

# Education Maintenance Allowance Guidance 2010/11

Learner Support Programme  
Version 2 August 2010

► For guidance

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## Introduction

Education Maintenance Allowance (EMA) is a strand of the Young People's Learning Agency's (YPLA) Learner Support Programme, which aims to remove finance as a barrier to participation in learning. EMA is a weekly payment of £10, £20 or £30 depending on household income. It is paid directly to young people who stay in learning after reaching the statutory school leaving age. Young people may get EMA support for up to three years, ending in the academic year in which they turn 19.

This document has been updated for the 2010/11 academic year and is subject to change. **Please check the website (<http://ema.ypla.gov.uk>) to make sure you are using the correct version.**

The guidance is in five parts, covering:

1. changes for 2010/11;
2. key information about entitlement and the application process (for advising learners);
3. a description of the Provider's role in enrolling learners onto the EMA system;
4. information about authorising payments; and
5. attendance and absences.

This guidance should be read in conjunction with the *LAPS Operating Manual*, *YPLA Funding Guidance 2010/11* and the 2010/11 application pack guidance notes.

There are two telephone helplines and a dedicated email enquiries service:

- Learner Support Service Provider helpline: **0845 600 7979**
- Learner Support Service learner helpline: **0800 121 8989**
- [EMA@yplalearnersupport.co.uk](mailto:EMA@yplalearnersupport.co.uk)

The Learner Support Service can also help with further information, support and advice. You can find contact details on the YPLA website at [www.ypla.gov.uk/learnersupport/toolkit/information/faq/#Training](http://www.ypla.gov.uk/learnersupport/toolkit/information/faq/#Training)

Providers can order application packs through YPLA Publications. Please contact them using the details below, quoting the reference number YPLA-P-100001.

YPLA Publications, PO Box 5050, Sherwood Park, Annesley,  
Nottingham NG15 0DJ

Telephone: **0845 602 2260**

Fax: **0845 603 3360**

Minicom: **0845 605 5560**

Email: [ypla@prolog.co.uk](mailto:ypla@prolog.co.uk)

## 1. Summary of revisions for 2010/11

<b>Change</b>	<b>Brief Description</b>
EMA bonus arrangements	Bonus payments will not be made for 2010/11.
e2e special arrangements	Since April 2010 e2e has been replaced with Foundation Learning. Previously, special arrangements allowed learners enrolled on an e2e course to receive the full £30 weekly payment without undergoing the household income assessment. However, as well as issues of equity, this added a complication when learners progressed onto other courses. All learners applying for EMA in 2010/11 will need to complete the income assessment section of the application form.
Payments across EMA years	Learning Providers are reminded that all EMA payment decisions must be made before the end of the current EMA year, as payments will not be allowed to cross EMA years. See page 17 for more details.
EMA residency clarification	For the 2010/11 EMA year we have clarified the residency criteria to make the self-certification process easier to understand for British citizens. See Annex 1 for more details.
Photocopied evidence	For 2010/11, applicants will be encouraged to submit photocopies of any financial evidence or bank account details required to process their application. See page 7 for more details.
Estranged learners	Learners who can present evidence from their Learning Provider that they are genuinely estranged will be able to have their applications assessed accordingly without needing to be in receipt of Income Support. See page 8 for more details of the evidence required.
Payment decisions	Learning Providers must make all payment decisions within 28 days of it being presented; so that learners receive all payments they are entitled to in a timely

	manner. See page 15 for more details about payment decisions.
Backdated payments	Learners will have payments made available to the beginning of their learning programme only if they submit an application within 28 days of their course start date. This rule will be rigorously enforced by the Learner Support Service. See page 17 for more details.
Authorised and unauthorised absences	Guidance as to whether an absence is authorised or unauthorised for the purposes of EMA has been reviewed for 2010/11. See Section 5 for more details.
Programme led Apprenticeships (PLA)	Any learner starting a PLA programme in the 2010/11 year will only be enrolled for EMA for a maximum programme length of six months. No PLA programmes will receive an EMA payment beyond 6 April 2011.

## 2. Applications

This section of the guidance sets out some clarification for Providers about issues on which learners may ask for advice. Fuller guidance on completion of the application form is provided as part of the application pack.

