



Education
Funding
Agency

16 to 25 high-needs funding arrangements: additional information

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

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Introduction

Following the publication of version 4.0 of the additional information document in June, we are pleased to issue a further update to include further details on the 16-25 high needs funding arrangements for the academic year 2015 to 2016.

This information is intended primarily for local authorities and institutions, although it contains material that will be of use to all who have an interest in high needs funding. This update should be read alongside [Schools revenue funding 2015 to 2016 – operational guide](#).

We welcome the feedback from local authorities and institutions that this document and our high needs web page have improved access to information and helped raise understanding of the high needs system. We are currently updating our high needs webpages and will continue to review this document and publish updates on a quarterly basis or before if appropriate. As always, we continue to work with partners on developing and improving our communications.

Version 5.0 contains several updates across the whole document with main changes in the following areas:

- English and maths condition of funding (paragraphs 8 to 11)
- Allocating high needs funding in 2015 to 2016, including the exceptional cases process for 2015 to 2016 (paragraphs 43 to 78)

We hope that you find this information useful.

1. Funding arrangements for Post-16 Students

Defining a high needs student

1. For funding purposes, a high needs student is defined as
 - i) A young person aged 16-18 who requires additional support costing over £6,000; and
 - ii) Any young person aged 19-25 subject to a Learning Difficulty Assessment (LDA) or, from September 2014, an Education, Health and Care plan (EHC plan) who requires additional support costing over £6,000.
2. High needs funding for 16 to 25 year olds consists of both place funding (Elements 1 and 2) and top up funding (Element 3). In all instances, top up funding (Element 3) has to be agreed by the local authority with an institution, and a contract must be in place between the two parties. If the local authority does not agree to pay top up funding for a student, then they are not counted as high needs for funding purposes.
3. For high needs students over the age of 25, the Skills Funding Agency (SFA) assumes the responsibility for commissioning and contracting provision. There is more information about this in paragraphs 92 to 95.
4. Institutions are not funded in the same way for students who require additional support which costs less than £6,000. Institutions do not receive Elements 2 and 3 and local authorities do not commission places or provide specific additional funding. Further information on funding for lower cost students is in paragraphs 19 to 25.
5. Students should only be recorded as high needs on the ILR or census where a local authority has agreed to pay Element 3 for a student and the criteria described in paragraph 1 are met. We have issued a [technical guidance note](#) on correct recording practices on our website.

A high needs student study programme

6. The majority of young people with high needs attending a school, college or special post-16 institution (independent specialist provider) will be subject to either a statement of SEN, an LDA or, from September 2014, an EHC plan. Local authorities must use the evidence from the statement, LDA or EHC plan to make consistent, effective and robust assessments of the support the young person will need to move towards a positive outcome.
7. We expect a local authority and an institution to work together to agree a suitable study programme for the young person, which must be tailored to their individual aspirations and support needs. A full-time course has a minimum duration

of 540 hours and there is no set maximum or cap of 600 hours. We would not expect local authorities or colleges to set an arbitrary maximum number of hours for the study programmes, but instead to provide the number of hours required by the student to complete the programme.

8. For the 2014 to 2015 academic year all students, full and part-time, on 16 to 19 study programmes who do not have a grade C or above in maths and/or English and are not studying on either a GCSE or an approved alternative qualification (detailed below) which is a 'stepping stone' towards a GCSE, will be removed from lagged student numbers and will therefore not generate any funding in future academic years (initially in 2016 to 2017). The condition applies even when a student has withdrawn before completing a study programme.

9. There will be a very small number of students who are not able to take a GCSE or a 'stepping stone' qualification, for example those with multiple and complex needs. However there is no blanket exemption for high needs students or students with learning difficulties or disabilities. These students should, if they can, take a GCSE or a 'stepping stone' qualification. If this is not possible the institution should deliver appropriate maths and English.

10. We would expect any exemptions from the requirement to study GCSE or 'stepping stone' qualifications in maths and English to be the exception. To make a decision not to offer maths and English, in addition to a statement of SEN, a LDA or EHCP, an evidenced assessment (that the high needs student cannot benefit from studying an approved maths and English qualification) by a professional in the education institution would be acceptable if and only if the student has a statement of SEN, LDA or EHCP. This will be required for 2014 to 2015 and for 2015 to 2016. Institutions should be prepared to justify their decision to Education Funding Agency (EFA) auditors and Ofsted inspectors.

