



SCOTLAND

Guidance and Business Processes

2023/24

The Education Maintenance Allowance (EMA) programme aims to provide financial support (£30 p/w) to 16 to 19 year-olds from low-income households who meet the residency criteria; have a household income under the EMA income thresholds; are of an eligible age, and are taking part in an eligible course of learning.

This document has been compiled by the Scottish Government for use by those who administer EMA on behalf of the Scottish Government. It offers guidance on the rules, principles and processes under which the Scottish Government expects the EMA programme to operate. The Scottish Ministers may adjust the terms of the programme at any time. This document should be read in conjunction with the following legislation:

(1) Sections 73(f) and 73A of the Education (Scotland) Act 1980 ([Education \(Scotland\) Act 1980 \(legislation.gov.uk\)](#)) and Part 6 of the Student Support (Scotland) Regulations 2022 ([The Student Support \(Scotland\) Regulations 2022 \(legislation.gov.uk\)](#)) provides the legal framework for Local Authorities to pay EMA to school pupils, pupils who are home-schooled under arrangements approved by the Local Authority, or those undertaking non-advanced learning away from home or school under the supervision of the Local Authority;

(2) Sections 73(f) and 73A of the Education (Scotland) Act 1980, regulation 2(a), (e) and (f) of the Education (Access Funds) (Scotland) Regulations 1990, regulation 29 of the Student Support (Scotland) Regulations 2022 and (in respect of the remainder of this academic year), regulation 2(a), (e) and (f) of the Education (Access Funds) (Scotland) Regulations 1990 , which provide the legal bases for the Scottish Funding Council and colleges to administer EMA to college students.

This document has been split into two sections: **Part 1: Guidance and Part 2: Business Processes.**

Part 1 aims to provide guidance for those involved directly in either administering EMA or advising young people about application and eligibility. The 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 under the supervision of the Education Authority.

Part 2 sets out the business processes by which the EMA programme is governed and the main roles and responsibilities of key partners. The business processes outlined are described as far as possible without reference to systems or process design. The descriptions are meant to portray WHAT must happen, but not necessarily WHO, HOW and WHEN.

Finally, the document refers throughout to Local Agents. Local Agents will be the Scottish Government's partners operating at local level. The main parties are: Local Authorities, SFC and learning centres - which means colleges, schools and other learning organisations approved by local authorities for the purposes of EMA. While some (SFC) will not formally be part of the national payment and assessment system for individuals, they will have key roles in maximising the impact of EMA on the ground, or working with young people and with schools and colleges.

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Part 1 – EMA Guidance

1. ROLES AND RESPONSIBILITIES

It is the responsibility of the body administering EMA, either Local Authorities or colleges, to determine eligibility in line with the legislation. This document is intended to guide the administration of EMA. Ministers have given local authorities and the SFC the power to administer EMA on their behalf as set out in the grant letters. In line with the grant letters, delivery partners are expected to comply with this guidance, relating to the exercise of Ministers' functions. The Scottish Government can clarify sections of the Guidance (if required) but cannot advise on or make decisions on cases.

In performing their statutory functions in relation to EMA, local agents should also be mindful of their other wider duties and obligations, including human rights, the Public Sector Equality Duty and compliance with data protection laws. Administrators may wish to seek their own legal advice in certain cases.

1.1 AIM OF EMA PROGRAMME

There is a well-established and researched causal link between low income and low attainment. As a result, many young people from financially disadvantaged households leave school with few or no qualifications. This in turn means that they face greater difficulties entering the labour market.

The EMA programme provides support directly to young people to help towards mitigating the financial barriers they may face which could prevent them staying in post-16 learning. We expect EMA support to help young people progress through learning and, although the recipient is not dependent on achieving a qualification, we expect courses to lead towards one. In this way, EMA offers young people an opportunity to enhance their employment prospects.

2. EMA ELIGIBILITY CRITERIA

For a young person to receive EMA support they must first meet all of the eligibility criteria. Some of the eligibility criteria is governed by statute and some by guidance. The requirements include: **meeting residency criteria; having a household income under the EMA income thresholds; being of an eligible age, and taking part in an eligible course of learning.**

This section sets out each of the essential criteria in more detail.

2.1 RESIDENCY

To be considered eligible in terms of residency a young person must meet the residency criteria set out in Schedule 1 Part 1 of the Student Support Regulations (Scotland) 2022 (the '2022 Regulations'). This means for a student studying a course of education at school or a course of non-advanced education either at home or under the supervision of the Local Authority, they must meet the residency criteria set out in the [Student Support \(Scotland\) Regulations 2022](#).

For a student who is studying a full-time or part-time course of non-advanced education at a college of further education in Scotland out with the Local Authority areas of Orkney and Shetland, they must meet the residency criteria set out in Part 2 of the Schedule to the Education (Access Funds) (Scotland) Determination 2022 16 ("the Determination").

NOTE: The purpose of this section is to provide a quick reference guide; administrators should refer to EMA legislation when considering all residency matters.

RELEVANT DATE

In deciding eligibility, reference will be made to a "relevant date", defined as the first day of the term of the course of education for which EMA is sought. 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).

ORDINARY RESIDENCE

"Ordinary residence" 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.

Students must satisfy "ordinary residence" criteria to qualify for EMA. Generally, this relates to the relevant date and to the three year period immediately before the qualifying date. Students must be ordinary resident in Scotland on the qualifying date and **depending on individual circumstances, they will have to fulfil** the 3 year ordinary residence the UK and Islands, preceding the relevant date.

The residency requirements are that the student: -

- is ordinarily resident **in Scotland** on the relevant date: -

- has been ordinarily resident in the UK and Islands throughout the 3-year period immediately before the relevant date; and either
 - (i) has settled status in the UK; or
 - (ii) if under the age of 18, has lived in the UK for 7 years immediately preceding the relevant date; or
 - (iii) if over the age of 18, has lived in the UK for either half their life or for 20 years before the relevant date*.
 - (iv) Or, if over the age of 18, and has received support under point (ii) for the academic session immediately preceding the relevant date*

* The purpose of the last point is to ensure that those people who fit the criteria for (ii) are not barred from continuing in education through a different course once they turn 18 and do not fit the criteria for (iii) (lived in the UK for half their life or 20 years). For example, a person was undertaking an HNC before they turned 18 and were receiving funding under (ii), they then turn 18 and would like to start a degree, however because they are now 18 the criteria they must meet is (iii) and this does not apply to them. Point (iv) therefore allows that if a person is over 18 and they have been receiving support for the academic year immediately preceding the relevant date, they will still be eligible for support thus allowing continuity of education learning.

In addition, there are further residency categories in Schedule 1 relating to other categories of people with specific types of immigration status. These include for example (but are not limited to) EU nationals etc with protected rights who have been living in the UK and Islands for three years, Irish nationals who are settled in the United Kingdom and refugees. Reference should be made to the Student Support (Scotland) Regulations when assessing a student's residential eligibility for the EMA Programme. However, some of the primary areas that Local Authorities may be currently encountering are detailed below:

ASYLUM SEEKERS

Asylum Seekers, including young unaccompanied asylum seekers, are currently not eligible for EMA support.

REFUGEE STATUS

(See Schedule 1, Part 1, Paragraph 8 of the Student Support (Scotland) Regulations 2022)

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 relevant date.

LEAVE TO ENTER OR REMAIN (WHERE REFUGEE STATUS IS REFUSED)

(See Schedule 1, Part 1, Paragraph 9 of the Student Support (Scotland) Regulations 2022)

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 (or who are the spouse, civil partner, or child of such a person) 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 relevant date.

SYRIAN VULNERABLE PERSONS RELOCATION SCHEME (VPRS)

(See Schedule 1, Part 1, Paragraph 11 of the Student Support (Scotland) Regulations 2022)

A provision has been made to enable Syrian nationals who have entered the United Kingdom through the Syrian Vulnerable Persons Relocation Scheme (VPRS) to be eligible for EMA providing they meet the following conditions:

- they are a Syrian national who has been granted humanitarian protection to enter the UK under the Syrian VPRS (or who are the spouse, civil partner, or child of such a person);
- they have been ordinarily resident in the United Kingdom and Islands at all times since they were granted humanitarian protection; and
- they are ordinarily resident in Scotland on the relevant date.

