attendance, and some do so for each lesson or learning session whereas others do so just once in the morning and once in the afternoon. For EMA purposes, either is acceptable. The key point is that Providers need to report whether there has been satisfactory attendance, and they are free to determine the basis for taking that decision. Where a learner has not registered for an individual lesson/learning session, or arrives late, this should be picked up at the register taken for that lesson/learning session, but this may not immediately be detected for EMA purposes. Providers should ensure that where staff need to report absence, there are

arrangements for drawing this to the attention of those responsible for EMA administration.

Study leave

Learners should receive their weekly payment during periods of authorised study leave preceding examinations until they have sat their final examination.

Jury service

EMA should not be paid for periods of jury service; if a learner is called upon to attend jury service best practice is for Providers to encourage them to seek a deferral to a holiday period. Weekly payments of EMA recognise not only the learner's attendance in learning but also the achievement of goals set out in their Learning Agreement and their effort and good behaviour while in learning. Mindful of this, any period spent away from the Provider such as jury service would make the achievement of set goals and agreed behaviours difficult to manage for learners and payment authorisation overly complicated for Providers.

Where deferral to a holiday period is not appropriate – for example, for learners on E2E/PLA programmes where their leave is accrued through attendance on their programme – then it may be more appropriate to seek a complete deferral of the jury service. This would be in the interests of the learner whose only option would be to use their accrued holiday entitlement. It is especially important to consider the impact of missing learning for those learners who might be at risk of dropping out.

General authorisations

A Provider may find it helpful to issue a general authorisation of absence in some circumstances – for example, severe weather.

Local area agreements

Best practice is for Providers to form local agreements of how the discretion afforded by the rules on authorised absences should be exercised. The advantage of such local agreements is that they can avoid the danger that one Provider can seem to be operating the EMA scheme more leniently than another, which could lead to resentment, and even to distortions in learners' choice of Provider. However, some Providers may wish to maintain their own approach to absence management to differentiate their provision.

National Providers of E2E/PLA programmes may adopt company-wide procedures to ensure consistency.

The LSC is not mandating the use of local area agreements or providing a mechanism to enforce them where they do exist. The LSC issues nationally relevant principles on what might count as authorised absence, but Providers must apply these principles using their own discretion. It is equally a matter for Providers to decide whether they wish to enter agreements with neighbours about how they should exercise this discretion.

Where local area agreements exist, it may be necessary to update the agreement quickly to reflect ad hoc circumstances and produce a commonly agreed general authorisation.

Annex 2: Example of an EMA Agreement (Bonus)

This document, which can be used as a template, gives examples of how Providers may want to set out the EMA Agreement (Bonus) for learning progress and learner behaviour and effort.

EMA Agreement (Bonus)

Name of learner.....

EMA ref. no.....

Course(s) title(s).....

[Provider to select one or more of the following as required:]

(a) I understand that the Provider will arrange for my learning progress to be assessed in order to determine my eligibility for an EMA bonus in January and/or July. Learning progress will be assessed on the basis of satisfactory completion of relevant coursework and/or assignments, on time and to the best of my ability, and attendance at exams. I understand that I must abide by the standards of behaviour and effort agreed at the start of my learning programme. I understand that I must abide by the rules of the EMA scheme.

..... [Learner]

.....[Provider]

(b) I understand that the Provider will arrange for my learning progress to be assessed in order to determine my eligibility for an EMA bonus in January and/or July. Learning progress will be assessed on the basis of satisfactory completion of relevant [modules]. Specifically these [modules] are:..... I understand that I must abide by the standards of behaviour and effort agreed at the start of my learning programme. I understand that I must abide by the rules of the EMA scheme.

..... [Learner]

.....[Provider]

(c) I understand that the Provider will arrange for my learning progress to be assessed in order to determine my eligibility for an EMA bonus in January and/or July. Learning progress will be assessed against the learning goals as set out in my school/college [Learning Agreement/Individual Learning Plan]. I understand that I must abide by the standards of behaviour and effort agreed at the start of my learning programme. I understand that I must abide by the rules of the EMA scheme.

