

Learner Support Programme

Education
Maintenance
Allowance
Guidance for
Providers
2008/09

June 2008

Of interest to stakeholders involved in delivering
Education Maintenance Allowance

Further information

Further information on the scheme is available from the following sources:

Learning providers can contact the Learner Support Service for advice in administering the scheme on 0845 600 7979.

Learners should be directed to the Learner Helpline on 0800 121 8989.

Alternatively the Learner Support Service can be contacted via e-mail at ema@liberata.com

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Contents

Introduction	3
The Learner Support Service	4
What is changing?	4
What help is available to support me?	4
Additional support	4
Education Maintenance Allowance (EMA) Overview	5
Applying for EMA	6
The EMA Guarantee	6
Provider role in EMA application process	6
Application packs	6
Bank accounts	6
Learner Support Service (LSS) role in assessment	00
Age eligibility	00
Household income	00
Assessment of applications	00
Enrolling individuals onto a valid learning programme	00
Entitlement to free learning	00
Residency	00
Receipt of other funding	00
Valid learning provision trial	00
Valid learning programme	00
Setting up EMA Contract Part 1 (Attendance, Behaviour and Effort)	00
Setting up EMA Contract Part 2 (Bonus)	00
Additional information about enrolment	00
Attendance and bonuses	00
Overview	00
Weekly attendance	00
Bonuses	00
Additional information about attendance and bonus payments	00

Appeals	00
Records/audits	00
Recording and collating learning progress information/Bonus payments	00
Other information sources	00
Marketing and Support Materials	00
Annexes	
Annex 1: Authorised and Unauthorised Absence	00
Annex 2: Example of Contract Part 2	00
Annex 3: Guidance on LSC Audit Arrangements for EMA at FE Colleges and School Sixth Forms	00
Annex 4: References	00
Annex 5: Abbreviations	00

Introduction

This guidance sets out what providers should do to operate the Education Maintenance Allowance (EMA) scheme in their organisations for 2008/09 and how to get the best from it. It is not intended to offer definitive advice on every possible situation but it does offer a framework within which providers can make sensible decisions based on EMA policy and provider's own experience of dealing with learners. It should be read in conjunction with the Learning Provider Portal (LPP) *Operating Manual*, EMA communications and marketing guidance and the *Funding Guidance for Further Education 2008/09*.

A list of the abbreviations used throughout this document and their meanings is available at Annex 5.

Note: This guidance is not for those providers who are delivering LSC-funded Entry to Employment (E2E) and Programme Led Apprenticeships (PLA). For guidance on administering EMA to learners on these programmes please refer to the separate guidance document *2008/09 EMA Guidance for Providers of LSC Funded E2E and PLA*.

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

- Learning provider helpline: 0845 600 7979
- Learner support helpline: 0800 121 8989.

(The young person has an option to prevent the helpline from speaking to anyone other than them regarding their application form.)

The Learner Support Service

As many of you are aware, the way in which we administer the nationally delivered elements of the Learner Support Programme (Education Maintenance Allowance (EMA), Adult Learning Grant (ALG), Care to Learn, Dance and Drama, Sixth Form Childcare Scheme and Residential Support Scheme) is changing. Many of you have been keeping up to date with developments through our e-bulletin [DN hyperlink here to <http://www.lsc.gov.uk/providers/moneytolearn/lss/ebulletins>]

What is changing?

The EMASYS system, previously used for EMA, and the EMS system previously used for ALG, will be replaced by the new Learning Provider Portal (LPP) before the end of September.

The LPP will be very similar to the old EMASYS system so existing users will find the appearance and navigation familiar. We are providing training and support materials to help those who are not familiar with EMASYS.

The Learning Provider Portal is web-based and we will send EMASYS users details of their username and password prior to the system being made available.

What help is available to support me?

We are developing a number of resources to help you with using the new system:

- **Operational Manual** – with detailed guidance on using the LPP
- **Handy Hints** – containing hints and tips on using the LPP
- **Quick Start Guide** – a brief overview of how to use the LPP

These will be available later in the summer. Please check the Learner Support Service section of the website [DN hyperlink here to <http://www.lsc.gov.uk/providers/moneytolearn/lss/>] for the most up to date information.

We are also running a series of training seminars across the country to provide an end-to-end walkthrough of the new system. The objectives are:

- To explain the operation of the Learner Portal and the Learning Provider Portal
- To highlight the key differences between EMASYS, ALG system and the Learning Provider Portal
- To reinforce the availability of the new channels for application; i.e. on-line and telephone supported.

If you want to find out more about when and where the events are being held, please go to www.livegroup.co.uk/lssportals

Additional support

The Learner Support Service Provider Helpline number will also be on hand to help with your queries on 0845 600 7979.

A dedicated Field Force is also being developed to provide information, support and advice to learning providers and stakeholders. More information about this is in the May edition of the e-bulletin [DN hyperlink here to <http://www.lsc.gov.uk/providers/moneytolearn/lss/>]

Education Maintenance Allowance (EMA)

Overview

EMA is a strand of the Learning and Skills Council's Learner Support Programme, which exists to remove finance as a barrier to participation and learning. 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 in January and July if they remain on their learning programme make good progress and achieve the standards of behaviour and effort agreed with the learning provider. Bonuses for learners on LSC-funded Entry to Employment (E2E) and Programme Led Apprenticeships (PLA) Programmes are structured differently. For information on E2E and PLA bonuses please refer to *2008/09 EMA Guidance for Providers of LSC funded Entry to Employment and Programme Led Apprenticeships*. Young people may get EMA support for up to three years.

