



SCOTLAND

## Guidance

**Released to Stakeholders April 2014**

(Version 13 – April 2014)

## EDUCATION MAINTENANCE ALLOWANCES SCOTLAND

### 1. INTRODUCTION

Education Maintenance Allowances (“EMAs”) provide financial support to 16 to 19 year-olds from low-income households who are attending non-advanced full-time education in school, college, community or voluntary provision, or who are home educated. The EMA programme was introduced across the UK in academic year 2004-05. **The programme targets young people from low-income households, and aims to increase participation and retention in post-compulsory education.**

Following a major consultation exercise, the programme underwent revisions from academic year 2009-10 onwards meaning that EMA would be better targeted at those young people from the lowest-income families as well as those considered to be vulnerable (at risk of non-participating and under-achieving).

**This document aims to provide guidance for those involved directly in either administering EMAs or advising young people about application and eligibility. The Scottish Further and Higher Education Funding Council (SFC) administers the programme for those attending colleges, with the exception of colleges in Orkney and Shetland where the programme is administered by the relevant local authority. Local authorities administer the programme for those in school (including home education), and all other learning.**

**EMAs are paid under the Education Maintenance Allowances (Scotland) Regulations 2007 for courses of non-advanced education under the supervision of the education authority; and paid under the Education (Access Funds) (Scotland) Determination 2014 for courses of non-advanced education offered by colleges.**

The programme parameters and the roles and responsibilities of the key partners are set out in the EMA Scotland Business Model (Version 14 – April 2014)

The table in Appendix 1 shows EMA entitlement based on household income.

#### **EMA WEBSITE**

You can find information on the EMA programme at the EMA Scotland website:

[www.emascotland.com](http://www.emascotland.com)

**This will also contain electronic versions of the Business Model and this Guidance Document.**

## THIS DOCUMENT SETS OUT:

- aims and key features of the EMA Programme
- eligibility criteria for receipt of an EMA
- the design of the Learning Agreement
- details of payment issues, including guidance surrounding stopping payments
- guidance on supporting vulnerable young people
- guidance on EMA support for students in home education
- management information
- responsibilities of key partners
- payment of EMA to young people outwith school, including those taking part in activity agreements

The Guidance Document has been compiled by the Scottish Government's Employability, Skills and Lifelong Learning Directorate. It sets out the rules and principles by which the scheme should operate. Scottish Ministers may adjust the terms of the scheme at any time. This Guidance should be read in conjunction with: (1) the Education Maintenance Allowances (Scotland) Regulations 2007, which provides the legal framework for education authorities to pay EMAs to students; and (2) the Education (Access Funds) (Scotland) Determination 2014 which makes similar provision for colleges of further education but does not apply to colleges in Orkney and Shetland (where EMA is administered by the relevant local authorities).

## 2. AIM OF THE EMA PROGRAMME

The EMA programme aims to provide a financial incentive to young people from low-income households and vulnerable young people to remain in full-time education beyond the statutory school leaving age. Young people from low income families face financial barriers in continuing learning. EMA is designed to reduce the impact of those barriers. There is a well-established and researched causal link between low income and low attainment.

As a result many leave with few or no qualifications. This in turn means that they face greater difficulties entering the labour market. The EMA programme provides support in alleviating the financial barriers young people may face and allows them to stay in post 16 learning, offering them an opportunity to enhance their employment prospects.

### 3. SUMMARY OF THE KEY FEATURES OF THE EMA

#### 3.1 THE COURSE

The course the young person is undertaking must be a course of non-advanced education, as defined in the Education Maintenance Allowances (Scotland) Regulations 2007 and the Education (Access Funds) (Scotland) Determination 2014.

#### 3.2 THE ALLOWANCE

The EMA will comprise a means-tested weekly allowance (see Appendix 1) payable fortnightly (in blocks of two weeks) in arrears during term-time. In order to receive an EMA a student must have an acceptable Learning Agreement (see Section 6). The weekly allowance awarded will normally depend on the financial circumstances of the household (see also Appendix 2)

#### 3.3 METHOD OF PAYMENT

EMAs will be paid directly into the bank account of the young person.

#### 3.4 PERIOD OF ANNUAL CLAIM PERIOD

For a young person that takes part in a course of study that follows the academic year, i.e. the school and college sectors, EMA can only be paid for each full week's attendance within term time, up to a **maximum** of 42 weeks in any one academic year. EMA payments will not be made during short term time holidays which include the October break, Christmas and Easter.

#### 3.5 DURATION OF ALLOWANCE

Payment of an EMA will normally be restricted to a maximum period of 3 years from the anniversary of the first payment and recipients should be between 16 and 19 years old. In exceptional circumstances some young people identified as "vulnerable" or with special educational needs may be entitled to receive 4 years EMA support ( please refer to Section 8).

It is possible for a young person to study for one year, take a year out, then re-enter full-time non-advanced study and still receive additional two years' EMA funding, dependent on the age eligibility.

In all cases, EMA cannot be paid if the recipient has reached the age of 20 years on the first day of the term for which EMA is sought.

### 3.6 LEARNING CENTRE

The young person must be attending a school, or a college funded by SFC, or any other learning centre that the local authority or the Scottish Government deems appropriate (such as the Scotland's Rural College (SRUC)). This may include residential schools, secure care establishment, community and voluntary care organisations, students undertaking home education, and institutions in the public and private sectors. From Autumn 2012 this also includes college places funded by Skills Development Scotland. NB EMA will not be paid for paid work experience.

### 3.7 OTHER AWARDS

A young person on an EMA may still be entitled to other forms of financial support for non-maintenance costs (such as a travel allowance) from existing local authority or college bursary funding. Young people in full-time employment, in receipt of Job Seekers Allowance (JSA) or in receipt of a training allowance, such as the Employability Fund will *not* be eligible for EMAs.

### 3.8 INCOME TAX LIABILITY

For income tax purposes, young people in receipt of an EMA will be treated the same as any other taxpayer. However, in calculating an EMA recipient's tax liability Her Majesty's Revenue and Customs (HMRC) will disregard the EMA.

### 3.9 BENEFITS

Under no circumstances should EMA students have benefits withdrawn due to receiving EMA. Young people receiving education who are Looked After by the local authority or who are classed as "care leavers" by the local authority, are eligible for the full EMA without having to provide evidence of parental household income; this also includes students who are in receipt of Income Support or income-related Employment and Support Allowance in their own name and students receiving a Pathways allowance from the local authority. Further guidance on Looked After young people and Care leavers is provided in Section 8 of this guidance.

In addition if a household is in receipt of a grant from the Scottish Welfare Fund (crisis grants and community care grants to people on low incomes) this should be disregarded from EMA household calculations.

## 4. ELIGIBILITY CONDITIONS

An EMA award may only be offered if both the student and the course are eligible. This section deals with students' eligibility. See Section 5 for course eligibility.

