



Education & Skills  
Funding Agency

**This document has  
been withdrawn as it  
is out of date.**

# **High needs funding: 2021 to 2022**

**Operational guide**

**February 2021**

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## Summary

1. This guide describes how the 2021 to 2022 financial and academic year high needs funding system will work for all types of provision. Some sections are also relevant for the ongoing operational arrangements in the 2020 to 2021 financial and academic year and/or have been clarified or updated as necessary. It is primarily for local authorities and institutions but will also be useful to anyone with an interest in high needs funding.
2. We use the term 'institution' as a generic term covering all distinct types of provider, including maintained schools, academies and colleges.

## Expiry or review date

3. This guidance was reviewed and updated in February 2021.

## Who is this publication for?

4. This guidance is for:
  - local authorities
  - all distinct types of provider, including maintained schools, academies and colleges
  - those with an interest in how high needs funding operates across England

## Main points

5. This guide explains how the high needs funding system operates for local authorities and a number of different institution types, including alternative provision (AP) across England. It can be used to progress local budget planning and consultations over the autumn term and beyond.
6. High needs funding is provided to local authorities through the high needs block of the dedicated [schools grant \(DSG\)](#). Local authorities must spend that funding in line with the associated [conditions of grant](#), and [School and Early Years Finance Regulations](#). High needs funding is also provided directly to some institutions by the Education and Skills Funding Agency (ESFA).
7. The high needs funding system supports provision for children and young people with special educational needs and disabilities (SEND) from their early years to age 25, enabling both local authorities and institutions to meet their statutory duties under the [Children and Families Act 2014](#). High needs funding is also intended to support good

quality AP for pre-16 pupils who, because of <sup>1</sup>suspension or expulsion, illness or other reasons, cannot receive their education in mainstream or special schools. The high needs funding block provides local authorities with resources for place funding and top-up funding for institutions, and funding for high needs services delivered directly by the local authority or under a separate funding agreement with institutions (including funding devolved to institutions), as permitted by regulations.

8. Funding arrangements for students with SEND who are aged 19 to 25, without an education, health and care (EHC) plan, and students who are over the age of 25 are not included in this guide. Links to the funding arrangements for these students are at Annex 4.

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<sup>1</sup> The terms 'expulsion' and 'suspension' are what legislation refers to as an 'exclusion'.

## Changes in 2021 to 2022

9. This section sets out some changes to the 2021 to 2022 high needs funding system, although the national funding formula and underpinning operational processes and principles remain largely unchanged from 2020 to 2021. We have clarified certain aspects of this guidance, particularly relating to the sections on place and top-up funding obligations. In the February update, further clarifications have been provided on top-up funding; annex 2 has been updated, providing more information on the “responsibility for children and young people who move between local authorities”, including looked after children. We have also added a new annex 3, providing additional information on “health and social care costs”; and the previous “other information” is now annex 4.

### National funding formula gains

10. The funding floor factor in the high needs national funding formula for 2021 to 2022 provides for every local authority to receive an underlying increase of at least 8% per head of 2 to 18 population. This is based on what local authorities received in high needs funding in 2020 to 2021. These increases are not calculated on elements of the formula that are subject to later updates and are in proportion to estimated population changes (so a projected decrease in population will result in a lower overall cash percentage increase).

11. The limit on gains is set at 12%, allowing local authorities to see up to this percentage increase under the formula, again calculated on the basis of per head of population, and using the 2020 to 2021 funding baseline. Full details of the [national funding formula for 2021 to 2022](#) and provisional allocations to local authorities were published in July 2020 and the dedicated schools grant (DSG) allocations were published in December 2020.

### Teachers’ pay and pensions funding

12. For 2021 to 2022 we have also incorporated the teachers’ pay grant (TPG) and teachers’ pension employer contribution grant (TPECG) within the high needs national funding formula. The grants have been incorporated by:

- increasing the basic entitlement factor of the high needs formula that pays out on the basis of the number of pupils in special schools, from £4,000 to £4,660 to include funding currently paid for TPG and TPECG to special schools separately and
- allocating the funding that the TPG and TPECG currently provide to alternative provision (AP) through an additional factor in the high needs national funding formula, because the basic entitlement factor does not include funding for AP settings

13. This factor has also been used to allocate the pensions supplementary fund amounts that will have been allocated to local authorities. The amounts in this formula factor have been updated in the DSG allocations, published in December 2020, based on the TPG, TPECG and supplementary fund amounts allocated in 2020 to 2021, up to 31 March 2021.

14. There is an additional DSG condition of grant requiring local authorities to pass on to special schools, special academies, pupil referral units, AP academies and hospital schools amounts of funding per place no less than the amounts of TPG, TPECG and supplementary fund paid in 2020 to 2021. The condition of grant will also require that this additional high needs funding must not result in a reduction to the number of places for which £10,000 per place is allocated to a school or to the top-up funding in respect of individual pupils and must be disregarded in applying the protection for special schools set out in Annex 1. We, therefore, expect this high needs funding to be additional to any place funding or top-up funding and for it to be paid directly to all maintained schools and academies, and to independent special schools, in line with the arrangements for payment of the separate TPG, TPECG and pensions supplementary fund allocations in 2020 to 2021. None of this funding will be recouped for payment by ESFA to academies. ESFA will make the payments of this funding directly to non-maintained special schools (NMSS).

## **DSG management plans**

15. The DSG conditions of grant require that any local authority with an overall deficit on its DSG account at the end of 2019 to 2020 financial year, or whose DSG surplus has substantially reduced during the year, must be able to present a plan to the department for managing their future DSG spend. In response to feedback from local authorities and other stakeholders, we have designed a [management plan template](#). The template has been designed to help local authorities develop evidence-based and strategic plans covering the provision available for children and young people with special education needs and disabilities.

16. We encourage all local authorities to use the template as a planning tool. We believe this will be particularly useful when discussing and sharing complex funding information with internal and external bodies, parent and carer forums and elected members. It should be kept updated throughout the year to reflect the most recent forecast position and be viewed as an on-going live document including being presented at schools forum meetings and any high needs sub-groups at least on a termly basis.

## **Coronavirus (COVID-19)**

17. For information on coronavirus (COVID-19) related financial support, see the [coronavirus \(COVID-19\) guidance](#) on education, early years and children's social care.

## Important dates

18. The timeline below shows the implementation of the 2021 to 2022 high needs funding arrangements, including actions for local authorities and institutions.

19. Institutions must ensure the [school census](#) or [individual learner record](#) (ILR) guidance is followed on all items that are used, or will be used, for funding purposes, including elements of the national funding formula. It is critical that all institutions check the latest guidance to make sure that they understand what is required, including identifying those pupils or students for whom they receive top-up funding.

## October 2020

### Department for Education:

- 2021 to 2022 guidance on the place change notification process published and workbook issued to local authorities
- January 2020 school census data for special academies and free schools published
- 2020 to 2021 high needs place numbers updated (as at 1 September 2020)

### Local authorities:

- discussions with institutions and other local authorities undertaken, and agreement reached on 2021 to 2022 high needs place numbers, in preparation for return to ESFA

### Institutions:

- discussions with local authorities undertaken and agreement reached on 2021 to 2022 high needs place numbers in preparation for local authority return to ESFA
- all schools, including academies, non-maintained special schools (NMSSs) and pupil referral units (PRUs), to complete autumn [school census](#)
- further education (FE) institutions, independent learning providers (ILPs) and special post-16 institutions (SPIs) submit 2019 to 2020 ILR R14

## November 2020

### Department for Education:

- alternative provision (AP) free schools 2021 to 2022 place process was launched

## **Local authorities:**

- deadline for local authority submission of 2021 to 2022 high needs place number changes and requests for local authority hospital education funding changes to ESFA
- deadline for requests to disapply conditions of grant relating to movement of funding from the schools block

## **Institutions:**

- AP free schools: discuss commissioning arrangements with local authorities and schools for 2021 to 2022 academic year

## **December 2020**

### **Department for Education:**

- 2021 to 2022 dedicated schools grant (DSG) schools, central school services and high needs block allocations published
- provisional 2021 to 2022 DSG early years block allocations published