The Learner Support Service (LSS) will consider age and household income when assessing a young person's eligibility. This is based on the information in their Application Form and supporting financial evidence. The LSS 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. Full details of the evidence required are contained in the guidance notes accompanying the application form.

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

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

- LSC Policy Summary at www.lsc.gov.uk
- Connexions Action Note – number CXP 234 (Please Note: this will be updated during Summer 2008)
- *EMA Marketing and Communications Guidance* – which can be found on the EMA website, <http://ema.lsc.gov.uk/resources>

Applying for EMA

This section sets out the role of the provider in the application process and the role of the Learner Support Service (LSS) in the assessment process. In summary, the provider should help to support the learner to apply for EMA and the LSS will carry out the assessment of the application.

The EMA Guarantee

From 2008/09 a learner will be eligible for EMA at the same amount for a period of up to three years and will not be required to submit any subsequent applications; this is the EMA Guarantee. Successful first time applicants (aged 16-18) will be guaranteed a minimum level of support after a one-off assessment, even if their household income changes year on year. Should household income decrease and the learner is not already receiving the maximum weekly amount of £30, they will be entitled to reassessment for the beginning of the next EMA year.

Provider role in EMA application process

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

The role for the provider in the application process will vary depending on whether the learner already has an EMA Notice of Entitlement (NoE) or is in the process of applying.

- For those learners who have already got an NoE, register them on the Learning Provider Portal (LPP) 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 EMA or received 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.

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 learner support helpline.

Application packs

Please see Marketing and Support Materials section at the end of this guidance.

Bank accounts

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

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

The LSC has produced information to help young people open a bank or building society account. This can be found at the back of the *Guidance Notes for EMA Year 2008/09 – Helping you fill in the EMA Application Form* and is a tear-off page that the young person can take to their local bank or building society to help them to open a basic bank account.

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

Learner Support Service (LSS) role in assessment

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

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

Age eligibility

EMA 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

Age checks

Table 1

EMA year 2008/09	Date of birth year range	Age on 31 August 2008
Eligible to start receiving EMA from start of autumn term 2008	01/09/1991 – 31/08/1992	16
	01/09/1990 – 31/08/1991	17
	01/09/1989 – 31/08/1990	18

Adult Learning Grant

Learners in receipt of EMA are **not** eligible for an ALG. However learners who have exhausted their entitlement to EMA **and** are continuing their first full level 2 or first full level 3 course for another year may apply for ALG.

Household Income

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

Applications received at the Learner Support Service (LSS) that meet the age criteria will be assessed financially based on household income. Where applicants receive Social Security Benefits in the relevant tax year, Part C of the application form should be completed and sent with the rest of the application form to the LSS to be assessed. The LSS will then make the necessary checks with the Department for Work and Pensions (DWP) on behalf

may be received for a maximum of three years, though for FE two years is the norm.

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

Learners who become 19 whilst in receipt of EMA will continue to receive it until the end of that academic year. Learners applying for EMA aged 19 are not eligible and should be referred to the Adult Learning Grant (ALG).

of the adult. Where the LSS is unable to confirm the details with the DWP, they will contact the adult concerned to obtain further information.

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 LSS, and providing contact details for other support.

There are three EMA weekly payment bands: £10, £20 and £30. The allocation of the payment amount is based on household income (see Table 2).

Income earned by the young person will not affect their entitlement to EMA. EMA does not prevent individuals taking up help from Discretionary 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 on learners who are estranged (on page 8) for more details.

EMA weekly rates

Table 2

Household income in the tax year 2007-08	Weekly rates to be paid
Up to £20,817	£30
More than £20,817 but less than or equal to £25,521	£20
More than £25,521 but less than or equal to £30,810	£10
More than £30,810	Not eligible for EMA (weekly or bonus payments)

Assessment of applications

Income Support, Jobseeker's Allowance (Income Based) Pension Credit applications

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

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 2008/09 year, the TCAN must show income for the 2007/08 tax year. Normally this will be the TCAN notifying the parent(s) about the Tax Credit Award for the 2008/09 tax year.

Non-TCAN applications:

Employed people

Where a TCAN cannot be provided, all relevant evidence relating to income in 2007/08 tax year must be provided. This will typically consist of P60 statements showing earned income, but can include benefits in kind as described in the application form guidance notes.

Self-employed

Self-employed persons who cannot provide a TCAN may provide their most recent SA302 form for the tax year 2007/08. Alternatively a Part D (Declaration of Self-Employed Income) can be completed. The LSS will issue a Part D form if this is required.

Other means

Declaration of any other income received in 2007/08 tax year, such as personal pension plan statements; state retirement pension notification; statements of interest from savings; dividend vouchers; and certificates from trustees) will be required.

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

Non-standard assessments:

Learners in the care of the local authority or foster parents

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

Learners who are parents

A learner who is already a parent themselves and has care of the child when they apply for EMA should contact the LSS on the learner support helpline, as special arrangements apply ie the young parent is income-assessed on their own income only and not the wider household in which they live. Please see question A13 on the application form for 2008/09 and the accompanying guidance notes.

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

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

Learners living with a partner

A learner who is living with a partner when they apply for EMA will be classed as a household in their own right. Their partner's income will be assessed as the household and will need to be declared on part B of the application form. Please see question A9 on the application form for 2008/09 and the accompanying guidance notes.

Learners who are estranged

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

Learners in receipt of 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.

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

Young Offenders in custody

Young Offenders who have not previously applied for EMA, and who are serving a custodial sentence or are on remand in a Young Offenders Institute (YOI), Secure Training Centre (STC) or a Secure Children's Home (SCH; formerly Local Authority Secure Children's Home) will be able to apply for EMA whilst in custody.

