

2006/07 Education Maintenance Allowance Guidance for Providers*

Summary

This document contains guidance for providers who are involved in delivering FE provision to 16-19 year old learners and will therefore be involved in administering the Education Maintenance Allowance (EMA) scheme. This guidance sets out what providers should do to operate the EMA scheme in their organisations and how to get the best from it. It should be read in conjunction with the *EMASYS Operating Manual*; EMA training and accompanying support materials; EMA marketing information; and the *FE Funding Guidance 2006/07*.

This document is of interest to post-16 providers, local LSCs, Connexions staff and other institutions involved in 16-19 FE provision.

*This guidance is **not** for those providers who are delivering LSC-funded Entry to Employment (E2E) and Programme Led Pathway (PLP) programmes. For guidance on administering EMA to learners on these programmes please refer to the separate guidance document *2006/07 EMA Guidance for Providers of LSC Funded E2E and PLP*.

Issued by Greg Burke, Head of the EMA Unit

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Overview of EMA process

Application for Notice of Entitlement (NoE)

The provider should help to support the learner to apply for EMA and the Assessment and Payment Body (APB) will carry out the assessment of the application.

The APB will assess an application for:

- Age eligibility
- Household income eligibility.

Those applicants that satisfy this eligibility criteria will be issued with a Notice of Entitlement (NoE) that can be 'cashed in' at any approved provider.

Enrolling individuals onto a valid learning programme

The provider must check that the young person:

- is entitled to free education
- fulfils the residency criteria for EMA
- does not claim other Government funding that precludes receipt of EMA, for example, Adult Learning Grant, Dance and Drama Award, Jobseekers Allowance, NHS Bursaries; and
- enrolls on a valid programme of learning in terms of duration - a minimum of 10 weeks learning, 12 hours of guided learning per week; and level - up to and including level 3 (AS/A2, GCSEs and so on) at a valid provider.

In registering a learner for EMA, the provider is certifying that these conditions have been satisfied. The School Admissions Code of Practice and LSC Funding Guidance for Further Education in 2006/07 both have requirements in terms of checking residency status for all learners, not just those who are eligible for EMA, which you **must** also refer to.

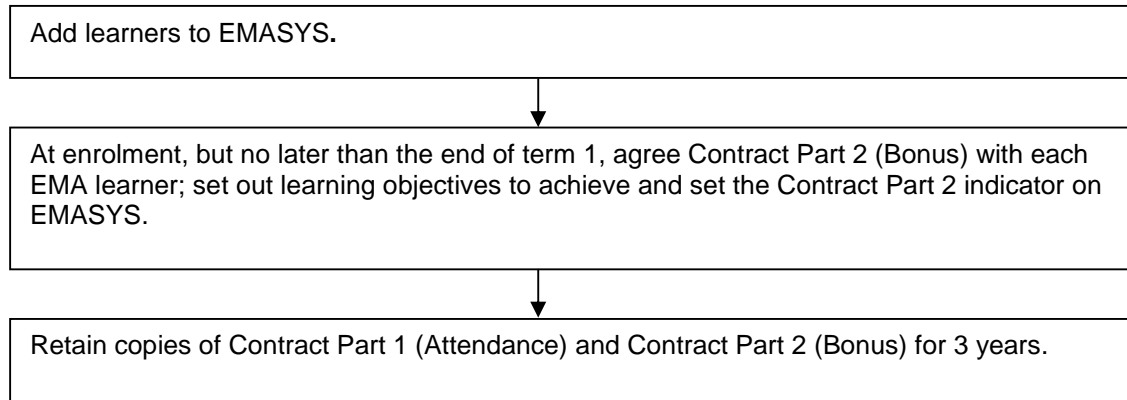


Agree Contract Part 1 (Attendance) with each EMA learner setting out the responsibilities of the learner and the provider for the learner to receive EMA weekly payment. Explain how EMA is operated in the provider, in terms of how attendance will be monitored, and implications of unauthorised absence. It is best practice to supply this information in writing.

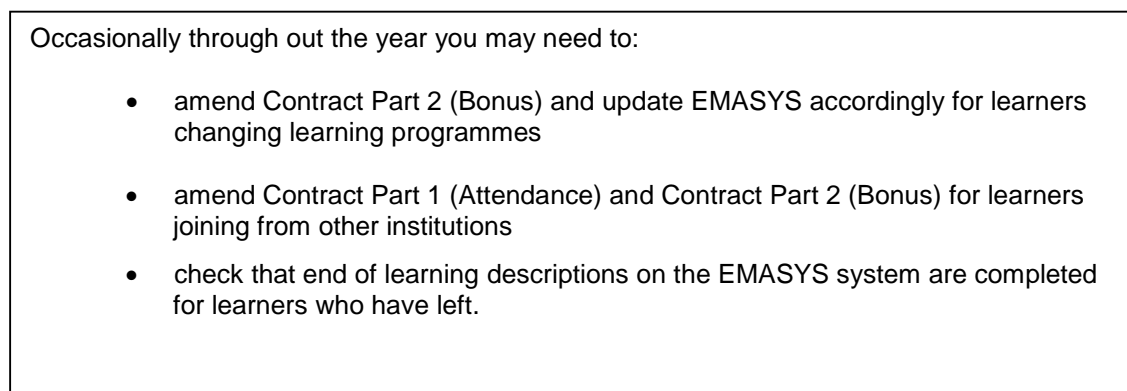


Explain the query and appeals process operated by your provider for disputed stopped payments.