### 4.1 STUDENT ELIGIBILITY FOR THE EMA PROGRAMME

#### 4.1.1 AGE: GENERAL RULES

Recipients will normally be aged between 16 and 19 years (inclusive).

EMAs are designed to support young people in *post-compulsory* education. For the school and college sectors there will be two intakes of eligibility, to reflect the two school leaving dates in Scotland. In both cases eligibility for continuing students should be reassessed at the start of each academic year.

#### AUTUMN INTAKE

This will coincide with the start of the academic year following the summer school leaving date. Students who have reached the statutory school leaving age in the May prior to the current academic year will be eligible under this intake, i.e. those students who turn 16 between 1 March and the 30 September of the current year.

#### WINTER INTAKE

This will coincide with the start of the term/course following the Christmas holidays. Students who would be eligible to leave school at the winter leaving date, that is to say those whose 16<sup>th</sup> birthday falls between 1 October and the last day in February, would become eligible for an EMA from the start of the term following the winter leaving date.

Students who left education under the most recent summer school leaving date, and are returning to education or starting a new course at this time, will also be eligible under the winter intake.

#### 4.1.2 INCOME

The household income of the young person will determine their eligibility for an EMA. Where the household income is £20,351 or less the young person will be eligible, and will be awarded a weekly allowance of £30. Young people from households with more than one dependent child and where the household income is £22,403 or less will also be eligible for a weekly payment of £30 per week. Please refer to Appendices 1 and 2 for details of the financial assessment.

### 4.1.3 RESIDENCY

In order to be eligible for an EMA, a student studying a course of non-advanced education under the supervision of the education authority must meet the residency criteria set out in the Education Maintenance Allowances (Scotland) Regulations 2007 (as amended) (“the Regulations”).

The Regulations were a consolidation of previous EMA regulations and came into force on 1<sup>st</sup> August 2007 (SSI 2007/156). The Regulations were amended in December 2007 by SSI 2007/503, in May 2009 by SSI 2009/188 in September 2009 by SSI 2009/309, in June 2011 by SSI 2011/261 (to reflect that all eligible Scottish domiciled students can now apply for EMA in Scotland), in March 2012 by SSI 2012/72 and in April 2013 by 2013/80. All regulations are available from the [legislation.gov.uk](http://www.legislation.gov.uk) website:

- <http://www.legislation.gov.uk/ssi/2007/156/made>
- <http://www.legislation.gov.uk/ssi/2007/503/made>
- <http://www.legislation.gov.uk/ssi/2009/188/made>
- <http://www.legislation.gov.uk/ssi/2009/309/made>
- <http://www.legislation.gov.uk/ssi/2011/261/made>
- <http://www.legislation.gov.uk/ssi/2012/72/made>

A student who is studying a course of non-advanced education at a college of further education in Scotland outwith the local authority areas of Orkney and Shetland must meet the residency criteria set out in the Schedule to the Education (Access Funds) (Scotland) Determination 2014 (“the Determination”). The residency criteria in the Determination largely mirror those in the Regulations.

The following provides a summary of the residency criteria for EMA. However, this is only intended as a guide, and **in all cases** reference should be made to the Regulations or the Determination (as appropriate) when deciding a student’s eligibility for the EMA Programme.

#### 4.1.3.1 Qualifying Date

In deciding eligibility, reference will be made to a “qualifying date”. For applications made under the autumn intake, this day will be the first day of the first term of the academic year (e.g. a date in August). For applications made under the winter intake, this day will be the first day of the first term in the new calendar year (e.g. a date in January).

For those eligible for the award, if the application is not submitted by the last day of September the award can only be made from the week it is received by the local authority.

#### *4.1.3.2 Ordinarily Resident*

Students must satisfy “ordinary residence” criteria set out in the Regulations or the Determination (as appropriate) in order to be eligible for an EMA. Generally this relates to the qualifying date and to the three year period immediately before the qualifying date. Students must be ordinary resident in Scotland on the qualifying date and ordinary resident in the UK for the last 3 years preceding the qualifying date. “Ordinarily resident” has been defined in the courts as “habitual and normal residence in one place”. There are restrictions as to whether living in a place totally or mainly for the purpose of receiving full-time education can count towards ordinary residence. Please refer to the regulations.

There are situations where a student can be considered to have met the requirements even if he or she has been out of the area in question on the qualifying date or during the preceding 3 year period. These exceptions are set out in Schedule 2 of the Regulations and in Part 3 of the Schedule to the Determination.

#### *4.1.3.3 Settled Status*

(See paragraph 1 of Schedule 1 to the Regulations and paragraph 1 of Part 2 of the Schedule to the Determination)

The residency requirements are that the student:-

- is settled in the UK (within the meaning of the Immigration Act 1971) on the qualifying date;
- has been ordinarily resident **in the UK and Islands** throughout the 3 year period immediately before the qualifying date; and
- is ordinarily resident **in Scotland** on the qualifying date.

A person may be settled in the UK within the meaning of the Immigration Act 1971 if they are ordinarily resident in the UK and not subject under the immigration laws to any restriction on the amount of time they may stay in the UK. This would include British citizens, some Commonwealth citizens who have “Right of Abode” in the UK, those with indefinite leave to enter or remain and limited leave to enter or limited leave to remain, and those who have attained a right of permanent residence under Directive 2004/38/EC.

#### *4.1.3.4 Right Of Permanent Residence*

(See paragraph 4 of Schedule 1 to the Regulations and paragraph 4 of Part 2 of the Schedule to the Determination.)

There is also provision to enable people with settled status - such as a UK national (or family member), or a person who has a right of residence in the UK - to be eligible where they have utilised a right of residence elsewhere in the EEA or Switzerland during the 3 year period. This requires that he or she has been ordinarily resident in the EEA or Switzerland for the 3 year period.

Where the 3 year residence in the EEA or Switzerland has been for the purposes of education, they would also require to have been ordinarily resident in the EEA or Switzerland prior to that period of study. Exceptions may apply when the student has been outwith the “relevant area” (defined as the UK and Islands, the EEA, Switzerland and Turkey) as detailed in Schedule 2 of the Regulations and in Part 3 of the Schedule to the Determination.)

The EEA consists of all the countries of the European Union, plus Ireland, Liechtenstein and Norway.

#### *4.1.3.5 EEA And Swiss Employed Persons Or Migrant Workers (Including Self-Employed)*

(See paragraphs 2 and 3 of Schedule 1 to the Regulations and paragraphs 2 and 3 of Part 2 of the Schedule to the Determination.)

A person who is an EEA migrant Worker, or an EEA or Swiss employed or self-employed person, (or who is the family member of such a person), may be eligible for an EMA. The person:-

- have been ordinarily resident **in EEA or Switzerland** throughout the three year period immediately preceding the qualifying date; and
- be ordinarily resident **in Scotland** on the qualifying date.

Please refer to article 2 the Regulations and the most recent amendment (SSI 2013/80) for the definition of “family member”.