UKRAINIAN NATIONALS

(See Schedule 1, Part 1, Paragraph 14 of the Student Support (Scotland) Regulations 2022)

Ukrainian nationals who have made a “relevant application” to the United Kingdom Home Office (where that relevant application is still being considered, or, they have been granted leave to remain following a relevant application) may qualify providing they are ordinarily resident in Scotland.

A “relevant application” is an application to:

- (i) the Ukraine Family Scheme,
- (ii) the Ukraine Sponsorship Scheme,
- (iii) the Ukraine Extension Scheme, or
- (iv) the United Kingdom Home for leave outside the immigration rules, as defined in Section 33(1) of the Immigration Act 1971, where the person
 - a. was residing in Ukraine immediately before 1 January 2022, and
 - b. left Ukraine in connection with the Russian Invasion which took place on 24 February 2022.

by an individual who is eligible to apply for that scheme.

CROSS-BORDER STUDENTS

Students who reside in boarding school accommodation out with Scotland and do not travel across the border daily, are **NOT** entitled to receive EMA support. However, students who reside in Scotland and travel to England **daily** to attend learning may be eligible for EMA.

Students from a part of the UK other than Scotland travelling daily across the border to study in Scotland will not be eligible to apply for Scottish EMA. Students who move to Scotland from other parts of the UK solely for the purpose of undertaking a course of education are considered to be ordinarily resident in the place in the UK from where they moved. They are not eligible to claim EMA i.e., a student for England who was in Scotland on the relevant date but was only in Scotland to study would not be eligible for EMA.

2.2 HOUSEHOLD INCOME

The household income of the young person will also determine their eligibility for EMA. Where the household income is **£24,421 or less before tax (for households with one dependent child) or £26,884 before tax (for households with more than one dependent child)** the young person may be eligible for a weekly payment of £30 per week, providing they meet the other criteria also. The income thresholds are before tax deduction (gross income).

Whilst the term "household income" is used it should be noted that the Regulations and Determination provide that, "In determining the amount of an EMA, the Scottish Ministers may take account of the sums, if any, which in their opinion the holders of the EMA, the holder's parents and the holder's spouse or the holder's civil partner can reasonably be expected to contribute towards the holder's expenses."

The following should be used as a guide to assessing household income:

- If applicant's parents live together, use both incomes.
- If applicant's parents are separated, divorced or no longer live together, use the income of the parent the applicant normally lives with the majority of the time.
- If applicant's parent is married or lives with a partner, use both incomes.
- If applicant is married or lives with a partner, use both incomes.

NOTE: A dependent child is one who is 16 years old or under, or is between 16 and 25 years old and is in further or higher education. Siblings' income should not generally be taken into account when calculating EMA. There may be exceptional cases where a sibling has acquired parental responsibilities in respect of the young person, in which case their income should be taken into account. However, such cases will be extremely rare.

2.3. AGE

Recipients will normally be aged between 16 and 19 years (inclusive). **However, as with school students, college students and those on Action Plans and not enrolled in school or college should follow the school intake dates of eligibility to maintain consistency across all recipients.** This means some young people may start receiving EMA at the age of 15 years. Please also note that under the 2022 Regulations, the age range is specifically described as those who are deemed to have attained the age of 16 years but have not, on the relevant date, attained the age of 20 years. This means that if an application is received late and the applicant may state their age is 20 years, care should be taken to check whether they were 19 on the relevant date to decide eligibility. **EMA is not available to**

young people still in compulsory school education. For the college sector: young people who have reached the age of 18 and are undertaking a course of non-advanced education should in the first instance be offered a bursary.

The two intakes (Winter and Autumn intake – set out below) of eligibility reflect the two school leaving dates in Scotland as set out in the **Education (Scotland) Act 1980**. 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 (last day of term before the summer holiday). 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 (those whose 16th birthday falls between 1 October and the last day in February) become eligible for an EMA from the start of the term following the winter leaving date.

2.4 COURSE ELIGIBILITY

The young person must be attending a school, or a college funded by SFC, or any other relevant education establishment that the Local Authority or the Scottish Government deems appropriate. This may include: residential schools; secure care establishments; community and voluntary care organisations; students undertaking home education, institutions in the public and private sectors and college places funded by Skills Development Scotland (SDS).

Relevant education establishment is defined as:

- A school or learning centre maintained by a Local Authority (which may include home education approved by the Education Authority);
- A community or third sector organisation approved by a Local Authority for the purpose of EMA;
- An independent school; or
- A Scottish college funded by SFC.

The applicant must be undertaking:

- a course of school education (full-time – flexibility on attendance can be built in for vulnerable young people);
- a course of non-advanced education at home which has been approved by the Education Authority,
- a course of non-advanced education elsewhere under the supervision of the Education Authority, (including Learning Agreements/Action Plans), or

- a full-time or part-time course of non-advanced education at college.

For eligible non-advanced courses, these must not attract any other form of benefit, salary or training allowance such as employability fund.

Note 1 : Eligibility for EMA for young people undertaking a full time course of school education is not dependent on the level of course, thus any courses studied within a school will be covered (including Advanced Higher qualifications).

Note 2: Within the school sector, young people should be enrolled as full-time. 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. The number of hours for a full and part time course at college will vary.

3. LEARNING AGREEMENTS

3.1 FOR THOSE ENROLLED IN SCHOOL OR COLLEGE

If a young person meets the eligibility criteria then the next step is to develop a learning agreement. 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 the student's responsibility to ensure that he/she has a valid learning agreement as only then will payments be made. The local authority, college and/or the learning provider should ensure that the student is aware of this.

Where the learning programme is undertaken at both school and 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 Learning Agreement must 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)

3.2 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
- attendance requirements
- 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.

3.3 SPECIFIC REQUIREMENTS

The learning agreement must 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

3.4 COLLATION OF LEARNING AGREEMENTS

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 on to the Local Authority by the school or other learning provider as proof to start payments.

NOTE: EMA payments will not be made until a learning agreement has been completed and sent back to the relevant learning centre.

3.5 OTHER CONSIDERATIONS

Institutions should also be satisfied that the student is fulfilling the requirements set out in the student's learning agreement.

The learning centre must confirm that the course is within those defined by local authorities or SFC as appropriate. Assuming this to be the case, the learning centre and student will agree the EMA Learning Agreement (and notify the Local Authority in the case of school students). The student will present the Notice of Entitlement and Learning Agreement to the learning centre. In order for a student to receive

EMA payments they must sign Part 1 of the Learning Agreement (see below). A copy of the Learning Agreement will be sent with the Notice of Entitlement/Letter of Award.

The EMA Learning Agreement has two components:

- Part 1 should either include conditions on attendance linking to receipt of the **weekly payment** or refer to the document which does. This will be signed by the student and the learning centre;
- Part 2 is an agreement which is tailored to the individual student for agreed learning goals, possibly specifying behaviour but more normally focussed on progress. This learning agreement will be signed by the student, their parent/guardian (in the case of school students) and the learning centre. The learning agreement must be signed by 30 November following the August intake. If Part 2 is not signed and completed by this time, payments will be suspended. Similarly, the Learning Agreement must be signed by 31 March following the January intake.

Part 1 should be completed as soon as the student enrolls on the course and notification should be sent to the Local Authority in the case of schools. Part 2 must be completed by 30 November for the August intake, and 31 March for the January intake. Parts 1 and 2 may be part of the same document. Completion of the relevant part of the Learning Agreement is the vital trigger to the payment processes. Thus, weekly payments cannot begin until Part 1 of the contract Learning Agreement is processed, completed and signed.

For a young person who has previously applied to the LA/college and has been issued with a Notice of Entitlement/Letter of Award, if there is no evidence that Part 1 of the Learning Agreement has been signed by 30 September for the August intake, then the LA/college will send a reminder to the student. No further reminders will be sent and payments will not start until the Learning Agreement is received.

If the signing of Part 2 of the Learning Agreement has not been notified to the LA/college by end November for the August intake, then the LA/college will send a reminder. It is the responsibility of the Learning Centre to ensure that Part 2 of the Learning Agreement is agreed and signed.

The LA/college must be informed if the student has left the learning centre; this will cause the suspension of weekly payments. If students move to another learning centre during the course of the year, there will be a need to link these students to their new learning centre and ensure payment authority is transferred from one learning centre to the other.

Parts 1 and 2 of the Learning Agreement for each student should be forwarded to the Local Authority, in the case of schools, and a copy retained at the learning centre. The student keeps a copy of Parts 1 and 2 of the Letter of Conditions.