### Bank accounts

To receive EMA support a learner must have a bank account or building society account that accepts BACS payments. The only exception to this is if a bank judges a young person to be incapable of managing their own financial affairs and refuses to open an account for them. Parents or carers of learners in these circumstances should ring the learner helpline for more information.

Information on bank accounts is available from the Financial Services Authority website at [www.moneymadeclear.fsa.gov.uk/publications](http://www.moneymadeclear.fsa.gov.uk/publications) or helpline on **0300 500 5000**.

The YPLA has produced information to help young people open a bank or building society account, which can be found at the back of the EMA application form guidance notes. There is also 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.

### Age

EMA eligibility is based on the age of the learner. EMA payments begin only after compulsory education has been completed. If a learner has been accelerated ahead of their peer group, they will not be eligible for EMA unless their birth date falls within the eligible range. This is because the role of EMA is to support

learners by removing financial barriers, so they can continue to participate in education once they have reached the statutory school leaving age.

If the learner's date of birth shows them to be outside (either above or below) the entitlement range, the application will be rejected. For the 2010/11 EMA year, the learner's date of birth must be between 1 September 1991 and 31 August 1994.

Learners who become 19 while in receipt of EMA will continue to receive it until the end of that academic year. Learners aged 19 are not eligible and should be referred to Adult Learning Grant (ALG) if they are undertaking a Further Education (FE) course. Please see the ALG website for more details at [www.direct.gov.uk/alg](http://www.direct.gov.uk/alg).

Learners aged 15 who have completed compulsory education are able to apply for EMA as long as they turn 16 by 29 August 2010.

### Household income

2010/11 EMA applications will be assessed on the household income of those adults deemed to have a caring responsibility for the learner. The relevant tax year for the 2010/11 EMA year is 2009-10.

Income earned by the young person will not affect their entitlement to EMA and is not taken into account. EMA does not prevent individuals from taking up help from hardship funds nor does it affect benefits that they or their family receive.

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

### Photocopied financial evidence

For the 2010/11 EMA year, photocopies of any income or bank account evidence are acceptable, and indeed are to be encouraged. Photocopies must be clear and contain all the pages. If the learner and their family decide to send originals, these will be returned once the application has been processed.

### Non-standard assessments

#### Learners in the care of a 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 headed letter from the local authority (a photocopy will **not** be sufficient).

## **Learners who are parents**

A learner who is a parent and is the main carer of their child(ren) when they apply for EMA should contact the learner helpline, as special arrangements apply.

Teenage parents in England may also qualify to have their childcare and associated travel costs paid through the Care to Learn scheme. For further details about Care to Learn the young parent should contact the learner helpline or visit [www.direct.gov.uk/caretolearn](http://www.direct.gov.uk/caretolearn).

## **Learners who are estranged**

A learner who is estranged must provide proof of their circumstances. This will normally be receipt of Income Support. The learner's parents' or carers' income does not need to be declared in these circumstances.

If the learner is not in receipt of Income Support, then documentary evidence from the Learning Provider is acceptable as proof that they are estranged. An original headed letter must be sent with the application from a representative of the Learning Provider who is at least at the level of vice principal (or equivalent, and who is not the person responsible for making the EMA payment decisions). The letter must contain the information listed below and confirm that the Provider has liaised with supporting agencies (such as Connexions):

- Name of the young person, date of birth and address;
- Date of enrolment;
- Name and position of the Provider's representative;
- The signature of the young person;
- The signature of the Provider's representative;
- Contact details of supporting bodies involved with the learner.

EMA is paid in addition to Income Support, and will not affect the amount of Income Support the young person receives.

For further information on benefits and how they relate to EMA, please visit the Department for Work and Pensions (DWP) website at [www.dwp.gov.uk](http://www.dwp.gov.uk).

## **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 offender institution, secure training centre or a secure children's home, will be able to apply for EMA while in custody, and should be encouraged to do so well before release.

Applications received by the Learner Support Service 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 be made only for learning which is undertaken after the individual has been released from custody, even if the learning programme started while they were serving their sentence.

If a learner has 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. However, if their circumstances have changed they may be eligible to be reassessed.