### **Institutions:**

- FE institutions, ILPs and SPIs submit 2020 to 2021 ILR R04

## **January 2021**

### **Department for Education:**

- 2021 to 2022 high needs place change notification outcomes was published on GOV.UK
- publish 2019 to 2020 R14 ILR data returned by FE institutions, ILPs and SPIs
- 2-week 'enquiry window' for local authorities and institutions to raise place change related issues undertaken

### **Local authorities:**

- check published outcomes and ensure queries are discussed with relevant institution(s) and, if necessary, raised during the 2-week enquiry window
- this should include checking the outcomes for institutions located in other local authorities where a local authority places large volumes of students
- deadline for submitting final 2021 to 2022 authority proforma tool (APT) to ESFA, including pupil numbers on the October 2020 census in resourced provision (RP)

and special educational needs (SEN) units to support the calculation of funding for occupied and unoccupied places

### **Institutions:**

- check 2021 to 2022 funded place numbers are correctly reflected in the published outcomes, ensure any queries are discussed with your local authority and, if necessary, raised with ESFA during the 2-week enquiry window
- deadline for AP free schools 2021 to 2022 place number returns
- all schools, including academies, NMSSs and PRUs to complete spring 2021 school census

## **February 2021**

### **Local authority:**

- 2-week enquiry window closed for raising queries with ESFA regarding 2021 to 2022 funded place numbers
- review of, and amendments to, an education health and care (EHC) plan must be completed for pupils moving into or between schools in that calendar year
- budgets issued to maintained mainstream schools, special schools and PRUs

### **Institutions:**

- 2-week enquiry window closes for raising queries with ESFA regarding 2021 to 2022 funded place numbers
- FE institutions, ILPs and SPIs to submit 2020 to 2021 ILR R06

## **March 2021**

### **Department for Education:**

- publication of 2021 to 2022 institution level high needs place numbers
- 2021 to 2022 academic year allocations issued to FE institutions, free schools, academies, NMSSs, SPIs and ILPs

### **Local authorities:**

- review of, and amendments to the EHC plan, including specifying the post-16 provision and naming the institution, must be completed for students moving from secondary school to a post-16 institution or apprenticeship in that calendar year

- complete EHC plan review process for students moving between post-16 institutions, where a young person is expected to transfer to a new institution in the new academic year

### **Institutions:**

- check high needs allocation is received and is correct

## **April 2021**

### **Department for Education:**

- DSG update, to reflect the outcome of the place change notification process in high needs place deductions (DSG allocations updated termly to account for in-year academy conversions)

## **June 2021**

### **Department for Education:**

- issue import/export adjustments at institution level and special free school adjustments to local authorities

### **Local authorities:**

- review import/export data

### **Institutions:**

- FE institutions, ILPs and SPIs to submit 2020 to 2021 ILR R10

## **July 2021**

### **Department for Education:**

- 2021 to 2022 DSG update to reflect final institution level allocation decisions, import/export adjustments and special free school adjustments

## High needs funding and the dedicated schools grant (DSG)

20. The dedicated schools grant (DSG) is the main source of government funding for the provision of education by local authorities and institutions in England. Its use is governed by the [conditions of grant](#) one of which requires the grant to be spent in accordance with the [School and Early Years Finance Regulations](#). The DSG is intended to meet the educational costs of pupils in primary and secondary education, as well as the educational costs of special educational provision for children and young people with special educational needs in post-16 provision, including those aged over 19 who have an education, health and care (EHC) plan. The DSG cannot be used for purposes other than those specified in the conditions of grant and regulations.

21. The School and Early Years Finance Regulations are made under sections 45A(1), 45AA(2), 47(3), 47ZA(4), 47A(4B) and (5)(5), 48(1) and (2)(6), 49(2) and (2A)(7), 138(7) of, and paragraph 2B(8) of Schedule 14 to the [School Standards and Framework Act 1998](#)(9) and section 24(3) of the [Education Act 2002](#).

22. The DSG is divided into four notional blocks—the schools block, the high needs block, the central school services block (which allocates funding to local authorities for their ongoing responsibilities towards both maintained schools and academies) and the early years block. Each of the four blocks of the DSG is determined by a separate national funding formula.

23. Local authorities can transfer funding between the high needs, early years and central schools services funding blocks but should ensure adequate consultation with the schools forum and providers likely to be affected by the transfer. Movement from the early years block can be made in compliance with the early years pass through rate conditions, and in consultation with the schools forum. The schools block will, again, be ring-fenced in 2021 to 2022, but local authorities can transfer up to 0.5% of their schools block to other blocks of the DSG, with schools forum approval. A disapplication will be required for transfers above 0.5%, or any amount without schools forum approval; this applies to any transfers over 0.5%, even if approval was given for the same amount to be transferred this year or last year. Further information is included in the movement between blocks section of the [schools revenue funding 2021 to 2022 operational guide](#).

24. In consultation with their schools forum, local authorities make decisions about the delegation of funds to schools, which for primary and secondary schools is on the basis of a local formula, and on the spending of funds held centrally, most of which is used for making high needs provision. These spending decisions are most effective when there is a strong partnership between the local authority and the institutions providing education. The [schools forum](#) is one way in which partnership working can be strengthened, particularly with schools. However, local authorities should engage with all of those providing education in their area, including early years settings and post-16 institutions, as well as parents and young people, in fulfilling their statutory duties to keep the

services and provision for children and young people with special educational needs and disabilities (SEND) under review, as required by the [Children and Families Act 2014](#).

25. The high needs [benchmarking tool](#) helps to facilitate a better understanding of how a local authority's expenditure on high needs compares with that of other authorities and to prompt local discussion of how current spending patterns might need to change.

## How local authority high needs allocations are calculated

26. ESFA makes an allocation to local authorities for high needs as part of the dedicated schools grant (DSG). High needs block allocations are calculated through the high needs national funding formula.

27. Local authorities decide how much to set aside in their high needs budget for place and top-up funding given to institutions, central high needs services (which may be devolved to schools or other institutions and funded through a service level agreement) and other aspects of provision related to special educational needs and disabilities (SEND) and alternative provision (AP) as permitted by the [School and Early Years Finance Regulations](#). Schedule 2 to the regulations sets out the categories of central spend permitted to local authorities.

## High needs funding formula factors explained

28. There are 12 elements to the high needs national funding formula. These form the basis for local authority high needs block allocations. The following diagram shows the funding factors in the high needs national funding formula. See the [high needs national funding formula: technical note](#) for more information.