4. ACTION PLANS FOR THOSE NOT ENROLLED AT SCHOOL OR COLLEGE

Note: From 2019-20, 'Activity Agreements' have now changed term to 'Learning Agreements.' This is now part of the No one Left Behind employability offer. Local authority employability teams will refer to 'Learning Agreements' for the purposes of EMA. Within the EMA guidance and for internal use the term Action Plan will be used.

4.1 ASSESSMENT

The same rules for income assessment apply to young people on Action Plans outwith school or college as those receiving an EMA in school or college and is based on His Majesty's Revenue and Customs Tax Credits Awards, which also take into account household income.

4.2 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 up to their 20th birthday .

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

If the young person undertakes a Skills Development Scotland (SDS) Employability Fund training course as part of their Learning Agreement/action plan and receives the £55 training allowance for this, they cannot claim EMA at the same time.

Young people on Action Plans can have their EMA payments back dated, to the day of first engagement in the relevant activity within the current financial year. Scottish Government will not pay claims, or part of a claim which relates to the previous financial year. If a Local Authority decides to make backdated payments to the previous financial year, this cost will need to be met from the Local Authority budget.

A new EMA application should be submitted each year.

4.3 AGE

Young people undertaking Action Plans who are eligible to receive EMA also qualify under the school leaving dates in relation to their 16th birthday. Young people on an Action Plan can receive EMA support outwith school term however they will need to meet the school leaving age criteria.

4.4 INFORMATION MANAGEMENT

Local Authorities need a record of young people on Action Plans receiving EMA. This information should be recorded in the same way as for young people attending independent schools or who are home educated. It 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.

4.5 WELFARE BENEFITS

Independent Young People on an Action Plan and claiming Universal Credit can receive EMA.

4.6 RE-ASSESSMENTS

As a young person on an Action Plan 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 household income information is up to date, particularly if they have been on an Action Plan for some time, 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 sent out to the school sector for the new academic year.

4.7 VULNERABLE YOUNG PEOPLE

All young people undertaking Action Plans are considered vulnerable. These young people will require extra support in the application process in addition to developing and undertaking their tailored learning plan.

4.8 MAKING PAYMENTS

The young person's advisor or learning centre is responsible for authorising or stopping payments. For young people undertaking an Action Plan, 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 operating between schools and the Local Authority – for authorising or stopping payments.

It will be the responsibility of the student to notify changes in their circumstances such as Name and Address or Bank Account to the learning centre or LA. Changes to standing data, particularly Bank Account details, cannot be made without the signed authority of the student. Notification of changes must be stored for audit trail purposes.

5. EMA SUPPORT FOR “VULNERABLE” YOUNG PEOPLE AND FLEXIBILITY IN ATTENDANCE

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 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. EMA application forms should have a question asking applicants if they are a vulnerable student and explaining that flexibility on attendance patterns can be agreed.

This section provides some areas of guidance, but the administering body will require to use discretion.

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

The role of other services, including Access Centres, 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 an Educational Psychologist).

5.1 DEFINITION OF “VULNERABLE”

“Vulnerable” students are those who are at risk of non-participation and of under-achieving.

Flexibility should be extended to applicants in difficult circumstances where this will promote educational outcomes. Examples of vulnerable young people include young carers, homeless young people, those with probation orders, teenage parents, those in rehabilitation from illness, those classed as having Additional Needs.

Local Authorities and Colleges 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.

Flexibility should automatically be extended to ‘Looked After’ young people and care leavers, where their status has been confirmed in writing by a Local Authority or care provider. The judgement as to whether an applicant should get this additional flexibility will be made by the learning centre with support from guidance staff, the SDS key worker, a social worker or an educational psychologist, who will confirm that the applicant is eligible for additional support. Where a student qualifies for extended eligibility, and there is a supporting agency, they too should be copied in on the notice.

For the Local Authority or college it is important to recognise that such cases may be identified at several stages:

- At the application stage;
- When the student begins a course of study; or
- Post-application and during the course of study.

5.2 ATTENDANCE

Some vulnerable young people may require non-standard attendance patterns. For example, young carers may have a flexible attendance pattern. Flexibility should be considered when agreeing an attendance pattern for vulnerable young people and this should be agreed and written into the Learning Agreement. 100% attendance is expected within the agreed flexible attendance pattern.

For some it may be sensible to set short-term attendance targets in the Learning Agreement that are initially less than their course hours to induce them to develop good habits gradually.

A learning centre in association with guidance staff, a social worker, a SDS key worker or an educational psychologist may agree an attendance pattern that could mean that a student does not attend as many sessions as his/her peers. Such students may also undertake flexible or broader course content.

5.3 VULNERABLE STUDENTS WHO ARE LOOKED AFTER OR CARE LEAVERS

Young people who are Looked After, in a Continuing Care placement or are 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. Kinship care includes children who are **looked after** and are placed in a formal kinship care arrangement by the Local Authority. The **Looked After Children (Scotland) Regulations 2009** gave local authorities the power to pay an allowance to kinship carers of looked after children living in kinship care, for the first time. If a young person is in a formal arrangement and therefore considered Looked After, they will be automatically entitled to EMA without a household income assessment being carried out.

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) of the Children (Scotland) Act 1995. For a full definition of those young people who are defined as care leavers please refer to Section 29 of the Children (Scotland) Act 1995. It is important to note that the Children and Young People (Scotland) Act 2014 changed the definition of a care leaver to a young person who ceased to be looked after on or after their 16th birthday and up to their 25th birthday. The 2014 Act also introduced a new Section 26A of the Children (Scotland) Act 1995 which adds a new legal term of Continuing Care entitling a young person who ceases to be looked after in foster, kinship or residential care to remain in their care placement with their carer up to age 21. It is important to note that young people in Continuing

Care are not legally defined as “looked after” or a “care leaver” but are entitled to the same support and accommodation as when they were looked after, and should therefore be treated as if they are looked after. Local Authority Social Work Services or the care provider will be able to give confirmation of a young person’s status.

5.4 EXTENSION OF ELIGIBILITY PERIOD

Local Authorities and colleges will have the power to pay EMA to any young people whom they deem “vulnerable” for **up to 4 years**. 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. An applicant will qualify for an extended period of eligibility (of 4 years) if SDS, or another such local agent, has designated the applicant as vulnerable. There must be a clear case stating that the applicant needs the additional support. Where the student/local agent believe there is a case for extended eligibility, this must be supported by a written confirmation from the local agent. This will apply to any young person who has a Record of Needs when they finish compulsory education. Once a student is identified as eligible for flexible arrangements, they retain these rights for the full period of their eligibility, even if the reason for qualifying recedes or is removed.

Local agents must document their decision and the reasons for designating applicants for extended eligibility, and retain the information locally for EMA Audit purposes. Agents must notify the Local Authority or college immediately of their decision, along with certification details.

Flexibility should automatically be extended to Looked After young people and care leavers, where their status has been confirmed in writing by a Local Authority or care provider.

5.5 LEARNING AGREEMENTS

If written confirmation has been received from the Local Authority detailing that a young person has caring responsibilities (young carer), then flexibility should be built into the Learning Agreement.

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 benefit purposes. This may include students who are in care.

A student may be classed as “independent” if they:

- Are estranged from their parent or guardian;
- Are a parent to whom Child Benefit is being paid;
- Are married or in a civil partnership;
- Are Looked After;
- Are care leavers; or
- They receive income support in their own right.

Extra evidence will be required to confirm independent status, for example: a Benefit Notice, Council Tax Notice or a Confirmation Letter re Looked After/care leaver status from the Local Authority/care provider, etc. No information on parental income should be sought.

The requirement for the student's signature will be waived if the student has special educational 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 and those who are estranged from their parents.

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

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.

6. STUDENTS IN HOME EDUCATION

EMA will be available to eligible young people who are undertaking full-time non-advanced level study by home education where approved by the Education Authority. 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 (<https://www.gov.scot/publications/home-education-guidance/>) and the Local Authority's own guidance, where available.

Students applying for 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 EMA 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.

6.1 ELIGIBILITY OF STUDENT

Students who are home educated will be subject to the same age criteria as students in the schools and Further Education 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. Likewise, EMA payments to home educated students should cease at the same point they would if they were in standard schooling.

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.

6.2 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. If the student attends college courses part-time as part of their home education programme, this must also be at a non-advanced level.

6.3 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 (also see section on absences)

6.4 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.