11. Further information on the condition of funding can be found on our [website](#).

12. A local authority and an institution must also agree a support package to enable the young person to participate effectively in the study programme. The educational costs of the support package should be met through Elements 2 and 3. Other costs should be met from contributions from health and social services where appropriate. Local authorities will need to secure agreement on how costs are to be shared between the relevant budget holders – those both inside the local authority and outside (e.g. health).

13. A supported internship is one type of study programme specifically aimed at young people aged 16 to 24 who have a statement of SEN, an LDA, or an EHC plan, who want to move into employment and need extra support to do so. In June we published advice on [supported internships](#) on our website.

Overview of the high needs funding system for 2014 to 2015

14. The high needs funding system has two parts: place led funding and top up funding.
15. Place led funding ensures the number and distribution of places in the system reflects need and provides financial stability for institutions (especially specialist institutions) to help with longer term planning of staffing and infrastructure.
16. Top up funding is paid from local authorities' high needs budget to meet the individual needs of children and young people with high needs, over and above the funding provided to institutions through place led funding.
17. Details of the 2014 to 2015 and 2015 to 2016 high needs place funding arrangements across pre and post-16 by institution type are available on GOV.UK.

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

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

Element 1

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

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

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

24. As described in our [published dedicated schools grant \(DSG\) technical note for 2014-15](#), we made no Element 1 funding deductions for the academic year 2014 to 2015 from the local authority DSG for post-16 students. We did not include any Element 1 funds in the high needs block for post school institutions (further education (FE), Commercial and Charitable Providers (CCPs) and special post-16 institutions) nor for post-16 learners in mainstream schools and academies (including special units within them).

25. Therefore, in the interests of simplicity, for 2014 to 2015 local authorities should continue to use a national average figure of £4,977 as the Element 1 value for all post-16 high needs students, except for those students in non-maintained special schools (NMSS) and maintained special schools (MSS). We will continue to review this approach as the new system beds in and whether to continue it in future years.

Element 2

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

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

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

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

28. We have published the [high needs place numbers for the 2014 to 2015](#) academic year, broken down by the local authorities who included place numbers in their high needs templates as part of the 2014 to 2015 place review exercise. This can be found on the high needs funding page on our [website](#). Please note that this data is correct as of 01 August 2014.

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

Place funding for Post-16 Students in Special Schools.

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

31. The principles of place funding in paragraph 26 and top up funding in paragraph 33 apply equally to special schools.

32. As described in our [published DSG technical note for 2014-15](#), we deducted £10,000 per place for the academic year 2014 to 2015 from the local authority DSG for post-16 students in special schools. Therefore any reduction in the amount of funding paid to special schools by the EFA in the academic year 2014 to 2015 compared with 2013 to 2014 should be made up by the local authority as part of top up funding.

Top Up Funding – Element 3 for all students

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

Funding looked after children

34. For looked after children with a statement of SEN, or from September 2014 an EHC plan, the financial responsibility for meeting the cost of top up funding (if payable) sits with the local authority that looks after the child. That local authority's responsibility for the costs may last until the child is 18 but can end earlier.

35. For looked after children with a statement of SEN or EHC plan, the responsibility for securing SEN provision (e.g. commissioning a high needs place) sits with the local authority that has responsibility for maintaining the statement or, from September 2014, EHC plan, which is the local authority in whose area the child is normally resident. Again, that local authority's responsibility may last until the child is 18 but can end earlier.

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

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

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

Free Meals for High Needs Students

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

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

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

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

Allocating high needs funding in 2015 to 2016

Summary of changes for 2015/16

43. Our aim for the 2015/16 academic year is consistency, consolidation and, where possible, simplification. It is not our intention at this stage to make significant changes to the overall high needs funding system. So, the EFA has adapted the 2014/15 academic year process to respond to two key messages from local authorities and institutions:

- If possible, to complete the process in time to allow the announcement of final high needs block allocations with the rest of the DSG settlement in December 2014; and
- As far as possible to simplify the process – ideally by moving to a system based on lagged data (e.g. from the school census and individualised learner record), but more importantly by removing the burden of a full high needs place review.