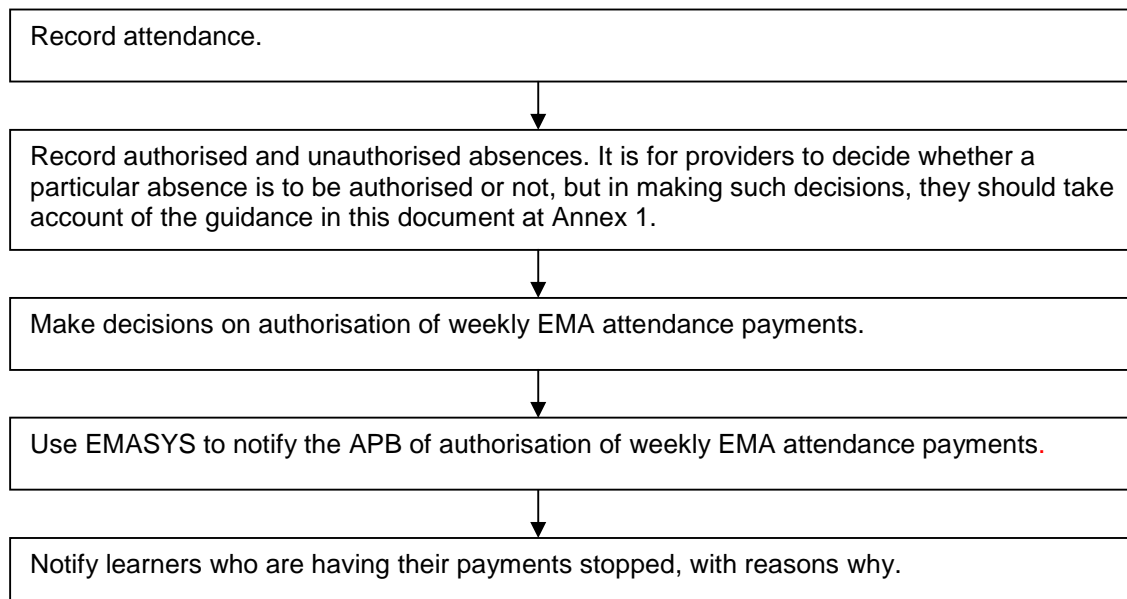


Other processes around enrolment

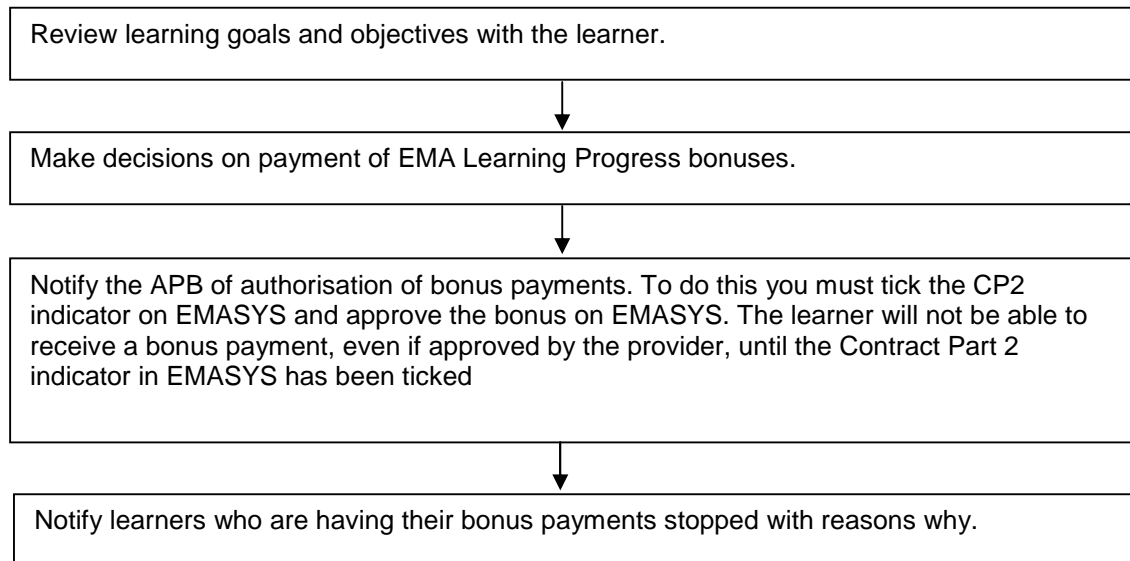


Attendance and bonuses

Weekly attendance



Bonuses



Other processes around weekly and bonus payments

For Overpayment, follow the procedures described at paragraphs 156-160 of this guidance.

For Back Payment, authorise weekly payments on EMASYS for any earlier weeks for which no payment decision has already been made. See paragraphs 151-155 of this guidance.

Records / Audit

Retain records of payment decisions, authorised and unauthorised absences, and bonus decisions and learning progress for three years to meet audit requirements.

1: Introduction

1. This guidance sets out what providers should do to operate the Education Maintenance Allowance (EMA) scheme in their organisations from September 2006 and how to get the best from it. It is not intended to offer definitive advice on every possible situation in EMA. Rather, it offers a framework within which providers can make sensible decisions based on EMA, the web-based assessment system EMASYS and providers' experience of dealing with learners. It should be read in conjunction with the *EMASYS Operating Manual*, EMA marketing information and the *Funding Guidance for Further Education 2006/07* (LSC, 2006).

2. There are also two telephone helplines to provide support to providers, and to young people and their parents or carers. These are:

- EMA Local Partner Helpline: 0800 056 2811
- Parent or carer and young person helpline: 0808 10 16219.

(The young person has an option to prevent the helpline from speaking to anyone other than them regarding their application form. Please refer to the *Guidance Notes for EMA 2006/07 – Helping you fill in the EMA application form*).

2: Overview

3. EMA is a weekly payment of £10, £20 or £30 depending upon household income. It is paid directly to young people who stay in learning after reaching 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 and make good progress. Bonuses will be payable periodically throughout the year. Bonuses for learners of LSC-funded E2E and PLP Programmes are structured differently. For information on E2E and PLP bonuses please refer to *2006/07 EMA Guidance for Providers of LSC funded Entry to Employment and Programme Led Pathways*. Young people may get EMA support for up to three years.

4. The EMA Assessment and Payment Body 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. The APB will either issue 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. A young person can normally expect to receive their Notice of Entitlement to EMA, or a letter, within two weeks of their correctly completed application and supporting evidence being received by the APB. Full details of the evidence required are contained in the guidance notes accompanying the application form.

5. The young person then enrolls on a valid learning programme, having confirmed with the provider that they are eligible for EMA support because they meet the residency criteria and are not in receipt of other funding that would affect their eligibility.

6. The young person needs to attend their learning programme to receive their weekly attendance payments and progress against agreed learning goals to receive periodic bonuses. 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 school or college.

7. The success of the EMA scheme in any area will depend on the commitment and ability of local partners to work together effectively to support young people and providers, and to promote and monitor the scheme locally. It fits within the broader context and goals of the work that they are already undertaking to support young people and providers.

8. The local LSC is responsible for ensuring that there are effective local partnership arrangements in all areas. Local partnerships are the key group outside the providers to ensure that young people 'get in and stay in' education. It is important that the partnerships:

- carry out an annual assessment of their area
- plan how young people will promote EMA locally and engage with priority groups of young people
- agree partner responsibilities; and
- meet regularly to review progress.

9. Some EMA responsibilities will be set nationally across organisations. Others will be agreed by the Local Partners taking into account local circumstances such as the presence, priorities and resources of each partner organisation. National roles and responsibilities of various local partners can be found in:

- Requirements of local LSCs 2006/07
- Connexions Action Note - number CXP 205
- *EMA Marketing and Communications Guidance* – which can be found on the EMA website, www.direct.gov.uk/ema

Administration Funding

10. In 2006/07, administration funding at the rate of £25 per each EMA eligible learner in further education will be awarded to eligible schools and colleges with 10 or more EMA learners. This is not a 'payment' to the provider for each learner on their books, but is to acknowledge and support the start-up costs for providers to administer the scheme. The 2006/07 funds are a contribution towards administration costs for the third year of the scheme. While independent schools and certain other approved institutions can administer EMA, this payment is not available to them. Payments will be made automatically on the basis of the number of enrolled EMA learners registered on the APB system.

11. The money must only be spent on EMA, and, particularly, on delivering and improving administrative processes for EMA to meet the Assessment and Payment Body's (APB) payment reporting criteria. This could be improvements or upgrades to existing attendance monitoring methods to make them more efficient.

12. This is the final year in which we will pay schools and colleges separate funds for the administration of EMA for FE learners. The administration funding was introduced to contribute to the initial set-up costs associated with the introduction of the EMA scheme, including the development of the attendance monitoring arrangements required for EMA administration.

13. Arrangements for administration funding are in place for providers who deliver LSC-funded E2E and PLP programmes. This is to reflect the initial set-up costs of the extension of EMA to these providers. For details of the arrangements for these providers please see the *2006/07 EMA Guidance for Providers of LSC funded Entry to Employment and Programme Led Pathways*.

3: Application for Notice of Entitlement (NoE)

Overview

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

Provider role in EMA application process

15. 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 whilst reminding parents to include relevant evidence of income that relates to the correct tax year.

16. 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, register them on EMASYS so they can begin to receive EMA payments and agree their Contract Part 1 and 2.
- For those learners who have not yet applied for their NoE in advance, raise young people's awareness of EMA, encourage and support them to apply (including helping learners get a bank account) and issue application packs.

17 If a learner asks for help with their application form, then the provider should give general advice only. 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 Parent or Carer and Young Persons Helpline (0808 10 16219).

Application packs

18. Application Packs are available from Prolog on **0845 60 222 60**, Ref: EMA Application Pack 2006/07. Further details are available on the EMA Website **www.direct.gov.uk/ema**

Bank accounts

19. 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 APB telephone helpline (**080 810 16 2 19**) for more information.

