



Education
Funding
Agency

High needs students

Market entry application process

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Introduction

This publication provides information for institutions that wish to apply to receive an Education Funding Agency (EFA) contract to deliver education and training provision for high needs students (HNS).

This publication sets out the application process that may lead to the offer of an EFA contract for services. Successful completion of this process does not entitle the institution to receive a local authority funding agreement and institutions should contact the relevant local authority to establish their individual process/es. The EFA HNS Market Entry Application Process ('application process') consists of four stages:

- Stage 1 – legal status and background information
- Stage 2 – financial health assessment
- Stage 3 – quality of provision
- Stage 4 – panel decision

Some institutions may prefer to enter into a sub-contractual relationship with an existing EFA funded institution and this application process is not applicable to institutions that wish to explore such a relationship. In these circumstances provision funded under the EFA contract for services may only be sub-contracted one level. For more information on sub-contracting refer to [EFA 16 to 19 funding guidance: information for institutions](#).

EFA Funding Allocations

To be eligible for consideration for EFA funding in academic year 2014 to 2015 new institutions must have been identified on local authority high needs templates¹ submitted to the EFA in December 2013. They will also need to have at least ten places identified by one or more local authority on the templates. The EFA will contact eligible institutions to begin the application process, which must be completed by 31 May 2014 for consideration of EFA funding for academic year 2014 to 2015.

Applicants should refer to the [Student Eligibility Guidance](#) for student eligibility criteria, information on funding rates and formula, and other EFA supporting documents. Where applicable, all successful applicants will be required to administer the distribution of Student Support funds, including 16-19 Bursaries.

For data submission requirements, applicants should refer to the Data Service website and guidance on submitting Individualised Learner Record (ILR) returns. ILR

¹ Further information on high needs templates is available from the [HNS webpage](#)

submissions in accordance with these requirements are mandatory for all EFA contracted institutions. Institutions must have systems in place to enable ILR submissions to be made.

EFA funding is split as:

- Element 1 – place funding based on lagged student numbers and the value of the post-16 national funding formula;
- Element 2 – support funding based on where the local authority has notified the EFA that they wish to commission high needs places from that institution.

Any further top-up funding required above this level should be negotiated with, and provided by, the individual student's home local authority as element 3. Funds provided by the local authority for element 3 ("top up" funding), or where the local authority is meeting the full cost of the place, will flow directly from the home local authority's high needs budget to the institution in line with the local authority's funding agreement with the institution.

Out of scope for consideration for EFA funding in academic year 2014 to 2015

Institutions that submit an application through the market entry process but one or more local authority has not included at least ten places for the institution within the high needs templates submitted to the EFA in December 2013. In these circumstances all funding for the academic year 2014 to 2015 should be discussed directly with the student home local authority.

We encourage institutions that do not currently hold an EFA contract for services but plan to deliver HNS provision in academic year 2015 to 2016 to engage in the application process as soon as they become aware of local authority commissioning intentions for the year. Successful completion of the application process will NOT result in an EFA contract for services during academic year 2014 to 2015. A EFA contract for services for academic year 2015 to 2016 will be considered, but only after the EFA commences the funding allocations round for that academic year.

Statutory Duties²

Section 15ZA of the Education Act 1996 places a duty on local authorities to secure the provision of education and training for learners with learning difficulties and/or disabilities who are under 25 and subject to a learning difficulty assessment (LDA). The EFA passes funds to institutions and local authorities in accordance with the commissioning decisions of local authorities, pursuant to the Secretary of State's power under section 14 Education Act 2002.

² These duties will be updated following passage of the Children and Families Bill.

The Chief Executive of Skills Funding has a duty to secure the reasonable facilities for education and training (particular qualifications) suitable to the requirements of young people who are over 19, other than those who are under 25 and subject to a LDA.

The phrase 'subject to a LDA' covers both those persons in respect of whom a LDA has been conducted and/or in respect of whom arrangements for one to be conducted have been made or are required to be made. They are required to be made if the child has a statement of special educational needs at school and is leaving to enter further education. Although there is a power to undertake a LDA in wider circumstances. Further information about a LDA is available from the [Department for Education \(DfE\) website](#).

Contractual requirements

All EFA funded institutions, existing and newly agreed via the application process, are subject to the relevant clauses³ in the EFA contract for services held with each institution and the DfE [16 to 19 performance guidance](#). Contract compliance covers, but may not be limited to, assurance on the institution's financial health, use of funds, quality of the education and training provision, safeguarding and student outcomes.

As part of stage one of this application process applicants must read the current EFA contract for services attached at Annex 1, and agree to the terms and conditions by which funding will transfer. The EFA contract for services is updated on an annual basis and clauses may be changed or added each year.

There may be other statutory requirements that institutions of services to young people are subject to comply with such as Disclosure and Barring Service checks. It is the responsibility of institutions to ensure that they are compliant with all of the relevant legal requirements. The EFA accepts no liability in respect of any failure by an institution in respect of non-compliance.