Applications received by the LSS before a Young Offender leaves custody will be assessed in the same manner as applications from learners in Local

Authority Care or Foster Care. No evidence of income from parents or carers will be required.

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

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

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

- Name of young person
- Date of birth
- Period of detention
- Date of release
- Name of supervising Youth Offending Team
- Signature of Young Person
- Signature of Youth Offending Team Supervising Officer
- Address of young person on release (if known)

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

If it would be preferred that correspondence about the young person's application goes to an address other than the one entered on the form, e.g. to the young person's Youth Offending Team or Connexions

PA then please request this in the covering letter completed by the Youth Offending Team that supports the application.

Exceptional changes in circumstances

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

- a person whose income was taken into account in determining financial eligibility has died;
- a relevant person¹ becomes disabled, as defined in the Disability Discrimination Act 1995;
- since the assessment of income was made, the young person has become estranged from their parents, guardians or someone else whose income was taken into account in determining financial eligibility;
- the young person has been taken into the care of the Local Authority; or
- the young person has become a parent with responsibility for their child.

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

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.

¹ any adult named on the application form as forming the household, the learner, or any sibling of the learner living in the same household as the learner.

Enrolling individuals onto a valid learning programme

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

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

Entitlement to free learning

Local Authorities (LAs) and LSC area partnership teams should ensure that providers are fulfilling their responsibilities in ensuring that enrolled learners fulfil the residency criteria for education.

- For schools: Schools Sixth Forms – *Funding Guidance for 2007/08 and 2008/09*
- For colleges: *Funding Guidance for Further Education in 2008/09*

Residency

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

From the beginning of the 2008/09 EMA Year learning providers will no longer be required to check a learner's residency eligibility for EMA. Learners themselves will self-certify their eligibility when completing the EMA application form by selecting the relevant option(s) that applies to their personal circumstances. Although learners will self-certify their residency eligibility, they should be aware that we may contact them at any point to ask them to prove their eligibility.

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

- a person who is 'settled'* in the UK, and who has been ordinarily resident in the UK for at least the three years prior to the start of their learning programme; **or**
- a national of any European Union (EU) country (including Gibraltar), or the spouse or civil partner or child of an EU national, and been ordinarily resident in the European Economic Area (EEA), or Switzerland, for at least the three years prior to the start of their learning programme; **or**
- an EEA migrant worker with the right to work in the UK, or the spouse, civil partner or child of an EEA Migrant Worker, who is ordinarily resident in the UK at the start of their learning programme, and has been ordinarily resident in the EEA or Switzerland throughout the three year period prior to that; **or**
- the child of a Swiss National who is ordinarily resident in the UK at the start of their learning programme, and who has been ordinarily resident in the EEA or Switzerland for the three year period prior to that; **or**
- the child of a Turkish Migrant Worker who has the right to work in the UK, and who is ordinarily resident in the UK at the start of their learning programme, and who has been ordinarily resident in the EEA, Switzerland or Turkey for the three year period prior to that; **or**
- recognised as a refugee by the UK Government, or the spouse or civil partner or child of a refugee, or have been granted Humanitarian Protection, or have EU Temporary Protection.

*'Settled' means having either indefinite leave to enter or remain (ILE/R) or having the right of abode in the UK.

British citizens and certain other people have the right of abode in the UK:

- those with the European Community – United Kingdom of Great Britain and Northern Ireland Passports
- British Dependent Territory Citizens (now known as British Overseas Territory Citizens)
- those whose passports have been endorsed to show they have Right of Abode in the UK
- those who have a certificate of naturalisation or registration as a British Citizen.

Temporary Absences

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

Temporary Absences and Children of Military Personnel

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

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

Learning providers that are supporting young people with their application for EMA, and who wish to know more about the policy on temporary absences should contact the Provider Helpline.

Children of HM Forces personnel serving overseas

Learners attending a Service Children's Education School in Germany or Cyprus may be able to receive EMA as if they were studying or training in England. They should contact their school, or contact Service Children's Education on (0049) 2161 908 2525 or at www.sceschools.com for further advice.

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

- They are an Asylum seeker; or
- They have discretionary leave or exceptional leave to enter or remain

If a learner will meet the eligible residency conditions at some future point then they should contact the learner support helpline.

For a summary of residency criteria, definitions of residency terms and further information about temporary absences please see the separate residency supporting document, available on the EMA website, www.direct.gov.uk/ema

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

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

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

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.

Receipt of other funding

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

Bursary payments

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

Part time work

A learner may undertake part-time work so long as it does not exceed 24 hours a week and their EMA entitlement and any benefits their family may receive will not be affected.

Valid learning provision trial

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

- be of at least 12 guided learning hours per week (for Entry to Employment (E2E) and Programme Led Apprenticeships (PLA) programmes, a minimum of 16 hours per week is required in line with Work Based Learning (WBL) funding guidance) and for a minimum of 10 weeks (this is not new); AND
- all provision must come within a recognised quality control system i.e. provision must be inspected by a public body that assures quality (e.g. OFSTED)

AND it must be **one** of the following:

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

Learning providers who are already accessing EMA will continue to do so. However, Edubase will no longer be used as a criterion for adding new providers. All new providers wishing to administer EMA payments will have to meet the Trial criteria.

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

Valid learning programme

A valid learning programme for the purposes of EMA is:

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

This may also include provision that is operated by a third party provider under a formal sub-contracting

arrangement (approved by the LSC, subject to the valid provision trial criteria).