#### *4.1.3.6 EEA Frontier Workers And Swiss Frontier Employed Persons (Including Frontier Self-Employed)*

(See paragraphs 2 and 3 of Schedule 1 to the Regulations and paragraphs 2 and 3 of the Schedule to the Determination.)

A “frontier worker” or “frontier employed person” means an EEA or Swiss national who is either a worker (for EEA nationals within the meaning of article 7 of Directive 2004/38) or employed (for Swiss nationals within the meaning of Annex 1 to the Switzerland agreement) in the UK, who resides in Switzerland or in the territory of an EEA state other than the UK, and who returns to his or her residence in Switzerland or that EEA state, as the case may be, daily or at least once a week. See Schedule 1 to the Regulations and the Schedule to the Determination for relevant definitions.

A person who is an EEA frontier worker or self-employed frontier worker or Swiss frontier employed person or frontier self-employed person in the UK or who is the family member of such a person, may be eligible provided:-

- he or she has been ordinarily resident in the EEA or Switzerland for the 3 year period immediately preceding the qualifying date.

#### 4.1.3.7 Refugee Status

(See paragraph 5 of Schedule 1 to the Regulations and paragraph 5 of Part 2 of the Schedule to the Determination)

Applicants who have been granted refugee status and have been living **in the UK and Islands** at all times since receiving it (or who are the spouse, civil partner or child of such a person) are entitled to apply for an EMA provided they are ordinarily resident **in Scotland** on the qualifying date.

These applicants should have a letter from the Home Office stating that they have been **recognised as a refugee** and/or awarded leave to remain **as a refugee**.

#### 4.1.3.8 Leave To Enter or Remain (where refugee status is refused),

(See paragraph 6 of Schedule 1 to the Regulations and paragraph 6 of Part 2 of the Schedule to the Determination)

Applicants who have been refused refugee status but granted a form of leave to enter or remain as a result of a failed asylum claim are also eligible, provided they:-

- have been ordinarily resident **in the UK and Islands** at all times since receiving that status.;  
and
- are ordinarily resident in Scotland on the qualifying date

The spouse, civil partner or child of such a person is also eligible provided he or she is ordinarily resident in Scotland on the qualifying date.

These applicants should have a letter from the Home Office which will indicate that they **have not been recognised as a refugee**, and **detail the leave granted**.

#### 4.1.3.9 EU Temporary Protection

(See paragraph 7 of Schedule 1 to the Regulations and paragraph 8 of Part 2 of the Schedule to the Determination.)

Students may be granted Temporary Protection where there is a mass influx of displaced persons. The EU will determine when such a situation exists. To date this provision has never been used by the EU.

Students who have been granted Temporary Protection will be eligible to apply for an EMA if they are:-

- have been ordinarily resident **in the UK and Islands** at all times since receiving that status; and
- **are under 18** on the qualifying date; and
- are ordinary resident in Scotland on the qualifying date

EMA is paid to a person under this paragraph must not continue beyond the end of any academic year in which that person attains the age of 18 years.

#### *4.1.3.10 Non-UK EU Nationals*

(See paragraph 8 of Schedule 1 to the Regulations and paragraph 9 of Part 2 of the Schedule to the Determination.)

Non-UK EU nationals (or their family members) may be eligible for an EMA, provided they:-

- Are a non-UK EU national or the family member of such a national;
- are ordinarily resident **in Scotland on the qualifying date; and**
- **have been ordinarily resident in the UK and Islands throughout the preceding 3 years period.**

Where the residence in the UK and Islands during the 3 year period has been wholly or mainly for the purposes of receiving full-time education (for example where an EMA applicant has been in secondary education in the UK), they may still be eligible, provided that they were ordinarily resident in the EEA or Switzerland immediately before the start of that 3 year period.

#### *4.1.3.11 Child Of Swiss National*

(See paragraph 9 of Schedule 1 to the Regulations and paragraph 10 of Part 2 of the Schedule to the Determination.)

The child of a Swiss national will be eligible, provided:-

- they are ordinarily resident in Scotland on the qualifying date; and
- have been ordinarily resident in the EEA or Switzerland throughout the 3 year period immediately preceding the qualifying date.

Where the residence in the UK and Islands during the 3 year period has been wholly or mainly for the purposes of receiving full-time education they must also have been ordinarily resident in the EEA or Switzerland immediately before the start of that 3 year period.

#### *4.1.3.12 Child of a Turkish worker*

(See paragraph 11 of Schedule 1 to the Regulations and paragraph 12 of Part 2 of the Schedule to the Determination.)

A student who is the child of a Turkish worker (defined as Turkish national who is ordinary resident in Scotland and is or has been lawfully employed in the UK) is eligible to receive EMA if they are ordinarily resident in Scotland on the qualifying date and have been ordinary resident in EEA, Switzerland or Turkey throughout the preceding 3 years.

#### *4.1.3.13 Iraqi Nationals (LESAS)*

(See paragraph 6A of Schedule 1 to the Regulations and paragraph 7 of Part 2 of the Schedule to the Determination)

Some Iraqi nationals have been granted leave to remain in the UK through the Locally Engaged Staff Assistance Scheme (LESAS), also known as the Iraqi Direct Entry Scheme. LESAS was established to assist Iraqis who worked for the British armed forces and civilian missions in Iraq. After their employment they have the option to settle in the UK.

For those who were employed between 1 January 2005 and 7 August 2007, the Home Office allowed them to enter the UK as a recognised refugee under the Gateway Protection Programme. However this part of LESAS closed to new applicants on 19 May 2009. For those who were employed from 8 August 2007 onwards, the Home Office now allows them to enter the UK with Indefinite Leave to Enter (ILE). The Regulations were amended in September 2009 so that Iraqi nationals and their children who have been awarded ILE under the LESAS scheme are eligible for EMA from the date of their entry to the UK without having to meet the normal 3 year residency requirements.

Iraqi nationals (or their children) will be eligible if:

- they have been ILE under LESAS;
- they have been ordinarily resident in the UK and Islands at all times since they were first granted ILE; and
- they are ordinarily resident in Scotland on the qualifying date.

### **4.1.4 ADMINISTRATION OF EMA ACCORDING TO INSTITUTION**

#### *4.1.4.1 Schools*

Young people should apply to the local authority in the area in which they attend school. Where a young person is living in one local authority area and attending an educational institution in another, responsibility for payments falls with the local authority in which that institution is situated. For example, if the student lives in East Ayrshire, but attends school in South Ayrshire, South Ayrshire will be responsible for making the payments. This also applies to young people who are Looked After but placed outside their responsible local authority area and may therefore be educated in another authority area.

If a student is attending both a school and a college, the local authority in which the school is situated will be responsible for making the EMA payments.

#### *4.1.4.2 Colleges*

Students at colleges of further education should apply directly to the college they are attending.

#### *4.1.4.3 Scotland's Rural College (SRUC)*

Applications for students attending SRUC should be managed by either South Ayrshire or Aberdeen City Councils for the appropriate campus

#### *4.1.4.4 Community and Voluntary Activity*

For young people who are taking part in community and voluntary activity which is recognised as a course of education by the local authority for the purposes of EMA, the local authority will be responsible for payment.