### Exceptional changes in circumstances

There are certain changes in household circumstances which will affect a learner's entitlement to EMA. Applications can be reassessed if:

- A person whose income was taken into account in determining financial eligibility has died;
- A relevant person becomes disabled, as defined in the Disability Discrimination Act 1995 (DDA);
- Since the assessment in 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;
- The young person has become a parent and is the main carer of their child.

If the learner is already in receipt of the maximum weekly EMA entitlement, no action is required. Otherwise, they must call the learner helpline if any of the listed changes occur (carers or Connexions advisers may act on their behalf as necessary with the permission of the learner).

## 3. Enrolling learners

This section sets out the specific requirements for EMA that Providers must take into account when registering learners on the learner assessment and payment system (LAPS), and gives details of how to set up the EMA Agreement.

EMA registration should normally be done as 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 validity.

Where the learner attends only at a sub-contractor, arrangements need to be in place to forward a photocopy of the signed EMA Agreement to the lead Provider. This is needed by the LAPS user to enrol the learner onto the system.

## Residency

Providers are not required to check a learner's residency eligibility for EMA. Learners will self-certify their eligibility when completing the EMA application form by selecting the option relevant to their personal circumstances. **However, if a concern comes to light about the residency eligibility of a learner for EMA at enrolment, the Provider should contact the Provider helpline** (the requirements regarding residency are set out in Annex 1).

## Receipt of other funding

Learners cannot receive EMA if they are an employed apprentice, or in receipt of any of the following:

- European Social Fund programme allowances;
- A Dance and Drama Award;
- Adult Learning Grant;
- Jobseeker's Allowance;
- A flat-rate allowance for full-time volunteering;
- An NHS bursary.

It is possible that some young people will have applied for EMA and been issued with a Notice of Entitlement (NoE) and then receive one of these other awards. Should the Provider know that the young person has one of these awards, the Provider should not enrol the learner for EMA. If it transpires that a learner who is enrolled for EMA has in fact or subsequently received one of these awards, the Provider should inform the Learner Support Service.

## Part-time work

A learner may undertake part-time work so long as this does not exceed 24 hours a week and is not in conflict with the terms of the EMA Agreement they have with their Provider (under Child Benefit regulations a learner may work for up to 24 hours a week before being classified as being independent). Their EMA entitlement and any benefits their family may receive will not be affected.

## Valid provision criteria

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

- The provision is inspected by a public body that assures quality (e.g. Ofsted, the Independent Schools Inspectorate, the Bridge Schools Inspectorate); and
- The programme of study is not less than 12 guided learning hours per week for a minimum of 10 weeks;
- It must meet one of the following criteria:
  - Be funded or co-financed by the YPLA through local authorities; or
  - Lead to a qualification (up to Level 3) that is accredited by the Qualification and Curriculum Authority pursuant to section 24 of the Education Act 1997; or
  - Leads to a qualification (up to Level 3) that is approved by the Secretary of State pursuant to Section 98 (this includes Sections 96 and 97) of the Learning and Skills Act 2000.

For further information about the approval process for new Providers requiring access to LAPS, please see the separate *EMA Valid Provision Criteria 2010/11* document, available at <http://ema.ypla.gov.uk/resources/guidance/documents/>.

## Valid learning programme

A valid learning programme for the purposes of EMA is:

- A full-time FE course at a school or college, up to and including Level 3, that requires not less than 12 guided learning hours per week for a minimum of 10 weeks; or
- A Foundation Learning programme that requires not less than 12 guided learning hours per week for a minimum of 10 weeks; or
- *Up until 6 April 2011* - A course leading to an Apprenticeship (PLA) that requires not less than 12 guided learning hours per week for a minimum of 10 weeks.

## 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, for example in 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 – for example, time spent undertaking enrichment activities that are not a required element of the learning aim. However, study leave can be regarded as qualifying for EMA (further information on study leave is included in Section 5, which sets out the requirements regarding attendance).

In order to align EMA guidance with the policy changes that have affected e2e and PLA programmes, the requirement now is that all learners enrolled for EMA must complete a minimum of 12 guided learning hours per week to be eligible for their weekly payment. Where necessary, Providers should amend any documentation that required their learners to complete a minimum of 16 guided learning hours per week.