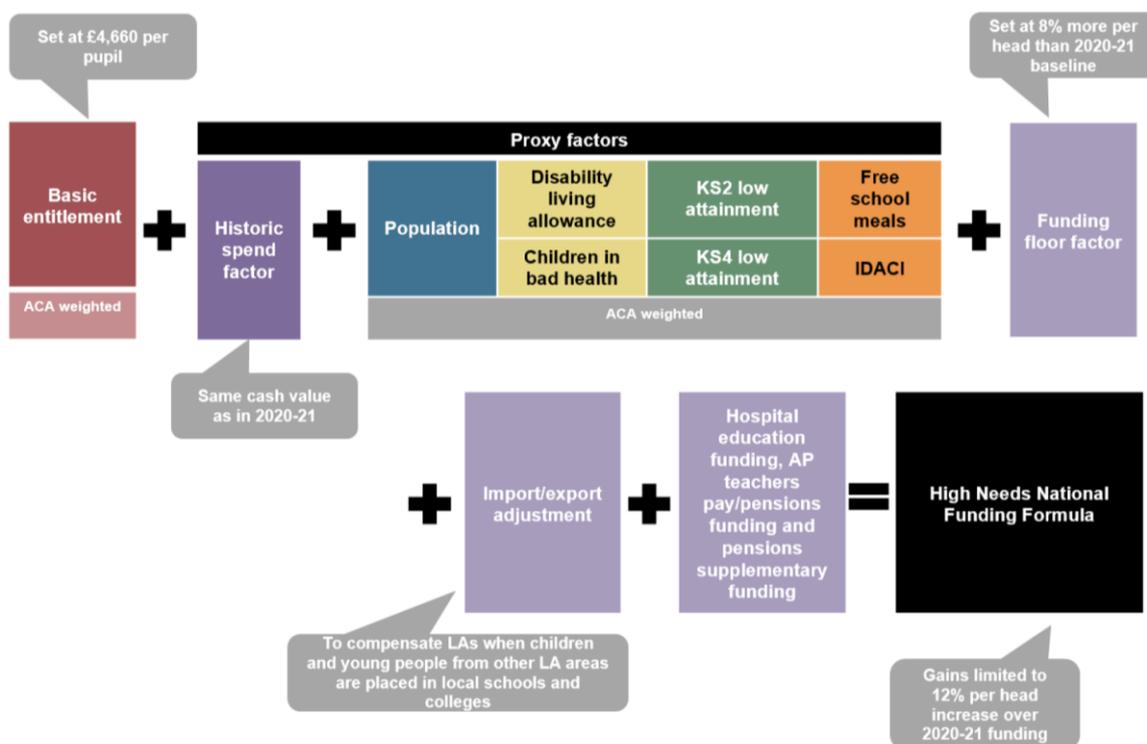


Figure 1: high needs national funding formula

29. The limit on gains under the formula is 12% which means that local authorities will receive increases in funding up to 12% more than the funding they received in their 2020 to 2021 allocation, calculated on a per head of 2 to 18 population basis.

30. Further adjustments outside the normal formula distribution and allocation arrangements may be necessary to reflect other changes, in particular for those local authorities with a special free school in their area or pupils resident in their area attending a special free school in another local authority. Information on how adjustments for special free schools have been calculated is available in the [2021 to 2022 local authority funding: special free schools adjustments guide](#). Adjustments may also be made as a result of local changes, for example if a non-maintained special school (NMSS) becomes a special academy or a further education (FE) college merges with another college in a neighbouring local authority area, depending on the timing of the changes.

### **Basic entitlement factor**

31. The factor allocates funding based on data on the pupil and student numbers in special schools and special post-16 institutions (SPIs). The funding rate is £4,660 per pupil or student for 2021 to 2020 and is subject to an area cost adjustment. This rate has been increased from the previous rate of £4,000 to reflect elements of the teachers' pay grant (TPG) and teachers' pension employment contribution grant (TPECG) for special schools.

### **Historic spend factor**

32. This factor is based on the local authority baselines published in August 2017, with adjustments to avoid double-counting through other factors, including basic entitlement. This factor has been held cash flat since the first publication of the high needs national funding formula.

### **Proxy factors**

33. The remaining high needs funding, after deductions for the basic entitlement, hospital education and historic spend factors, is then available for the proxy factors listed below:

- population factor
- free school meals (FSM) factor
- income deprivation affecting children index (IDACI) factor (using the latest IDACI 2019 data)
- bad health factor
- disability factor
- key stage 2 low attainment factor
- key stage 4 low attainment factor

34. Weightings are assigned to determine the amount allocated through each of the proxy factors. The weightings are applied separately for SEND (90% of funding) and AP (10% of funding), before being combined.

### **Funding floor factor**

35. This ensures local authorities do not fall below a minimum level of funding. The factor is applied to the funding calculated through historic spend factor and proxy factors. There are two elements:

- a per head floor ensuring relevant elements of the funding increase on a per head basis from the 2020 to 2021 funding baseline by at least 8% in 2021 to 2022, based on the Office for National Statistics (ONS) estimated population of 2 to 18-year-olds
- an absolute floor, ensuring funding does not drop below the 2020 to 2021 baseline

### **Hospital education, AP teachers' pay/pension and supplementary funding factor**

36. The local authority allocations for 2021 to 2022 include a hospital education funding equivalent to the amount received in 2020 to 2021, plus an 8% uplift in line with the funding floor. Adjustments are also made for a small number of authorities that have notified ESFA of changes to hospital provision.

37. This factor will also include funding for AP (including hospital settings) TPG and TPECG funding. It will also include amounts equivalent to the pensions supplementary fund allocations local authorities will have received, to be added into the high needs allocations in a relevant DSG update.

### **Import/export adjustment**

38. This is a net adjustment to local authorities DSG July update, reflecting the difference between high needs pupils and students living in one local authority and attending a school or college in another. The timelines for making such adjustments are included in the section "Important dates".

### **How the import/export adjustment works**

39. The majority of the high needs national funding formula is designed to allocate funding to local authorities for the needs of the children and young people who live in the local authority's area, regardless of where they are educated. However, local authorities face higher costs if they attract more pupils and students with high needs who live outside the local authority area into their schools and colleges; for example, because they are expected to pay for the costs of high needs places in schools and colleges in their area. Conversely, local authorities that place high needs pupils and students in

other local authority institutions face lower costs. We have therefore included an adjustment in the funding formula to reflect where pupils or students live in one local authority and attend a school or college in another.

40. The calculation uses school census and individual learner record (ILR) data and compares the number of high needs pupils and students. It is calculated as a net figure based on:

- the number of high needs pupils and students educated at an institution in the local authority area ('imports') minus
- the number of high needs pupils or students living in their area ('exports') and
- the net number of pupils and students, either positive or negative, is then multiplied by £6,000

41. If the net import/export adjustment is positive, the local authority is considered a net importer. This is because the local authority provides education to more pupils or students than live in their area and so may face higher costs (for example, because they pay for more high needs places at institutions in their area).

42. If the net import/export adjustment is negative, the local authority is considered a net exporter. This is because the local authority has more pupils or students living in their area attending institutions in other areas and so may face lower costs (for example, because they do not pay for their high needs places at institutions outside their area).

43. Where the number is nil and imports and exports balance, the cost to the local authority is neutral and no adjustment is made.

## **Import/export data**

44. The 2021 to 2022 import/export data will be made available to local authorities at institution level in June 2021 and the total net adjustment reflected in the July DSG update. In the meantime, the 2020 to 2021 import/export data is used provisionally in DSG allocations.

45. The pupils and students counted in the calculation of the adjustment are shown below.

- from the January school census (aged 4 to 18) for pupils and students:
  - with top-up funding in mainstream schools and academies
  - in special schools and academies (including special free schools)
  - in NMSSs
- from ILR R06 for students age 14 to 18 and those aged 19 to 24 with education health and care (EHC) plans who receive top-up funding in:
  - SPIs
  - further education (FE) institutions

- independent learning providers (ILPs)

46. For FE institutions and special schools, the institution-level data used for the import/export adjustments should be broadly consistent with the numbers of places funded in that academic year. It should be noted that places for post-16 students with high needs may be funded through a local arrangement with the provider local authority, not necessarily as places in the institution's allocation.

47. Institutions must ensure that only those pupils and students with high needs are included on the relevant school census and individualised learning record (ILR). Pupils and students with high needs are those who have additional support assessed by the local authority as costing more than £6,000 per annum and for whom the local authority is paying top-up funding to the institution. It is also important that local authorities, in their discussions with institutions, are aware of the number of pupils and students with high needs that are included on the school census and ILR and understand how that number affects a local authority's funding.

48. The import/export adjustment does not use any data relating to pupils in AP. This is because the school census data we would use for such an adjustment is not accurate enough. The pattern of admissions and placements in AP can vary significantly at different times and a school census snapshot does not necessarily capture pupil movement in the same way as for special schools.

49. In relation to LAC, the current financial arrangements are on the basis that the local authority responsible for securing the provision specified in an EHC plan is the local authority in whose area the young person lives (is wholly or mainly resident), as is normally the case. Consequently, the import/export adjustment in the high needs national funding formula is based on school census or ILR data using the local authority area in which a pupil or student is resident.

50. In some cases, for LAC the local authority where the child lives will be different to the local authority responsible for looking after the child. In such cases, the import/export data (based on where the child lives) may be correct, but costs of top-up funding may be recouped from the local authority looking after the child. If the funding arrangements do not adequately compensate local authorities that are bearing the cost of educating such LAC living in their area, those local authorities can use the provisions as set out in the [Inter-authority Recoupment \(England\) Regulations 2013](#). Further information is available in annex 2.