..... [Learner]

.....[Provider]

Annex 3a: Guidance on LSC audit arrangements for EMA at FE colleges and school sixth forms

Background

This annex provides guidance to schools and colleges on the LSC audit arrangements for EMA payments to learners. The approach to auditing EMA is now well established and this guidance includes recommended best practice which is informed by audit findings.

Methodology

In recognition of the need to minimise the administrative burden on schools and colleges, it is proposed generally to conduct an LSC audit of EMA as an integral part of the existing audits at schools and colleges. Therefore, EMA audits will usually take place at the same time as routine audits such as the data audits at school sixth forms and the learner eligibility and existence audits or funding audits at colleges.

A short EMA audit programme has been developed which will be applied consistently at all Providers that administer EMA payments. The audit programme involves an overview of the key controls over the administration of EMA payments and testing a random sample of learners' weekly payments across a chosen defined period (usually a month), and their bonus payments.

Controls review

Through discussions with appropriate members of staff, LSC auditors will identify and evaluate controls over the management and administration of EMA payments by completing a short questionnaire. This will help the auditors to establish what controls are in place and how effectively they are working. The following key areas will be reviewed:

- general management and administration arrangements for EMA including details of any off-site provision such as sub-contracting and the recording, input, storage and security of data relating to EMA payment submission and authorisation, including LAPS;
- ensuring that only eligible learners are enrolled by the school or college;
- agreement and completion of the EMA Agreement (Attendance, behaviour and effort);
- agreement and completion of the EMA Agreement (Bonus);
- recording and reporting of attendance data, including authorised and unauthorised absence, and the controls system for the notification of payment/non-payment decisions;
- authorisation of EMA bonus payments to qualifying learners; and
- making payment decisions adjustments and advising and reporting to the LSS any factors that may influence future EMA payments or corrective actions.

Substantive testing

A sample of payment transactions extracted from LAPS will be tested for validity against the evidence held by the school or college. These tests will cover the same generic areas as the controls work already detailed above, that is:

- general management controls and sub-contracting, including off-site provision;
- eligibility;
- EMA Agreement (Attendance, behaviour and effort);
- attendance recording;
- EMA Agreement (Bonus);
- adjustments/recoveries; and
- accuracy and reliability of data.

Evidence requirements

As part of the audit testing, we would expect the following evidence to be available (and held by the school or college or its sub-contractor, if learning is delivered off-site) in order to meet the above criteria. It must be noted that the examples given below serve as a guideline and, depending on the nature of the control systems operated by the school or college, other acceptable evidence may be held which is not detailed below:

- the school's or college's EMA attendance policy, detailing authorised and unauthorised absences;

- evidence to confirm that the learner is eligible to receive EMA, such as a completed eligibility checklist, application/enrolment documentation or initial assessment;
- copies of the learner's EMA Agreement (Attendance, behaviour and effort), signed by the learner and Provider confirming the learner's agreed timetable;
- copies of the EMA Agreement (Bonus) signed by the learner and Provider confirming fulfilment of agreed learning aims;
- evidence of learner attendance to determine appropriate authorisation and reconciliation of payments issued; and
- evidence of recoveries action (if any) undertaken resulting from overpayments.

Feedback and reporting

LSC auditors aim to discuss audit findings with the auditee as the work progresses and usually hold a formal meeting at the end of the fieldwork. As well as detailing any findings, auditors will endeavour to support Providers by giving recommendations for improvement to processes and controls if necessary.

Part of the rationale for the controls work is to enable auditors to gain understanding of how Providers control the administration of EMA payments to learners. Where errors are found, auditors will try to identify where controls have been broken down or failed to operate as intended, so that meaningful and value-added recommendations can be made.