#### *4.1.4.5 "Cross-Border" Students / Non-Scottish UK Nationals*

The EMA programme was rolled out nationally across Scotland, England, Wales and Northern Ireland in academic year 2004/05. From academic year 2011-12, England replaced EMA with an enhanced discretionary learner support fund. As a result, we amended the Education Maintenance Allowances (Scotland) Regulations 2007 and the following rules now apply. Non-Scottish UK students travelling daily across the border to study in Scotland will not be eligible to apply for Scottish EMA. However, non-UK students who reside in Scotland on a temporary basis for the purpose of studying a course of non-advanced education under the supervision of an education/local authority will be considered to be ordinarily resident in Scotland and will be able to apply for Scottish EMA. These should be awarded and administered by local authorities and colleges in the same way as for Scottish-domiciled students.

## 4.2 STUDENT ELIGIBILITY FOR PAYMENT OF WEEKLY ALLOWANCE

### 4.2.1 ATTENDANCE REQUIREMENTS

#### *4.2.1.1 Weekly Requirement*

EMA is a weekly allowance requiring 100% attendance at all timetabled sessions. Part payments for part attendance will not be made. Young people on college placements funded by Skills Development Scotland are subject to the same attendance criteria.

However, absences authorised by the educational provider where there is good cause for absence should be treated as a day of attendance for EMA purposes. **Vulnerable young people should be given appropriate flexibility and discretion when assessing attendance. This flexibility should be**

considered on a case by case basis and be part of the learning agreement. If total attendance falls below a satisfactory level the EMA should be reviewed.

The student must have 100% attendance for their full-time course to receive each week's payment. As different centres have different methods of recording, such as half-day or full-day reports, what constitutes 100% will be up to the institution and related to the course requirements. See Section 7 regarding absence and Section 8 regarding vulnerable students.

Further information on attendance requirements and absences is set out in section 6 (absences) and section 7 (vulnerable students) and section 9 (home education).

#### *4.2.1.2 Work Experience Placements*

These students will continue to receive payments, but only if the work experience placement is a pre-arranged integral part of the course, takes place during term-time, and the young person does not receive a wage. In such circumstances this period of work experience would have been recorded on their EMA Learning Agreement, either at the outset of the course or as soon as it was arranged.

#### *4.2.1.3 Exam Preparation*

Revision periods leading up to exams are counted as attendance, as long as they are in term time and recorded in the Learning Agreement as soon as they are arranged. These will generally be timetabled as study time.

#### *4.2.1.4 EMA Payments During SQA Summer Examination Timetable (School Sector only)*

The last day of the exam timetable (as set out by the Scottish Qualifications Authority (SQA)) is the cut-off date for payments. If a student has been attending for exams they should be paid until the end of the exam timetable – even if they don't have exams that week. Students who do not attend exams should have the EMA payment withheld for that week, except in cases of medical absences.

#### *4.2.1.5 EMA Payments To Students After The Summer Examination Period (School Sector only)*

#### **S4 and S5 students returning to complete a further academic year –**

Students who have completed S4 or S5 and decided to remain in school for the next academic session, are eligible to receive EMA payments to the end of the academic year, usually June, providing 100% attendance is recorded each week.

#### **S4 and S5 students leaving school at the end of the academic year (exam period) –**

Students in S4 and S5 who do not wish to remain in school after the exam period is over will only be eligible to receive an EMA until the end of the SQA Examination timetable. After this date, students should cease to receive any further EMA payments.

### **S6 students leaving school at the end of the academic year (exam period) –**

S6 students will only be paid until the end of the SQA exam period (usually mid June) as they are not eligible to remain in school.

#### 4.2.2 OTHER CONSIDERATIONS

Institutions should also be satisfied that the student is fulfilling the requirements set out in the student's Learning Agreement. (See Section 6 for details of the EMA Learning Agreement).

### 4.3 COURSE CHANGE AND STUDENTS MOVING INSTITUTION

#### *4.3.1 IF A STUDENT LEAVES A COURSE*

If a student leaves a course early they are still eligible for future funding, up to a total period of support of 3 years. When they apply for the EMA for their second course, provided they satisfy all the eligibility criteria, they can be considered from the start of their new course, up to the point at which they have received payments for a period of three years in total.

#### *4.3.2 IF A STUDENT CHANGES COURSE*

Where a student changes course mid-way through, they will still be eligible for an EMA for the new course provided both the student and course continue to meet the eligibility criteria. An amended or renewed Learning Agreement would require to be set up and signed.

#### *4.3.3 YOUNG PEOPLE WHO MOVE INSTITUTION DURING THE ACADEMIC YEAR*

This will not affect their entitlement to an EMA, provided that they renew their EMA Learning Agreement (with appropriate signatures). The new college/local authority would take on responsibility for payments.

Where a student moves institution mid-week, responsibility for payment of the EMA for the week would rest with the college at which the student spends the majority of that week. However, it is likely that these cases will be considered on an individual basis.

## 5. COURSE ELIGIBILITY

### 5.1 LEVEL

The applicant must normally be on a full-time non-advanced course of education at a school or college of further education (see also Section 9 Home Education), or any recognised institution under the supervision of an education authority offering a course of non-advanced education, which does not attract any other form of public or employer bursary.

### 5.2 PROGRESSION

If a student is repeating a course, for example retaking Highers, or is in their second year at a course of similar or lower academic standard than the first, eligibility continues provided that the institution agrees that the student is progressing, and, where appropriate, that the course is leading towards a recognised qualification. The Learning Agreement should be amended accordingly.

### 5.3 QUALIFICATIONS

EMAs are intended to support non-advanced learning. Weekly allowances are *not* dependent upon a qualification being achieved (see Section 8 on Vulnerable Students and Section 9 Home Education). The following levels of courses are all eligible:

- a course which prepares students to obtain a vocational qualification
- a course within or drawing upon the new National Qualifications programme
- a course which prepares students for entry to a course of further and higher education
- a course for basic literacy in English
- a course to teach independent living and communication skills to persons having learning difficulties, which prepares them for entry to another course
- a programme of home education which is appropriate to the student's age, ability and aptitude
- a programme of learning in a community and voluntary setting which prepares young people to enter training or further learning in a more formal setting.

### 5.4 TEACHING HOURS PER WEEK

#### 5.4.1 FULL-TIME

For EMA purposes students should be enrolled as full-time.

Within the school sector this usually means at least **21** guided learning hours per week, although there will be a degree of flexibility around the number of hours making up a full time course. This will vary from school to FE college.

#### 5.4.2 *CURRICULUM DIVERSITY*

A student can attend separate courses provided they make up a full time timetable, they are integrated into the EMA Learning Agreement and the institution is satisfied that they are not undertaking full-time work or training.