6.5 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 EMA Learning Agreement sets out the responsibilities of both the learning centre (in this case the home) 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 Learning Agreement requirements the EMA should be granted.

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.

6.6 REQUIRED SIGNATURES

The Learning Agreement (or equivalent) should be signed by the young person 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. Where a student attends more than one by the learning centre in which the majority of their agreed learning takes place (the "lead" learning centre). 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. Parent/guardian signature is not required in the college sector or for those deemed to be living independently, such as care leavers

Part 1 of the EMA Learning Agreement must be signed, recorded and returned to the learning centre/Local Authority before any weekly payments can be made.

Part 2 of the EMA Learning Agreement must be signed by the end of November for the August intake, and the end of March for the January intake, otherwise payments will be suspended.

6.7 REQUIREMENTS

The Learning Agreement (or equivalent) should incorporate the main features as outlined in the learning agreement section. 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 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 this document) 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.

Note: A copy/original of the EMA Learning Agreement should be held by the Local Authorities/SFC and learning centre.

6.8 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.

6.9 RETENTION CRITERIA

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

6.10 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.

6.11 MANAGEMENT INFORMATION

Local Authorities should refer to 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.

7. AWARDING EMA

EMA is a means-tested weekly allowance of £30 during term-time. EMA will be paid directly into the bank account of the young person and can only be awarded when all of the eligibility criteria have been met and a Learning Agreement is in place and meeting the agreed 100% attendance criteria.

7.1 ANNUAL CLAIM PERIOD

For a young person who 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 of attendance within term-time, up to a maximum of 42 weeks in any one academic year. For college courses the duration of payment will be dependent upon the length of the course. EMA payments will not be made during holiday periods which include the October break, Christmas and Easter.

7.2 DURATION OF ALLOWANCE

Payment of EMA will normally be restricted to a maximum period of 3 years (from the anniversary of the first payment) and recipients should be between the ages of 16 and 19 years inclusive. In exceptional circumstances some young people identified as “vulnerable” or with special educational needs may be entitled to receive EMA support for 4 years. **However, 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.**

The period of eligibility for EMA commences on the first day of the new academic term, following the school leaving date in which the student ceases to be of compulsory school age.

7.3 ATTENDANCE REQUIREMENTS

The student must have 100% of their agreed attendance rate (as set out in their Learning Agreement) for their course to receive each week’s payment. A student’s agreed attendance rate will not necessarily be 100%. For example, a student’s Learning Agreement could be for an 80% attendance rate based on their individual circumstances, in which case if the student’s attendance falls below 80% they would be deemed to have less than satisfactory attendance. 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. 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. The hours may vary for young people on Action Plans and as such the number of hours may be 21 hours or less. The Employability team within the local authority will be able to advise on the learning/training the young person is undertaking and the number of hours they are expected to do per week for payments to be made.

Absences authorised by the educational provider should be treated as a day of attendance for EMA purposes.

Institutions should have regard to equalities legislation (Equality Act 2010) and the Children and Young People (Scotland) Act 2014 when considering the position of students with protected characteristics and experience of care. Institutions may exercise increased flexibility when considering attendance issues for groups of students impacted by this legislation (such as care-experienced students and disabled students for example). 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.

NOTE: Attendance data, absence and other information must be retained by administrators as part of the audit trail.

ADMINISTRATING EMA APPLICATIONS

8.1 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 then 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 Local 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.

8.2 COLLEGES

Students at colleges of further education should apply directly to the college they are attending. For students attending colleges in Orkney and Shetland, students should apply to the relevant Local Authority.

8.3 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.

8.4 CUT OFF DATES FOR RECEIVING EMA APPLICATIONS (SCHOOL SECTOR)

Students are eligible to apply for an EMA within the academic year. However, the cut off dates for Local Authorities to process application forms will be 31 March. No applications should be processed after 31 March for the academic year .

8.5 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. If the application is received after these cut-off points, 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. If the application is received after these cut-off points, 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.**

Note: Local Authorities should remain mindful of operational factors with SEEMiS when it comes to inputting dates for applications to ensure students receive payment for that week. LA's are responsible for working with the system to ensure that back payment is paid correctly to recipients.

Note: The Scottish Government has no responsibility or ownership for the SEEMiS system, and it is the responsibility of LA's to ensure that the system is fit for purpose.

9. ATTENDANCE RECORDING AND PAYMENT AUTHORISATION

The learning centres are responsible for authorising or stopping payments. Attendance data must be captured each week by the learning centres. Learning centres may adopt whatever method of recording attendance they choose. The application of the rules in respect of interpreting collected attendance data will be the same for schools, colleges and any other learning centres deemed a part of the EMA programme. Attendance data, absence and other information must be retained as part of the audit trail at the learning centre. Conditions set out in the Learning Agreement must also be satisfied EACH week before payment is authorised. The learning centre is the decision maker on payment or stoppage.

Though the learning centre must record the reason for a stopped payment, and notify the student, there is no requirement to hold the reason for a stopped payment on the central database.

If student leaves school/stops attendance at the course of education, family/student must notify learning centre.

The learning centre must ensure that:

- all due weekly payments are authorised;
- they place a stop on further weekly payments.

Note 1: At the start or finish of an official holiday students can only receive payment for a week which constitutes 3 or more relevant days.

Note 2: For the college sector – part-time students *may* be eligible for EMA payments for a week which constitutes 3 or less relevant days. This will be subject to meeting attendance requirements.

10. GUIDANCE ON ABSENCES

Education providers will be required to record attendance of EMA recipients on days when learning centres are open to students. Where the institution is closed on days when it would normally be open these days should 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" is **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 a school re-opens 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/engagement records and if necessary liaising with SFC to clarify difficult cases. SFC will inform the Scottish Government of any institution that refuses to co-operate in monitoring the attendance or engagement of an EMA recipient.

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.

10.1 AUTHORISED ABSENCE

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.

The following are examples, but are neither prescriptive nor exhaustive:

- Ill-health;
- 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, a meeting related to a Looked After young person's care needs, a meeting related to a care leavers Pathway Plan, a court hearing or a 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 circumstances; or
- If the learning centre is closed due to unforeseen circumstances

NOTE: Holidays/leave taken within term time **cannot** be considered as authorised absence, except in the case of pre-determined religious festivals or under exceptional circumstances. The discretion will lie with the college and school to determine whether the leave of absence falls under 'exceptional circumstances'.

Absences can be reviewed and recorded as authorised (and thus as attendance) at any point after the relevant week.

10.2 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.

10.3 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, to determine this.

Isolated periods of illness can be regarded as authorised absence, provided administrators are satisfied 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.

10.4 MEDICAL CERTIFICATES

If a young person is absent long term then a medical certificate is desirable, however this is not encouraged due to pressures on the NHS. It is therefore advised that 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. As GPs are not obliged to provide medical certificates, this may have to be at the student's own expense. It must be recognised that some GPs will not supply Medical Certificates to students and students should not be encouraged to get a medical certificate for the purposes of EMA.

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

10.5 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 the period of absence **may** also be acceptable at the discretion of the learning provider.

10.6 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 subject to review. Individual circumstances should be taken into account.

10.7 LATENESS

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

10.8 WORK EXPERIENCE PLACEMENTS

Students will continue to receive payments only if the work experience placement is a pre-arranged integral part of the course and takes place during term-time, and the young person does not receive a wage. The period of work experience should be recorded on their EMA Learning Agreement either at the outset of the course or as soon as it was arranged. EMA will not be paid at the same time as paid work experience.

10.9 WITHHOLDING PAYMENTS

Schools and other learning providers: the Local Authority may discontinue EMA payments where the information supplied by the school or other learning provider states that the student has failed to meet the agreed rate of attendance outlined in the student's Learning Agreement.

It is possible for a young person to study for one year, take a year out, then re-enter non-advanced study and still receive an additional two years' EMA funding, dependent on the age of the student. The college is responsible for monitoring the student's attendance and may withhold payment if attendance is not satisfactory, as set out in the section on absences above.

11. 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.

11.1 EMA PAYMENTS DURING SQA SUMMER EXAMINATION TIMETABLE (SCHOOL SECTOR)

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.

11.2 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.

11.3 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 complete will only be eligible to receive EMA until the end of the SQA Examination timetable. After this date, students should cease to receive any further EMA payments.

11.4 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.

11.5 Staying on at school for an additional year (S7)

Young people who are coming back to school (often defined as adult returners) for a 7th year are eligible to receive EMA payments to the end of the academic year, as with S4 and S5 pupils returning for the following academic year.