Learners studying at home through distance learning or online courses, or who are self-educated or parent-educated, cannot receive EMA.

### Setting up an EMA Agreement (attendance, behaviour and effort)

When registering the learner, a Provider needs to make sure that the learner has signed an EMA Agreement, setting out the learner's obligations regarding attendance and expected standards of behaviour and effort, and the Provider's obligations to report payment decisions. The content of the EMA Agreement is a matter for the Provider, but should include the criteria for lateness and any other factors that may trigger an absence being registered and therefore the loss of a weekly payment. Learners should be made aware of standards of behaviour and effort expected, attendance monitoring systems in operation, and the appeals process operated by the Provider in respect of payment decisions.

When registering for EMA, the learner signs the EMA Agreement and in doing so makes a commitment to the standards agreed with their Provider. The Provider must also sign the EMA Agreement and in doing so is:

- Agreeing to offer an appropriate learning programme for that learner;
- Confirming that the learner has enrolled on a valid learning programme; and
- Agreeing to report the learner's weekly payment authorisations to the Learner Support Service within 28 days of the payment being presented for a decision.

Where a sub-contractor agrees to the EMA Agreement on a Provider's behalf, the Provider must require them to follow the process described above. It is the Provider that is accountable for the entry to LAPS and the subsequent payment decisions.

Please note, recourse is always through the Provider who makes payment decisions. The Learner Support Service will have no knowledge of the 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. Only if the learner receives an incorrect payment from the Learner Support Service, is the recourse to appeal through the learner helpline.

## Adding learners to LAPS

Providers should add learners to LAPS as soon as they have enrolled on a valid learning programme (one or more valid learning programmes), but not before. In order to do so, they will need the learner's EMA Learner reference number.

**Please note, learners cannot be paid until they have been added to LAPS.**

A learner can only be added to LAPS if:

- they have 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 Providers;
- the Provider is satisfied with the learner's identity and residency status (for education funding purposes); and
- the learner and the Provider have both signed the EMA Agreement.

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 LAPS to identify weeks when learners are following guided learning hours and are expected to receive EMA payments. In FE, most learners will be following learning programmes with common term dates that can be set up on the system before enrolment. The software provided by the Learner Support Service will prompt this in cases where learners' study patterns dates will need to be set up on LAPS for these learners. **Please note, if the Provider does not set the exact start date it may have an impact on the learner receiving backdated payments.**

## Additional information about enrolment

### Learners attending more than one Provider

Where a learner attends more than one Provider, each Provider should be referenced on the EMA Agreement. In this case it is for local agreement between the Providers as to which of them will be the lead for administering EMA, as a learner can only be added to one Provider at any one time. This Provider will sign the EMA Agreement and report payment decisions to the Learner Support Service. The other Provider(s) involved must agree a process for reporting the learner's attendance, behaviour and effort to the Provider that has been chosen to report the weekly payment decisions.

## **Change of learning programme**

Where a review of the learning programme results in a material change of learning programme at the same Provider, the EMA Agreement will be replaced or amended but will remain valid provided that the change is signed by the learner and the Provider. There is no need to notify the Learner Support Service of changes to the content 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 meets the minimum required guided learning hours.

## **Transfer to a different Provider**

If a learner transfers between Providers, while continuing on the same learning programme, a relationship must exist between the two responsible Providers. The first Provider should maintain administration of EMA, liaising with the second Provider regarding payments. This would function in the same way that Providers administer EMA on behalf of sub-contractors, ensuring that a full audit trail of evidence for weekly payment decisions is kept. Where it is not practical for the first Provider to maintain administration functions, the Provider helpline should be consulted for guidance on how to proceed.

Where a Provider's funding contract is not renewed, the learners attached to that Provider will need to be transferred in bulk if it has been agreed that they will be taken on by a new Provider. Providers who are in this position should contact the Provider helpline as soon as possible for further advice.

## **Change of Provider**

Please refer to the *LAPS Operating Manual*.

## **Leaving a Provider**

Please refer to the *LAPS Operating Manual*.