A formal audit report will be issued that covers all the audit work carried out, including EMA payments.

Summary of common pitfalls

A number of recurring issues have been identified at previous EMA audits, and are summarised below.

- Eligibility checks: Providers do not check that each learner meets the EMA eligibility requirements prior to entering the learners on LAPS, and/or do not hold documentation to confirm that the eligibility checks have taken place.
- A common misconception is that the NoE 'confirms' that a learner is eligible to receive EMA payments, and Providers do not always realise they are responsible for checking a number of eligibility criteria themselves.
- A recurring weakness is that Providers do not always have a clear documented attendance policy for staff and learners including guidance on authorised and unauthorised absences.
- Some Providers do not hold complete attendance evidence to support all the weekly payments decisions for all the learners. There are two main aspects to this – attendance evidence is missing or incomplete and occasionally the attendance evidence held contradicts the payment decision made by the Provider.
- Some Providers do not hold complete evidence to support all the bonus payments decisions for all the learners.
- Occasionally, EMA Agreement documents have not been available for audit inspection, and some EMA Agreement documents have not been signed by the learner or, occasionally, by the Provider.

Recommended best practice

Audit trail

Auditors will want to review evidence that Providers should already hold as part of their established systems and processes for delivering learning. This is sometimes referred to as 'normal', or 'naturally occurring' evidence. Therefore, in the interests of cutting unnecessary bureaucracy, auditors will not expect to see additional evidence prepared specifically for EMA, because appropriate underlying evidence to support attendance payments and bonus payments should already be held by Providers.

Eligibility

When Providers enrol learners on their learning programmes, the Provider is responsible for checking that the learners are eligible to participate in learning. It is recommended that the EMA eligibility check is completed at the same time, and the outcome of the check is communicated to the LAPS administrator so that the LAPS administrator is able to authorise weekly payments only to eligible learners. It should be noted that asylum seekers are not eligible to receive EMA payments, but asylum seekers may be eligible to participate in LSC-funded learning programmes. Providers should retain evidence to support their eligibility assessment. An eligibility checklist is included at the end of this annex.

Attendance

In order to help learners understand their attendance requirements, Providers should have a documented attendance policy which includes authorised and unauthorised absences.

Retention of documentation

The following documentation should be retained in paper form for audit inspection for six years following the end of the 2009/10 EMA year (that is, until 31 July 2016):

- a fully completed EMA Agreement (Attendance, behaviour and effort) for each learner;
- a fully completed EMA Agreement (Bonus) for each learner;
- attendance evidence to support each weekly payments decision; and
- evidence of participation to support all bonus payments.

EMA eligibility checklist: schools and colleges and other non-Apprenticeship or non-E2E Providers

It is recommended that the following checklist is completed by Providers for each learner at their enrolment.

Eligibility criteria	Confirmed: Yes/No
Learner is aged between 16 and 19	
Learner is entitled to free education	
*Learner appears to fulfil the EMA residency criteria	
Learner is not in receipt of other excluded government funding	
Learner is enrolled on a valid learning programme at a recognised Provider (minimum 12 guided learning hours for 10 weeks)	
Learner is eligible to receive EMA payments	

Completed by:	
Position:	
Date:	

*Although there is no specific requirement for Providers to confirm that a learner's residency self-certification is accurate, Providers should consider whether on the basis of the evidence seen at enrolment the learner appears to be eligible both to participate in LSC-funded learning and to receive EMA payments (i.e. there is no contradictory evidence).

Annex 3b: Guidance on LSC audit arrangements for EMA at E2E and PLA Providers

Background

This annex gives guidance to Providers on the LSC audit arrangements for EMA payments paid to learners enrolled on LSC-funded E2E or PLA learning provision. The approach to auditing EMA is now well established and this guidance includes recommended best practice which is informed by audit findings.