Guided learning hours

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

Guided learning hours do not include: hours where supervision or assistance is of a general nature and is not specific to the study of the learners eg time spent undertaking enrichment activities that are not a required element of the learning aim. For information on study leave see annex1.

Home study

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

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, Behaviour and Effort)

The learner will have received a Notice of Entitlement (NoE) from the Learner Support Service (LSS), together with the Contract Part 1. 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.

Contract Part 1 sets out the responsibilities of the learner and the provider for the learner to receive a weekly payment. Learning providers can choose to link their Codes of Conduct 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 and in doing so he or she commits to the standards agreed with their learning provider.

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
- agreeing to report the learner's weekly payment authorisations and periodic bonus authorisations to the LSS.

In signing the Contract Part 1 with the learner, the provider **must** explain:

- the attendance monitoring system that operates in the organisation including attendance patterns and standards of learner behaviour and effort, unless this was covered when the learner enrolled on their learning programme;
- the provider's position on authorised and unauthorised absences and 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 operated by the provider for disputed stopped payments.
Note: Recourse is always through the provider who makes payment decisions. The LSS 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 LSS the recourse to appeal is through the learner support helpline;
- that learners will be expected to sign Contract Part 2 which will cover conditions for receipt of EMA bonuses, and;
- further sources of support and advice to the learner regarding EMA, both within the provider and outside. This could include the learner support helpline number and possibly local contact information for Connexions.

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

One copy of Contract Part 1 is retained by the learner and the other by the provider. The provider must retain this for six years for Audit purposes.

Adding learners to the Learning Provider Portal (LPP)

Contract Part 1 contains the learner's EMA number which is used to link the learner with their personal record on LPP. (A sample NoE and Contract Part 1 can be found in the 'Guidance Supporting Documents' section of the EMA website <http://ema.lsc.gov.uk/resources>). You will need the learner's EMA number to add the learner to LPP. This makes a link between the learner's entitlement for EMA and their enrolment with the provider, and activates requests for weekly payment authorisations on LPP. The EMA number is also bar-coded to speed up this process for institutions with barcode readers.

Providers should add learners to LPP 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 LPP.

A learner can **only** be added to LPP if:

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

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

The provider will also need to set up date ranges (study patterns) on LPP 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 will be following learning programmes with common term dates, which can be set up on the system before enrolment. The software provided

by the LSS will prompt this. 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 LPP for these learners. **Note:** in some circumstances if the provider does not set the exact start date it may have an impact on the learner receiving back dated payments.

Learning providers who deliver both FE and E2E/PLA programmes need to ensure they enrol a learner on the correct Programme Type. For more information, please refer to the *LPP Operating Manual*.

Setting up EMA Contract Part 2 (Bonus)

Bonuses are the second part of the EMA 'something for something' regime. They reward the learner for attaining agreed learning goals including the standards of effort and behaviour agreed at the start of the programme. They also provide incentives to return to learning after holidays.

The provider and the learner need to sign a suitable document (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.

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

In general this should involve:

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

Providers can use the generic Contract Part 2 (Bonus) template at Annex 2. 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 are stretching but which the learner has a realistic chance of achieving. **Bonus payments should not at this time be linked to achievement of specific grades nor withheld until exam results are known.**

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

Additional information about enrolment

Learners attending more than one provider

Where a learner attends more than one provider, each institution should be referenced on the EMA Contract Part 1 and Part 2. 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 LSS. The other provider(s) involved must agree a process for reporting the learner's attendance, behaviour and effort to the provider that reports weekly and bonus payment decisions to the Learner Support Service (LSS).

Change of learning programme

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 Learner Support Service (LSS) of changes to the content of Contract Part 2 (Bonus) generated in this way.

Where a review of the learning programme leads to a reduction in hours of study, the provider must check that the revised learning programme duration is a minimum of 12 guided learning hours. Otherwise, the learning programme will not be valid for EMA purposes.

Change of learning provider

Please refer to the *Learning Provider Portal Operational Manual*.

Leaving a learning provider

Please refer to *Learning Provider Portal Operational Manual*.

Post-16 learners re-taking GCSEs

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 LSS for advice.

Lost documents

If a learner claims to have been accepted as eligible for EMA but has lost their documents, they can request a copy from the learner support helpline. A replacement Notice of Entitlement with the Contract Part 1 document will be posted to the learner once reasonable checks have been carried out and their identity is established. Providers should not add the learner to the Learning Provider Portal (LPP) until they have signed a Contract Part 1.

Learner has not yet applied for EMA

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

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

Attendance and bonuses

Overview

This section of guidance is presented in two main parts:

- Weekly attendance
- Bonuses.

While differing in content and frequency the provider needs to report about both aspects to the Learner Support Service (LSS) in order for an EMA payment to be made. And in both cases the principle is to reach a decision, be it a 'Yes' or 'No', as early as possible following the period in question.

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

Weekly attendance

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

The provider must take the actions illustrated in figure 1.