44. The quality and timeliness of the data available from the school census and individualised learner record that colleges complete, in the autumn of 2014, will not allow us to make accurate allocations in time for the 2015-16 financial year DSG settlement in December. So, the EFA will roll forward the published 2014/15 academic year high needs place numbers as the basis for place funding allocations in the 2015/16 academic year. We know that institutions and local authorities put a great deal of effort into a full review of place numbers last year, so we expect this to be a solid basis for the 2015/16 academic year.

45. We recognise that there will be instances where place numbers required in the 2015/16 academic year will vary from the 2014/15 academic year place numbers at institution level. In order to manage this small degree of variance we expect local authorities to use their high needs allocation flexibly and to provide additional place funding to institutions accordingly, rather than the EFA conducting a further full review of places. However, we do recognise that there might be a small number of exceptional cases where using published 2014/15 academic year places as the basis for the 2015/16 academic year could fail to provide the place funding that institutions need. Further details on the exceptional cases process are provided below.

46. Using the published 2014/15 academic year high needs place numbers as the basis for the 2015/16 academic year is a step towards a lagged funding system because we are using the latest data available to us, rather than commissioning a full review of places. However, we are not yet in a position to use in-year data recorded by institutions as the basis for place funding and we will continue to consider how best to move in this direction in future years. We have already identified that there may need to be a trade-off between using the latest available in-year data and how that could be reflected in time for the high needs block allocations in December.

Changes to the way post-16 places are planned

47. Although we will roll forward the published 2014/15 academic year high needs place numbers as the basis for 2015/16 academic year, we are changing the way post-16 places are planned within the high needs funding system. Previously, post-16 places have been planned on a residency basis (by the local authority in which the student is resident) but for the 2015/16 academic year these places will be planned on a location basis (by the local authority in which the institution is located), to align with pre-16¹.

48. This change will align and simplify the way we collect place numbers from local authorities across the whole 0-25 system, it is consistent with our aim to simplify the system in the 2015/16 academic year, and it is consistent with our intention to fund high need places on a lagged basis at institution level in the future. We also believe that there has been confusion within the place funding system where post-16 places have been planned on a residency basis and local authorities perceive that they have reserved places or own place funding in individual institutions. Although some local authorities may feel that this will result in additional work where they assume the lead for an institution in their area which enrolls from multiple local authorities, we think the advantages of this change will simplify and benefit the system as a whole. This change will support the collaborative approach to high needs funding that we want to encourage across local authority areas.

49. This change only applies to place funding. Top-up will continue to be funded by the local authority in which the student is resident.

Changes to who can make an exceptional submission

50. For the 2015/16 academic year there will not be a formal process for academies and FE institutions to make exceptional cases directly to the EFA as there was last year. This is because no institution will see their allocation of places in the 2015/16 academic year reduce from their allocation of places in the 2014/15 academic year², creating greater stability in the system for institutions. Instead, we expect local authorities to work closely with institutions in their area to identify whether there is a need to make an exceptional case on an institution's behalf, as detailed below.

¹ For 2015/16 academic year places authorities will therefore report on post-16 high needs places located in institutions within their boundaries, rather than places occupied by pupils and students resident in the authority. As set out in paragraph 51 ISPs and NMSSs will be treated separately.

² An exceptional case may be submitted for an infrastructure change, where an institution and local authority agree a reduction in places for the 2015/16 academic year.

51. Local authorities will not be required to make exceptional cases on behalf of specialist post-16 institutions (previously known as independent specialist providers) or non-maintained special schools and therefore the place numbers for these institutions are no longer included within local authority place number totals. These institutions take, on average, smaller numbers of pupils/students from a larger number of local authority areas, and we are therefore changing the arrangement from last year so that these institutions can make submissions directly to the EFA. Although places funded by the EFA are not pupil or local authority specific, the institution is expected to reach an agreement with local authorities regarding the total volume of additional high needs places prior to making any exceptional case. We will not consider exceptional cases that do not include support from these local authorities.

52. Maintained schools and maintained special schools have a direct funding relationship with their maintaining local authority and are therefore not in scope to make an exceptional submission directly to the EFA.