Methodology

In recognition of the need to minimise the administrative burden on Providers, it is proposed generally to conduct an LSC audit of EMA for E2E/PLA as an integral part of the existing LSC audit approach. Most Providers will be familiar with the current LSC audit approach which enables LSC auditors to gain assurance that the LSC Funding Guidance requirements are being met and informs audit opinions on Providers' internal controls and use of LSC funds.

A short EMA audit programme has been developed which will be applied consistently at all Providers that administer EMA payments. The audit programme involves an overview of the key controls over the administration of EMA payments and testing a random sample of learners' weekly payments across a chosen defined period (usually a month), and their bonus payments.

Controls review

Through discussions with appropriate members of staff, LSC auditors will identify and evaluate controls over the management and administration of EMA payments by completing a short questionnaire. This will help the auditors to establish what controls are in place and how effectively they are working. The following key areas will be reviewed:

- general management and administration arrangements for EMA in E2E/PLA, including data and security and details of any sub-contracting;
- ensuring that only eligible learners are recruited to E2E/PLA;
- agreement and completion of the EMA Agreement;
- recording and reporting of attendance data, including authorised and unauthorised absence, and the controls system for the notification of payment/non-payment decisions;
- authorisation of EMA bonus payments to qualifying learners; and
- advising and reporting to the LSS any factors that may influence EMA payments or corrective actions.

Substantive testing

A sample of payment transactions extracted from LAPS will be tested for validity against the evidence held by the Provider. These tests will cover the same generic areas as the controls work detailed above, that is:

- general management controls and sub-contracting;
- eligibility;
- EMA Agreement (Attendance, behaviour and effort);
- attendance recording;
- E2E Passport bonus payments;
- adjustments/recoveries; and
- accuracy and reliability of data.

Evidence requirements (please also refer to the LSC Funding Guidance 2009/10)

As part of the audit testing, we would expect the following evidence to be available (and held by the Provider or its sub-contractor, if learning is delivered off-site) in order to meet the above criteria. It must be noted that the examples given below serve as a guideline and, depending on the nature of the control systems operated by the Provider, other acceptable evidence may be held which is not detailed below:

- the Provider's EMA attendance policy, detailing authorised and unauthorised absences;
- evidence to confirm that the learner is eligible to receive EMA, such as a completed eligibility

checklist, application/enrolment documentation or initial assessment;

- copies of the learner's EMA Agreement (Attendance, behaviour and effort), signed by the learner and Provider confirming the learner's agreed timetable;
- copies of EZE Passports/learning plans signed by the learner and Provider confirming fulfilment of agreed learning aims;
- evidence of learner attendance to determine appropriate authorisation and reconciliation of payments issued; and
- evidence of recoveries action (if any) undertaken resulting from overpayments.

Feedback and reporting

LSC auditors aim to discuss audit findings with the Provider as the work progresses and usually hold a formal meeting at the end of the fieldwork. As well as detailing any findings, auditors will endeavour to support Providers by giving recommendations for improvement to processes and controls if necessary.

Part of the rationale for the controls work is to enable auditors to gain an understanding of how Providers control the administration of LSC funds. Where errors are found, auditors will try and identify where controls have broken down or failed to operate as intended, so that meaningful and value-added recommendations can be made.

A formal audit report will be issued that covers the LSC audit work, including EMA for EZE/PLA.

Summary of common pitfalls

Since EMA was extended to Apprenticeships and EZE in April 2006, LSC regional audit teams have been carrying out EMA audits at EZE and PLA Providers. A number of recurring issues have been identified and are summarised below.

- Eligibility checks: Providers do not check that each learner meets the EMA eligibility requirements prior to entering the learners on LAPS, and/or do not hold documentation to confirm that the eligibility checks have taken place.
- A common misconception is that the NoE 'confirms' that a learner is eligible to receive EMA payments, and Providers do not always realise

they are responsible for checking a number of eligibility criteria themselves.