School students who gain full-time employment during the SQA exam period should have their EMA payments stopped as they would no longer be in full-time learning.

NOTE: Students in receipt of EMA who wish to take part-time or seasonal employment should be encouraged to do so to gain valuable work experience and soft-skills. However the employment should not affect them meeting their Learning Agreement or attendance at the learning centre. EMA should be stopped if they are not meeting their attendance and Learning Agreement as a result of their employment. Any salary earned should not be included in household income assessment.

12. ELIGIBLE COURSES OF LEARNING

12.1 Within the school sector, young people should be enrolled as full-time. 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. The number of hours for a full time course at college will vary.

12.2 PART-TIME

On 1 January 2016, part-time non-advanced college courses became eligible for EMA. Part-time is defined as a course of being between 1-16 hours of study a week.

Students should be on a course that is eligible for SFC funding. To be eligible for SFC funding, students should be on a course that leads to a recognised qualification, meets an employer need or is a formal access course. Students on leisure courses and taster courses are not eligible for SFC funding. Students on evening or weekend courses may be eligible for an EMA but only where they meet the above criteria and where their attendance on the course is monitored. Students on part-time distance learning programmes will not qualify for support.

Colleges operate on a credit basis and they should refer to their own policies and the guidance issued by the SFC to determine whether a course is part-time.

12.3 CURRICULUM DIVERSITY

For college students only, a student can attend separate courses provided they make up a full or part-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.

12.4 TEMPORARY EXTENUATING CIRCUMSTANCES

In temporary extenuating circumstances, for example when a student is pregnant or has restricted mobility through illness, education of less than the stipulated course learning hours 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 the Learning Agreements section and on special consideration for Vulnerable Young People)

12.5 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.

12.6 QUALIFICATIONS

Except in relation to courses of school education (all of which qualify for EMA), EMA is intended to support non-advanced learning. The following levels of courses are all eligible where they are carried out away from school:

- 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.

12.7 COURSE CHANGE AND STUDENTS MOVING INSTITUTION

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 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.

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.

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 EMA for the week rests 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.

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.

On notification of a change of learning centre, the student must be linked to the new learning centre. If, on changing learning centre, a student has outstanding payments due, these must be authorised by the exporting (old) learning centre. The exporting learning centre must not be able to authorise a payment on or from the date that the student has joined the importing (new) learning centre.

The importing learning centre must ensure that an EMA contract is established and recorded before it can make any payments.

Part 2 – Business Processes

1. PROMOTION OF EMA

Local authorities and colleges are expected to continually promote the EMA programme throughout the year. It is important that promotion targets as many groups as possible such as young carers and those from ethnic minorities. There is a national EMA website that is managed by the Scottish Government [Apply for or renew an Education Maintenance Allowance \(EMA\) - mygov.scot](https://mygov.scot). We encourage partners to include this in local promotional activity. The EMA local authority working group and SFC are working in collaboration with the Scottish Government to look at the promotional activity on EMA and how we can link colleges and schools together to highlight that EMA continues post school and into college.

Local authorities can promote in a number of ways including:

- Posters/leaflets in schools, colleges, council buildings, libraries, leisure centres, community centres, supermarkets, cinemas, and GP surgeries;
- On plasma screens in council buildings;
- On council and college websites and newsletters/magazines;
- Letters to age-eligible pupils and parents; and
- Through regular meetings with Learning Agreement Coordinators
- Social media platforms such as Council twitter page

Promotion of EMA via schools by way of:

- Newsletters, Assemblies, Websites, Handbooks, School Information Screens, or text messaging parents; and
- Posters/leaflets sent to schools and Learning Agreement Co-ordinators
- Social media channels – twitter, school Facebook page.

Promotion of EMA via colleges by way of:

- Emails/letters to age-eligible students;
- College website/prospectus
- Posters in college buildings
- Promotion to students who have indicated they have caring responsibilities, are Looked After or are vulnerable.
- Social media platforms such as College twitter page.
- College open days
- EMA applications form sent out alongside enrolment forms/course acceptance.

For ethnic minority groups, an action point on EMA promotion is set out within the Scottish Government's "Race Equality Framework for Scotland, which was published in April 2016 (see below).

Continue to work with delivery partners to ensure the Education Maintenance

Allowance programme is promoted so that young people and parents (including those from minority ethnic communities) are aware of the programme, as a means to help 16-19 year olds overcome financial barriers to access and remain in learning.

This framework sets out the Scottish Government's approach to promoting race equality and tackling racism and inequality between 2016 and 2030. Further details of the Race Equality Framework can be found at: <http://www.gov.scot/Publications/2016/03/4084>. Scottish Government will request for an update from delivery partners on EMA promotional activity throughout the financial year.

1. APPLICATION AND ASSESSMENT

Young people should apply to the organisation that either provides the course of learning they are taking part in (college) or is responsible for its delivery (Local Authority). Local Authorities and colleges will be responsible for developing application forms and for correctly determining student eligibility for EMA, and ensuring they have supporting documentation to support their decision. 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.

1.1 Application Process

Application forms and guidance notes will be available through Local Authorities for young people attending schools and learning centres and through bursary offices for young people attending college. Application forms may be online or in paper format. If applications are made online, it is the responsibility of the administrators to conduct relevant checks to satisfy that any scanned documentation provided is legitimate.

Applications should be assessed on the basis of the defined EMA eligibility rules (residency, age, household income, and course of education). A student must re-apply each year and an assessment on eligibility criteria must be carried out to determine if the young person remains entitled to EMA.

The following information is required in order to process applications:

Scottish Candidate Number/Student Number; Name; Address; Date of Birth; Bank Account details; Household Income details of parent(s); parent's partner; (guardian(s) partners - schools only); Where relevant, confirmation of Looked After/care leavers status.

1.2 Assessment Process

The assessment cannot be completed without all required information having been presented and checked. Applicants must be given a reasonable opportunity to provide any information which is not submitted with the original application.

Once an application has been processed and approved, the student is provided with a Notice of Entitlement. This details their entitlement and provides the necessary forms and guidance about what to do next.

Applicants will be notified in writing by the administrator if their application is rejected, and will be advised of the reasons why. Where appropriate the decision should include reference to other forms of support which may be available. A process must be put in place to handle queries regarding entitlement and rejection, including a right of appeal.

In-year re-assessments may also take place post-application as a result of changes in financial circumstances, for example if income has fallen to within the EMA thresholds. The student is responsible for informing the relevant body of changes in circumstances. Any re-assessment will be treated as a new application.

2. PAYMENT AUTHORISATION

3.1 Weekly Allowance

An authorisation process should take place for every student fortnightly and lead to either the release, or withholding of, a payment. Learning centres are responsible for discharging the authorisation process. The authorisation process should be completed by the end of the second working day following the end of the attendance week. All eligible students can be authorised to receive a payment.

NOTE: - payments cannot be released until a Learning Agreement has been recorded.

Authorisation should take account of:

- Attendance for the week concerned
- Absences - only authorised absences count as "attendance"

Authorisation must be carried out by someone authorised by the learning centre, and the decision should be auditable. There must be the right of appeal against stoppage if the student wishes to exercise this. A successful appeal may lead to one or more payments being reinstated.

3.2 PAYMENT

EMA payments are for weekly attendance and will be made in fortnightly instalments in arrears. Payment to an eligible student is made on an instruction from the learning centre and will normally be paid through the BACS System. Payments should reach the student's bank account no later than 5 working days following the day of authorisation.

The learning centre must at any time be able to authorise a weekly payment for the current week, and any preceding week for which no payment has already been made (in line with existing fortnightly payment timetables). Where more than one payment authority is recorded, payments can be added together to form one transaction to the bank account.

3.3 SUBMITTING EMA CLAIMS

The point of contact in the Scottish Government for EMA monthly claims is EMAFinance@gov.scot. **Authorised claim forms and the SEEMIS printout should be submitted by email.** Deadline for claims are set out in the EMA Offer of Grant 23/24. Any questions related to the programme itself should be directed to educationmaintenanceallowance@gov.scot

3.4 OVERPAYMENT

We recognise that overpayments may sometimes occur and administrators should use their current procedures for the recovery of overpayments, eg recovery of bursary funds. A letter should be sent to the student/pupil providing the reason for overpayment and requesting return of the overpayment.

Students should be made aware that the recovery of overpayments (in whole or in part) may be deducted from future payments.