## **Lost documents**

If a learner claims to have been accepted as eligible for EMA but has lost their documents, they can request copies from the learner helpline. A replacement NoE, with the EMA Agreement, will be posted to the learner once reasonable checks have been carried out and the learner's identity has been established. Providers should not add the learner to LAPS until they have signed the EMA Agreement.

## 4. Authorising payments

### Weekly attendance

Providers need to notify the Learner Support Service about whether a learner should be paid for a particular week. This decision is based on attendance, behaviour and effort. What constitutes adequate attendance, and how absences should be treated, is set out in Section 5.

Where there are problems with a learner's attendance, behaviour and effort, this is not just a matter for EMA. Providers will no doubt be tackling these issues as part of their general policy, also covering learners not on EMA, in order to help learners with personal problems, to confront poor behaviour and to drive up attendance and attainment.

### **Recording attendance information**

Recording and collating attendance and 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 learners 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 that all staff 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 per day, for example morning and afternoon registration. In instances where a learner has incurred an 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.

### **Collating weekly attendance information**

Providers will want to obtain sufficient weekly evidence to make weekly payment decisions, and/or to seek further information from learners where there is insufficient information to make a decision.

Where a sub-contractor is required to provide information on the attendance of the learner, the Provider will need to arrange for the information to be provided in time for payment decisions to be made.

### **Deciding on payments**

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.

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. This must be done within 28 days, and if an attendance pattern cannot be proved within this timeframe then a No decision should be made and put on LAPS.

Payment authorisation must be carried out by someone specifically authorised to do so. The decision is auditable. No decision should be made if there is insufficient evidence on which to base a Yes decision. Decisions relating to one week should not be used to adjust payments in order to balance an earlier decision made in error. Where Providers have sub-contracted delivery, Providers themselves are responsible and accountable for any inaccurate entries.

### **Notifying the Learner Support Service of weekly payment decisions**

Please refer to the *LAPS Operating Manual*.

### **Timing**

Please refer to the *LAPS Operating Manual*.

### **Notifying the learner if weekly payment is being withheld**

Where a weekly payment is withheld, the Provider must inform the learner within two days in writing, or by a suitable alternative method, to ensure that the learner understands 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.

## **Additional information about payments**

### **Payment queries**

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

### **Overpayment**

If the Learner Support Service 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, or processing or system errors – it will take recovery action. There is a responsibility on both the learner and the Provider to notify the Learner Support Service 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.

### **End of year or programme**

When learners have finished at a Provider for the year, for example after summer exams, or have completed their programme, administrators must record on LAPS that no further payments should be made.

### **Backdated payments**

Payment decisions back to the course start date will only be made if an application form has been received by the Learner Support Service within 28 days of the start of the learning programme. It is important that Providers encourage learners to apply early, and certainly within 28 days of the start of their course.

### **Payments across EMA years**

Payment decisions cannot cross EMA years.

**For the end of the 2009/10 EMA year, no flexibility will be available on late payments, and Providers must ensure that all payment decisions are up to date by 27 August 2010.**

### **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. Providers that operate a system where learners themselves are responsible for producing attendance evidence from tutors, may have a greater risk of incidents of learner fraud.

If fraud is identified, the principle will be to seek recovery of all the overpaid money. All instances of fraud should be reported to the Learner Support Service via its Provider helpline as soon as possible.

## **Appeals**

Where a decision has been taken that a learner should not receive a weekly 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. Existing procedures for dealing with complaints and appeals should be used.

- 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.
- Without evidence to the contrary, absences should be considered unauthorised. The burden of proof that they should be authorised lies with the learner, and any relevant evidence should be submitted to the Provider within 28 days of the beginning of the absence.
- The appeal should be handled within the Provider by someone other than the person who took the initial decision that the payment in question should not be made.
- When there is a dispute between a sub-contractor and a learner, the Provider should intervene.
- 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 their 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 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 YPLA. For more information please see the YPLA website <http://www.ypla.gov.uk/aboutus/contactus/complaints/>.*

## **Audit**

Guidance for Providers on the audit arrangements for EMA can be found in Annex 2.

## **5. Attendance, authorised and unauthorised absence**

Providers must have a clear documented policy of attendance and authorising absence that fits within the framework set out below.