20. Further information on obtaining a bank account is available through the Financial Services Authority (FSA). The FSA have produced a leaflet – *No Bank Account* (FSA, 2005) which is available to be downloaded from the website, **www.fsa.gov.uk/consumer**. The FSA can also be contacted through their helpline on **0845 606 1234**.

21. The LSC has also 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 2006/07 - 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.

APB role in assessment

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

23. The APB can also offer support to providers, young people and their parents or carers on a range of issues such as income assessment. The telephone numbers are:

- EMA Local Partner Helpline: **0800 056 2811**
- Parent or carer and young person helpline: **0808 10 16219**

Age

24. Eligibility is not based on the cohort that the learner is studying in, but the age of the learner. EMA begins after compulsory education and payments may be received for a maximum of three years, though for FE two years is the norm. EMA is not available to young people who have yet to reach the compulsory school leaving age, even if they are a year ahead in terms of academic progress.

25. If the learner's date of birth shows them to be outside (either above or below) the entitlement range for EMA support, and there is no record to show that they qualify for an extended period of entitlement (see paragraph 26), then the application will be rejected.

Pilot area/age checks

Table 1

EMA year 2006/2007	Date of Birth age range	Age on 31 August 2006
Eligible to start receiving EMA from start of autumn term 2006	01/09/1989 - 31/08/1990	16
	01/09/1988 - 31/08/1989	17
	01/09/1987 - 31/08/1988	18
Eligible to receive a delayed third year of EMA support subject to agreement of Connexions Personal Advisor – applies to pilot areas only	01/09/1986 - 31/08/1987	19

Pilot areas:

Barking & Dagenham, Barnsley, Birmingham, Bolton, Bradford, Brent, Camden, Cornwall, Coventry, Doncaster, Ealing, East Lancashire, Gateshead, Greenwich, Hackney, Halton,

Hammersmith & Fulham, Hartlepool, Haringey, Islington, Kingston upon Hull, Knowsley, Lambeth, Leeds, Leicester City, Lewisham, Liverpool, Luton, Manchester, Middlesbrough, Newham, North East Lincolnshire, North Tyneside, Northumberland, Nottingham, Oldham, St. Helens, Salford, Sandwell, South Tyneside, Sheffield, Southampton, Southwark, Stoke on Trent, Suffolk, Sunderland, Tameside, Tower Hamlets, Wakefield, Walsall, Waltham Forest, Wandsworth, Wigan, Wirral, Wolverhampton, Worcestershire

After assessment, if an eligible learner moves from a pilot area to a non-pilot area during the EMA year they will keep any entitlement they have until the end of the year.

Extended period of entitlement

26. For 2006/07 this will **only** apply to the former pilot areas.

27. The basic EMA entitlement is three years worth of support to be taken in the three years after post-compulsory education. Most learners in FE will, of course, only require two years of support. However, it is possible for the third year of support to be taken in the fourth year after compulsory education. This facility is designed for learners who will benefit from three full years of EMA and who dropped out after post-compulsory education. This can be for a variety of factors, relating to disability, parenthood, or personal circumstances.

28. Connexions PAs have a formal role in determining eligibility for those learners who need to take their third year of EMA support in their fourth academic year after compulsory education.

29. A need for this support should be identified before the young person turns nineteen. This support has to be approved through the following process:

- The PA should be satisfied that the young person will benefit from continuing study in the learning programme in question, basing this judgement on their own assessment, taking into account other assessment evidence such as a Section 140 assessment, or evidence from other specialists working with the young person and taking into account the demands and support available in the envisaged learning programme.
- The PA then completes a certificate (Authority for Enabling a learner to get

EMA support in the EMA year in which they turn 20) and once completed it should be sent with the young person's application form. See Connexions Action Note reference number **CXP 205** for more details and an example certificate which can be used.

- The PA keeps a copy of the certificate which includes references to any other relevant information held locally.

30. EMA is not available beyond the EMA year in which the young person turns twenty.

31. As with the normal entitlement, there is no carry-over. Should a learner enrol on a learning programme, receive at least one EMA weekly payment, but then cease to attend for the rest of the year their entitlement for that year is considered used.

Household Income

32. 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.

33. Applications received at the APB that meet the age criteria will be assessed financially based on household income. Applications which 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 APB, and providing contact details for other support.

34. There are three EMA weekly payment bands: £10, £20 and £30. The allocation of the payment amount is based on household income.

Table 2

Household income in the tax year 2005-06	Weekly amount 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)

35. Income earned by the young person will not affect their entitlement to EMA. EMA does not prevent individuals taking up help from Learner Support Funds or affect benefits that they, or their family, receive. However, a learner in receipt of Job Seekers Allowance will not be eligible to receive EMA payments. The only exception to this is where a young person is in receipt of Job Seekers Allowance (Severe Hardship). See the section below on learners who are estranged for more details.

Assessment of applications

Income Support, JSA (IB) and Pension Credit

36. For applications that confirm that the household was on Income Support, JSA (IB) and 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

37. This is the most straightforward way to apply for EMA and we encourage applicants to apply with their TCAN where this is available.

38. A Tax Credit Award Notice (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 2006/07 year, the TCAN must show income for the 2005/06 tax year. Normally this will be the TCAN notifying the parent(s) about the Tax Credit Award for the 2006/07 tax year.

Non-TCAN applications:

(a) Employed people

39. For those who do not provide a TCAN, all relevant evidence relating to income must be provided. Typically, this will consist of P60 statements showing earned income, but can include benefits in kind as described in the application form guidance.

40. For the following groups of people, other evidence may be included as indicated below.

(b) Self-employed

41. For those who are self-employed and cannot provide a TCAN, the most recent SA302 form for the tax year 2005/06 may be provided, or alternatively a Part D (Declaration of Self-Employed Income) can be completed.

(c) Other means

42. Declaration of any other income received (such as personal pension plan statements; state retirement pension notification; statements of interest from savings; dividend vouchers; and certificates from trustees) will be required.

43. 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. A full list is contained within the Application Form Guidance notes.

Non-standard assessments:

Learners in the care of the local authority or foster parents

44. 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 of that letter will not be sufficient.

Learners who are parents

45. A learner who is already a parent themselves and has care of the child when they apply for EMA should contact the APB on **0808 10 16219**, as special arrangements apply. Please see question A10 on the application form for 2006/07 and its accompanying guidance notes.

Learners living with a partner

46. 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 A7 on the application form for 2006/07 and its accompanying guidance notes.

Learners who are estranged

47. 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.

48. Learners in receipt of Job Seekers Allowance (Severe Hardship) may apply for EMA with an accompanying letter from their Connexions Advisor confirming they are in receipt of JSA (SH). However these learners must switch their claim to Income Support (IS) before they can get EMA payments and this must be confirmed on their learning agreement. This is to avoid any potential delays for learners wanting to enter learning and having to wait to apply for EMA until they have switched their claim to IS.

49. For further information on benefits and how they relate to EMA, the *EMA Extension Update Benefits Special* can be found in the EMA Guidance supporting documents section of the website, www.direct.gov.uk/ema.

Exceptional changes in circumstances

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

- a person whose income was taken into account in determining financial eligibility has died
- a person whose income was taken into account in determining financial eligibility has experienced a reduction in income due to his own disability as defined in the Disability Discrimination Act 1995 or the disability, also as defined in the Disability Discrimination Act 1995, of any other person for whom he has responsibility as primary carer
- since the assessment of income was made, the young person has become estranged from his parents, guardians or someone else whose income was taken into account in determining financial eligibility
- the young person has been taken into the care of the Local Authority; or
- the young person has become a parent with responsibility for his child.