#### 5.4.3 *TEMPORARY EXTENUATING CIRCUMSTANCES*

In temporary extenuating circumstances, for example when a student is pregnant or has restricted mobility through illness, education of less than full time per week may be allowed. The school or college must be satisfied that all other aspects of the Learning Agreement can be met and that the course can be completed successfully. (Please refer to Section 8 regarding special consideration for Vulnerable Students, and Section 6 on Learning Agreements).

#### 5.5 *SHORT COURSES*

There may be cases where a student is following a course that is shorter than one academic year. Providing the course meets all the other criteria, the student may be accepted for an EMA. Eligible students participating in a short course will only receive EMA for the duration of the course.

## 6. EMA LEARNING AGREEMENTS

### 6.1 GENERAL GUIDANCE

A Learning Agreement is an agreement between a student and the learning provider that sets out the learning that will be offered and the responsibilities of both parties. It is each student's responsibility to ensure that he/she has a valid Learning Agreement. The local authority and/or the learning provider should ensure that the student is aware of this.

### 6.2 REQUIRED SIGNATURES

To be eligible for an EMA, students must have agreed and signed a Learning Agreement. The Learning Agreement must also be countersigned by:

- an appropriate representative of the institution (or institutions) at which the student is studying.
- the student's parent or guardian if the student is attending a school (colleges may choose to include this at their discretion)

Where the learning programme is undertaken at both a school and a college, the student's Learning Agreement is the responsibility of the school, and the local authority would be liable for making EMA payments.

If the student attends two institutions, representatives from both should sign the Learning Agreement.

The requirement for a parent/guardian signature for school student may be waived when the student is not currently residing with their parent or guardian and has been assessed as independent for Benefits Agency purposes. This may apply to students in care or care leavers.

The requirement for a student signature may be waived when the student has additional support needs that make it impractical. Vulnerable young people may not be able to obtain the essential signatures from a parent or guardian to authorise the EMA application. Examples include parental illness, young carers, those who are estranged from their parents.

LA's will need written confirmation from the learning centre and/or support worker confirming the young person's circumstance and this must be filed accordingly. Only then can an application be considered.

### 6.3 GENERAL FEATURES

Education providers should ensure that the text of the document is clear and unambiguous. Each Learning Agreement should provide enough detail to ensure that the signatories understand fully their responsibilities within the agreement while avoiding unnecessary legalistic, contractual language. The Learning Agreement does not need to include all details, such as a timetabled learning programme, provided that reference is made to existing documents where these are clearly set out.

The Learning Agreement may incorporate:

- enrolment details
- minimum attendance targets
- agreed attainment targets
- the requirements of any home-based tuition or learning
- any other elements that the local authority or the learning provider may wish to include

The Learning Agreement is expected to be a “living” document, to be amended as necessary throughout the academic year.

A new Learning Agreement will be required for each academic year.

### 6.4 SPECIFIC REQUIREMENTS

The Learning Agreement must to include, or refer to documents that include, the following core elements:

- the student’s name, address and date of birth
- course study aims and goals and, where possible, longer term career aims
- study programme, including attendance and course work requirements
- the weekly EMA entitlement (this can be stated in the letter to the student confirming entitlement)
- evidence of the assessment and guidance process by which the Learning Agreement has been reached (or a timetable setting out the proposed process)
- a statement of the student’s, and parent’s or guardian’s (where appropriate), commitment to ensuring that the requirements of the study programme are met and to supporting the institution’s aims and standards of conduct
- commitment by the student, and parent or guardian (where appropriate), to notify the institution about absences before or on the first day of absence

- a clear statement of understanding that the EMA may be withheld if the terms of the Learning Agreement are not met
- the arrangements for regularly reviewing the Learning Agreement, including a statement that if the student changes course or institution, they will seek appropriate careers advice
- the arrangements for appeals against withholding payment of EMAs
- an explanation of the criteria to be used for assessing retention
- a standard statement about compliance with the Data Protection Act and fraud avoidance

## 6.5 CHANGE IN COURSE OR INSTITUTION

Where review of the learning programme results in a change of course at the same institution, the Learning Agreement will be amended and remain valid for EMA payments provided that the amendment is signed by the student and the institution concerned. Where a student changes institution mid-year a new Learning Agreement will be required.

## 6.6 COLLATION OF LEARNING AGREEMENTS

The student must have a current signed Learning Agreement and they must adhere to the conditions of that Learning Agreement.

**Colleges:** The college will collate the Learning Agreements for its eligible students.

**Schools and other learning providers:** The Learning Agreement for students will be sent onto the local authority by the school or other learning providers as proof to start payments.

Please note that EMA payments will not be made until a Learning Agreement has been completed and sent back to the relevant learning centre.

## 6.7 WITHHOLDING PAYMENTS

**Colleges:** the college is responsible for monitoring the student's participation and may withhold payment if this is not satisfactory.

(See also Section 7 on Absences)

**Schools and other learning providers:** the local authority may discontinue EMA payments where the information supplied by the school or other learning providers state that the student has failed to meet the agreed targets outlined in the student's Learning Agreement.

## 7. GUIDANCE ON ABSENCES

Education providers will be required to record attendance of EMA recipients on days when they are open to students. Where the institution is closed on days when it would normally be open, see below for a non-exhaustive list of circumstances that might be considered authorised absences.

Where there is a shortened week at the start or end of an official school holiday, students will be eligible for the weekly payment if the number of days the school or learning provider is “open” **3 or more** (including the above exceptions) and where the student has fulfilled the 100% attendance when the school was open.

For In-service days students should be recorded as being in attendance. For example, if school reopens on a Thursday following a Wednesday in-service day, students would be eligible for a payment for that week (subject to 100% attendance).

**Colleges:** institutions are responsible for keeping attendance records and if necessary liaising with SFC to clarify difficult cases.

**Schools or other learning providers:** institutions are responsible for recording absences and notifying the local authority about the daily attendance patterns of students receiving the allowance.

### 7.1 AUTHORISED ABSENCE

The following are examples, but are neither prescriptive nor exhaustive. Education providers will be required to **use their discretion in all cases**, and should take account of the local authority’s or college’s own policy. Note: holidays taken within term time cannot be considered as authorised absence, except in the case of pre-determined religious holidays.

- ill health (please refer to 7.2 for information about medical certificates)
- attendance at the funeral of a close family relative when leave is granted prior to the funeral
- the breakdown of the student’s method of transport to and from the institution
- attendance at a Children’s Hearing, meeting related to a Looked After young person’s care needs, meeting related to a care leavers Pathway Plan, court hearing or probation meeting
- authorised school/college activities
- religious holidays, by prior arrangement
- severe weather conditions affecting transport to and/or closure of the learning establishment
- Absences, for example caring responsibilities, that relate to a vulnerable young person’s circumstance.

## 7.2 MEDICAL CERTIFICATES AND ABSENCES DUE TO ILL HEALTH

Students are required to produce documentary evidence that they were unfit to attend due to ill health.

Local authorities and colleges should refer to their existing policies in relation to how long after an absence parental/guardian/carer letters or medical certificates will be accepted.