EMA operates using a 'something for something' approach. Providers and learners are expected to sign an EMA Agreement that sets out what is required of them by way of attendance, behaviour and effort. In general, a learner should be paid EMA only where they have attended all the learning sessions and met the standards of behaviour and effort. If the learner has had an unauthorised absence 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 of this through the weekly payment decision.

Where an absence is authorised by a Provider, 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. The attendance policy must detail any flexibility that has been tailored to an individual learner's needs, for example to cover the DDA it must also refer to the minimum weekly hours and define what 'full attendance' means for their learners and then apply those fairly. The policy should be made available for learners, tutors and administration staff.

It is for Providers to decide whether a particular absence is authorised or not. In taking such decisions, they should take account of the guidance in this document, which forms part of the scheme arrangements.

## General principles

In deciding whether or not an absence should be authorised, Providers should take account of their organisation's wider policies, which cover all their learners (EMA and non-EMA). The following are guiding principles.

- **Any absence should be considered to be unauthorised unless there is a valid reason otherwise.**
- If the claimed reason for absence could have been foreseen, the learner should have applied for authorised absence in advance.
- 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 raised with the Provider on the day in question (and by a set time if the Provider has specified this in the EMA Agreement). Unless, exceptionally, there is a good reason why this could not be done, the absence should not be authorised without such notification.
- In all cases there needs to be a reasonableness and reality check.

In operating these principles, Providers should ensure that decision-making processes are transparent and that there is a fair 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 12.

## Absence

The following are examples of legitimate reasons for absence.

- A medical or dental appointment which cannot be arranged outside Provider hours.
- A one-off caring responsibility for a close family member. Where such responsibilities are regularly interrupting attendance patterns, there is a need to explore solutions individually with the learner.
- A religious holiday.
- A visit to a university either to attend an open day or for interview, or a career-related interview.
- An appointment with a Connexions adviser (although these should normally be scheduled to avoid disruption to studies).
- A work experience placement which is an integral part of a learning programme, and for which the learner does not receive a wage.
- Participating in a significant extra-curricular activity, such as drama, music, sport or volunteering, which has been agreed in advance with the Learning Provider.
- Attendance at a probation meeting.
- Attendance at a funeral of a close family member.
- A Provider representatives' meeting, for example a governors' meeting.
- National Union of Students official business.
- Territorial Army/ Cadet Forces/ Reserve Forces events.
- Study visits abroad that are an integral part of the learner's learning programme. These must last for no longer than four weeks, and be set out in the learner's learning agreement. Satisfactory arrangements must be put in place to accurately record and notify the Provider of the learner's attendance.

## Maternity/paternity leave

EMA is not payable during periods of maternity or paternity leave.

## Absences that cannot be foreseen

Where an absence could not be foreseen, the learner should nevertheless make arrangements to tell the Provider as soon as possible on the day in question that

they will be absent (and by a set time if this has been agreed between the learner and their Provider, and which has been detailed in the EMA Agreement). Where a learner has failed to do this, the absence should be treated as unauthorised.

## **Transport**

Transport can cause genuine problems. Where these were known about in advance, the learner might be expected to make reasonable attempts to make alternative arrangements. But sometimes this will not be possible, and Providers will want to exercise discretion about whether or not to stop EMA as a result of any lateness or absence that is caused by transport problems, and especially if the problem was not foreseeable, for example, where a bus was cancelled.

## **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 **EMA should not be paid if a learner is away for a full week**. Providers are entitled to turn down applications for sickness absence if they have reason to doubt the validity. An emerging pattern of non-attendance due to sickness without explanation or evidence 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. Providers should set out clearly from the outset what their approach will be to absences due to sickness and be consistent in its application.

**It is not acceptable for Providers to operate a quota system for sickness absence** that allows a set number of sick days per term, or EMA year. Quota systems do not allow for genuine sickness over and above a set number of days, and if learners are aware that they are allowed a set number of sick days (or authorised absences), they may be tempted to exploit this.