Changes in alternative provision

53. The Department also plans to increase the funding of alternative provision place from £8,000 to £10,000 per place per annum from September 2015 with the required funding transferring from top-up funding. This will give PRUs, academies, free schools and other institutions offering alternative provision places more in their guaranteed budget for the year, and therefore more stability.

54. Alternative provision places are not part of the exceptional case process. There is a wide range of locally determined approaches to the operation and funding of alternative provision. Whereas in future we expect pupil data to drive the SEN place funding, so more places in one institution will be matched by fewer elsewhere, it is unlikely that we will be able to rely on pupil data to the same extent in calculating funding for alternative provision places, because the pupil population in this type of provision is far more fluid. Our view is therefore that the fairest approach is for changes to the scale and nature of alternative provision to be met by local authorities, schools and academies within their existing funding envelope. This will mean that local authorities and their schools bear the cost of any increase in alternative provision places for pupils who would otherwise be in mainstream schools but for the placement decisions they have made.

Exceptional cases: process to amend 2015/16 academic year place numbers

2015/16 academic year place numbers

55. As explained above, we will roll forward the published 2014/15 academic year place numbers as the basis for 2015/16 academic year place funding allocations.

56. The 2015/16 academic year high needs place numbers are available [here](#). These will be updated to reflect any changes that are agreed as a result of the exceptional cases process. This spreadsheet publication includes the following three worksheets:

- Institution totals: the place numbers for the 2015/16 academic year, based on 2014/15 academic year place numbers and reflecting the changes described in the 'Summary of changes for 2015/16' section above. Where places were previously published on a residency basis they have now been re-stated on an institution location basis. Specialist post-16 institutions places and non-maintained special school places should refer to this table in considering whether to submit an exceptional case.
- Institution totals with exclusions: the place numbers for the 2015/16 academic year (as above) excluding alternative provision, specialist post-16 institutions places and non-maintained special school places. Local authorities should refer to this table in considering whether to submit a case on behalf of an institution in their area.
- Local authority totals with exclusions: a summary of local authority 2015/16 academic year total place numbers excluding alternative provision, specialist post-16 institutions places and non-maintained special school places. Local authorities should refer to this table in considering whether to make an exceptional case.

57. The 2014/15 place numbers, which present post-16 places on a residency basis and include alternative provision can found [here](#). This data allows local authorities to view place numbers before the changes outlined in the section 'Summary of changes for 2015/16' above. This will assist a local authority to understand which other local authorities have previously planned places at the institutions located within its boundaries.

58. As explained above, we know that institutions and local authorities put a great deal of effort into a full review of place numbers last year, so we expect these place numbers to be a solid basis for the 2015/16 academic year. Therefore, we expect there to be few exceptional cases.

Local Authority Exceptions

59. Full details on the local authority exceptional cases process, including the key principles and process, can be found within the high needs chapter of the [schools revenue funding 2015 to 2016 – operational guidance](#). This contains the full suite of guidance which local authorities must consult for full and complete details of the local authority exceptions process. A summary of the key points is provided below for institutions.

60. An exceptional case is not a request for additional top-up funding. It should only be necessary where there is a serious and detrimental shortfall in the current allocation of places relative to the actual level of occupancy in relevant institutions.

61. We expect there to be few **exceptional** cases. These should only be submitted where:

- The actual number of pupils or students occupying high needs places in 2014/15 academic year is **significantly** higher than the 2015/16 place numbers, either in aggregate at local authority level or for one or more institutions, and this is expected to continue and increase in the 2015/16 academic year;
- There is a **significant** number of new places resulting from infrastructure change (e.g. new school);
- There is a **significant** infrastructure change involving high needs places for the 2015/16 academic year, but not an increase in overall numbers e.g. institution closures, mergers and new institutions; or
- There is a **significant** change to hospital education provision.

62. Local authorities may make submissions for additional high needs place funding on behalf of the following institutions within their local authority area.

- Maintained schools and maintained special schools, SEN units, resourced provision;
- Academies and special academy schools, SEN units, resourced provision;
- FE colleges; CCPs, HEIs, SFCs and local authority direct delivery of post-16; and
- Free schools and special free schools.