### **SELF CERTIFICATION**

**We recommend that if a student is absent due to ill health for up to 5 consecutive working days**, a letter from the parent/ guardian/carer should be submitted to confirm this absence; however, it will be at the institutions' discretion how many times they will accept this. We suggest that they use their existing bursary guidance, or employment guidance for staff members, for determining this.

Isolated periods of illness can be regarded as authorised absence, provided you are convinced that the illness was genuine. You have the right to turn down a request for authorisation, if you suspect that the reason was not genuine.

### **MEDICAL CERTIFICATES**

**Beyond the normal 5 working day a medical certificate should be produced.** As GPs are not obliged to provide medical certificates this may have to be at the student's own expense. A medical certificate should only be obtained from a GP if the student has been absent due to illness for a period of more than 5 consecutive working days.

In no circumstances should local authorities or learning providers require medical certificates for shorter absences for the purpose of determining authorised absence for EMAs.

N.B. Although medical certificates would be desirable, it must be recognised that some GPs will not supply Medical Certificates to students, therefore there will be instances where determining whether a medical absence is genuine or not must be left to the teacher / tutor / school / college or learning provider in question.

## **OTHER ACCEPTABLE EVIDENCE**

Other forms of evidence, such as a copy of a doctor's prescription supported by a letter from the parent/guardian/carer confirming period of absence **may** also be acceptable at the discretion of the learning provider.

## **EXCEPTIONAL CIRCUMSTANCES**

Exceptional circumstances must be referred to the local authority or college board of management for adjudication. A periodic medical absence that extends beyond 3 weeks will be the subject of review. Individual circumstances should be taken into account.

### **7.3 LATENESS**

Reference should be made to existing local authority or college policy in how to deal with and record lateness.

## **8. EMA SUPPORT FOR “VULNERABLE” YOUNG PEOPLE**

Meeting the additional support needs of vulnerable students is a key challenge, critical to the creation of a fully inclusive society. There is a range of difficulties that a student may face, such as those outlined in below.

There should be a degree of flexibility when administering EMAs for this group of young people, although all eligibility criteria for EMA should continue to apply. This section gives some areas of guidance, but the administering body will need to use discretion.

Vulnerable young people may require extra support in the application process and in developing the Learning Agreement, as well as throughout the year with coursework and attendance.

The role of other services, including Access Centres, Careers Scotland, key workers, social workers and educational psychologists, will be important in developing a coherent package of support, for example in developing Future Needs Assessments (professional reports that may have contributions from Careers Scotland and an Educational Psychologist).

### **8.1 DEFINITION OF “VULNERABLE”**

“Vulnerable” students are those who are at risk of non-participation and of under-achieving. Please refer to the more detailed list in Business Model Version 14 paragraph 2.1.2 Flexibility in Entitlement and Support for Vulnerable Students.

### **8.2 ATTENDANCE**

Some vulnerable young people may require non-standard attendance patterns. For some it may be sensible to set short-term attendance targets in the Learning Agreement that are initially less than a full time week to induce them to develop good habits gradually.

### **8.3 VULNERABLE STUDENTS WHO ARE LOOKED AFTER OR CARE LEAVERS**

Young people who are Looked After or defined as care leavers who continue in post compulsory education are eligible to receive EMA for the full 4 years. Young people will normally be aged between 16 and 19 years (inclusive). Young people who are Looked After may be Looked After at home or away from home in a variety of settings, including kinship care, foster care, residential care or secure care. Most residents in secure care accommodation are considered to be vulnerable and will be there for their own protection. Young people who are in secure care and are serving a custodial sentence are not eligible to apply for EMA. For a full definition of “Looked After” please refer to Section 17(6) Children(Scotland) Act 1995. For a full definition of those young people who are defined as care

leavers please refer to Section 29 Children (Scotland) Act 1995. Local Authority Social Work Services or the care provider will be able to provide confirmation of a young person's status.

## 8.4 ELIGIBILITY

### 8.4.1 EXTENSION OF ELIGIBILITY PERIOD

Local authorities and colleges will have the power to pay EMA to any young people whom it deems "vulnerable" for **up to 4 years**. This will apply to any young person who has a Record of Needs when they finish compulsory education. They will be able to continue to receive the Allowance beyond their 20<sup>th</sup> birthday and provided they continue to meet the other eligibility criteria, **either (a)** up to their 21<sup>st</sup> birthday, **OR (b)** up to the point where they have received 4 years' support, **whichever is sooner**. This will be the case even if the local authority, on the student's admission to college, has ended their Record of Needs. This also applies to care leavers.

In all cases, however, EMA cannot be paid if the recipient has reached the age of 20 years on the first day of the term for which EMA is sought.

### 8.4.2 LEARNING AGREEMENTS

The requirement for a parental/carer signature for school students will be waived for students who are estranged from their families and assessed as independent for state benefits purposes. This may include students who are in care.

The requirement for the student's signature will be waived if the student has special educational needs that make it impractical.

Vulnerable students may not need to be working towards a recognised educational qualification in order to receive an EMA. In some circumstances the student will have had a Record of Needs during their school years. Their Learning Agreement should therefore be tailored to their needs.

A new EMA Learning Agreement should be completed for each academic year, and Learning Agreements should be collated as indicated in section 6.

## 9. STUDENTS IN HOME EDUCATION

EMAs will be available to eligible young people who are undertaking full-time non-advanced level study by home education. The EMA programme will be administered for these students by the local authority in which the home education is based. Applications should be made to the local authority. In relation to the efficiency and suitability of education being delivered at home, local authorities should take into account the current Scottish Government guidance (<http://www.scotland.gov.uk/Resource/Doc/207380/0055026.pdf>) and the local authority's own guidance, where available.

Please note: Students applying for an EMA as a home educated student must have a history of home education prior to reaching their official school leaving date. The onus is on the applicant to provide evidence of a history of home education.

The programme for EMAs across the local authority and FE sectors is largely the same. This will also be the case in relation to home education. However, given the nature of home education, there will be particular elements of the programme which will vary. Vulnerable young people may be home educated and further guidance is in section 8 of the Guidance document. This section sets out those elements.

### 9.1 ELIGIBILITY OF STUDENT

Students who are home educated will be subject to the same age criteria as students in the schools and FE sectors. Students will become eligible for an EMA from the start of the **local authority school term** under the autumn or winter intake, as appropriate. While it is recognised that home education may not follow the same terms as school or college education, this will ensure **all** eligible local authority students begin to receive their EMA at the same point in the year, regardless of the form of education they are undertaking.

Home educated students will also be eligible to a maximum of 42 weeks of EMA support over the year in the same way as other students who are awarded an EMA.

### 9.2 ELIGIBILITY OF COURSE LEARNING

Eligible students can be home-educated on a full-time basis, or in conjunction with attendance at a recognised learning centre. The local authority should be content that the home education is efficient and suitable for the child, and on a full-time basis.