## **Long periods of sickness**

It may be possible to explore with the learner if some periods of learning at home would be appropriate. This is as long as the Provider sets a minimum of 12 hours study per week, oversees the learner's work and monitors its completion closely. Where it becomes clear that the absence is going to be for a significant length of time, and that the learner will be unable to complete the minimum number of hours required per week, then the Provider will need to consider whether it is reasonable to continue EMA payments during this period.

EMA is also payable through many hospital schools, as long as they satisfy the Valid Provision requirements.

## Disability and attendance

Any learning programme should be agreed between the Provider and the young person to meet the learner's needs. The 12 guided learning hours minimum should still apply. However, in respect of learners who are disabled within the meaning of the Disability Discrimination Act, 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 defines a disability as a physical or mental impairment which has a substantial and long-term (more than 12 months) adverse effect on a person's ability to do normal daily activities. It may be that some periods of learning at home would be appropriate as long as the Provider oversees the learner's work and monitors its completion closely. Alternatively, some adjustments might be made, such as agreeing to allow the young person to miss a particular learning session because attendance in the specific circumstances is difficult – for example, because of mobility issues or because the learner cannot attend for long periods because of their disability. Providers should normally class as authorised any absence which it is satisfied is directly related to the learner's disability.

## Learning outside term-time in FE

In the case of a short field trip (or other activity) outside term time, 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 12 hours of learning activity in the week in question. The payment authorisation is to be made by applying the same rules for authorising term time attendance. However, as the timing of the activity will fall outside the standard study pattern set on LAPS, 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 made during term time but not normally 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 half-term breaks and school holidays.

## Study leave

Learners should receive their weekly payment during periods of authorised study leave. Payments should cease once the learner has sat their final exam if they are no longer required to attend the Provider.

## Jury service

EMA should not be paid for periods of jury service; if a learner is called upon to attend jury service, and it will disrupt their studies, then the learner may wish to seek a deferral to a holiday period.

## Local area agreements

In some regions, local area agreements on attendance procedures and authorised/unauthorised absences have been put in place. Local area agreements have proved useful in clarifying and standardising interpretations of authorised and unauthorised absence for both Providers and learners within a particular region. They can help avoid situations where 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.

## Annex 1 Residency

In order to meet the EMA residency criteria, the young person must be one of the following:

- a British citizen who has lived in the UK for at least three years prior to the start of their learning programme; or
- a person who has 'settled status' in the UK, and has been ordinarily resident in the UK for at least the three years prior to the start of their learning programme ('settled status' 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;
- a national of any European Union (EU) country (including Gibraltar), or the spouse or civil partner or child of an EU national who has 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;
- 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;
- 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;
- 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;
- 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 EU temporary protection.

If a learner believes that they will meet the eligible residency conditions at some future point, they should contact the learner helpline which will advise them.

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 (ELE/R).

It should be noted that although asylum seekers and learners with discretionary/exceptional leave to enter or remain in the UK are not eligible to receive EMA payments, they may still be eligible to participate in free education.

If a Provider has a concern about a learner's residency eligibility for EMA, they should notify the Learner Support Service as soon as possible by contacting the Provider helpline.

### Temporary absences from the UK/EEA

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 the three years prior to the start of 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 Armed Forces personnel

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

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

Providers 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 Armed 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 Service Children's Education on **0049 (0)2161 908 2294** or visit [sceschools.com](https://www.sceschools.com) for further advice.

## 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 Learner Support Service.

If a young person intends to study in Scotland, Wales or Northern Ireland they should contact the relevant authority for an application form at:

- Scotland: [www.emascotland.com](http://www.emascotland.com)
- Wales: [www.studentfinancewales.co.uk](http://www.studentfinancewales.co.uk)
- Northern Ireland: [www.emani.gov.uk](http://www.emani.gov.uk)

Different eligibility and entitlement rules apply to EMA administered in England, Scotland, Wales and Northern Ireland. If the student is not sure where they will study, they should apply to the assessment authority in each of the countries that they are considering.

## Annex 2 Audit arrangements

### Background

This annex offers audit guidance to Providers who administer EMA payments on audit arrangements.

### Methodology

In recognition of the need to minimise the administrative burden on Providers, it is proposed generally to conduct an audit of EMA as an integral part of existing audit arrangements.