63. We are unlikely to consider cases as exceptional if the increase is less than: 10% for an institution with more than 50 places in the 2015/16 academic year; or 5 places for an institution with up to 50 places in the 2015/16 academic year. The threshold for a unit forming part of a large institution would normally be higher because the relative impact on the whole institution is less.

64. Local authorities must consider the total number of high needs places for all institutions situated in their own local authority area and whether there is a need to make an exceptional case. **Local authorities will need to include places within their boundaries which have been, or may be, occupied by pupils and students from other local authority areas – not just those which they have commissioned or are planning to fill. Conversely, local authorities must not make exceptional cases for high needs places which their pupils or students have occupied at institutions in other local authority areas.**

65. Collaboration between local authorities and institutions is a key feature when considering whether there is a need to submit an exceptional case. We expect local authorities and institutions to have discussed and agreed place numbers required across institutions, both pre- and post-16.

66. Institutions who feel that they will have a serious and detrimental shortfall in their place funding allocation for the 2015/16 academic year, because we are rolling forward the 2014/15 academic year place numbers, must discuss this with the local authority in which they are located. The home local authority will then need to agree to make a case on the institutions behalf, considering the total number of places required within the institution, not just those that the home local authority plans to fill.

67. Following consideration of the principles outlined above, local authorities who wish to make an **exceptional** case have until 17 October 2014 to submit to the EFA. Please note that any submissions received after this date **will not** be considered.

68. Local authorities submitting an exceptional case must record the agreement of the relevant institutions (including NHS for hospital education) on their return to the EFA, and ensure that they are included on the e-mail copy list.

Exceptional cases from specialist post-16 institutions and non-maintained special schools

69. Specialist post-16 institutions and non-maintained special schools take pupils/students from a large number of local authority areas and we are therefore changing the arrangements from last year so that they can make exceptional cases directly to the EFA for the 2015/16 academic year.

70. An exceptional case is not a request for additional top-up funding. It should only be necessary where there is a serious and detrimental shortfall in the current allocation of places relative to the actual level of occupancy in the institution.

71. We expect there to be few **exceptional** cases. These should only be submitted where the actual number of pupils or students occupying high needs places in 2014/15 academic year in an institution is **significantly** higher than the 2015/16 place numbers for the institution³, and this is expected to continue and increase in the 2015/16 academic year. **We are unlikely to consider cases as exceptional if the increase is less than: 10% for an institution with more than 50 places in the 2015/16 academic year; or 5 places for an institution with up to 50 places in the 2015/16 academic year.**

72. Specialist post-16 institutions and non-maintained special schools are expected to reach an agreement with local authorities regarding the total volume of additional high needs places prior to submitting any exceptional case. We will not consider cases that do not include support from relevant local authorities.

Action for specialist post-16 institutions and non-maintained special schools: by 17 October 2014

73. Following consideration of the principles outlined above, specialist post-16 institutions and non-maintained special schools who wish to make an **exceptional** case have until 17 October 2014 to submit to the EFA. Please note that any submissions received after this date **will not** be considered.

74. An exceptional case from a specialist post-16 institution or a non-maintained special school will require completion of the following document, which has been published on our webpage:

- A '[2015/16 academic year high needs exception template – Non-Maintained Special Schools \(NMSS\) and Specialist Post 16 Institutions](#)' document providing evidence requested in the section below, including the completion of

³ As described in paragraph 44 the 2015/16 academic place numbers have been rolled forward from 2014/15.

a standard table listing the additional high needs places requiring funding for 2015/16 academic year and information on the relevant local authorities.

75. Institutions submitting an exceptional case must:

- Confirm the number of high needs pupils or students actually present in the institution in the 2014/15 academic year;
- Explain why rolling over the published 2014/15 academic year place numbers does not allow appropriate provision to meet need in the 2015/16 academic year; and
- Confirm the total volume of additional high needs places requested and demonstrate engagement and confirmation from the relevant local authorities that they agree with the place numbers.

76. Institutions must record the agreement of the relevant local authorities on their return to the EFA, and ensure that they are included on the e-mail copy list.