51. If the learner is already in receipt of the maximum EMA entitlement no action is required. Otherwise, they must call the APB Helpline if any of the above occurs (Carers or Connexions PAs acting on their behalf as necessary). The initial contact from the learner will initiate APB re-assessment correspondence.

52. Depending on the revised circumstances it may be possible that the weekly amount can be increased. In no circumstances will the weekly amount in payment be reduced. Learners not in receipt of EMA may become eligible during the year due to a change of the type listed above. They should call the APB Helpline to

request an Application Form and explain their situation before they apply as supplemental guidance is required on the evidence required with their application.

4: Enrolling individuals onto a valid learning programme

Overview

53. Enrolment is the process through which a young person becomes registered as an EMA recipient at a particular provider. To receive EMA payments a young person must first be issued a Notice of Entitlement by the Assessment and Payment Body (APB). They must then register as an EMA learner at a provider participating in EMA and be enrolled onto EMASYS.

54. Most of the registration process occurs at the start of the EMA year, or when a learner joins a learning programme during the year. 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 residency, guided learning hours, learning programme length and learning programme type validity.

55. This section sets out the specific requirements for EMA that providers must take into account when registering learners on EMASYS, and gives details of how to set up contract parts 1 and 2.

Entitlement to free learning

56. Local Authorities (LAs) and local LSCs should ensure that providers are fulfilling their responsibilities on ensuring that enrolled learners fulfil the residency criteria for education and EMA support, which are somewhat different. The residency criteria for free education can be found in the following documents:

- For schools: *Schools Sixth Forms - Funding Guidance* (LSC, 2005)
- For colleges: *Funding Guidance for Further Education in 2006/07* (LSC, 2006)

57. Learners should be prepared to prove their identity, age and residency when they enrol at a provider

Residency

58. Providers must note the residency criteria for EMA support, which is detailed on the NoE, and verify that learners satisfy the EMA residency criteria before they enrol them on EMASYS.

59. If the learner is unable to provide supporting documents to confirm eligibility on these grounds, then you should not add them to EMASYS. The onus is on the learner to provide you with proof of their residency status.

60. Providers may wish to review the residency checks they undertake as part of the learner's enrolment process to ensure that EMA residency checks are included. It is for the provider to decide their process for making residency checks.

61. The learner should already be aware of these criteria as they are set out on the Application Form Guidance Notes and also on the back of the Notice of Entitlement/Contract Part 1.

62. If the learner does not meet the EMA residency criteria, they are ineligible to receive EMA. You must issue them with a letter explaining why they are not eligible, see example of this letter at Annex 2, and you must also inform the APB by using the email facility on EMASYS quoting the applicant's name, EMA number and details.

63. EMA residency rules are narrower than those the LSC generally use in funding learning programmes. These arrangements have been agreed by the Department for Education and Skills (DfES).

64. In order to meet the EMA residency criteria the young person must either be:

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

*(Please note that the eligibility criteria for EEA migrant workers above is slightly different to that set out in the application form. This is to bring it in line with the criteria set out in the Education (Student Support) (Amendment) Regulations which came into force on 30 April 2006. If you receive queries from EEA migrant workers about eligibility to receive EMA you should seek further advice from the APB on **0800 056 2811**.)*

65. The term 'settled status' includes people with Indefinite Leave to Remain (ILR) and Indefinite Leave to Enter (ILE), therefore someone with ILR/ILE will now need to have been ordinarily resident in the UK for at least the three years prior to the start of their learning programme. (Please see *EMA Residency 2006/07 – Supporting Information*, available on the EMA website, www.direct.gov.uk/ema, for a full list of definitions of terms)

66. However, we recognise that some learners with ILR/ILE may be part way through a learning programme and will already have been receiving EMA payments for this. In order not to cause these young people any disruption with

their studies, learners with ILR/ILE who received EMA payments in 2005/06 will remain eligible for EMA in 2006/07 without having satisfied the three year rule, providing of course all other eligibility criteria such as age and household income are met.

67. EMA will **not** be paid if the young person is seeking asylum in this country or if they have been given any of the following restricted leave to remain:

- Exceptional Leave to Remain (ELR)
- Discretionary Leave (DL).

68. Those that are 'seeking asylum' are waiting for their asylum claims to be processed and a decision to be made by the Home Office or for any appeals to be finally determined. For the purposes of EMA, there is no differentiation between young people who are accompanied or unaccompanied asylum seekers.

69. If during the year the young person becomes eligible by satisfying the criteria set out above, they may re-apply for EMA.

70. For a summary of residency criteria, definitions of residency terms and examples of evidence to prove residency status, please see the separate residency guidance document, available on the EMA website, **www.direct.gov.uk/ema**

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

71. 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 APB.

72. If a young person intends to study in Scotland, Wales or Northern Ireland they should contact the relevant authority for an Application Form. See websites:

- Scotland: www.emascotland.com
- Wales: www.learning.wales.gov.uk/ema (English) or www.dysgu.cymru.gov.uk/lca (Welsh)
- Northern Ireland: www.emani.gov.uk

73. 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 then they should apply to the assessment authority in each of the countries that they are considering.

Young people from British Forces families posted overseas

74. Eligible young people from British forces families currently posted to Germany and Cyprus may claim EMA from September 2005. A unique application process has been agreed with the Ministry of Defence and Service Children's Education (SCE), which means that the Assessment and Payment Body can accept applications with a BFPO address. Young people wishing to apply for EMA may do so via a special arrangement with SCE secondary schools and can complete and return their applications to the APB. Schools in Germany and Cyprus can get more information by calling the APB helpline on **0044 1325 736521**. Please note this number is only to be used for calls from Germany or Cyprus.

Receipt of other funding

75. Learners who are in receipt of a Dance and Drama Award, Adult Learning Grant, Jobseekers Allowance, NHS Bursaries or Minimum Training Allowance cannot receive EMA.

Valid programmes of learning / Valid provider

76. This area is currently under development, we will issue an annex to this guidance once policy has been agreed.

Home study

77. 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 guided learning in a week. The key point in these situations is that the learner must be enrolled at a college or school.

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

Setting up EMA Contract Part 1 (Attendance)

79. The learner will have received a Notice of Entitlement (NoE) from the APB, together with the Contract Part 1 (Attendance). The learner does not need to hand over the NoE, which says how much EMA the learner is entitled to and is confidential to the learner.

80. Contract Part 1 (Attendance) sets out the responsibilities of the learner and the provider for the learner to receive a weekly payment. Individual school and college Codes of Conduct should not be linked directly to the EMA Contract Part 1. 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 Contract Part 1 (Attendance) and in doing so he or she commits to attend the timetable set by the provider in return for a weekly EMA payment.

81. The provider must also sign Contract Part 1 and in doing so they are:

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

bonus authorisations to the APB.

82. In signing the Contract Part 1 (Attendance) with the learner, the provider **must** explain:

- the attendance monitoring system that operates in the organisation, unless this was covered when the learner enrolled on their learning programmes
- the provider's position on authorised and unauthorised absences and 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). Tell the learner who they should contact, how and by when
- the query and appeals process operating in your provider for disputed stopped payments. **Note:** Recourse is always through the provider who make payment decisions. The APB will have no knowledge of 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
- if the learner receives an incorrect payment from the APB the recourse to appeal is through the APB's learner Helpline
- that learners will be expected to sign Contract Part 2 which will cover conditions for receipt of the bonuses (see paragraph 92) in due course, and;
- further sources of support and advice to the learner regarding EMA, both within the provider and outside. This could include the APB learner helpline number and possibly local contact information for Connexions.