## High needs place deductions

51. The place numbers used for the high needs place deductions are a combination of published place numbers and data from local authorities collected through the place change notification process. These place numbers must reflect the total number of places

required to meet the needs of all local authorities, not just those of the provider local authority.

52. For some institutions, such as academies and FE institutions, place funding is included in local authorities' initial DSG allocation and then deducted by ESFA so that it can pay the funding direct. The academic year place funding rates are shown in the institution funding table, with further information in the section on institution types. The 2020 to 2021 and 2021 to 2022 academic year place amounts are prorated as follows to calculate DSG deductions for the 2021 to 2022 financial year, by place and institution type:

**Table 1: pre-16 DSG deductions by institution type**

<b>Institution type</b>	<b>AP: 2020 to 2021 A/Y (*5/12)</b>	<b>AP: 2021 to 2022 A/Y (*7/12)</b>	<b>SEN unit/ resourced provision: 2020 to 2021 A/Y (*5/12)</b>	<b>SEN unit/ resourced provision: 2021 to 2022 A/Y (*7/12)</b>	<b>Special schools: 2020 to 2021 A/Y (*5/12)</b>	<b>Special schools: 2021 to 2022 A/Y (*7/12)</b>
Mainstream academies and free schools	N/A	N/A	£2,500 or £4,167	£3,500 or £5,833	N/A	N/A
Special academies and free schools	£4,167	£5,833	N/A	N/A	£4,167	£5,833
AP academies	£4,167	£5,833	£4,167	£5,833	N/A	N/A

**Table 2: post-16 (SEN places) DSG deductions by institution type**

<b>Institution type</b>	<b>Schools: 2020 to 2021 A/Y (*4/12)</b>	<b>Schools: 2021 to 2022 A/Y (*8/12)</b>	<b>Post- school (16-18): 2020 to 2021 A/Y (*4/12)</b>	<b>Post- school (16-18): 2021 to 2022 A/Y (*8/12)</b>	<b>Post- schools (19-24 with EHC plans): 2020 to 2021 A/Y (*4/12)</b>	<b>Post- schools (19-24 with EHC plans): 2021 to 2022 A/Y (*8/12)</b>
<b>Mainstream academies and free schools</b>	£2,000	£4,000	N/A	N/A	N/A	N/A
<b>Special academies and free schools</b>	£3,333	£6,667	N/A	N/A	N/A	N/A

<b>AP academies</b>	£2,000	£4,000	N/A	N/A	N/A	N/A
<b>16-19 academies</b>	N/A	N/A	£2,000	£4,000	£2,000	£4,000
<b>FE/ILPs</b>	N/A	N/A	£2,000	£4,000	£2,000	£4,000

53. The above rates are multiplied by the number of places to calculate the total deduction amount.

## How funding is allocated to institutions

54. Institutions receive high needs funding in different ways:

- core funding: the annual allocation an institution receives either directly from the provider local authority (for maintained schools and pupil referral units (PRUs), based on the financial year), or from ESFA (for academies, free schools, colleges, independent learning providers (ILPs), non-maintained special schools (NMSSs) and special post-16 institutions (SPIs), based on the academic year)
- top-up funding: the funding required, over and above the core funding, to enable a pupil or student with high needs to participate in education and training.
- funding under a service level agreement: where a service relating to special educational needs and disabilities (SEND) or alternative provision (AP) has been commissioned by a local authority and is delivered by an institution, the local authority can pay for that service from its high needs budget where permitted by the funding regulations

55. The section 'Funding by institution type' provides further information on how high needs provision is funded in different types of provider for both pre and post-16 pupils and students.

## High needs place funding

56. Place funding is allocated as an annual amount of core funding. Once place funding is allocated, it is not associated with or reserved for a specific local authority or individual pupil or student. It is for the institution to decide how best to apportion their total allocated core funding across the actual number of places commissioned by local authorities, taking into account the provision and support that may be specified in the individual pupils' or students' education, health and care (EHC) plans.

57. Place funding is not withdrawn if an individual does not occupy a funded place. It provides institutions with a guaranteed budget for the year and gives them a degree of financial stability. A local authority may not seek to recover funding for places which it perceives as being unused from the previous or current academic year. Similarly, local authorities should not automatically be charged an extra £6,000 or £10,000 per head top-up funding for a pupil or student with high needs if an institution has filled all funded places (irrespective of which local authority has filled them).

58. Local authorities may, with the agreement of the relevant members of their schools forum, retain part of the place funding of maintained special schools and pupil referral units to fund specified central services relating to maintained schools only. Further information about place funding for alternative provision (AP) – (pupil referral units (PRUs), AP academies and AP free schools) can be found in the section 'Alternative Provision', including information on the different funding arrangements for pre and post-16 pupils.

## How to determine funded place numbers

59. Place funding should broadly reflect both local authorities' recent commissioning activity and strategic planning to secure suitable special educational needs and disabilities (SEND) provision and AP, in line with their statutory responsibilities. In determining the number of funded places, local authorities should consider all high needs providers in their area and take account, not only of their own commissioning decisions, but also of the commissioning decisions of other local authorities. In the case of AP, local schools' commissioning activity and plans should also be considered.

60. Dialogue between local authorities and institutions is important when preparing for the allocations of high needs place funding to institutions. Local authorities should consult with institutions in their area and discuss both current numbers of places being taken up, which will be included on the school census and individualised learning record (ILR) returns, and the number of places required in future. Where an institution believes it is not being funded for the correct number of places, it should raise this with the provider local authority. These discussions must take into account the total number of places required to meet the needs of all local authorities, not just those of the local authority in which the institution is located. This is particularly important for further education (FE)

institutions and special schools as the import/export adjustment should ensure that funding in the local authority's dedicated schools grant (DSG) reflects those pupils and students with high needs resident in one local authority area who attend institutions in other areas.

61. Where an institution is admitting pupils or students with high needs from a number of different local authorities, the provider local authority should first seek information from the institution on the number of places currently being commissioned from each local authority and how those numbers are expected to change in the following academic year. Significant changes may be confirmed with the commissioning local authorities concerned who should also proactively contact the relevant provider local authority in such circumstances. When doing so, commissioning local authorities should provide clear and accurate information to the provider local authority in good time to enable collation of this information in advance of the place change notification process deadline. We are aware of particular issues that may arise when FE colleges in different areas merge into a single college and we expect that the above approach is adopted in these circumstances.

## Changes to place numbers

62. Guidance on the place change notification process (published in October) explains the process for notifying ESFA of changes to 2021 to 2022 high needs place numbers at:

- academies
- free schools (excluding AP free schools)
- post-16 institutions (excluding special post-16 institutions (SPIs))

63. High needs place change notification outcomes, providing information about funded place numbers for academic year 2021 to 2022, are published in January 2021. A 2-week enquiry window follows, allowing local authorities and institutions to raise significant issues.

64. AP free schools receive guidance on notifying ESFA of their requests for 2021 to 2022 high needs place numbers in November 2020.

65. 2021 to 2022 place funding allocations for non-maintained special schools (NMSSs) and SPIs are based on the latest available data.

66. Local authorities have local flexibility to change funded place numbers at maintained schools and PRUs, and these numbers should be included on each local authority's section 251 budget return for 2021 to 2022.

67. If a local authority maintained school or PRU converts to an academy, place numbers must be agreed between the local authority and school. To ensure that the institution is funded on the correct basis, the local authority should notify the

department's project lead of the agreed places. This is done by completion of the department's 'notification of changes to funded high needs places' form. This is supplied by the department's project lead and must be returned to the department before the school converts. If no notification is received, place numbers recorded in the 2019 to 2020 section 251 (September to March) will be rolled forward.

68. A 'notification of changes to funded high needs places' form must be completed for all institutions where post-16 places are required. This is because post-16 place data is not set out within the section 251 and may even be included within the recorded pre-16 place numbers. In these cases, completion of the form will ensure clarity of the split between pre and post-16 requirements.