3. ASSESSMENT OF HOUSEHOLD INCOME

When establishing what benefits should be taken into account when determining eligibility to receive EMA, the Scottish Government follows the same criteria as set by HM Revenue and Customs for calculating Child Tax Credit and Working Tax Credit (ie taxable benefits). The following link to the HMRC website <https://www.gov.uk/income-tax/print> a details areas which should, and should not be taxed.

When determining pensions in relation to household income, taxable income of the pension should be included in the household income. Non-taxable elements would be excluded. Please see HMRC website: <https://www.gov.uk/tax-on-pension/tax-free>

4.1 Acceptable Evidence

It is the Local Authority's and College's responsibility to determine whether sufficient evidence has been provided. Forms of evidence may include:-

- Employment – P60 or income statement from HMRC
- Benefits – P60U, letter from DWP, Certificate of Benefits Received Form signed/stamped by DWP, Universal Credit Statement.
- Tax Credit Award Notice – A Tax Credit Award Notice which details household income for the relevant tax year, can be used for EMA assessment purposes. **Please note that you cannot accept provisional awards or awards based on an estimate of household income.**
- Self-Employment – Self Assessment Tax Calculation (SA302) from HMRC is the only acceptable documentation. However, if this document is not available a provisional assessment can be carried out based on estimated TCAN for the relevant Tax Year.
- Lump Sum Income
- Pension - Please see HMRC website: <https://www.gov.uk/tax-on-pension/tax-free>
- Redundancy – First £30,000 is non-taxable

Original documents provided as part of an application form for EMA must be copied and then stored with the application. Originals can then be returned to the applicant. Payments will be made in two weekly instalments in arrears into the bank account of the student.

4.2 Other Income

Details on "other income" (such as share dividends; bank interest; property; overseas investments) may be required depending upon certain conditions.

4.3 Evidence of Other Dependent Children in Household

Households with more than one dependent child will have to provide evidence. As well as applying to all children under the age of 16, this applies to those who are over the age of 16 and up to the age of

25, if they are in further or higher education and are parentally supported. Other acceptable evidence would be the Child Benefit notification, birth certificate (for those under the age of 5) or a Letter of Award from the Student Awards Agency for Scotland (SAAS) or relevant college.

Note: Income evidence provided with an application must be copied and stored with the application.

4.4 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, His Majesty's Revenue and Customs (HMRC) will disregard the EMA.

4.5 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.

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.

4.6 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 discretionary 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 an EMA.

5. 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.

5.1 Foster Carers: For the purpose of household income assessment, do not take a student's foster parent's/carer's income into account. However, if the student's parents are foster carers/carers for a child who is not the student, we would take the foster income into account and would ask the parent(s) to declare their taxable profit from their self-assessment (net business profit for tax purposes).

The fee that the parent receives for fostering for EMA purposes would be included as income, however any allowance granted for maintenance of the child is exempt.

5.2 Kinship care is when a child is looked after by their extended family or close friends, if they cannot remain with their birth parents. Under the **Looked After Children (Scotland) Regulations 2009**, kinship carers are defined as "a person who is related to the child (through blood, marriage or civil partnership) or a person with whom the child has a pre-existing relationship". The **Looked After Children (Scotland) Regulations 2009** gave local authorities the power to pay an allowance to kinship carers of looked after children living in kinship care, for the first time. If a young person is in a formal arrangement and therefore considered Looked After, they will be automatically entitled to EMA without a household income assessment being carried out.

Kinship care also includes **non-looked after** children, who live in an informal kinship care arrangement. These children may be subject to a Section 11 of the Children (Scotland) Act 1995 or may be living in a completely private arrangement with extended family, with no Local Authority involvement at all. In this case a household income assessment would be necessary.

6. PROVISIONAL ASSESSMENT

Provisional awards may be made for applicants with parent(s) who are unable to provide the correct income documentation at the time of application. This mainly, although not wholly, applies to those applicants whose parent(s) are self-employed. In such cases the Local Authority and college will have the discretion to request further evidence during the provisional award period, or later in the year, to confirm current household income remains within the threshold limit for payments to continue.

If household circumstances have changed during the year and income has fallen to within the EMA thresholds this would be classed as a new application. It is the responsibility of the student to notify the Local Authority or FE college. Relevant evidence will need to be provided confirming both the change in circumstances and the current level of household income.

For provisional award payments paid to those whose parents are self-employed during the Autumn term, a stop on payments should be made on 31 December and no further payments should be made until income has been finalised. Note: Self-assessment online tax returns are due by 31 January each year.

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.

If an applicant is paid an EMA provisional award that is not finalised then applies for EMA again in another year, the amount already paid should be deducted before any further payments are paid. Local Authorities must keep records of provisional payments made during FY23-24 and submit to Scottish Government on Schedule 7 of the grant letter by 30 April of the following year.

Provisional awards should also be used in cases where the household has experienced a change in financial circumstances as a result of redundancy. Administrators should request evidence of redundancy and any other evidence they require to satisfy themselves that there has been a change in circumstances/household income.

7. GRANT LETTER REQUIREMENTS FUNDING

7.1 GENERAL

We expect local authorities and SFC to continuously refer to the EMA Offer of Grant letter 23/24. This sets out the requirements and the claims process

The individual grant letters to Local Authorities and the SFC provide an allocation of up to a specific amount for EMA. It is imperative that Local Authorities and the SFC profile expenditure on a regular basis. Local Authorities and SFC are expected to complete and submit the forecast spend for the as stated in the Offer of Grant (Schedule 1 Part 4). Potential underspend/overspend should be notified to the Scottish Government immediately.

If any Terms and Conditions set out in the offer of grant are not met, reimbursement will be withheld until such time as the issue is resolved. The Scottish Government aims to pay all duly completed invoices by the payment date indicated in the grant letter. Payment to Local Authorities and SFC is via BACS. Any administration costs and their reimbursement will be subject to the terms and conditions of grant agreed with the relevant body.

7.2 LATE CLAIMS

In accordance with the terms and conditions set out in the offer of grant, the grant is available only in respect of EMA payments made to eligible young people in that financial year. It will not be possible to carry forward any unclaimed balance to the following financial year. Timely submission of claims is therefore essential. The Scottish Government will not pay claims, or part of a claim which relates to the previous financial year. Local Authorities and colleges are responsible for paying any claims relating to the previous financial year.

Local Authorities - There is a late claim period which is used by Local Authorities to claim for payments which relate to the previous academic year but which fall under the current financial year. A date is added to the previous year in the SEEMIS system usually around October to cover any additional payments that are made after the July cut-off.

7.3 ACCRUAL PROCESS

A grant accrual is a claim that relates to the current financial year but payment will not be processed until the following financial year. The payment is therefore required to be accrued to ensure that it is accounted for in the correct financial year.

Since the EMA grant payment for March is claimed and paid in the new financial year, the March claim is classified as an accrual. In addition, if payments are made in the last week/s in March, this grant must be claimed within the April claim and the March element will be identified as a part accrual.

The accrual process is a crucial exercise to determine an accurate EMA forecast outturn. This is carried out prior to the end of the financial year and Local Authorities and the SFC are expected to identify accruals, as accurately as possible. Scottish Government will alert Local Authorities and SFC each year in March when accrual data is due.

8. APPEALS PROCESS

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. There must be a focal point (at the LA/college) through which appeals can be lodged.

The appeals process refers to an instance in which an EMA applicant wishes to appeal a decision which declares them ineligible for EMA based on an assessment using the EMA eligibility criteria. These appeals should be heard by the grantee and should be addressed using the grantees own appeals procedures.

Through no fault of their own, Young people may submit late applications due to exceptional circumstances. In these cases, Local Authorities and Colleges have the discretion to accept or reject late applications/appeals by taking into account individual circumstances.

An applicant must submit an appeal in writing within one calendar month of the date of the letter notifying them of the refusal of their application for EMA to the relevant Local Authority or College.

The appeal should clearly state the reason for the appeal and be accompanied by any relevant additional evidence or information. Such evidence may be clarification of household income, written confirmation from employers if available, or a benefits statement if not already provided. The Local Authority/College will consider all additional evidence provided.

All such evidence is to be considered confidential and should be processed in accordance with the requirements of the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

For colleges any grievance raised by a student concerning the application of this policy should be addressed in the first instance with the relevant student support staff in the college. If the student is still unhappy with the result, the college should have an appeal process in place to allow the student to take this grievance further. At this stage in the process, the system should include a review by people who are impartial to the case. SFC should be willing to provide clarification on points of policy but should not be involved as part of the appeal process.