Subject to the funding allocation eligibility requirements set out at page 3 and 4, any institution that successfully completes all stages of the application process will be considered for an EFA academic year 2014 to 2015 contract for services.

³ Local authorities may have their own contracts/funding agreements outlining additional requirements that must be met.

Timescales

Where institutions are in scope for consideration for EFA funding allocations to be made directly to them for the academic year 2014 to 2015, the application process must be completed by 31 May 2014.

At each stage of the application process the EFA will acknowledge receipt of information supplied. Once complete information has been received for each stage, the EFA will endeavour to review and respond with feedback. Where relevant this will include details of the requirements for progression to the next stage.

All four stages must be successfully completed before the EFA will consider an offer to enter into a contract for services with an institution. Failure to fully respond to questions posed during the application process, and/or forward evidence/information may result in delays to progress or an application being deemed by the EFA as unsuccessful.

All EFA decisions are final and not subject to appeal. However, applicants that fail the application process may apply again once they feel they have addressed the issues raised in the feedback from the EFA.

Institutions will be required to bear all costs associated with completing the application process.

Study Programmes

You are required to develop well designed, coherent study programmes including accredited provision which offer students breadth and depth and do not limit their options for future study or work.

The EFA expects that all institutions will deliver this requirement for 16 to 19 year olds in full-time state-funded education and training provision, including those on academic or vocational education programmes. Teaching staff delivering accredited study programmes must meet with awarding body standards. Further information is available from relevant awarding body websites.

HNS studying below level 2 who are not able to complete an accredited qualification, should be offered a study programme with substantial work experience and other non-accredited activity. This will enable a HNS to develop their work-related skills, employability and other skills that will increase their ability to secure employment. Activity must be planned, timetabled, organised and/or supervised by the institution. These students will also need to focus on developing numeracy and literacy skills.

HNS who do not hold GCSE A* - C in English and/or mathematics should always take English and mathematics qualifications if they are capable of doing so. Students with the most complex learning difficulties and/or disabilities might be better served by other types of non-qualification English and mathematics teaching that support progression to higher levels in these subjects and prepare them for employment. These study programmes will be eligible for EFA funding as long as these principles have been met. Further details [on study programmes](#) including requirements for 16 to 19 study programmes, how to find out more about changes to post-16 funding, and supporting materials for implementation of 16 to 19 study programmes, are available from the link below.

Eligibility by Institution type

Out of scope

Institutions referred to under this section are not eligible to apply for an EFA contract for services. This is either in relation to funding for HNS through this application process, or the institution may already be in receipt of a contract for services and therefore does not need to re-apply. There may be other market entry application processes that are relevant dependent on individual circumstances.

Where a local authority maintains an institution, the EFA will passport funds directly to the local authority with regard to HNS at those institutions. The EFA will not, therefore enter into a direct funding or contractual relationship with this group of local authority maintained institutions which includes, but is not limited to, maintained special schools, school sixth forms, special community schools, foundation special schools, and pupil referral units.

Independent schools specially arranged for SEN provision are not in scope for HNS funding in the academic year 2014 to 2015. Further information on arrangements for the academic year 2015 to 2016 will be published later in the year.

Any school or academy where HNS are over 19 years of age but they are not subject to a LDA. Under current legislation the commissioning responsibilities for students aged over 19, unless they are aged 19 to 24 and subject to a LDA, rests with the Chief Executive of the Skills Funding Agency.

Existing, Secretary of State approved non-maintained special schools (NMSS), that are currently in receipt of EFA funds and a contract for services for the academic year 2013 to 2014 do not need to apply through this application process.

Existing charitable and commercial providers (CCP), including Independent Specialist Providers (ISPs), that are currently in receipt of EFA funds and a contract for services for the academic year 2013 to 2014 do not need to apply through this process.

Institutions where one or more local authorities are commissioning, or planning to commission, fewer than ten HNS placements in the current (2013 to 2014) or following (2014 to 2015) academic year should not apply through this application process until ten or more placements are commissioned. Where fewer than ten placements are commissioned the individual student's home local authority will fully fund the placement.

In scope

Institutions where one or more local authorities identified ten or more HNS on their high needs templates, returned in December 2013, indicating that they are planning to commission, ten or more HNS placements in academic year 2014 to 2015 and:

- have never held a contract for services with the EFA, or were previously in receipt of an EFA contract for services but funds have not been passed for a period of one academic year or more, or
- have previously applied through the pilot market entry application process. In these circumstances it may be necessary to revisit some/all of the four application stages dependent upon the individual circumstances of the institution.

Any new institution that successfully completes the application process, and local authorities commission ten or more student placements in academic year 2013 to 2014; will be required to approach the individual student's home local authority and request that the placement is fully funded by that home local authority from their "top up" funding for the academic year 2013 to 2014. The offer of a EFA contract for services for academic year 2014 to 2015 will be dependent on a number of factors, including but not limited to; individual local authority commissioning decisions, confirmation that the institution can demonstrate it continues to be fit for funding by remaining above the thresholds expected for quality and finance, departmental policy and available EFA budget.