## **Where pupil and student numbers differ from allocated places**

69. In the event that the number of places commissioned change after the annual processes above have been followed, ESFA is unlikely to revise allocations to academies or post-16 institutions. We recognise that, often, the number of funded high needs places and actual pupils or students will vary. However, as explained earlier, place funding is not reserved for individuals and it is for institutions to apportion the total allocated place funding across the actual number of pupils and students with high needs. In most cases, the variance between place numbers and pupils or students is small with no, or marginal, impact on cost.

70. Place funding should not be withdrawn if an individual does not occupy a funded place and a local authority may not seek to recover funding for places it considers unused in the previous or current academic year. An institution should approach the provider local authority if the number of pupils or students, agreed as having high needs by the relevant local authority, exceeds the number of funded places to an extent that results in the institution incurring additional costs of special provision not met through the top-up funding amount normally paid. We expect the provider local authority to engage with the institution and agree how the costs of the additional special provision required are to be met, and these conversations should take place as early as possible.

71. The provider local authority should not automatically be charged an additional £6,000 or £10,000 per pupil or student. The amount should reflect the actual costs of making additional special provision available, which may only be marginal, and an agreement between the provider local authority and the institution on how those costs are to be met. The import/export adjustment should compensate the provider local authority for actual pupils or students living in other local authority areas who attend the institution, albeit in the subsequent financial year. This will avoid the position where the commissioning local authority effectively funds twice – both through increased top-up funding direct to the institution and through the £6,000 import/export adjustment in the national funding formula. These arrangements apply, in particular, to FE institutions and

special schools that are experiencing year-on-year growth in the number of pupils and students with high needs that they admit.

### **Where pupil or student numbers exceed allocated places in an institution: an example involving other local authorities**

72. The following is an example of how the high needs funding arrangements should operate when an institution has more pupils or students with high needs than the number of places for which it has been funded. Although it is illustrated using a college located in a local authority area (the provider local authority) with several other local authorities also commissioning places, similar arrangements may also apply to other institutions, including special academies. The example illustrates how the place funding for institutions and consequent deductions from local authorities' high needs allocations and the import/export adjustment work together. This shows the flow of high needs funding between local authorities and institutions, when an institution has to make additional special provision for a number of pupils or students that exceeds the funded place number, including where inter-authority collaboration is required.

73. Following discussion with the college, and where there is a change from the previous academic year, the provider local authority submits the total high needs place numbers to ESFA in November, in advance of the start of the academic year, through the place change notification process. In this example the local authority and college have agreed on 100 places for the 2021 to 2022 academic year and this includes places to be filled by high needs students from all local authorities. The number of places to be funded is published in January by ESFA and, during the subsequent enquiry window, the college and local authorities check the number and are content it reflects the discussions.

74. ESFA issues an allocation to the college in March, in advance of the academic year, reflecting the 100 place numbers, providing £600,000 of high needs funding, (100 places x £6,000 element two funding). The provider local authority's DSG will also be updated and 100 places deducted from their high needs allocation at £6,000 per place, pro-rata for the academic year, based on August to March (100 places x £4,000).

75. The commissioning local authority (the local authority in which the student is ordinarily resident) agrees top-up funding with the college directly. The provider local authority (if not commissioning the place) and ESFA does not need to be involved in these conversations. We would encourage neighbouring local authorities to collaborate on the special provision required for their students, and on associated commissioning arrangements and top-up funding levels.

76. In this example, in the lead up to the academic year, several local authorities have commissioned further high needs places in excess of the 100 places that the college has received (element 2) funding for. The college, therefore, has 120 high needs students at the start of the academic year, and it doesn't matter which local authorities fill these places because place numbers are not reserved for individual pupils or specific local

authorities. This has resulted in additional costs for the special provision required by these 20 students that the college cannot meet through its existing funding streams, which include the £600,000 high needs place funding in their allocation and standard top-up funding rates in respect of the 120 high needs students.

77. The college therefore discusses with the provider local authority the scale of the additional special provision that it is being expected to make available and the costs involved. It is agreed that the provider local authority will fund a further £50,000 through a local agreement to contribute to the additional costs incurred by the college. This is to help meet the additional costs of making the provision required by the additional students, on top of the normal funding streams. These costs could be marginal and we would not necessarily expect the provider local authority to have to pay an extra £6,000 for every extra student placed over and above the college's 100 places.

78. The provider local authority should be compensated for the costs of the high needs places filled by students resident in other local authorities, including the additional 20 students, through the import/export adjustment in the 2021 to 2022 financial year. In this example, 50 students live in other local authorities. This is recorded on the college's ILR and +£300,000 (50 x £6,000) will, therefore, contribute to the provider local authority's net import/export adjustment in their DSG.

79. It is important to note that this example is provided for a college and some details may vary depending on the institution or place type. This is particularly relevant for any centrally funded institutions (for example SPIs and NMSSs) because ESFA acts as their provider local authority. ESFA funds centrally funded institutions on a lagged basis. This means students or pupils who attend an institution in any given year will be funded on a lagged basis in the following year. Therefore, centrally funded institutions should not seek to secure any additional place funding from any local authority to avoid a situation where a local authority effectively funds a place twice. If a centrally funded institution has a significant number of pupils or students over and above their allocated place numbers, and they have concerns about how that will be funded through the lagged funding approach, they should contact ESFA.

## Top-up funding

80. Top-up funding is the funding required over and above the core funding an institution receives to enable a pupil or student with high needs to participate in education and learning. This is paid by the commissioning local authority and should reflect the costs of additional support to meet the individual pupil or student's needs. Top-up funding can also reflect costs that relate to the facilities required to support a pupil or student's education and training needs (either for individuals or on offer to all) and can take into account expected place occupancy levels and other factors.

81. Although many of the pupils and students receiving high needs funding will provide appropriate levels of support for children and young people with special educational needs and disabilities (SEND), many of which may have associated education, health and care (EHC) plans, local authorities have the flexibility to provide high needs funding outside the statutory assessment process for all children and young people with high needs up to the age of 19.

## Principles for top-up funding

82. While we expect commissioning local authorities to work constructively with institutions to determine and agree the levels of top-up funding required, local authorities bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets.

83. In all instances, pupils or students with an EHC plan must have their placement commissioned by a local authority, and the local authority should confirm in writing the amount of top-up funding to be paid (as set out below). Even where provision is specified in an EHC plan, there is no statutory requirement that a local authority has to pay top-up funding at a particular rate requested by a school or institution. Where disagreements arise about funding levels for individual children and young people, institutions need to work with the commissioning local authority to resolve them. In the case of children and young people with EHC plans, the EHC plan annual review process can be a particularly useful point for reviewing funding arrangements in the light of evidence about an individual's needs, progress and any changes to the provision they require.

84. Pupils and students should only be counted as having high needs for funding purposes (and be recorded on the school census or individualised learning record (ILR) as a pupil or student with high needs) if the local authority has agreed top-up funding for that pupil/student. This applies even where an institution may have assessed a pupil or student as requiring additional support, or where a pupil or student has been offered a place by that institution. In such circumstances, the school or college should use its best endeavours to make the special provision for the pupil or student, seeking advice from the local authority, if necessary, as to what additional support the pupil's EHC needs or other assessment may have indicated was appropriate.

85. It is important that the local authority makes an assessment at the earliest opportunity so that a pupil or student's placement is not disrupted, ideally before the pupil or student has been admitted to the institution. Where a pupil or student with an EHC plan is due to move between educational phases, the local authority must review and amend the EHC plan in the spring of the preceding academic year, as set out in the 'Important dates' section. In no circumstances should an admission to, or the continuation of, a placement at an institution be conditional on, or delayed by, receipt or agreement of top-up funding for the pupil or student.