The course of learning should be at non-advanced level (see section X for definition of “course of non-advanced education”). If the student attends college courses part-time as part of their home education programme, this must also be at a non-advanced level.

### 9.2.1 ATTENDANCE REQUIREMENTS

In order to be eligible for the weekly allowance home educated EMA students will be required to meet the 100% attendance requirement.

Responsibility for ensuring 100% attendance in home education will lie predominantly with the education provider, and local authorities should refer to their existing policy on home education to ensure this is appropriate. Where a student also attends a part-time college course as part of their programme, they will be required to meet the 100% attendance criteria for that course (with usual reference to Section 7 Guidance on Absences).

### 9.2.2 PROGRESSION AND QUALIFICATIONS

Home educated students may not be working towards a recognised qualification. However, the programme of learning should be appropriate to the age, ability and aptitude of the student. Local authorities may choose to ensure that this remains the case throughout the student’s period of eligibility.

## 9.3 LEARNING AGREEMENT

In order to receive an EMA, **all** students must have a signed Learning Agreement (or equivalent) in place. For home educated students, this may be a plan of education agreed between the responsible adult and the student.

The education provider should submit a learning agreement or similar plan of education provision to the local authority as part of the application for an EMA. Once the local authority is satisfied that this meets the EMA Scotland Guidance on Learning Agreements (as Section 6 and below), the EMA should be granted.

### 9.3.1 REQUIRED SIGNATURES

The learning agreement (or equivalent) should be signed by the child and the adult educator or parent responsible, and by a representative of the local authority if required. Where the student attends college part-time the learning agreement should also be signed by an appropriate representative of

the institution. All signatories should understand fully their responsibilities within the agreement. The responsible parent/guardian and external education provider should ensure the learning agreement is clear and unambiguous about the proposed programme of learning.

### 9.3.2 REQUIREMENTS

The learning agreement (or equivalent) should incorporate the main features as outlined in Section 6. However, this should allow for the nature of home education, e.g. that home education may not lead to a recognised qualification. References may be incorporated to documents where such things as timetabled learning programmes are set out, but this is not a prerequisite given the alternative nature of many forms of home education. Learning Agreements may also reference the guidance for local education authorities in dealing with home educators (<http://www.scotland.gov.uk/Resource/Doc/207380/0055026.pdf>), and may incorporate the suggested characteristics of an efficient and suitable education.

It remains the education provider's responsibility to ensure that all the criteria highlighted in the learning agreement are met. Local authorities may seek details of the provision as per their normal responsibilities as outlined in the Scottish Government guidance, but should not seek to impose school or college structures, programmes or outcomes. If concerns are raised regarding the efficiency and suitability of the programme provided, then local authorities should investigate as normal and if these are justified then the EMA allowance may be withheld or reviewed.

### 9.3.3 WITHHOLDING PAYMENTS

Education providers (for example, parents) will be required to advise local authorities to withhold payments in any week where the student does not meet the attendance criteria or other requirements set out in the learning agreement.

### 9.3.4 RETENTION CRITERIA

For home educated students, this would be a return to their agreed learning programme.

### 9.3.5 PROGRESSION/ATTAINMENT CRITERIA

As students who are home educated may not be working towards a recognised qualification, there should be scope for variation to suit different home education expectations and capabilities of students. This should be outlined in the learning agreement.

#### 9.4 MANAGEMENT INFORMATION

Local authorities should refer to Scottish Government guidance on the Management Information requirements for the EMA Scotland programme.

Local authorities should also make reference to existing policy in relation to contact with home educated pupils. The education provider will be responsible for informing the local authority when a student fails to meet the requirements for the weekly allowance, or otherwise stops being eligible for an EMA. Again, local authorities should refer to existing policy on this.

## **10. MANAGEMENT INFORMATION REQUIREMENTS OF LOCAL AUTHORITIES, COLLEGES AND SFC**

Local authorities and colleges are required to submit management information. This is detailed in the EMA Scotland Business Model Version 14.

Standard templates for returning this information have been developed to ensure consistency, ease of access and flexibility in the use of the data for analysis (please see Annex 2 of the EMA Scotland Business Model Version 14).

Management information will be required on a month-by-month basis and should be collated: -

**COLLEGES** by SFC and forwarded to the Scottish Government

**SCHOOLS and other learning providers** by local authorities and forwarded to the Scottish Government

## APPENDIX 1 – RATES OF EMA

### WEEKLY PAYMENTS

INCOME	WEEKLY PAYMENT
Zero - £22,403 (for families with more than one dependent child in the household)	£30 per week
Zero - £20,351 (for families with a single dependent child in the household)	£30 per week

## **APPENDIX 2 – THE FINANCIAL ASSESSMENT**

The EMA award is based on the financial assessment as set out in Appendix 1.

### **EXCEPTIONS TO THE FINANCIAL ASSESSMENT PROCESS**

Local authorities and colleges will need to assess the income of some young people in their own right, for example estranged or vulnerable young people, care leavers or teenage parents receiving benefits.

All eligible young people who are either Looked After or care leavers should be treated as “independent” for the purposes of EMA, and are automatically eligible for EMA without recourse to parental income assessment. Students receiving the “Pathways” allowance should also receive EMA. Such students are required to provide a letter at the time of application from the local authority or the care provider confirming their status.

### **PAYMENT ADMINISTRATION**

Payments will be made in two weekly instalments in arrears into the bank account of the student.

The local authority or college may discontinue EMA payments where the information supplied states that the student has failed to comply with their Learning Agreement.

### **PROVISIONAL ASSESSMENT**

Provisional awards will mainly be made for applicants with parent(s) who are self employed and unable to provide the correct income documentation at the time.

If household circumstances have changed during the year and income has fallen from over £22,403 (more than one dependent child) or £20,351 (one dependent child (as appropriate) to within the EMA thresholds this would be classed as a new application. However, income should be calculated as a provisional assessment based on the current financial year’s information.

Local authorities have the discretion to review provisional assessments at any time, but generally mid-year, to ensure that financial circumstances have not changed. Appropriate evidence will be required to verify current financial circumstances. Where it can be established that income remains within the appropriate income threshold, payments may continue.

## LATE APPLICATIONS

It is possible that a student might start their course and only hear about EMAs afterwards. The following arrangements apply.

### (i) Autumn Intake

If applications are made: -

**Schools** on or by 30 September

**Colleges** within first 6 weeks from start of course,

payments can be backdated to the beginning of the academic year or FE course, provided that the student meets the eligibility requirements. Otherwise payments will be made from the Monday of the week in which the application was received.

### (ii) Winter Intake

If applications are made:-

**Colleges** within first 6 weeks from start of course,

**Schools** on or by last day in February

payments can be backdated to the beginning of the term provided that the student meets the eligibility requirements. Otherwise payments will be made from the Monday of the week in which the application was received.