Stage 1 – Legal status & background information

The institution is required to complete Annex 2 to evidence:

- legal status and institutional information
- information relating to the student cohort and provision (either to be commissioned or already commissioned)
- confirmation that students are subject to a LDA and ten or more students will be commissioned in the academic year 2014 to 2015
- confirmation of agreement to the terms and conditions of the EFA contract for services attached at Annex 1
- contact details to be used by the EFA to provide an update on the outcome of each of the four stages of the application process

- self-assessment of provision⁴.

A representative of the EFA will visit your planned delivery site to speak to staff and/or students as part of the review of information received under stage 1. The EFA will also seek information from the local authority in which the institution is located, and may speak to other local authorities where students are not from the area in which the institution is located. This information will relate to local knowledge of the area including, but not limited to, identification of any gaps in education and training provision and a subjective view on quality and student outcomes.

Stage 2 – Financial health assessment

Financial health of institutions will be assessed using the EFA's financial health assessment methodology. The formulaic based assessment will categorise institutions' financial health as: *outstanding, good, satisfactory, or inadequate*. These categories are based on a scoring of three ratios: solvency (current ratio); sustainability (surplus divided by income); and status (debt as a percentage of reserves).

An institution that has not yet prepared its first set of annual accounts, should submit a costed business plan including, as a minimum:

- forecast income and expenditure
- cash flow forecast
- projected balance sheet
- full explanation of assumptions behind figures provided.

For institutions falling into the satisfactory and inadequate categories further financial information (normally a budget for the current /following financial year) will be requested to provide additional evidence over financial viability and to inform an assessment of the risks of contracting with the institution.

The EFA reserves the right to carry out further financial checks throughout the application process if more up to date information comes to light.

Institutions where financial health is assessed as being inadequate will fail the application process and will not be offered an EFA contract for services. If an institution successfully completes the application process and receives an EFA contract of services, a recommended maximum EFA funding limit may be applied. This funding restriction

⁴ The self-assessment report should include evaluation of students' progress and achievement; and internal monitoring arrangements and how targets for improvement are set; how the curriculum is tailored to meet the learning difficulties and/or disabilities and desired outcomes for students; information on safeguarding and health and safety arrangements; availability of performance data and the availability and effectiveness of work experience activities.

would be for EFA funding and not inclusive of local authority element 3 “top up” funding or any other funding the institution receives.

Stage 3 – Quality of provision

Institutions are required to demonstrate the quality of their provision by submitting evidence of :

- the latest Ofsted inspection report
- the latest Care Quality Commission (CQC) inspection report where residential provision is in place or intended to be offered
- study programmes available
- staff are qualified to undertake the role for which they are employed eg qualified to Teacher Learning and Skills and/or meet the awarding body regulations.

The EFA will seek information from the local authority in which the institution is located and/or any local authority proposing to commission a placement or otherwise support the application of the institution. Where an institution is newly established and to date has not been the subject of inspection by either Ofsted or CQC, agreement will be sought with those inspectorates that the teaching and learning and care provision is inspected one year after the EFA contract for services has been in place. This will affect the maximum contract value awarded. An institution with an inadequate overall grade from Ofsted and/or inadequate on any areas inspected will be unsuccessful in securing an EFA contract for services. An institution that is not compliant with CQC standards will be unsuccessful.

Stage 4 – Panel decision

Where an institution has successfully passed through stages 1 – 3 of the application process, the recommendation on whether to enter into a contract for services will be made by a panel comprising representatives from across the EFA. The panel will review the outcomes from each stage of the application process and information provided by the local authority in which the institution is located plus any other local authority that has been involved in the application process.

An institution will be deemed to be unsuccessful if it cannot demonstrate the following:

- evidence that one or more local authorities are commissioning, or planning to commission, ten or more HNS placements in the current or following academic year
- evidence students are subject to an LDA and/or Education Health and Care Plan
- evidence staff are qualified to undertake the role for which they are employed
- inspection by the CQC and/or Ofsted where the institution has delivered education and training provision for more than 1 calendar year
- at least satisfactory level of financial health

- programmes of study will be delivered to their student cohort who are eligible for and receiving EFA funding.

Following recommendation from the panel, the final decision to contract rests with the EFA Chief Executive. The institution will be informed of the EFA decision in writing including, where successful, any maximum EFA funding limit. Where an institution is successful an EFA contract for services will only be issued for academic year 2014 to 2015 where funding eligibility is met (see page 3 and 4).

Receipt of funds in one academic year is not a guarantee that future EFA funding will be allocated as this will be dependent on a number of factors, including but not limited to individual local authority commissioning decisions, confirmation that the institution can demonstrate it is fit for continued funding by remaining above the thresholds expected for quality, finance, departmental policy and available EFA budget.

EFA contact details

If you have any questions about any part of the application process please email: hns.efa@education.gsi.gov.uk



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