86. Local authorities' expenditure from the dedicated schools grant (DSG) is subject to conditions of grant set by the department, which govern the way high needs funding is used. In particular:

- local authorities must treat those placed in maintained provision, in academies and free schools, in the further education (FE) sector, and in non-maintained and independent provision on a fair and equivalent basis when making arrangements for funding young people with high needs
- local authorities must make payments of top-up funding to institutions in a timely fashion and on a basis agreed with the institution; and payments must be monthly unless otherwise agreed (such as termly in advance)
- ESFA will examine cases and consider remedial action where there is clear evidence from an institution that a local authority is not meeting the required conditions of grant

87. The department's position is that the commissioning by local authorities of special educational needs and alternative provision (AP) placements, funded from the high needs block of the DSG, is not regarded as a public service contract for the purposes of the Public Contracts Regulations 2015.

88. The Public Contracts Regulations 2015 (and related Concession Contracts Regulations 2016) are not intended to cover all expenditure of public funding, as made clear by EU law on which they were once based, and which our courts must still take into account. The Public Contracts Regulations apply only to contracts for the acquisition, or acquisition of the benefit, of public works, services or goods made for 'consideration' between an 'economic operator' and a contracting authority (whether at departmental, ALB or local level, such as a local authority, school or college), where such services are deemed to constitute an 'economic' activity or purpose. Other forms of public funding, such as funding for services provided through grants or other public subsidies or preferences, to specific enterprises engaged in economic activities, usually fall out of scope of procurement law, but are potentially in scope of subsidy control (or in limited situations EU State aid law). EU law has established a general principle (which will likely still be recognised by our courts) that publicly funded and supervised education organised within a national education system does not constitute economic activity, even in cases where tuition fees may be required to support placements, so long as the

majority of funding is public. Anyone relying on this guidance should, however, seek their own legal advice in each individual case.

89. When a local authority fulfils its statutory duties to make provision specified in an EHC plan or to put in place alternative provision for children of compulsory school age, funded from their high needs budget, it is likely to be delivering public education organised within a national education system. Any disbursement of high needs funding between the local authority and an institution in fulfilment of such duties will, therefore, not constitute 'economic activity', and any agreement between local authority and an institution will not be regarded as a public service contract for the purposes of the Public Contracts Regulations 2015.

90. We recognise that the wide range of different placement processes and documentation employed by local authorities, some intended to comply with the Public Contract Regulations 2015, is not always helpful to institutions that attract placements from a number of local authorities. We will consider how best to engage with local authorities, institutions, and their representative organisations to encourage shared arrangements for commissioning and quality management of their local institutions which operate on a regional or national basis and to share existing good practice.

## Organising top-up funding at LA level

91. As part of local authorities' strategic role in establishing a robust financial framework, planning education services, places and supporting local institutions, they should work closely with institutions that have pupils or students with high needs, to ensure there are clear processes for identifying, determining, and allocating appropriate levels of top-up funding. This should include agreeing what additional needs mainstream schools and colleges should meet from their own resources (taking account of any additional support or funding provided centrally) and where top-up funding might be provided. This information should be published as part of the local offer of SEND services and provision. While we expect commissioning local authorities to work constructively with institutions to agree the levels of top-up funding required, local authorities where the student is ordinarily resident bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets.

92. Local authorities have statutory responsibilities to keep the special educational provision in their area under review, working with parents, young people and institutions, as set out in chapter four of the [SEND Code of Practice](#). A wide range of educational institutions are required to co-operate with local authorities in such reviews, including maintained schools, academies, FE and sixth form colleges, independent and non-maintained special schools (NMSS), special post-16 institutions (SPIs) and any other providers of special educational provision, including relevant early education providers.

93. Children and young people with high needs often receive provision outside the local authority where they are resident, for example at a special school or FE college. We, therefore, encourage neighbouring local authorities to collaborate when reviewing their provision and considering arrangements for top-up funding.

94. Many local authorities have systems which indicate the range of top-up funding that might be provided for children and young people with a particular complexity of need (sometimes referred to as 'banded' funding systems). These can be helpful in providing clear and transparent funding arrangements for many types of need that may be met in a range of different institutions. Where a local authority makes a large number of placements at an institution or range of institutions, a system for the local authority and institutions to agree levels of top-up funding in advance can be a very efficient way of allocating this funding. However, the final allocation of funding must be sufficient to secure the agreed provision specified in any EHC plan.

## **Determining top-up funding for individuals**

95. Place funding should not be withdrawn for a place perceived as unused and/or adjusted by the local authority against the minimum funding guarantee (MFG). Similarly, an additional £6,000 or £10,000 per head should not automatically be charged if an institution has filled all funded places. When agreeing rates of top-up funding, a local authority and an institution may wish to reflect economies and diseconomies of scale based on occupancy of places. For example, an institution may have 30 high needs places for which it receives a total budget of £300,000 (30 x £10,000).

96. In the event that the institution fills 25 places, it may agree with the provider local authority to charge a lower rate of top-up funding, to reflect the 'surplus' funding arising from its five unfilled places, which the provider local authority has already funded. The nature of pre-16 AP and SEND provision in some institutions means that there may be empty places at some points in the year, such as where diagnosis after the beginning of the academic year leads to later identification and placement.

97. Other factors that could impact on the way local authorities determine the top-up funding for individual pupils and students are:

- the way institutions set their budgets and break down their costs and overheads
- overheads affecting certain types of independent institution which are otherwise funded for maintained schools and academies, such as VAT costs in NMSSs and the costs of buildings for those institutions not able to access capital funding
- the extent to which local authorities and institutions agree on standardised rates, local banding arrangements and streamlined administration to reduce the need for detailed costs and negotiation of different top-up funding amounts for each pupil or student

- approaches that both create certainty for institutions on the level of funding they can expect to receive for the provision they make and are sufficiently responsive to changes in the number and needs of the pupils and students being placed in the provision

98. We do not expect top-up funding to contribute to or subsidise:

- overheads attributable to other budgets within the institution or that relate to costs that the institution would have to meet even if it had no pupils or students with high needs (for example, the salary of the special educational needs coordinator (SENCO) required by all mainstream schools)
- the costs of legal action against local authority decisions on assessment, provision and top-up funding, including support for parents seeking SEN tribunal Judgments on such local authority decisions
- the cost of educational and other assessments (for example, by educational psychologists) unless the local authority agrees in advance to pay for or contribute to these costs because they are required for its own assessment or review purposes

99. Institutions should be transparent about their costs and prepared to explain how the overall school and college finances are working to ensure their continuing financial viability and their ability to sustain appropriate levels of support for children and young people with SEND. Institutions may need to adapt their approach to making special provision, focusing on the needs of the child or young person. For example, it should not be assumed that an EHC needs assessment and plan will result in the provision of a full-time teaching assistant – this level of help is often not needed by the child or young person and can, at times, be counterproductive to their development. Colleges may need to reorganise their study programmes for young people with SEND and find different ways of supporting them over the week.

100. Further information about how top-up funding works for pupil referral units (PRUs), AP academies and AP free schools is set out in the section 'Alternative Provision'.

## Local authority high needs services and support

101. While the majority of a local authority's high needs budget is spent on place and top-up funding for institutions, local authorities can also use high needs funding to provide additional or targeted support for children and young people with special educational needs and disabilities (SEND), as permitted under schedule 2 to the [School and Early Years Finance Regulations](#). This can take the form of additional funding to institutions, which may be paid on the basis of a service level agreement, or access to specialist services or expertise commissioned by the local authority.

102. Such support can play an important role in enabling mainstream schools and colleges to meet a wider range of special educational needs and supports the presumption in law that children and young people should be educated in mainstream provision, unless their special educational needs require more specialist provision.

103. The amounts that the local authority plans to spend on such services should be included on the local authority's section 251 budget statement, as in previous years, with the actual expenditure reported on the same basis in the authority's section 251 outturn statement. Schools forums are expected to discuss the details, including funding and effectiveness of these services.

## Additional funding for mainstream schools

104. One of the categories of high needs spending referred to above is targeted funding to mainstream schools. Local authorities can provide additional funding outside the main funding formula for mainstream schools and academies on a consistent and fair basis where the number of their pupils with SEND and/or high needs cannot be reflected adequately in the funding they receive through the local funding formula. They should define the circumstances in which additional funding will be provided from their high needs budget.