In a case where a student contacts SFC directly regarding an appeal decision then the following steps should be taken:

1. Any grievance raised by a student should be addressed in the first instance with the relevant student support staff in the college.
2. If the student is still unhappy with the result, the college should have an appeal process in place to allow the student to take this grievance further. At this stage in the process, the system should include a review by people who are impartial to the case. SFC should willing to provide clarification on points of policy but should not be involved as part of the appeal process.

If a student's appeal is not resolved through the college's internal appeals process, then the student's next course of action is to approach the ombudsman

The appeals process should normally take no longer than 14 days to issue a decision including any Scottish Government input/involvement. However, it is possible that some may raise issues of government policy which may require more time to resolve.

The student is to be notified of the result in writing. The Local Authority or college should record the decision and any additional evidence provided should be stored with the original application information in accordance with the terms of the General Data Protection Regulation (GDPR).

Where an appeal is successful, the student will receive their Notice of Entitlement, EMA Contract and any original documents supplied with their appeal. The learning centre should also be informed.

Where a student is successful with an appeal, they are eligible for back-payment of previously unpaid weeks as follows:

- If the appeal is resolved prior to 30 September, they may be paid for each week back to the beginning of the current term, provided agreed attendance criteria has been met.
- If the appeal is resolved after 30 September, and the original application was made prior to 30 September, they may be paid for each week back to the beginning of the current term, provided attendance criteria has been met.
- If the appeal is resolved after 30 September and the original application was made after 30 September, they may be paid from the Monday of the week in which the original application was received, provided attendance criteria has been met.
- Guidance above refers to August intake, in other cases such as the winter intake please use the date, 6 weeks from the qualifying date.

8.1 APPEALS REGISTER

Local Authorities and colleges should set up an Appeals Register which details information surrounding appeals and the date of their resolution and also of their outcome.

8.2 COMPLAINTS

Formal complaints about EMA assessment then these should be dealt with in accordance with Local Authority or college complaints procedures. EMA policy complaints should be sent to the Scottish Government to consider.

9. AUDIT AND COMPLIANCE

Compliance with National and Scottish Government internal audit requirements is a critical component of the EMA programme. All business processes must maintain and provide a clear audit trail sufficient to satisfy Scottish Government.

NOTE: For audit purposes, the final claim (March) for the financial year must be certified by the Director of Finance and sent electronically to the EMA Finance mailbox.

9.1 LOCAL AUTHORITIES

From 2022/23 the external audit function in respect of EMA was removed, due to the low-risk nature of the programme. Given the close working relationship and comprehensive financial controls within Scottish and Local Government, we will utilise the existing compliance measures as assurances for the EMA programme, submitting a copy of the Year End Statement and signed Statement of Compliance to the Scottish Government by **30 April. 2024.**

9.2 COLLEGES

On confirmation of attendance either stating 100% of **agreed** attendance, or accompanied by proof of authorised absence, the college bursary/finance officer will authorise weekly allocations of EMA, to be paid on a fortnightly basis to students.

On a monthly basis colleges will complete a claim form of actual spend. Claims must be submitted to SFC with accompanying data in a standard spread sheet. Claims made for January and July and individualised returns will be submitted to the SFC. Monthly claims will be certified by the Accountable Officer or nominated deputy.

NOTE: The final claim (March) must be certified by the Accountable Officer.

Year-end statements (certified by the Accountable Officer) must be submitted to SFC by the last working day in September. The college should ensure that the statement shows evidence of 5% spot checks carried out throughout the year. An independently audited year end statement should be sent to the SFC by 30 October.

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9.3 SFC

On a monthly basis SFC will submit a claim of total actual spend to the Scottish Government, along with data showing EMA spending per institution and any adjustments made.

Monthly claims will be certified by the Director of Funding or nominated deputy. This signature should confirm that relevant internal checking procedures have been carried out to check and verify the claim.

Monthly claims will identify weekly payments clearly illustrated in both volumes and amounts (excluding SFC) and be recorded against the specific weeks for which they are made.

An authorised payment must be traceable to a defined learning centre, person, date and time and payments must be recorded against the specific weeks for which they are made.

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Within 4 months following the end of the academic year, a completed unaudited year-end statement should be passed to the external auditor and a copy sent to the Scottish Government. This should include evidence of 5% spot checks carried out throughout the year and should be signed by the Director of Funding. ***NB However, it is noted that whilst colleges were closed due to Covid-19, spot checks during that period could not be carried out. Spot checks should continue as soon as colleges reopen and retrospective checks made to satisfy audit requirements.***

External auditors should carry out the audit work and sign the External Audit Certificate. This must be sent to the Scottish Government by 30 April 2024 and should also include supporting evidence of independent audit certification from each college.

SFC should provide data, showing breakdown of claims by institution, to the Scottish Government along with the claim.

10. QUALITY ASSURANCE AND FRAUD AVOIDANCE

Administrators should be conscious and aware of the risk of fraud and be active in identifying and preventing it. There are some obvious issues e.g. preventing duplicate applications or preventing duplication of payments. Application processes should identify when more than one application provides the same bank account details, guarding against fraud but being sensitive to situations such as where married students are both entitled to EMA, and sharing a bank account.

Fraud might be attempted (separately or in collusion) by: young people; their parents; teachers; school/college administrators; people working in the LAs; SG officials; by other individuals, groups or organisations, or by organised crime. The use of original documents should be used for income evidence and administrators must be satisfied of authenticity. It is the responsibility of the authority to satisfy themselves that documentation submitted electronically is authentic and correct.

Only authorised representatives (or users) should have access to systems and processes. A hierarchy of users should be established, from senior users, with high levels of access and authority including the ability to add change or delete lower-level user information, to lower-level users who will have limited access and authority. This security is fundamental to the operation of all EMA ICT systems. Both claims and payments must **NOT** be generated and authorised by the same individual.

It is important to have mechanisms in place which provide and support early identification and intervention. The Scottish Government will use the capabilities of local authorities/colleges to provide information on suspected individual cases and trends.

11. QUALITY MANAGEMENT

Scottish Government has the responsibility in respect of SFC and Local Authorities to:

- Ensure clear understanding of EMA; programme design, delivery and financial processes, as well as management information and monitoring arrangements, and
- Ensure and view evidence that adequate quality management and fraud avoidance arrangements are in place for delivery and financial processes, management information and monitoring arrangements

SFC and Local Authorities similarly have responsibility in relation to colleges and schools and other learning centres respectively to:

- Ensure clear understanding of EMA: programme design, delivery and financial processes, as well as management information and monitoring arrangements, and
- Ensure and view evidence that adequate quality management and fraud avoidance arrangements are in place for delivery and financial processes; management information and monitoring arrangements.

12. EMA STATISTICAL PUBLICATION

Information is required to inform the Scottish Government of the take-up and progress of the EMA programme as well as to monitor its effects on widening participation. This is used to publish annual EMA statistics – the latest report can be found here:

There will be a flow of information reflecting EMA activity between the LAs/SFC/colleges and Analytical Services Division (ASD) of the Scottish Government which will develop statistical models to measure the performance of the programme.

The following categories of information are indicative of relevant management/operational information and of the uses that will be made of it:

Geography

Breakdowns of take-up, impact and performance by:

- Postcode

Students

Information on students and cohort analysis on characteristics such as:

- Take-up
- Household income
- Ethnicity

Learning Centres

Learning centre-based information such as:

- Breakdown of student population by above student characteristics
- Administrative indicators such as:
 - Performance on authorisation of payments
 - Volume of stopped/re-instated payments

Time Factors/Periods

Information consolidated, as examples, by:

- Academic Year
- Weekly
- Financial periods
- Year-to-date
- This Year/Last Year comparisons
- Identified summer school and other non-standard learning periods

Application Processing

- Number of applications
- Number of approvals
- Number of rejections with reasons (so we can pursue continuous improvement)
Analysis of issues surrounding application and assessment with regards to highlighting patterns and problems

Payment Processing

Ability to provide:

- Number and total value of weekly payments
- Number of stoppages/re-instatements

13. LOCAL AUTHORITIES

This note summarises the rationale and agreed arrangements for data collection. The Scottish Government requires data for two main purposes:

- Prior to the start of each year, if forecast spend on EMA is likely to increase, Scottish Ministers may amend the programme. For this reason it is important to monitor expenditure and uptake throughout the year in order to identify any increase in demand. Timely submission of claims is therefore essential.
- EMA is designed to increase participation in post-compulsory education among young people from low income households and vulnerable young people. In order to assess and report on the programme, the Scottish Government will require information on individuals receiving EMA. For this reason it is essential to collect individual level information on those receiving EMA.