83. You **must** give this information to the learner in writing to confirm the providers approach to managing EMA, and as a reference for the learner.

84. One copy of Contract Part 1 (Attendance) is retained by the learner and the other by the provider. The provider must retain this for three years.

Adding learners to EMASYS

85. Contract Part 1 (Attendance) also holds the learner's EMA number (a unique identifier), which is used to link the learner with their personal record on EMASYS. (A sample NoE and Contract Part 1 (Attendance) can be found in the 'Guidance Supporting Documents' section of the EMA website www.direct.gov.uk/ema. You will need the learner's EMA number to add the learner to EMASYS. This makes a link between the learner's entitlement for EMA and their enrolment at your provider, and activates requests for weekly payment authorisations on EMASYS. The EMA number is also bar-coded to speed up this process for institutions with barcode readers.

86. Providers should add learners to EMASYS as soon as they have enrolled on a valid programme of learning (one or more valid learning programmes), but not before. Note that learners cannot be paid until they have been added to EMASYS.

87. A learner can **only** be added to EMASYS if:

- he or she has enrolled on a valid programme of learning of at least 12 guided learning hours per week for a period of at least 10 weeks. This programme of learning may be split between one or more institutions.
- the provider has satisfied itself regarding the learner's identity and residency, and the learner meets the EMA residency criteria; and
- the learner and the provider have both signed Contract Part 1 (Attendance).

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

89. Learners cannot be added to EMASYS without a valid EMA number, issued by the APB with the NoE.

90. The provider will also need to set up date ranges (study patterns) on EMASYS to identify weeks when learners are following guided learning hours and are expected to receive EMA payments. In general, setting dates will be standardised across providers. Most learners in a provider will be following learning programmes with common term dates, and these can be set up on the system before enrolment. The software provided by the APB will prompt this, and provide easy-to-use functionality. There will be cases where some learners' study pattern dates do not match those set as standard. Specific study pattern dates will therefore need to be set up on EMASYS for these learners.

91. For more information, please refer to the *EMASYS Operating Manual*. This is available as a downloadable document, in PDF format, from all EMASYS screens. It is listed under 'Training Material' on the left-hand side of each screen. EMASYS can be accessed by all authorised providers, at **www.emasys.dfes.gov.uk**

Setting up Contract Part 2 (Bonus)

92. Bonuses are the second part of the EMA 'something for something' regime. They reward the learner for attaining agreed learning goals and provide incentives to return to learning after provider holidays.

93. The provider and the learner need to sign a suitable document (Contract Part 2) 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 to Contract Part 1 (Attendance).

94. A standard template will simply stipulate the requirement that to receive a bonus payment a learner must achieve "satisfactory completion of learning goals", leaving its precise translation to individual teachers, tutors and providers who may interpret it alongside their own establishment's learning agreement. This

interpretation should not include additional bonus payment criteria such as weekly attendance and punctuality.

95. In general this should involve:

- completion of all or most coursework, to a standard that can be reasonably expected of the particular learner
- attendance at any public examinations associated with the learning programme; and
- for January and September bonus payments, a weekly attendance element (based on payment decisions processed automatically by the APB).

96. Providers can use the generic Contract Part 2 (Bonus) template at Annex 3. Best practice is to adapt the Contract Part 2 to reflect the particular needs of their 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 a learner has a realistic chance of achieving. **Bonus payments should neither be linked to achievement of specific grades nor withheld until exam results are known.**

97. Setting the Contract Part 2 indicator on EMASYS is a key mandatory element in determining whether or not the learner receives a Bonus Payment. **If this is not set, no bonus will be paid even if the provider has approved the bonus payment on EMASYS.**

98. Contract Part 2 may be set on EMASYS at registration time, **providing the provider has formed an agreement with the learner**, or it may be set at a later stage, but it must be set before any bonus is approved. Best practice is to form these agreements as early as possible and set the system accordingly. However, the Contract Part 2 indicator should not be set on EMASYS unless there is an agreement in place.

99. Both the learner and the provider should retain a copy of the signed Contract Part 2 (Bonus) document.

Other information around enrolment

Learners attending more than one provider

100. Where a learner attends more than one provider, each institution should be referenced on the EMA Contract. In this case it is for local agreement between the institutions as to which provider will be the lead for administering EMA, as a learner can only be added to one provider at any one time. This institution will sign the EMA Contract and report payment decisions to the APB. The other provider(s) involved will need to agree a process for reporting the learner's attendance to the provider that reports payment decisions to the APB. The same principle applies for learning progress and bonuses.

Change of learning programme

101. Where a review of the learning programme results in a material change of learning programme at the same provider, Contract Part 2 (Bonus) 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 APB of changes to the content of Contract Part 2 (Bonus) generated in this way.

102. 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 is a minimum of 12 guided learning hours. Otherwise, the learning programme will not be valid for EMA purposes. Providers will need to have a process in place to make such checks when EMA learners agree changes to their learning programme.

Change of provider

103. Where a learner changes provider mid-year, a new EMA Contract will be required, signed by the learner and new provider.

104. If the learner claims to be on EMA, the new provider will need the young person to supply a fresh Contract Part 1 (as the previous one will have been retained by the previous provider). The young person will need to contact the young persons' helpline to request a duplicate. **Note:** The learner does not need to show you their Notice of Entitlement. It is a document containing personal details such as the amount of allowance to be paid, and is confidential to the applicant.

105. The new Contract Part 1 (Attendance) must then be signed by the learner and the new provider, and notified to the APB. Enrolling the learner onto EMASYS will confirm this notification. While a learner cannot be linked on EMASYS to two different providers for the same period, if retrospective payments are validly due from the 'exporting' provider, that 'exporting' provider will be able to authorise these. This could happen if the 'exporting' provider had not yet processed evidence that an absence should have been classified as 'authorised', so that a back payment is due. **Note:** The 'exporting' provider must confirm these decisions prior to completing the 'End of Learning' code.

Leaving the provider

106. Where a learner has clearly left education at a provider, EMASYS should be updated accordingly by taking End of Learning action (see the EMASYS Operating Manual). This will stop that learner from being displayed for payment decision to the provider. Providers should use this facility to maintain their records accurately. If it is likely that a learner may return, the provider may consider keeping the learner on the system and report that the weekly payment should not be made.

Post-16 learners re-taking GCSEs

107. Eligible learners who are re-sitting GCSEs, for example, are entitled to EMA, even if they are doing so at an 11–16 school. Any 11–16 school with such learners can contact the local LSC for their area or the APB for advice.

Lost documents

108. If a learner claims to have been accepted as eligible for EMA but has lost their documents, they can request a copy from the APB by telephone. A replacement Notice of Entitlement with the Contract Part 1 (Attendance) document will be posted (first class) to the learner once reasonable checks have been carried out and their identity is established. Providers should not add the learner to EMASYS until they have signed a Contract Part 1 (Attendance).

Learner has not yet applied for EMA

109. At enrolment for a learning programme some learners will ask about EMA without having applied for it. Encourage these 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.

110. The original back-dating process allowed a young person who applied for EMA by 30 September to be eligible for weekly EMA payments back to the beginning of their learning programme (usually the beginning of September). If they applied after the end of September then they could only receive payments from the Monday of the week that the application was received at APB.

111. As E2E and PLP courses can and do begin at any time throughout the year, the back-dating process had to be changed from a set calendar date. We decided to maintain the principles of the original process, but we now use four weeks after the programme start date for all forms of learning instead of using the end of September.

112. Successful EMA applications received before, or within four weeks of the start of, a learning programme will be eligible to receive back-dated payments to the start of the course. EMA applications received in excess of four weeks from the learning programme start date will be eligible to receive back-dated payments to the Monday of the week of receipt.