77. Submissions from non-maintained special schools must be e-mailed to the appropriate mailbox, based on the institution's location:

HighNeeds.Central@education.gsi.gov.uk
HighNeeds.Southern@education.gsi.gov.uk
HighNeeds.Northern@education.gsi.gov.uk

78. Submissions from specialist post-16 institutions must be e-mailed to the appropriate mailbox, based on the institution's location:

YPNorthern.EFA@education.gsi.gov.uk
YPCentralSW.EFA@education.gsi.gov.uk
YPSouthern.EFA@education.gsi.gov.uk

Next Steps

December 2014: EFA to announce any additional place funding arising from the exceptions process and any additional top-up funding allocations as part of the 2015-16 financial year DSG settlement. Where there is an institution element within a local authority exceptional case or an institution has made an exceptional case directly, we will confirm the outcome to those institutions as appropriate.

The above is however, subject to the number and complexity of submissions actually received. This process is designed for exceptional cases only, and so we expect few submissions. In the event that a large number of cases are received, we may not be able to review all submissions by December 2014. As a result, we would not be in a position to confirm either additional place funding, or identify the amount of funding available for distribution as additional top-up funding in time for the 2015-16 financial year DSG settlement. This would also impact on all of the following timings.

January to March 2015: EFA to cross check information in the exceptional case submissions against individualised learner record and school census data. Where information is not consistent, we will review the case and may reduce the additional funding allocation.

By end of March 2015: EFA to issue 2015/16 academic year funding allocations to post-16 institutions, academies and NMSS.

By the end of April 2015: EFA to publish 2015/16 academic year high needs place numbers at institution level.

2. Contracting Arrangements

Contracting Arrangements for Element 3

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

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

81. We recognise that finalising placements and top up funding for the current academic year has been a new and challenging aspect of the funding system. We will use intelligence and evidence available to us from established relationships with partners and stakeholders to monitor the timeliness of contracting and payments to institutions. To enhance this intelligence, we will be introducing a survey of special post-16 institutions and parents this autumn.

82. The conditions of funding attached to the DSG, state that provision must be preserved for continuing students, and that when making top-up payments to institutions for high needs pupils, the authority must make the payments in a timely fashion on a basis agreed with the institution, which must be monthly unless otherwise agreed. We will closely examine cases and consider remedial action where there is clear evidence that a local authority is not meeting the required conditions of grant. [The DSG operational guidance](#) for the financial year 2014 to 2015 can be found on our website along with a suite of [DSG materials](#).

83. Where a local authority has agreed a placement, it is not appropriate that a student is placed at an institution without a contract in place. We asked local authorities to set in advance the dates by which they planned to make decisions on placements, agree contracts, and make payments for students known to them in advance for the academic year 2014 to 2015, and to monitor their own delivery against these plans.

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

84. The timescales that will be required for an EHC plan under the Children and Families Act are more demanding. Where a pupil or young person is moving from one institution to another, the Children and Families Act 2014 will require EHC plans to be complete – including naming the institution they will move to – by 31 March in the calendar year of the transfer.

85. As a transitional measure, for those moving from secondary school to a post-16 institution or apprenticeship starting in September 2015, any EHC plan – including specifying the post-16 provision and naming the institution – must be completed by 31 May 2015.

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

87. We look to institutions and local authorities to work together at regional and sub-regional levels to ease the contracting process for 2014 to 2015 and introduce further discussion regarding the use of common documentation. This may lead to further simplification in 2015 to 2016 and beyond as commissioning relationships become more established.

Continuing Students and Element 3

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

89. This requirement is set out in the [Dedicated School Grant – Departmental operational guide 2014-2015](#) (paragraph 11.h.) *when a pupil who requires top-up funding has already been placed in an institution and is in receipt of top-up funding from the authority at 31 March 2014, the authority must continue the agreement with the institution to make such top-up payments until such time as the pupil has left the institution, or the contract is replaced by another. When such a pupil is placed by the authority in an institution at a later date, the authority must likewise enter into such an agreement;*

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

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

High needs students over the age of 25

92. An EHC plan normally ceases when a learner turns 25, although local authorities have a power to extend an EHC plan until the end of the academic year in which the learner turns 25.

93. Place funding will already have been passed to the institution for the full academic year as part of their allocation and will not be clawed back.