Recording attendance information

Recording and collating attendance and authorised or unauthorised absence information is central to making EMA weekly payment decisions. Providers can use or build on any existing methods to

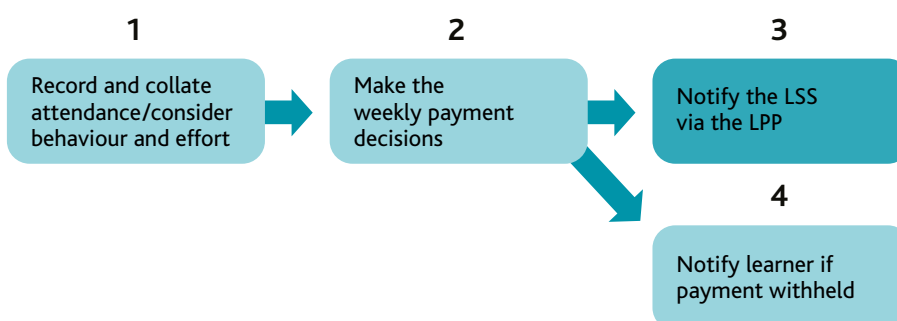
monitor and record attendance, as long as they are sufficiently robust to capture EMA learner attendance accurately, thus reducing the scope for learner fraud. It would not be acceptable for a provider to implement an attendance monitoring system that relies on learners self certifying their attendance. Best practice is to ensure 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 by providers (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.

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

Collating weekly attendance information

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

Figure 1: Actions to take in respect of weekly attendance



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

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

Deciding on payments

Providers will translate collated information about attendance into decisions on whether to pay or not pay EMA. In general, a learner should only be paid where they have attended all the learning as agreed in their Contract Part 1 and met the standards of behaviour and effort required. If a learner breaches the agreed attendance and behaviour policy, the learner should receive no EMA payment for that week, and the provider should make a 'don't pay' decision on the Learning Provider Portal (LPP). Annex 1 gives guidance that they should follow in taking such decisions.

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

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

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.

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

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 LPP, 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

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

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

If fraud is identified the principle will be to seek recovery of all of the overpaid money. There are a number of different scenarios. If the learner has remained in education it may be possible to recover from LPP, 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 LSS via the learning provider helpline.

Notifying the Learner Support Service (LSS) of weekly payment decisions

Please refer to the *Learning Provider Portal Operational Manual*.

Timing

Please refer to the *Learning Provider Portal Operational Manual*.

Notify the learner if a weekly payment is being withheld

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

Bonuses

All learners in receipt of EMA may be eligible for bonus payments if they satisfy the conditions described in this section. These are structured differently to bonuses for learners on Entry to Employment (E2E) and Programme Led Apprenticeships (PLA) programmes.

Bonus rules: Long Course (Academic Year) model

The bonus rules outlined below apply to all learners enrolled on a long course FE learning programme, i.e. one that follows the traditional academic year. The bonus rules are:

- Learners who are enrolled, added to LPP and attend prior to January, and who return to study

after Christmas will be eligible to receive a January Bonus.

- Learners who are enrolled, added to LPP and attend between January and the end of the EMA year will be eligible to receive a July bonus.
- Learners continuing into second and third years of study, and who remain eligible for EMA, can be paid bonuses in January and July of the 1st year, and any subsequent years.

Bonus rules – Short Course model

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

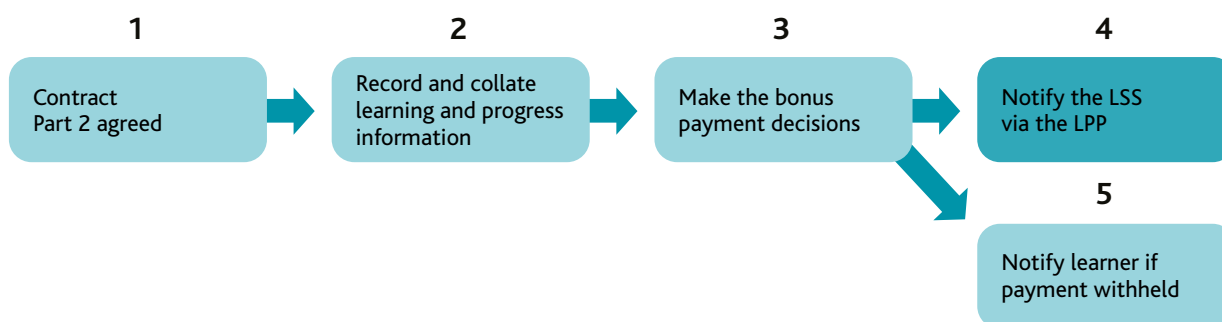
The bonus rules outlined apply to all learners enrolled on a short course i.e. those that do not follow the traditional academic year. Bonus payments are accumulated at a rate of £5 per week. The learning provider and learner agree the criteria for the bonus payments and their frequency at the start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

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

The bonus decision and payment process

The January and July bonus decision and payment process can be broken down into several stages which are similar to the weekly payment process (see figure 2).

Figure 2: January and July bonus process



Bonus payment decisions and notifying the Learner Support Service (LSS)

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

January bonus

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 they have returned to learning in January. When making bonus payment decisions providers should consider whether the learner has achieved the required standards of effort and behaviour and attendance patterns as agreed at the start of the programme.

July bonus

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. When making bonus payment decisions providers should consider whether the learner has achieved the required standards of effort and behaviour and attendance patterns as agreed at the start of the programme. Providers should not include additional payment criteria, for example achievement of specified examination grades. Providers must only authorise payment of a July bonus once all of the relevant conditions have been met.

Notifying the learner that the bonus is being withheld

Where a bonus decision is determined by the provider and a payment is withheld, the provider must ensure the young person understands why this action is being taken. This should be communicated **before** payment is due, in writing, or by an alternative means providing that it is

sufficiently robust to provide evidence of notification if subsequently required for audit purposes. The provider must keep a record of the reasons for any stoppage of payment and the subsequent notification to the learner. Clear records of decisions to pay or not to pay must be maintained for reference in the case of learner queries and appeals.