Examples of how the process works

113. *Learner A* starts an FE programme on 11 September but has not applied for EMA. They complete an EMA application form and send it off to APB for processing. APB receives the form on 15 September, assesses eligibility and sends out an NoE on 20 September. *Learner A* receives the NoE and takes it to their provider. The learner is enrolled onto EMASYS on 22 September and a start date of 11 September is entered. The payment profile displayed for *Learner A* allows payment decisions to be entered for all weeks from 11 September, as they had applied within four weeks of the start of their programme of learning.

114. *Learner B* begins an FE programme on 11 September but has not applied for EMA. They eventually complete an application form and sends it to APB. The form is received on 24 October, assessed and an NoE is sent to her on 27 October. *Learner B* takes the NoE to their provider, and is enrolled onto EMASYS on 1 November. A programme start date of 11 September is entered. The payment profile displayed for *Learner B* only allows payment decisions for weeks from 23 October as the application was not received within four weeks of the programme of learning start date. 23 October is chosen as it is the Monday of the week the application form was first received at APB.

115. *Learner C* starts an FE programme on 11 September having already applied for EMA (date received at APB was 21 August). However, their application form was completed incorrectly and has been returned to her. *Learner C* corrects their mistakes and returns the form to APB. APB receives the form on 26 September, assesses eligibility and sends a NoE to the learner on 29 September. *Learner C* takes the NoE to their college and is enrolled on 2 October. A programme start date is entered as 11 September and the payment profile displayed for *Learner C* allows payment decisions to be entered for weeks from the 11 September, as the learner applied before the programme began.

5: Attendance and bonuses

Overview

116. This section of guidance is presented in two main parts:

- Weekly attendance
- Bonuses.

117. While differing in content and frequency the provider needs to report about both aspects to the APB in order for an EMA payment to be made.

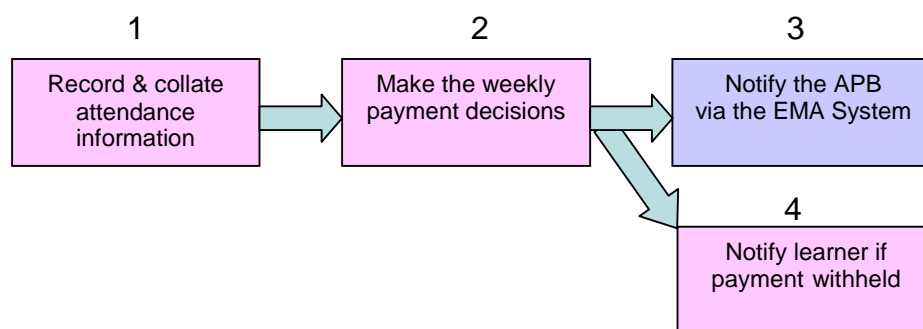
118. Local agreements on attendance are useful in clarifying and standardising interpretations of authorised and unauthorised absence for both local partners and learners. For more details on Local Agreements please see Annex 1.

Weekly attendance

119. The standard weekly activities can be broken down into several stages.

120. The provider must take the actions illustrated in figure 1.

Figure 1: Actions to take in respect of weekly attendance.



Recording attendance information

121. 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. Best practice is to ensure teachers and tutors 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 in your provider (lesson by lesson, period by period, or AM or PM). In instances where a learner has incurred 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.

122. 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 client group and then apply it fairly. Many localities have local area agreements on attendance procedures, so that learners are treated consistently whichever provider they attend.

Collating weekly attendance information

123. Each week all the records for each learning session that your organisation monitors need to be collated as the basis for:

- making weekly payment decisions; and
- seeking further information from learners where there is insufficient information to make a 'pay' or 'don't pay' decision.

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

Deciding on payments

125. 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 the learning programme for EMA purposes. If a learner breaches the agreed attendance policy, the learner should receive no EMA payment for that week, and the provider should make a 'don't pay'

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

126. 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 input all decisions as soon as possible.

127. 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 a decision. Decisions relating to a particular week should not be used to adjust payments so as to address earlier decisions made in error.

128. 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 twelve.

129. 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 twelve 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 of the standard study pattern set on EMASYS, 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

130. EMA payments are available in term time but normally not 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

131. 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 are themselves responsible for producing evidence from tutors that they have attended as required may have a greater risk of incidents of learner fraud.

132. 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 education it may be possible to recover from EMASYS, as defined in the section on Overpayment. However if the learner has left, then alternative procedures will be required. All instances of fraud must be reported to the APB via the local partner helpline **0800 056 2811**

Notifying the APB of weekly payment decisions

133. Learners' names will be automatically presented to provider administrators on EMASYS for each allowable payment week. This is based on the start and end dates allocated to them when they were added to EMASYS (see the EMASYS Operating Manual for more details). EMASYS allows administrators to enter 'yes' or 'no' decisions, with 'not set' as the default option, which can be left if there is

insufficient information to make a decision. Best practice is to make all decisions promptly to ensure learners continue to be engaged through EMA.

Timing

134. The EMASYS system makes payment runs after 8pm each working day, with payments to learners made via BACS into their bank accounts three to four days later. As a result, we advise providers to complete their authorised payment decisions by 8pm on a Tuesday, so their learners receive their payments (in relation to the previous attendance week) by the Friday of that week. However, the provider can report payment decisions at any time and the APB will process payment decisions and make BACS payment runs daily. The provider must make all payment decisions promptly. **Note:** Mondays and Tuesdays are peak periods for EMASYS use on the authorising screens. To maintain maximum performance for authorisers, the Downloading Payment and Enrolment Reports functionalities will **not** be available between the hours of 9am and 5pm on Mondays and Tuesdays.

Notify the learner if a weekly payment is being withheld

135. Where a weekly payment is withheld, the provider **must** inform the learner within two days in writing, or by an alternative means, providing that it is sufficiently robust to provide evidence of notification if subsequently required for audit purposes, and ensure that they understand the reason why payment has been withheld. This should be communicated before payment is due. The provider must keep a record of the reasons for any stoppage of payment and the subsequent notification of 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. Learners must also be notified if their payment will be delayed due to administrative delay at the provider.

Bonuses

136. All learners in receipt of EMA weekly attendance allowance are eligible for bonus payments if they satisfy the relevant conditions. These are structured differently to bonuses for learners on E2E and PLP programmes. Policy for the

September Bonus is currently under review and further guidance will be issued before the 2006/07 EMA year.

Bonus rules

137. The bonus rules outlined below apply to all learners enrolled on an FE learning programme from those participating on short learning programmes, to those studying for the entire EMA year. The bonus rules are:

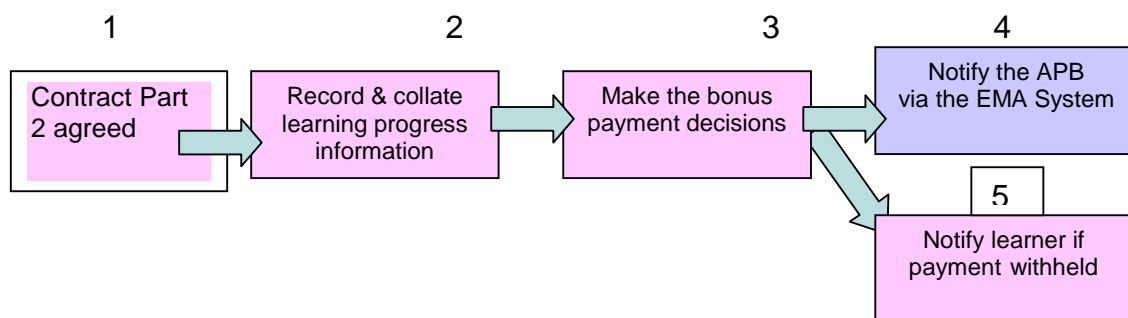
- Learners who are enrolled, added to EMASYS and attend prior to January, and who return to study after Christmas will be eligible to receive a January Bonus once they have received two payments between the first week in January and the first full week in February.
- Learners who are enrolled, added to EMASYS and attend between January and the end of the EMA year will be eligible to receive a July bonus.
- Policy for the September Bonus is currently under review. Further guidance will be issued before the 2006/07 EMA year.