In all cases, **the onus is on the student** to prove that they have satisfied the conditions of the EMA Learning Agreement from the beginning of that term. **Arrears will not be considered for any previous term.**

### **APPENDIX 3 – THE ROLE OF THE KEY PARTNERS**

The key partners in the delivery of the EMA Programme will be the schools and local authorities in the school sector, and the colleges and SFC in the college sector.

For young people who are taking part in community and voluntary activity which is recognised by the local authority for the purposes of EMA, the key partners are the providers of such activity in the local authority.

The roles and responsibilities of the key partners are described in the EMA Scotland Business Model. This can be found on the EMA Scotland website, at [www.emascotland.com](http://www.emascotland.com).

In relation to the administration of the programme, however, it is also worth noting the following responsibilities of the key partners.

#### **(i) PUBLICITY**

- The local authority and SFC will be responsible for providing educational establishments with guidance informing them of their responsibilities.
- In addition, local authorities are responsible for designing and distributing publicity information on the programme

#### **(ii) APPLICATIONS**

- Local authorities and colleges will be responsible for developing and distributing EMA application forms for students. A national application form was developed by the Scottish Government, working with local authorities. This was used by all local authorities since 2005-06, however the decision was taken that local authorities should develop their own application forms from 2011/12.
- Local authorities and colleges will be responsible for correctly determining student eligibility for EMAs using documentary evidence. Copies of documents used to determine eligibility are confidential and should be retained for audit purposes.

#### **(iii) SCOTTISH GOVERNMENT INFORMATION FROM SFC**

- SFC will inform the Scottish Government of any institution that refuses to co-operate in monitoring attendance of an EMA recipient.

(iv) APPEALS

- All partners should ensure that mechanisms are in place for dealing with appeals in circumstances where the student is assessed as ineligible. Evidence should be available to allow appeals against attendance monitoring to be addressed within the institution.
  
- Please also refer to the following sections in the EMA Scotland Business Model –
  - 2.1.3 Application Appeals Process
  - 2.1.4 Appeals Register
  - 2.1.5 Complaints

## **APPENDIX 4 - THE ROLE OF SKILLS DEVELOPMENT SCOTLAND (SDS)**

SDS will be required to:

- negotiate procedures and obtain agreement regarding respective roles and responsibilities with local education authorities, schools and colleges through the annual, joint planning process. Ensure that services are targeted so they best meet the needs of the school or college and its students. Record plans in a Partnership Agreement.
- support local authorities and schools/colleges with the promotion of EMAs to students and parents/carers as a form of financial support for young people. This may include distribution and display of leaflets and posters supplied to SDS, links to the EMA Scotland website, and resources to carry out awareness raising with SDS Advisers.
- liaise with local authorities and schools/colleges regarding the availability of EMAs to eligible young people.
- agree procedures with schools and colleges to ensure that students are encouraged to self refer to SDS services which are appropriate to their career planning needs.
- with the student's permission, supply the school or college with a copy of the Career Plan of Action, completed by the Careers Adviser following a career guidance interview.

## **APPENDIX 5 – ACTIVITY AGREEMENTS**

Activity Agreements were rolled-out nationally during 2011/12. This guidance covers the operation of the EMA programme for young people taking part in Activity Agreements.

### **1. EMA INCOME ASSESSMENT**

The EMA is means tested and eligibility will depend on household income and whether there is more than one dependent child in the household. The same rules for income assessment applies to young people on Activity Agreements as those receiving an EMA in school or college and is based on Her Majesty's Revenue and Customs Tax Credits Awards, which also takes into account household income.

Most EMA applicants will be able to provide a Tax Credit Award Notice (TCAN) or P60 as proof of household income. If they do not have a TCAN or P60, details of income can be completed on the application form. EMA contacts within local authorities will be able to provide guidance on how to complete the forms. If a TCAN is available then this will reduce the amount of the form that has to be completed. The Department for Work and Pensions are implementing significant changes to the benefits system which includes the roll out of Universal Credit. Universal Credit will replace the current suite of benefits and their notification forms. The guidance will be updated to reflect the new position as roll out takes place from October 2013.

If household income is £20,351 or less, the young person will be eligible, and will be awarded a weekly allowance of £30. Young people from households with more than one dependent child and where the household income is £22,403 or less will also be eligible for a weekly payment of £30 per week.

A dependent child is one who is 16 or under or is between 16 and 25 years old and is in full-time further or higher education.

If a young person is estranged from their parents or carers, they should be assessed on their own income and is therefore likely to be eligible for EMA. Young people in care or leaving care should automatically be awarded EMA.

### **2. DURATION OF ALLOWANCE**

Payment of EMA will normally be restricted to a maximum period of 3 years and recipients must be between 16 and 19 years old. Vulnerable young people may be eligible for up to 4 years support.

For Activity Agreements, payments can be made for a full year (i.e. up to 52 weeks per year). Young people on Activity Agreements can receive payments out-with the normal school and college term-time as their learning may not follow the academic year.

Young people on Activity Agreements can have their EMA payments back dated, to the day of first engagement in the relevant activity. **Local authorities have the discretion to pay backdated payments in instalments.**

### 3. VULNERABLE STUDENTS

Vulnerable young people may require extra support in the application process and in developing the learning agreement as well as throughout the duration with their course work. For the purpose of Activity Agreements, all young people will be considered as vulnerable.

Flexibility should also be afforded to these young people in terms of timetabling and the range of provision they can access. Any specific guidelines can be built into the young person's agreement. This may include a low level of engagement in the activity to begin with and progressing towards greater engagement.

In order to allow sufficient time to apply for EMA, payments should be backdated to the date of first engagement.

### 4. MAKING PAYMENTS

The young person's advisor or learning centre is responsible for authorising or stopping payments. For young people undertaking an Activity Agreement, we would generally expect a trusted professional to make this decision, although for some there may be someone else who is more appropriate. It is essential, in all cases, that there is a clear process – similar to the process which operates between schools and the local authority – for authorising or stopping payments.

### 5. INFORMATION MANAGEMENT

Local Authorities need a record of young people on Activity Agreements receiving EMA. We would suggest that this information is recorded in the same way as for young people attending independent schools or who are home educated. This may be that a dummy student candidate number (SCN) is assigned to each young person so that they can be included in the information management system.

### 6. BENEFITS

Young People on Jobseekers Allowance can take part in an Activity Agreement, subject to the maximum number of hours allowed by Jobcentre Plus rules. They cannot receive an EMA whilst receiving this benefit as per paragraph 64 in the Activity Agreement Guidance.

## 7. RE-ASSESSMENTS

As a young person on an Activity Agreement can enter and leave at any point during the course of the year, it may be necessary to carry out a reassessment of their circumstances. This may be needed to ensure that you have current financial information for them particularly if they have been on an Activity Agreement for sometime, possibly more than 52 weeks. There is no cut off date for this set nationally, but local authorities may find it helpful to carry this out around the time that new applications are being send out to the school sector for the new academic year.

## 8. BONUSES

From the National Roll-out of Activity Agreements bonuses will **not** be payable. This is in alignment with all others who receive EMA, e.g. in the School and the College sectors.