Additional information about attendance and bonus payments

Payment queries

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

Back-payment

Back-payments may be authorised as a result of:

- a delayed or deferred decision
- a changed decision from unauthorised to authorised absence, resulting in a changed payment decision
- a successful appeal against a stoppage of payments
- late provision of a Notice of Entitlement (NoE) to a learning provider, and where the entitlement date shown on LPP is earlier than the current week.

For detailed information on back-dating payment decisions as a result of a learner's application being received at the Learner Support Service (LSS) after the start of their learning programme, please see the section 'Learner has not yet applied for EMA' (page 16).

Learning providers should resolve back-payments quickly. For more information about this, see the *LPP Operating Manual*.

Overpayment

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

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

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

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

End of year

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

Appeals

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

- The provider **must** give the learner written information about the process for appealing against payment decisions at EMA registration.
 - Learners should be made fully aware of the payment conditions they must meet to receive payments **before** decisions are taken and understand they should adhere to these rules.
 - The provider should explain if a payment is going to be stopped and why. This may be a simple, evidence-based statement, for example, "you missed classes on Tuesday afternoon without prior permission"; or "your tutor reports that you did not meet agreed acceptable standards of behaviour". There is no need for the explanation to repeat the general material on how EMA works provided to the learner at enrolment. Nor is there any necessity to explain in detail why an absence has been deemed to be unauthorised. Without evidence to the contrary, absences should be considered unauthorised: The burden of proof that they should be authorised lies with the learner.
 - The appeal should be handled within the institution; by someone other than the person 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 given full details of why the EMA payment has been stopped prior to any hearing taking place. The procedure should provide for the learner to present his or her case and for the learner to be accompanied by a parent/carer, or someone else of their choosing, who may state the case on the learner's behalf. Legal representation is not normally appropriate.
- When communicating the decision of an appeal hearing, and in the event that a learner's case has not been upheld, the provider must include the following 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: <http://www.lsc.gov.uk/ComplaintsProcedure.htm>

Records/audits

Recording and collating learning progress information/Bonus payments

Providers must keep copies of the Contract Part 2. Decisions about each learner need to be collated centrally by the provider so that decisions about the bonus can be entered onto the Learning Provider Portal (LPP).

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

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

Audit

The LSC has produced guidance for providers on the audit arrangements for EMA within FE. This is can be found at Annex 3 within this Guidance.

Other information sources

A range of additional documents are available to providers that offer further information on the EMA scheme. These are available in the supporting documents section of the EMA website (<http://ema.lsc.gov.uk/resources>) and include:

- 2008/09 EMA Residency supporting information
- EMA and Benefits Information
- Example of Application form and Guidance Notes
- Example of NOE and Contract Part 1

Providers can also readily obtain information about the EMA scheme, either from the website or through the learning provider helpline.

The LSC in partnership with the Department for Children, Schools and Families, 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 on the LSC website www.lsc.gov.uk and the information is also available at www.direct.gov.uk/youngpeoplefinance.

Marketing and Support Materials

The following marketing and support materials are available for EMA in 2008/09. The marketing and support materials change each year and we ask providers to remove old stock and replace with new stock as soon as possible each year. In order to ensure you have the most recent materials, please check the website www.lsc.gov.uk/providers/moneytolearn

For 2008/09, many of the EMA marketing and support materials have been updated with 'hands' images, to fit with the wider 'Our Future, it's in Our Hands' national Skills Campaign.

- **Leaflet** aimed at the learner to give clear and simple messages about EMA (ref no LSC-P-NAT-080002). The leaflet is also available in Braille (ref no LSC-P-NAT-080002BR) and Large Print (ref no LSC-P-NAT-080002LP).
- **Two posters** for learning providers to use to promote EMA. Both posters have simple messages, including the helpline number. One poster focuses on **EMA choices** and the range of courses available (ref no LSC-P-NAT-080031) and the other on **EMA money** and how much it is worth (ref no LSC-P-NAT-080001).
- **GCSE Envelopes** A5 size envelopes with EMA branding for teachers to use to give learners their GCSE results in. Also includes a flyer giving young people advice on their Post-16 Choices (ref no LSC-P-NAT-080005).
- **Application Form** for learners to complete to apply for EMA (ref no LSC-P-NAT-080016).
- **Guide for Practitioners Working with Young People** A5 leaflet to help practitioners working with young people to advise learners and their families about EMA (ref no LSC-P-NAT-080040).
- **Financial Help for Young People** A small booklet giving outline information about the financial help available to young people in learning (ref no LSC-P-NAT-070158).
- We are currently updating the **resource pack**, including the **DVD**, in conjunction with the Department for Children Schools and Families. The new pack and DVD will be available in January 2009. The pack includes the DVD, and

the DVD will also be available to order separately. Please keep checking the website for further details. (Ref no for DVD LSC-P-NAT-080004, ref no for whole pack LSC-P-NAT-080120)

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

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

<i>Post:</i>	<i>Phone: 0845 602 2260</i>
LSC Publications	<i>Fax: 0845 603 3360</i>
PO BOX 5050	<i>Minicom: 0845 603 3360</i>
Sherwood Park	<i>Email: lsc@prolog.uk.com</i>
Annesley	
Nottingham NG15 0DJ	

Annex 1: Authorised and Unauthorised Absence

Introduction

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

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

It is, however, 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 they had attended in full (unless, of course, they have an unauthorised absence for a different session).

It is for Providers to decide on and implement a documented attendance policy which will be reviewed by LSC Audit. Within that, they must detail any flexibility, refer to the minimum weekly hours and define what 'full attendance' means for their learners and then apply it fairly. The policy should be available for learners, teaching staff and administration staff to follow.