105. Additional funding may be provided where there are a disproportionate number of pupils with a particular type of SEND. For example, a primary school may have developed a reputation for meeting the needs of high achieving pupils with autistic spectrum disorder, or pupils with physical disabilities, and it is not possible to target additional funding to the school through factors in the school funding formula.

106. Local authorities should have a formula or other method, based on their experience of distributing additional funding to their schools and academies. This should be agreed with schools and described on the authority proforma tool (APT). In all cases the distribution methodology should be simple and transparent, and devised so that additional funds are targeted only to a minority of schools which have particular difficulties because of their disproportionate number of pupils with SEND or high needs or their characteristics. Budget and expenditure should be included within the relevant S251 statements.

## Specialist support services

107. If mainstream provision is to meet a wide range of additional needs, it is important that schools, colleges and settings have access to high-quality specialist support (for example, to help with the needs of children and young people with autism, speech and language needs, social, emotional and mental health needs, sensory impairment or challenging behaviour). This typically involves specialist teachers with expertise in supporting pupils with complex needs who are available to advise, train and support other teachers and SEN co-ordinators in mainstream schools and colleges. For example, support could be provided through networking and targeted training.

108. It is important that such support is available to mainstream schools (maintained schools as well as academies and free schools), further education (FE) colleges, sixth form colleges and 16-19 academies, since they are all statutorily required to identify the SEN of their children and young people and to use their best endeavours to make sure that a child or young person who has SEN gets the support they need.

109. Local authorities and mainstream schools and colleges should discuss how such specialist support should be delivered when considering how to spend the high needs funding available to them. Many local authorities employ specialist teachers, funded directly from their high needs budget. Others give special schools additional funding to provide specialist support to other schools. Such arrangements are frequently accompanied by a service level agreement confirming what will be delivered in return for the additional funding.

110. Specialist support for pupils at risk of suspension or expulsion may be commissioned by the local authority or by schools (using funding devolved by the local authority). Further information on centrally commissioned alternative provision (AP) services can be found in the section 'Alternative provision'.

111. High needs funding cannot be used for local authorities' costs in relation to SEND administration, assessment, co-ordination and monitoring as per schedule 1 of the [School and Early Years Finance Regulations](#). For example, the identification of children and young people with SEND; the assessment of education health and care (EHC) needs; and the preparation and review of EHC plans. Annex 3 gives further guidance on the funding of health and social care costs.

## Alternative provision (AP)

112. AP provides support to children at challenging moments in their lives and each placement has the potential to transform a child's life chances.

113. When children of compulsory school age are not receiving suitable education, the local authority has a duty, under section 19 of the [Education Act 1996](#), to arrange it.

114. Occasions when a child has to be placed in an alternative setting for a period of time could be as a result of a suspension or expulsion or where a child has health-related needs that mean they are unable to attend a mainstream school full-time. Many schools make use of AP services before the need for suspension or expulsion arises. In the majority of cases the intention is for these children to return to their mainstream school and the length of the placement should be determined by the needs of the pupil.

115. Local authorities make arrangements for AP (including hospital education), and this is normally funded from their high needs budget. There is flexibility for local authorities to devolve some decision-making and funding for AP to schools, and there is evidence to show that this can be effective in promoting inclusion and accountability. Where a pupil remains on the roll of a mainstream school, the school is effectively acting as a commissioner of AP and retains accountability for the child's education. For example, where a pupil is suspended from a mainstream school for longer than five school days, the school is responsible for commissioning and funding alternative provision from the sixth school day of the suspension.

## Organising and funding AP

116. We acknowledge there are different ways local authorities and schools/academies can discharge their responsibilities and expect them to explore the most effective arrangements for AP commissioning and funding in their area. Local authorities should always take account of the needs of local schools in determining the demand for AP and how it is delivered and encourage schools to think collectively about their use of AP, and how the full cost of provision is to be met. Many local areas have developed strong partnership arrangements which seek to share responsibilities across schools for AP commissioning, funding and accountability. Such arrangements can include the local authority devolving some decision-making and funding to groups of schools.

117. Funding devolved to schools or partnerships of schools remains as a central budget under the local authority's central control and the terms of its use should be covered by a service level agreement or memorandum of understanding with the schools and academies involved. As with other elements of high needs funding held centrally, under the conditions of grant associated with the dedicated schools grant (DSG), the local authority must treat maintained schools and academies on an equivalent basis and make sure that any distribution of such funds is fair and reasonable.

118. The local authority should make sure that there is consultation with the schools forum on the way AP funding is used and distributed. The schools forum regulations are intended to ensure that the arrangements for AP funding are properly discussed at local level – with engagement not only from the local authority, but also from the mainstream schools and academies, pupil referral units (PRUs) and AP academies and free schools. This is explained in the [schools forums operational and good practice guide](#).

119. The regulations and [scheme for financing schools](#) do not permit local authorities to make a differential charge on schools' and academies' budget shares according to their use or intended use of AP. It is possible, however, to use funds relating to pupils leaving the school roll, which have been deducted from schools' budget shares under regulation 27 of the School and Early Years Finance Regulations, or under the similar arrangements with academies, to offset some of the cost of places. This is explained further in the section on funding adjustments for expulsions.

## How high needs funding is allocated to AP institutions

120. AP institutions can receive high needs funding in different ways through:

- core funding: the annual allocation of funding on the basis of an amount per place ('place funding'), which an institution receives either directly from the home local authority (for PRUs, based on the financial year), or from ESFA (for AP academies and AP free schools, based on the academic year)
- top-up funding: the funding required, over and above the core or place funding, to enable a pupil to participate in education is paid by the local authority or school that commissions each place
- locally negotiated funding for AP services, such as outreach, which are outside the place funding and top-up funding model
- funding for independent AP is also locally negotiated between commissioner and provider as it is outside the place funding and top-up funding system

121. It should be noted that post-16 students in PRUs, AP academies and AP free schools are not funded in the same way as pre-16 students. An institution will not receive AP place funding for post-16 students because this type of institution is, by definition, a school set up to educate children of compulsory school age. In the event that an AP institution does have post-16 high needs students with SEND, usually with an education, health and care (EHC) plan, these places can be funded on the same basis as post-16 students in mainstream schools.

122. Where the local authority commissions a place at a PRU, AP academy or AP free school, the top-up funding is allocated from the local authority's high needs budget. Where a school commissions a place at a PRU AP academy or AP free school, the top-up funding may come from centrally held high needs funding that has been devolved to

that school or a local partnership of schools (for example, via a service level agreement), or from the school's delegated budget share or (if an academy) general annual grant.

123. It is in the interests of the local authority, its schools and academies, and institutions offering AP, to agree the referral process and process for resolving concerns about admissions. If the local authority is unable to place a particular pupil, because they are not suited to the type of provision offered by a PRU, AP academy or AP free school, they would need to make other arrangements.

## **How to determine place numbers at AP institutions**

124. Each PRU, AP academy or AP free school usually has a number of places to offer pupils expelled by schools or who cannot get a school place for other reasons. In this case the commissioner would normally be the local authority. Many AP institutions will also have places for pupils who are on part-time or shorter-term placements. In many cases local schools would be the commissioner for these places.

125. We have not defined a 'place' in the regulations, but we expect that a place will generally be available for occupation by a full-time equivalent (FTE) pupil. We accept that in AP settings places may not be filled by the same individual throughout the year. Identification of places is not determined by pupils' registration status. Where pupils are dual-registered with a mainstream school, the time they spend attending a PRU, AP academy or AP free school should be accounted for in the number of places identified.

126. It is important that AP settings are not overfunded where places are not required, but there will be occasions when places remain unoccupied, for example, to accommodate unpredictable fluctuations in demand. There will also be places that are occupied by more than one individual attending on a part-time basis (for example a place may be filled by a child who attends for two days a week from one school, and another child who attends for two days from another school, with no child present for one day a week).