The following information is required from LAs:

Application information to be submitted via SEEMIS (normally with the first four weekly payment return):

- Scottish Candidate Number (SCN) - If this is not available, Scottish Government will require a unique identifier which will allow payments to individuals to be tracked throughout the year and to be traced back for any future amendments. If a unique identifier is used, the Local Authority should ensure that each applicant across the Authority has a different number and that the applicant's number does not change during the year. If an Authority wishes to use unique identifiers, they should contact ScotXed Unit in Scottish Government to ensure that the coding hasn't already been used by another authority.
- School ID (SEED Number) - This should be the ScotXed reference number of school attended by the EMA student. In the case of Home Educated students, the School ID would be 'Home Educated'
- Gender
- Date of Birth
- Postcode

It is important that the above information is provided for each student by the Local Authority and that this data is made available directly to SG via the SEEMIS system.

COLLEGES

This note summarises the rationale behind data collection.

SFC and the Scottish Government require data for two main purposes:

- Prior to the start of each year, if forecast spend on EMA is likely to increase, Scottish Ministers may amend the programme. For this reason it is important to monitor expenditure and uptake throughout the year in order to identify any increase in demand. Timely submission of claims is therefore essential.
- EMA is designed to increase participation in post-compulsory education among young people from low income households. In order to assess and report on the programme, Scottish Government will require information on individuals receiving EMA. For this reason it is essential to collect individual level information on those receiving EMA payments.

The following information is required from colleges:

Monthly returns to be made 2 weeks after the end of each month containing:

- Total number of payments per month for claims
- Total number of payments per month for admin
- Total amount paid

The data collected from colleges are collated and used by SFC to submit a claim form to SG each month, detailing the total of EMA payments as well as a breakdown by institution.

Additional data is provided in the following months:

- October – student headcount

In August, an individualised return for all EMA students on the programme at any point between the beginning of August and end of July:

- Student's first initial
- Student's surname
- Student ID (as used in FES) or matriculation number
- Gender
- Date of birth
- Postcode
- Weekly Allowance
- Total amount paid in weekly payments
- Number of weeks paid
- Whether student started before or after end of January
- Full-time/part-time marker

14. GENERAL DATA PROTECTION REGULATION POLICY

Compliance with the General Data Protection Regulation (GDPR), Data Protection Act 2018 and any future data protection legislation is essential for all EMA stakeholders. The collection, transfer, process and sharing of EMA data must be carried out in accordance with data protection laws.

SCOTTISH GOVERNMENT

In compliance with the GDPR, any information collected, processed and/or stored by the Scottish Government will be used for:

- a. statistical and research purposes, and they will not use any personal information collected through EMA to support measures, decisions or actions in relation to specific individuals; and
- b. aggregating budgeting purposes. Scottish Government will only use the statistical information above to monitor and forecast budget demands.

14.1 SCOTTISH FUNDING COUNCIL AND LOCAL AUTHORITIES

Individual data will be collected by the SFC and LA's for the purposes of processing applications for EMA. This data will be shared with the Scottish Government only for the purposes stated above.

14.2 ACCESS TO PERSONALISED INFORMATION

Within the Scottish Government and SFC, access to complete EMA data will be restricted to a small number of specialist statistical staff involved in processing and analysing the data, who will be required to adhere to strict data security procedures. EMA data held by the Scottish Government will be made more widely available for internal use only once all personal identifiers have been removed and the data has been treated to safeguard absolutely the confidentiality of individuals.

In accordance with the Conditions of Grant, the SFC and Local Authorities may use individual data collected for fraud avoidance purposes.

14.3 RETENTION OF EMA DATA

EMA data collected by the Scottish Government for research and statistical purposes will be retained in order to carry out year on year '[longitudinal](#)' studies and monitor changes and improvements and to gauge the effect of the programme over time. As this information is linked to financial data, i.e. payments made, data will be held for a period of 6 years.

14.4 ARCHIVING

The following table represents a retention schedule for EMA-related information.

Information	Category	Retain for	Where
Student Data	Non-financial	6 years ***	LAs/Colleges
Applications & associated evidence	Financial	6 years	LAs/Colleges
EMA Contract Parts 1 and 2	Non-financial	2 years	Learning centre
Payment Authorisations	Financial	6 years	Local Authorities & Learning centre
Payment Transactions	Financial	6 years	Local Authorities & Learning centre
Student Correspondence	Non-financial	6 years	LAs/colleges – store with application information
Management Information	Various – to be agreed	6 years	LA/SFC/colleges – to be agreed

***Note that the Fifth Data Protection Principle, (which says that personal data “shall not be kept for longer than necessary” for the purpose for which it is processed), has not been ignored but that the student data will be linked to financial data, i.e. EMA payments made, and therefore we stipulate a retention period of 6 years.

Information (either electronic or paper) is to be retained in whole years, from the 1st April, in the year in which it exists. On expiry of the retention period, information should be destroyed appropriately.

14.5 FREEDOM OF INFORMATION

Access to information from colleges, Local Authorities and SFC relating to the EMA programme will comply with Scottish Government policy on the Freedom of Information (Scotland) Act 2002.

Roles and Responsibilities

Scottish Government (Policy Team)	<ul style="list-style-type: none"> • Set EMA policy including: eligibility, and allowance levels • Set programme framework through production and distribution of national EMA (Scotland) Guidance • Carry out consultation process with stakeholders • Establish “Terms and Conditions of Grant” with Local Authorities to deliver EMAs in schools • Establish “Terms and Conditions of Grant” with SFC to deliver EMAs in college sector • Review unresolved appeals on policy • Allocate and monitor budgets • Manage “Grant” with local authorities and monitor delivery of EMAs in schools • Manage “Grant” with SFC and monitor delivery of EMAs in college sector
Local Authorities	<ul style="list-style-type: none"> • Manage and administer delivery of EMAs in schools sector including setting and applying Local Authorities policy for: attendance; absences; courses; learning centres; eligibility assessment, student assessment in the context of EMA Learning Agreements • Carry out assessment and application procedures for schools sector (*Orkney and Shetland college sector also) including appeals process • Providing appropriate support to students/families during the application process • Collect schools data • Pay school students • Provide specific local level publicity information for schools • Provide advice and information within context of SG Guidance to schools sector • Collate and send Management Information to Government • Monitor Home Educated Students in receipt of EMA • Submit EMA claims to the Scottish Government
Secondary Schools	<ul style="list-style-type: none"> • Monitoring attendance • Manage and monitor Learning Agreement • Send attendance data to LA • Raise awareness of EMAs in schools • Retaining evidence for audit purposes
Independent Schools	<ul style="list-style-type: none"> • Monitoring attendance • Manage and monitor Learning Agreement • Send attendance data to LA • Raise awareness of EMAs in schools • Retaining evidence for audit purposes
SFC	<ul style="list-style-type: none"> • Manage and administer delivery of EMAs in college sector • Collate and send MI to Scottish Government for college sector

	<ul style="list-style-type: none"> • Administer funding of programme to colleges • Estimate initial distribution of funds to colleges • Make payments on basis of information from colleges • Providing advice and assistance to the college sector. • Submit EMA claims to the Scottish Government
Colleges	<ul style="list-style-type: none"> • Manage and administer delivery of EMAs in college sector including setting and applying college sector or college policy for: attendance; absences; courses; student assessment in the context of EMA Learning Agreements • Carry out assessment and applications procedures including appeals process • Providing appropriate support to students /families during the application process • Monitor attendance • Manage and monitor EMA Learning Agreements • Make payments to students • Send Management Information to SFC • Raise awareness of EMAs in colleges

Students	EMA Client	<ul style="list-style-type: none"> • Provide reasons for absence quickly and in the format requested by the particular Learning Centre • Notify the LA/College of any changes in circumstances they are advised to make as a result of being accepted for EMA • Notify the LA/College and if appropriate other parties, of any change of circumstance affecting the ability to pay monies to the student – such as change of Bank Account • Fulfil the terms of the learning agreement • Notify the school if unable to meet the attendance criteria • Notify school if you have caring responsibilities