The EMA audit programme involves an overview of the key controls for the administration of EMA payments and tests a random sample of learners' weekly payments across a chosen defined period (usually a month).

### Controls review

Through discussions with appropriate members of staff, YPLA auditors will identify and evaluate controls over the management and administration of EMA payments. This will be used 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 LAPS;
- assurance that only eligible learners are enrolled by the Provider;
- agreement and completion of the EMA Agreement (attendance, behaviour and effort);
- recording and reporting of attendance data, including authorised and unauthorised absence, and the controls system for the notification of payment/non-payment decisions; and
- making payment decision adjustments, and advising and reporting to the Learner Support Service any factors that may influence future EMA payments or corrective actions.

### Substantive testing

A sample of payment transactions extracted from LAPS will be tested for validity against the evidence held by the Provider. These tests will cover the same generic areas as the controls work already detailed above, that is:

- general management controls and sub-contracting, including off-site provision;
- eligibility;
- EMA Agreement (attendance, behaviour and effort);
- attendance recording;
- adjustments/recoveries; and
- 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 Provider 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 guide, and, depending on the nature of the control systems operated by the Learning Provider, other acceptable evidence may be held which is not detailed below:

- the Provider'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 EMA Agreement (attendance, behaviour and effort), signed by the learner and Provider confirming the learner's agreed timetable;
- evidence of learner attendance to determine appropriate authorisation and reconciliation of payments issued; and
- evidence of recoveries action (if any) undertaken resulting from overpayments.

## Feedback and reporting

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 an understanding of how Providers control the administration of EMA payments to learners. Where errors are found, auditors will try to identify where controls have

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 on LAPS, and/or do not hold documentation to confirm that the eligibility checks have taken place;
- Providers do not always realise they are responsible for checking a number of eligibility criteria themselves, for example valid provision;
- A recurring weakness is that Providers do not always have a clear documented attendance policy that is available to 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 might be missing or incomplete, and occasionally the attendance evidence held contradicts the payment decision made by the Provider;
- Occasionally, EMA Agreement documents have not been available for audit inspection, and some EMA Agreement documents have not been signed by the learner or 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 should already be held by Providers.

## **Eligibility and entitlement to free learning**

When Providers enrol learners on their learning programmes, **the Provider is responsible for checking that the learners are eligible to participate in learning and that they are eligible for free education**. It is recommended that the outcome of the check is communicated to the LAPS administrator so that they are able to enrol and authorise weekly payments only to eligible learners. Providers should retain evidence to support their eligibility assessment. An eligibility checklist is included at the end of this Annex.

## **Retention of documentation**

The following documentation should be retained for audit inspection for six years following the end of the 2010/11 EMA year:

- a fully completed EMA Agreement (attendance, behaviour and effort) for each learner; and
- attendance evidence to support each weekly payments decision.

## EMA eligibility checklist

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 appears to fulfill the EMA residency criteria		
Learner is not in receipt of other excluded government funding, e.g. Job Seekers Allowance (JSA), Dance and Drama Award (DaDA)		
Learner is enrolled on a valid learning programme at a Valid Provider (minimum of 12 guided learning hours per week for a minimum of 10 weeks)		
Learner is eligible to receive EMA payments		
<b>Completed by:</b>		
<b>Position:</b>		
<b>Date:</b>		

**\*Although there is no specific requirement for Providers to confirm that a learner's residency self-certification is accurate, Providers should consider whether on the basis of the evidence seen at enrolment the learner appears to be eligible both to participate in free education, and to receive EMA payments (i.e. there is no contradictory evidence).**

## Annex 3 Sources of further information

Additional documents are available that offer Providers further information about the EMA scheme. These are available in the supporting documents section of the EMA website at <http://ema.ypla.gov.uk/resources> and include:

- Sample application form and guidance notes; and an example of NoE and the EMA Agreement
- Financial Services Authority information about bank accounts [www.moneymadeclear.fsa.gov.uk/publications](http://www.moneymadeclear.fsa.gov.uk/publications)
- EMA Application Form Resource Pack 2010/11
- YPLA Funding Guidance [www.ypla.gov.uk/publications](http://www.ypla.gov.uk/publications)

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