It is for providers to decide whether a particular absence is to be authorised or not. In taking such decisions, they should take account of the guidance in this document and are obliged to do so under the formal scheme arrangements which have been delegated by the Secretary of State for Children, Schools and Families to the Learning and Skills Council.

Different providers have different methods of recording attendance. For EMA purposes this 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 learning session, or arrives late, this may not be immediately detected for EMA purposes. Providers should ensure that there are arrangements for drawing this to the attention of those responsible for EMA administration.

General principles

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 to proactively justify its decision not to authorise the absence.
- If the claimed reason for absence could have been foreseen, the learner should have applied for authorised absence in advance. So, for example, it might be acceptable for a learner of the Jewish faith to have authorised absence on Yom Kippur if this was applied for in advance, but it would not be acceptable to miss classes without prior notification and then to claim that the absence should be authorised.
- Where the claimed reason for absence could not reasonably have been foreseen, providers should consider whether the absence was really unavoidable. An absence which could not have been notified in advance should be notified to the provider on the day in question. Unless, exceptionally, there is a good reason why this could not be done, the absence should not be authorised without such notification.

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

Public Holidays

Where public holidays fall within a week, or where term ends part way through a week, the provider should make a payment authorisation for the learner for that week providing that they have attended all their scheduled learning sessions. An example of this

is the May Day bank holiday, which normally falls during term. If a learner has satisfactory attendance in that week other than the Monday, the payment for that week should be made. This applies even if this means that for this week the learner's number of guided learning hours falls below twelve.

Absences which can be foreseen in advance

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 (see **Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: groups of pupils at particular risk**).
- (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 the provider)
- (k) a driving test
- (l) a provider representatives' meeting, for example, Governors' meeting
- (m) National Union of Students official business
- (n) Territorial Army or cadet events
- (o) 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.

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
- (h) jury service

This list is not intended to be exhaustive.

Absences that cannot be foreseen in advance

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.

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

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

This list is not intended to be exhaustive.

Sickness

In general, isolated periods of genuine sickness **need not** preclude payment of EMA. However, EMA is intended to cover the costs incurred through attendance in learning, so it should not be paid if a learner is away for a full week. Also, providers are entitled to turn down applications for authorised sickness absence if they have reason to doubt the validity. Clearly an emerging pattern of non-attendance due to sickness without explanation would be unacceptable. Experience from administering EMA has shown that a rigorous

regime can be effective, and it is acceptable for a provider to implement a policy of not automatically accepting sickness as a reason for authorised absence. **The key is for providers to set out clearly, from the outset, what their approach will be to absences due to sickness, and to be consistent in its application.**

Long term sickness/disability

Any programme of learning should be agreed between the provider and the young person to meet the learner's needs. The twelve guided learning hours minimum should still apply. However, in respect of learners who are disabled within the meaning of the Disability Discrimination Act (DDA), the provider will have to consider what reasonable adjustments should be made to facilitate the learner's ability to carry out the required guided learning hours, taking into account the particular needs of the learner. The Disability Discrimination Act 1995 defines a disability as a physical or mental impairment which has a substantial and long term (i.e. more than twelve months) adverse effect on a person's ability to do normal daily activities. Further information can be found at www.drc.org.uk. 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. Providers should normally class as authorised any absence which it is satisfied is directly related to the learner's disability. Where it becomes clear that the absence is going to be long term and that the learner will be unable to complete twelve guided learning hours for a significant length of time then the provider will need to consider whether it is reasonable to continue EMA payments during this period.

Partial attendance

Different providers have different methods of recording attendance, and some do so for each lesson or lecture whereas others do so just once in the morning and once in the afternoon. For EMA purposes either is acceptable. The key point is that providers need to report whether there has been satisfactory attendance, and they are free to determine the basis for taking that decision. Where a learner has not registered for an individual lesson, 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 need to report absence from a lesson, there are arrangements for drawing this to the attention of those responsible for EMA administration.

Study leave

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

Jury Service

EMA should not be paid for periods of jury service; if a learner is called upon to attend jury service best practice is for providers to encourage them to seek a deferral to a holiday period. From 2008/09 weekly payments of EMA recognise not only the learner's attendance in learning but also the achievement of goals set out in their learning agreement and their effort and good behaviour while in learning. Mindful of this any period spent away from the learning provider e.g. jury service, would make the achievement of set goals and agreed behaviours difficult to manage for learners and payment authorisation overly complicated for learning providers.

General authorisations

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

Local area agreements

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

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.

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

Annex 2: Example of Contract Part 2

This document has examples of how providers may want to set out the Contract Part 2 (bonus payments) for learning progress and learner behaviour and effort. This 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. I understand that I must abide by the standards of behaviour and effort agreed at the start of my learning programme. I understand that I must abide by the rules of the EMA scheme.

..... [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: I understand that I must abide by the standards of behaviour and effort agreed at the start of my learning programme. I understand that I must abide by the rules of the EMA scheme.

..... [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]. I understand that I must abide by the standards of behaviour and effort agreed at the start of my learning programme. I understand that I must abide by the rules of the EMA scheme.

..... [Student]

..... [provider rep]

Annex 3: Guidance on LSC Audit Arrangements for EMA at FE Colleges and School Sixth Forms

Background

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

Methodology

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

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

Controls Review

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

- General management and administration arrangements for EMA including details of any off-site provision such as sub-contracting and the recording, input, storage and security of data relating to EMA payment submission and authorisation, including the Learning Provider Portal (LPP).
- Ensuring that only eligible learners are enrolled by the school or college (See Section 4).
- Agreement and completion of EMA document *Contract Part 1*.
- Agreement and completion of EMA document *Contract Part 2*.
- Recording and reporting of attendance data, including authorised and unauthorised absence, and the controls system for the notification of payment/non-payment decisions. (See Section 5).
- Authorisation of EMA bonus payments to qualifying learners.
- Making payment decisions adjustments and advising and reporting to the Learner Support Service (LSS) of any factors that may influence future EMA payments or corrective actions.