138. Where learners are participating in short learning programmes, the arrangements described in paragraph 137 apply, and eligibility for a bonus will still be governed by the principles of rewarding retention and progress.

The bonus decision and payment process

139. 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 2).

Figure 2: January and July bonus process



Bonus payment decisions and notifying the APB

140. Bonus payments are available at different times of the year, as follows:

September bonus

141. Policy for the September Bonus is currently under review. Further guidance will be issued before the 2006/07 EMA year.

142. This bonus payment will continue to be released to the learner automatically; the provider will not have to authorise the payment on the system.

January bonus

143. The January bonus is payable only when the learner has achieved satisfactory progress against learning goals as set out in the Contract Part 2 (Bonus) relating to coursework in the autumn term, and has returned to education in January. Providers should not include additional payment criteria, for example, weekly attendance over the autumn term or punctuality. The relevant screens for notifying EMA bonus decisions will be available to providers from a pre-determined date each year. A super-user email will be sent confirming the date when bonus decisions can be entered on EMASYS.

144. In addition to achieving satisfactory progress, the learner must have been authorised to receive a minimum of two weekly payments between 1 January and the end of the first full week in February (for 2006/07 this week commencing the 5 February 2007). Once all conditions are met, the bonus payment decision has been set to 'Yes' and the Contract Part 2 indicator has been set, the bonus will be released automatically by the APB without any further input from the provider.

July bonus

145. The July bonus payment depends on satisfactory performance against learning goals as set out in the Contract Part 2 (Bonus). In addition the learner must have attended any public examinations they were scheduled to complete during this period. Providers should not include additional payment criteria, for example, weekly attendance over the term, punctuality or achievement of specified examination grades. Providers must only authorise payment of a July bonus once all of the above conditions have been met. This means that some decisions can be made earlier than others, so the payment decision screens will be available from a pre-determined date each year, until the end of the EMA year. This will allow payment decisions to be made over a number of months as appropriate to each individual learner.

146. Once the provider has ensured that the Contract Part 2 indicator on EMASYS is ticked and has made the bonus payment decision on EMASYS, no further action is required. Bonus payments will then be released to learners in bulk by the APB seven calendar days before the last Friday of the last term for the school or college. The only exceptions to this will be where a later bonus decision has been input to EMASYS, for example, in cases where learners have exams to sit after the end of term, or where the decision has been missed in error. Any decision on a July bonus input after the bulk release date will trigger an immediate payment, however all payment decisions (weekly and bonus) must be made by the end of the week commencing 20 August 2007.

Notifying the learner that the bonus is being withheld

147. Where a bonus decision is determined by the provider and a payment is withheld, the provider must ensure 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 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.

Other information around attendance and bonus payments

Payment queries

148. Making payments is the APB's responsibility. The APB pays learners when authorised to do so by providers. Providers do not handle any EMA funds. The learner can call the Helpline to check their bank account details held by the APB, but they can only be changed if the request is put in writing.

149. 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.

150. If the payment was authorised but has not been received then providers should advise the learner to call the APB Learner Helpline on **080 810 16 2 19**. In the event of a failed BACS payment the APB will contact the learner directly by phone provided their number was supplied on their Application Form. Otherwise, the APB will inform them either via their provider or by email or letter.

Back-payment

151. The provider is able, at any time within an EMA year, to authorise a weekly payment on EMASYS for the preceding week, and any earlier weeks for which no payment has already been made. Please note, no decisions can be made across EMA years.

152. 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
- successful appeal against a stoppage of payments; and
- late provision of an NoE to a provider, and where the entitlement date shown on EMASYS is earlier than the current week.

153. For detailed information on back-dating payment decisions as a result of a learner's application being received at the APB after the start of their learning programme, please refer to paragraphs 109-115.

154. Providers should resolve back-payments quickly. Back-payments may be extended to the beginning of the EMA year but they may not span EMA years.

155. Where more than one payment authorisation is recorded for a learner on the same day the payments will be added together by the APB to form one transaction to the bank account. However, a bonus payment will show as a separate entry on the learner's bank statement.

Overpayment

156. It is possible for providers to authorise a payment inappropriately, for example, inadvertently authorising a payment to a learner who had in fact been absent. EMASYS only uses the decision made at the end of the working day and therefore if providers change their payment decision to the correct one by 8pm the same day, the learner will receive the correct payment. If the provider does not identify they have made an incorrect decision within that period they should follow one of the courses outlined below.

- For weekly payments, if a provider realises that a 'pay' decision has been input to EMASYS in error, resulting in an overpayment, they should retrospectively change the 'pay' decision to 'don't pay' for that week on EMASYS. The APB will then recover the money by withholding the next payment that would otherwise have been due. **Note:** The provider must record the fact that the decision has been changed and notify the learner in writing, or by an alternative means providing that is sufficiently robust to provide evidence of notification if subsequently required for audit purposes.
- If a provider realises an overpayment has been made for more than one consecutive week to a learner, similar principles apply. No more than two weeks' worth of overpayments will be recovered from future payments (to protect the incentive effect of the weekly payment).

- Where overpayments occur the provider must inform the learner in writing, or by an alternative means providing that is sufficiently robust to provide evidence of notification if subsequently required for audit purposes, of the recovery action the APB will undertake.
- Inform the APB of any overpayments and any action taken.

157. Where an overpayment has occurred and there are no further weekly payments to be made, for example if the learner has left education, the overpayment will remain on the learner's record in the event that the learner enrolls again before the end of the EMA year. Should that happen, two weeks overpayment will be recovered from any future payments which may become due. Any learner with an overpayment on their record at the end of the EMA year will receive a letter from the APB asking for the overpaid amount to be repaid direct to them.

158. In the unlikely event where a bonus payment has been authorised in error, the provider should amend the payment decision on EMASYS from 'pay' to 'don't pay' which will in turn raise an overpayment with the APB. The APB will then write to the learner requesting that the total overpaid amount is repaid direct to the APB. The provider need take no further action. Bonus overpayments will not be recovered from weekly payments or from future bonus payments. You **must** inform the learner, as a matter of urgency that this has happened.

159. Providers must notify the APB of any overpayments by email on the EMA system or via the local partners helpline (**0800 056 2811**).

160. Providers with high rates of overpayments will be identified and challenged to demonstrate how they are improving their systems for making initial decisions.

End of year

161. When learners have finished at a provider for the year, for example, after summer exams, administrators must record the fact on the EMA System that no further payments should be made.

6: Appeals

162. 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 missed classes on Tuesday afternoon without prior permission”. 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 institution, but by an officer other than the one who took the initial decision that the payment in question should not be made.
- 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 provided with 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, 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 line 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 Learning and Skills Council. For more information please see the LSC Website at: **www.lsc.gov.uk/National/Documents/SubjectListing/CorporateandStrategic/Corporate/Makingacomplaint.htm**'

7: Records/audits

Recording and collating learning progress information / Bonus payments

163. Providers must keep copies of the Contract Part 2. Decisions about each learner need to be collated centrally within the provider so that decisions about the bonus can be entered onto EMASYS

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

Audit

165. The LSC has produced guidance for providers on the proposed audit arrangements for EMA within FE. This is available in the supporting documents section of the EMA website at www.direct.gov.uk/ema.