- A recurring weakness is that Providers do not always have a clear documented attendance policy for staff and learners including guidance on authorised and unauthorised absences.
- Some Providers do not hold complete attendance evidence to support all the weekly payments decisions for all the learners. There are two main aspects to this – attendance evidence is missing or incomplete and occasionally the attendance evidence held contradicts the payment decision made by the Provider.
- Some Providers do not hold complete evidence to support all the bonus payments decisions for all the learners.
- Occasionally, EMA Agreement documents have not been available for audit inspection, and some EMA Agreement documents have not been signed by the learner or, occasionally, by the Provider.

Recommended best practice

Audit trail

Auditors will want to review evidence that Providers should already hold as part of their established systems and processes for delivering learning. This is sometimes referred to as 'normal' or 'naturally occurring' evidence. Therefore, in the interests of cutting unnecessary bureaucracy, auditors will not expect to see additional evidence prepared specifically for EMA, because appropriate underlying evidence to support attendance payments and bonus payments should already be held by Providers.

Eligibility

When Providers enrol learners on to their learning programmes, the Provider is responsible for checking that the learners are eligible to participate in learning. It is recommended that the EMA eligibility check is completed at the same time, and the outcome of the check is communicated to the LAPS administrator so that the LAPS administrator is able to authorise weekly payments only to eligible learners. It should be noted that asylum seekers are not eligible to receive EMA payments, but asylum seekers may be eligible to participate in LSC-funded learning programmes. Providers should retain evidence to support their eligibility assessment. This is particularly important when confirming that learners meet the residency criteria. An eligibility checklist is included at the end of this annex.

Attendance

In order to help learners understand their attendance requirements, Providers should have a documented attendance policy which includes authorised and unauthorised absences.

Retention of documentation

The following documentation should be retained in paper form for audit inspection for six years following the end of the 2009/10 EMA year (that is, July 2016):

- a fully completed EMA Agreement for each learner;
- a fully completed E2E Passport or PLA ILP for each learner;
- attendance evidence to support each weekly payments decision; and
- evidence of participation to support all bonus payments.

EMA eligibility checklist: Apprenticeship and E2E Providers

It is recommended that the following checklist is completed by Providers for each learner at their enrolment.

Eligibility criteria	Confirmed: Yes/No
Learner is aged between 16 and 19	
Learner is entitled to free education	
*Learner appears to fulfil the EMA residency criteria	
Learner is not in receipt of other excluded government funding	
Learner is enrolled on a valid learning programme at a recognised Provider (minimum 16 guided learning hours for 10 weeks)	
Learner is eligible to receive EMA payments	

Completed by:	
Position:	
Date:	

*Although there is no specific requirement for Providers to confirm that a learner's residency self-certification is accurate, Providers should consider whether on the basis of the evidence seen at enrolment the learner appears to be eligible both to participate in LSC-funded learning and to receive EMA payments (i.e. there is no contradictory evidence).

Annex 4: References

- DCSF, *Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: groups of pupils at particular risk*
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- FSA, Information about bank accounts
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direct.gov.uk/en/YoungPeople/Money/FinancialHelpforYoungPeople
- LSC, *Guidance Notes for EMA Year 2009/10 – Helping you fill in the EMA Application Form*
ema.lsc.gov.uk/ema-guidance/supporting-documents-2009-10
- LSC, Example of Notice of Entitlement and EMA Agreement
ema.lsc.gov.uk/ema-guidance/supporting-documents-2009-10
- LSC Funding Guidance 2009/10
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- LSC Policy Summaries 2008/09
readingroom.lsc.gov.uk/lsc/National/nat-policysummaries0809-nov07.pdf
- LSC, EMA Marketing and Communications Guidance
ema.lsc.gov.uk/ema-guidance/guidance-2009-10
- LSC, *EMA Residency 2009/10 – Supporting Information*
ema.lsc.gov.uk/ema-guidance/supporting-documents-2009-10
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