Substantive Testing

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

- General management controls and sub-contracting, including off-site provision
- Eligibility
- Contract Part 1: Attendance, behaviour and effort
- Attendance recording
- Contract Part 2: Bonus payments
- Adjustments/recoveries
- Accuracy and reliability of data

Evidence Requirements

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

- The school's or college's EMA attendance policy, detailing authorised and unauthorised absences
- Evidence to confirm that the learner is eligible to receive EMA, such as a completed eligibility checklist, application/enrolment documentation or initial assessment
- Copies of the learner's Contract Part 1: Attendance, behaviour and effort, signed by the learner and provider confirming the learner's agreed timetable
- Copies of the Contract Part 2: Bonus Payments signed by the learner and learning provider confirming fulfilment of agreed learning aims
- Evidence of learner attendance to determine appropriate authorisation and reconciliation of payments issued
- Evidence of recoveries action (if any) undertaken resulting from overpayments.

Feedback and Reporting

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

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

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

Summary of Common Pitfalls

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

- Eligibility checks: providers do not check that each learner meets the EMA eligibility requirements prior to entering the learners onto LPP, and/or do not hold documentation to confirm that the eligibility checks have taken place
- A common misconception is that the Notice of Entitlement 'confirms' that a learner is eligible to receive EMA payments, and providers do not

always realise they are responsible for checking a number of eligibility criteria themselves

- A recurring weakness is that providers do not always have a clear documented attendance policy for staff and learners including guidance on authorised and unauthorised absences
- Some providers do not hold complete attendance evidence to support all the weekly payments decisions for all the learners. There are two main aspects to this – attendance evidence is missing or incomplete and occasionally the attendance evidence held contradicts the payment decision made by the provider
- Some providers do not hold complete evidence to support all the bonus payments decisions for all the learners
- Occasionally, Contract Part 1 and Contract Part 2 documents have not been available for audit inspection, and some Contract Part 1 and Contract Part 2 documents have not been signed by the learner or occasionally, by the provider.

Recommended Best Practice

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

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

Attendance – Authorised and Unauthorised Absences. In order to help learners understand their attendance requirements, providers should have a documented attendance policy which includes authorised and unauthorised absences.

Retention of Documentation

The following documentation should be retained for audit inspection for six years following the end of the 2008/09 EMA year (i.e. 31 July 2014):

- Fully completed Contract Part 1 for each learner
- Fully completed Contract Part 2 for each learner
- Attendance evidence to support each weekly payments decision
- Evidence of participation to support all bonus payments.

EMA Eligibility Checklist: Schools and Colleges and other non- Work Based Learning providers

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

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

Completed By:	
Position:	
Date:	

Note: * Although there is no specific requirement for providers to confirm that learners' residency self-certifications are accurate, providers should consider whether on the basis of the evidence seen at enrolment the learners appear to be eligible both to participate in LSC funded learning and to receive EMA payments (i.e. there is no contradictory evidence).

Annex 4: References

DCSF (2008) *Advice and guidance to Schools and Local Authorities on Managing Behaviour and Attendance: groups of pupils at particular risk* at <http://www.dcsf.gov.uk/schoolattendance/publications/index.cfm>

FSA (2008) *Information about bank accounts* at www.moneydeclared.fsa.gov.uk/publications

LSC (2008) *School Sixth Forms – Funding Guidance for 2007/08 and 2008/09* at www.lsc.gov.uk

LSC (2008) *Funding Guidance for Further Education in 2008/09* at www.lsc.gov.uk

LSC (2008) *Financial Help for Young People* at www.direct.gov.uk/youngpeoplefinance

LSC (2008) *Guidance Notes for EMA 2008/09 – Helping you fill in the Application Form* at <http://ema.lsc.gov.uk/resources>

LSC(2008) *Example of Notice of Entitlement and Contract Part 1* at <http://ema.lsc.gov.uk/resources>

LSC (2008) *Requirements for Funding Work-based Learning for Young People 2008/09* at www.lsc.gov.uk

LSC (2008) *LSC Policy Summary* at www.lsc.gov.uk

LSC (2007) *Connexions Action Note – CXP 234* – available on the connexions intranet

LSC (2008) *2008/09 EMA Guidance for Providers of LSC funded Entry to Employment and Programme Led Apprenticeships* at <http://ema.lsc.gov.uk/resources>

LSC (2008) *EMA Marketing and Communications Guidance* at <http://ema.lsc.gov.uk/resources>

LSC(2008) *EMA Residency 2008/09 – Supporting Information* at <http://ema.lsc.gov.uk/resources>

LSC (2008) *EMA and Benefits information* at <http://ema.lsc.gov.uk/resources>

Annex 5: Abbreviations

DL	Discretionary Leave
E2E	Entry to Employment
ELR	Exceptional Leave to Remain
EMA	Education Maintenance Allowance
FE	Further Education
ILE	Indefinite Leave to Enter
ILR	Indefinite Leave to Remain
LPP	Learning Provider Portal
LSC	Learning and Skills Council
LSS	Learner Support Service
NoE	Notice of Entitlement
NVQ	National Vocational Qualification
PA	Personal Adviser
PLA	Programme Led Apprenticeships
WBL	Work Based Learning

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