8: Other information sources

166. A range of additional documents are available to providers to provide further information on the EMA scheme. These are available in the supporting documents section of the EMA website (www.direct.gov.uk/ema) and include:

- *2006/07 EMA Residency* additional information
- 2006 EMA Extension Update Benefits Special
- Example of Application form and Guidance Notes
- Example of NOE and CP1
- Guidance on Audit Arrangements for EMA in FE.

167. Providers can also readily obtain information about the EMA scheme, either from the website or through the local partners telephone helpline (**0800 056 2811**).

168. The LSC in partnership with the Department for Education and Skills, the Department for Work and Pensions, HM Treasury and HM Revenue and Customs have produced a booklet *Financial Help for Young People*. This booklet gives information about the financial help that a young person may be able to get if they are aged between 16 and 19. It is available in electronic form on the LSC website www.lsc.gov.uk and the information is also available at www.direct.gov.uk/youngpeoplefinance .

Annex 1.

Authorised and unauthorised absence

Introduction

1. In general a learner should be paid only where they have attended all the sessions for which they are required to register for EMA purposes. If the learner has failed to attend, the learner should receive no EMA payment for that week, and the provider should notify the APB to that effect in its weekly return.

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

3. 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 Education and Skills to the Learning and Skills Council. In instances where a learner has incurred unauthorised absence during a week but has made that time up during subsequent weeks should not retrospectively qualify that learner for payment of the withheld weekly allowance. Local agreements on authorised or unauthorised absence have proved useful in clarifying and standardising interpretations of authorised and unauthorised absence for both local partners and learners.

General principles

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

- The presumption 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 proactively to 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 equitable application of rules across all their EMA learners.

Absences which can be foreseen in advance

5. 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.

Examples of legitimate reasons for absence include:

- (a) a medical appointment which cannot be arranged outside provider hours
- (b) 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 (Please see the DfES document '*Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: **groups of pupils at particular risk***', which can be found on the following website:

www.dfes.gov.uk/behaviourandattendance/guidance/IBAGuidance/index.cfm

- (c) a religious holiday
- (d) a visit to a University either to attend an open day or for interview, or a career-related interview
- (e) an appointment with a Connexions Advisor (although these should normally be scheduled to avoid disruption to studies)
- (f) a work experience placement which is an integral part of a learning programme, and for which the learner does not receive a wage
- (g) 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
- (h) attendance at a probation meeting
- (i) attendance at a funeral
- (j) 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 provider)
- (l) a driving test
- (m) a provider representatives' meeting, for example, Governors' meeting
- (n) National Union of Students official business
- (o) Territorial Army or cadet events

- (p) 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.

6. The following reasons for absence would not generally be acceptable:

- (a) holidays
- (b) part or full-time work which is not part of the learner's programme of study
- (c) leisure activities
- (d) birthdays or similar celebrations
- (e) babysitting younger siblings
- (f) shopping
- (g) driving lessons.

This list is not intended to be exhaustive.

Absences that cannot be foreseen in advance

7. Where an absence genuinely could not be foreseen in advance, the learner should nevertheless make arrangements to tell the provider as soon as possible on the day in question that they will be missing classes. 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.

8. The only exception to the principle in paragraph 7 is where the young person can supply a strong reason why they failed to contact the college. 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, provided that 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 (DfES Circular 10/99 refers)

- 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 3 miles if they do not have a relevant disability.

This list is not intended to be exhaustive.

Sickness

9. 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 education, 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 the pilots 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

10. Any programme of learning should be agreed between the provider and the young person to meet the learner's needs. It may be that some periods of study at home would be appropriate as long as the provider oversees the coursework and monitors its completion closely. Alternatively some adjustments might be made such as agreeing to allow the young person to miss a particular lesson because attendance in the specific circumstances is difficult, for example, because of transport or it is too long a day. However, the twelve guided learning hours minimum must still apply.

Partial attendance

11. Different providers have different methods of recording attendance, and some do so for each lesson or lecture whereas others do so just once in the morning, 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, or arrives late, this should be picked up at the register taken for that lesson, but this may not immediately be detected for EMA purposes. Providers should ensure that where staff are reporting absence from a lesson, there are arrangements for drawing this to the attention of those responsible for EMA administration.

Study leave

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

General authorisations

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

Local area agreements

14. 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.

15. Therefore, 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.

16. 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

Residency letter – template

Learner :

EMA ref number:

Dear

I am sorry to tell you that you are not entitled to receive Education Maintenance Allowance (EMA) at this time. This is because you have been unable to meet the EMA residency criteria which are described at the back of your Notice of Entitlement. In order to get EMA you must be:

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

EMA will **not** be paid if you are seeking asylum in this country or if you have been given any of the following restricted leave to remain;

- Exceptional Leave to Remain (ELR)
- Discretionary Leave (DL)

If during the year your residency status changes, you may re-apply for EMA. If this happens, or if you have any questions please telephone the EMA Assessment and Payment Body helpline on 0808 10 16219.

Yours sincerely,

Provider name:

Print name of administrator:

Date:

Note to provider administrators: Insert text at the bottom of the letter to mention to the learner that they may be able to get financial help from the Learner Support Funds and any information about your appeals procedure that you might have.

Annex 3

This document has examples of how schools and colleges may want to set out the Contract Part 2 (bonus payments) for learning progress and can be used as a template.

EMA Contract Part 2 Bonus



NAME OF STUDENT

EMA REF NUMBER.....

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 completion of relevant coursework and/or assignments, on time and to the best of my ability, and attendance at exams.

.....[Student]
.....[provider rep]

(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:

.....[Student]
.....[provider rep]

(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] .

.....[Student]
.....[provider rep]

Annex 4

References:

DfES (2006) *Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: groups of pupils at particular risk* at

www.dfes.gov.uk/behaviourandattendance/guidance/IBAGuidance/index.cfm

FSA (2005) *No Bank Account* at www.fsa.gov.uk/consumer

LSC (2005) *School Sixth Forms – Funding Guidance* at www.lsc.gov.uk

LSC (2006) *Funding Guidance for Further Education in 2006/07* at www.lsc.gov.uk

LSC (2006) *Financial Help for Young People* at

www.direct.gov.uk/youngpeoplefinance

LSC (2006) *Guidance Notes for EMA 2006/07 – Helping you fill in the Application Form* at www.direct.gov.uk/ema

LSC(2006) *Example of Notice of Entitlement and Contract Part 1 (attendance)* at

www.direct.gov.uk/ema

LSC (2006) *Requirements for Funding Work-based Learning for Young People 2006/07* at www.lsc.gov.uk

LSC (2006) *Requirements of local LSCs 2006/07* at www.lsc.gov.uk

LSC (2006) *Connexions Action Note – CXP 205* –available on the connexions intranet

LSC (2006) *2006/07 EMA Guidance for Providers of LSC funded Entry to Employment and Programme Led Pathways* at www.direct.gov.uk/ema

LSC (2006) *EMA Marketing and Communications Guidance* at

www.direct.gov.uk/ema

LSC(2006) *EMA Residency 2006/07 – Supporting Information* at

www.direct.gov.uk/ema

Annex 5

Abbreviations:

APB	Assessment and Payment Body
DfES	Department for Education and Skills
DL	Discretionary Leave
E2E	Entry to Employment
ELR	Exceptional Leave to Remain
EMA	Education Maintenance Allowance
FE	Further Education
LSC	Learning and Skills Council
NoE	Notice of Entitlement
NVQ	National Vocational Qualification
PA	Personal Adviser
PLA	Programme Led Apprenticeship
PLP	Programme Led Pathways
WBL	Work Based Learning

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