94. If a local authority decides to extend the EHC plan until the end of the academic year, then they must continue to provide top up funding and contract with the institution. If the local authority decides not to extend the EHC plan to the end of the academic year, then it is for the SFA and the local authority to discuss the transition arrangements for the young person.

95. The local authority should liaise with the SFA before they commission a programme for a learner that will mean commissioning and funding transferring to the SFA.

Market Entry

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

97. New institutions must have been included in the local authority high needs templates submitted in December 2013 to be considered for EFA funding in the academic year 2014 to 2015. Institutions also needed to have had at least ten places identified by one or more local authorities within the template returns. We have contacted eligible institutions to guide them through the application process.

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

99. An institution would not need to have completed the EFA market entry process, or hold an EFA contract to be named on a young person's LDA or EHC plan. It would be for the local authority to consider in fulfilling their duties, the

institution most appropriate to meet a young person's needs. Where an EFA contract is not held with the institution, it would be for the local authority to fully fund the place from their high needs block or DSG.

100. For the academic year 2015 to 2016, any new institutions wishing to deliver provision for high needs students should submit a signed [application form](#) to HNS.EFA@education.gsi.gov.uk whilst continuing to liaise with their local authority areas. It is important to note that successful completion of the application process will not result in an EFA contract for services during the academic year 2014 to 2015.

101. Further information on the EFA market entry process for high needs funding, including applications forms, can be found on our [website](#).

3. SEN Reforms – the Children and Families Act

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

103. The main local milestones are:

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

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

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

Section 41: Approved list of independent special institutions

105. Independent special schools⁴ and special post-16 institutions do not have a distinctive definition in law, unlike other institutions such as maintained schools and academies, FE colleges and NMSS. Such institutions therefore cannot be subject to statutory duties as a distinct group.

106. Section 41 of the Children and Families Act 2014⁵ allows the Secretary of State, by order, to create a list of approved independent special schools and special post-16 institutions.

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

108. We are planning to bring some independent special schools and special post-16 institutions within the high needs funding system of place and top-up funding. Those on a new list of approved institutions, established under section 41 of the Children and Families Act 2014, will be in scope. We will say more about this as soon as we can.

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

19-25 year olds in schools

110. It is not possible in the current system for special schools to offer places to young people over the age of 19. This is because young people require a statement to be in special schools and statements can only apply up until a young person's 19th birthday.

111. The SEN reforms, which will come into force in September this year, will replace statements with EHC plans. These can be extended beyond 19 and up to age 25 for those individual young people who need more time to complete or consolidate their education and to be prepared successfully for adulthood.

⁴ This includes independent educational institutions in England and independent special schools in Wales

⁵ http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga_20140006_en.pdf

112. In the light of this, the DfE is considering carefully whether to enable special schools and special academies to extend their provision to include young people aged 19-25 with EHC plans. It will not be possible for schools and academies to do this from September 2014, not least because the EFA's pupil place planning exercise and associated allocations has already been completed and the first EHC plans will only start being agreed from this time onwards.

113. Further information will be made available as soon as possible setting out if and how special schools and special academies will be able to extend their provision in this way in future years. This information will also include whether new applications will be accepted from free schools wanting to include this age range in their proposal.

114. The draft SEN Code of Practice makes it clear that the SEN reforms do not create an automatic entitlement for young people with EHC plans to remain in education post-19. Local authorities will use the EHC plan review process to consider whether young people need more time to complete the agreed education and training outcomes set out in their EHC plan. This will be considered on a case-by-case basis and if it is decided that a young person does need more time, the local authority will agree with them what provision and support is needed; which provider(s) will offer the young person the best opportunity to progress and be prepared successfully for adulthood; and how much additional time they will need. So, if the Department for Education does allow special schools, academies and free schools to extend their provision in this way, it will not mean that all their pupils with EHC plans will automatically be able to remain at the school once they turn 19 and until they reach 25.

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

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

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

117. High needs funding cannot be used directly by local authorities to pay for transport from home to educational establishments. This funding is ring-fenced for high needs support required for an individual in school or college. However, schools and colleges can use any of their funding, including high needs funding they have received, to make their own transport arrangements for children and young people. They cannot specifically charge the local authority for providing such a service –

unless the local authority have agreed to fund transport costs from additional, non-DSG resources.

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

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

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

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



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