127. It may not be appropriate to provide place funding for some AP services where children are receiving their education offsite, such as a home tuition service or an outreach service provided by teachers whose base is the PRU or AP academy/free school. These services should be funded through a service level agreement with the commissioning local authority or school.

128. As in previous years, pre-16 AP places will be funded at £10,000 per place in 2021 to 2022, regardless of whether the place will be commissioned directly by a school or by a local authority.

129. The local authority and the institutions should agree the number of AP places to be funded in PRUs and AP academies, in consultation with those schools in the area which may need to commission places. This may require consultation with other local authorities and their schools, if they are likely to commission places in the PRU or AP

academy. As explained previously, post-16 students in AP settings are not funded in the same way as pre-16 students, but on the same basis as post-16 students in mainstream schools.

130. Local authorities have flexibility to change the number of places they fund in 2021 to 2022 at PRUs and should only notify ESFA of changes to the place numbers in AP academies, using the 2021 to 2022 place change notification process. ESFA will contact AP free schools directly in November 2020 detailing how their 2021 to 2022 high needs place numbers will be determined. Evidence to support changes in place numbers may be required, and we recommend that PRUs, AP academies and AP free schools engage early with local authorities and schools commissioning places.

131. As with special academies, 2021 to 2022 places funded at AP academies are deducted from the DSG of the local authority in whose area the academy is located.

132. No deduction is made for places in AP free schools opening during the 2020 to 2021 or 2021 to 2022 academic years. However, a deduction is made from the DSG for places in AP free schools open before or during the 2019 to 2020 academic year. Deductions for the 2021 to 2022 academic year are made from the DSG of the local authority where the pupil lives, based on October 2020 school census data. These deductions will be notified to local authorities in March 2021.

133. AP academies and AP free schools should receive notification of their 2021 to 2022 allocations of place funding from ESFA by the end of March 2021; and PRUs from their local authority by end of February 2021.

134. Place funding provides some certainty for institutions, but a stable income and financial viability will continue to depend on:

- developing strong relationships with local authorities and schools that commission places
- working out with commissioners, top-up funding rates that reflect the costs including (for example) the costs of under-occupancy when places are not filled (see section on 'Agreeing top-up funding for AP institutions' below)
- where appropriate, developing commissioned services that can provide an income from authorities and schools on a longer-term basis (for example, through a two or three-year contract)

## **Agreeing top-up funding for AP institutions**

135. Top-up funding for AP institutions is not usually related to an assessment of SEN. A standard top-up funding rate is often set for each PRU, AP academy or AP free school, which reflects the overall budget needed to deliver the provision for pupils and students attending.

136. Cost transparency is an important feature of the high needs funding arrangements. Local authorities and schools should be aware of the full cost of AP in different institutions and placement decisions made on the basis of the cost and quality of what is on offer. It is, therefore, important that schools forum discussions about how AP is funded should include information about top-up funding rates for institutions; and the organisation where the top-up funding and place funding for AP is sourced.

137. There is often a very fluid movement of pupils and students in and out of AP during the course of a year. The extent of this movement can create uncertainty and volatility in an AP institution's budget planning. Local authorities should recognise such fluctuations and trends to inform a more transparent and simplistic mechanism for administering the distribution of top-up funding.

138. One such example is where the AP institution agrees an estimate of the uptake of places at the beginning of the year with its main commissioning local authorities and schools. Top-up funding could then be paid on account every month throughout the year; and a termly or year-end reconciliation could take place to reflect an actual uptake of places by individual pupils during the period (the difference between estimated and actual uptake). This would give the AP institution more certainty over its in-year cash flow, enabling it to employ the staff needed – recognising that an increase or decrease in pupils may not necessarily directly equate to shifting staff:pupil ratios – to provide a high quality service throughout the year, and to adjust the quality and nature of provision over time to meet local authorities' and schools' demand.

139. It is important that top-up funding relates to pupils actually occupying places. The aim of the system of place funding and top-up funding is to give a proper balance between sustainable income for the AP institution, and flexibility to commission AP that meets the needs of individual pupils. Funding based solely on places, which may or may not be occupied, risks spending scarce resources on places that are needed neither by local authorities nor by schools and academies. It also ties up funding that would otherwise allow decisions to be taken about the most appropriate AP for an individual pupil.

140. We are not prescriptive about how the calculation of top-up funding reflects the period that a child or young person occupies a place. Some AP institutions operate on the basis of a daily rate but, in many cases, it would be more beneficial to calculate the top-up funding using longer periods, for example weekly, monthly or even termly rates.

141. Commissioning local authorities and schools will want to consider carefully the top-up funding arrangements to make sure that there are no perverse incentives and that the funding achieves the intended outcomes.

142. It would also be possible to develop a top-up funding system that more closely reflects the achievement of desired outcomes, as a way of encouraging high quality AP.

The AP institution could receive an enhanced rate of top-up funding after the end of the placement if the intended outcome for the pupil or student had been achieved.

143. For example, a mainstream school could be seeking a particular intervention for a year 11 student, which would enable him or her to successfully complete their GCSE exams; it could agree a short term placement for the student at a local PRU and an additional amount of top-up funding that would be paid after the student's exam results are known, and if the expected grades had been achieved. Similarly, a local authority may wish to agree that an additional amount of top-up funding is payable if a year 11 pupil is in education, training or employment in the year after leaving AP.

144. Such arrangements are not mandatory, but could be used to secure better outcomes and improve the quality of AP.

### **Commissioned AP services**

145. In many cases the services offered by a PRU or AP academy or free school will not be appropriately funded through the combination of place and top-up funding. Teachers at the AP setting may be involved in outreach work with local schools and academies or may be employed by them on a consultancy basis, to advise on behaviour management. The local authority may use a PRU's staff to provide home tuition to children with medical needs or to provide a service to pregnant teenagers or young mothers who cannot easily attend school. These are examples of services that would normally be funded by the commissioning local authority or school, or group of schools, under a service level agreement that specifies what is required and the funding to be paid.

146. Where the local authority commissions the service, the funding would come from its high needs budget.

147. Where a school or group of schools commissions the service, the funding would come either from those schools' delegated budget share, or from centrally held high needs funding that has been devolved to schools. Any distribution of devolved AP funding should be fair and treat maintained schools and academies in the same way.

148. As with other centrally held AP budgets, the local authority should make sure that there is consultation with the schools forum on the amount retained and how it is used and distributed. For certain centrally held budgets, including for services relating to the education of children with behavioural difficulties and other activities for the purpose of avoiding the expulsion of pupils from schools, the regulations require schools forum agreement to the amount retained.

## Expulsions: funding adjustments

149. The previous AP sections highlight the importance of ensuring schools and local authorities explore the most effective arrangements for AP commissioning and funding in their area, including for children who have been expelled.

150. Where pupils are expelled, under the [School and Early Years Finance Regulations](#), funding should flow in-year from the school that has expelled the pupil to the provision that takes responsibility for the pupil.

151. If a school subsequently admits a pupil who has been expelled during that financial year, it should then receive additional funding.

152. The provisions also apply to pupils who leave a mainstream school for reasons other than expulsions and are receiving education funded by the local authority other than at a school.

153. The provisions also act independently of whether a particular pupil has been on the school census in the first place, and whether the school has, therefore, received funding for them.

Local authorities are responsible for adjusting the budget shares of mainstream maintained schools if a pupil is expelled, so that funding follows the pupil. Further information on this, including calculating the amount to be deducted from the excluding school's budget and admitting school's budget (if appropriate), is available in the "redetermination of budgets where pupils have been excluded" section of the [schools funding operational guide](#).

154. Different funding arrangements apply in relation to pupils expelled from PRUs, AP academies, maintained special schools, special academies and children in designated special units or resourced places at mainstream schools. These schools receive base funding for each place, which is not linked to individual pupils and so is not withdrawn following an expulsion. Similarly, the calculation for an admitting school would not be used for a PRU, AP academy or AP free school. They also receive top-up funding that is linked to individual pupils. When commissioning places at one of these types of school, local authorities and schools should formally agree with the providing school what proportion of this top-up funding will be returned if a pupil leaves the school (for any reason). See paragraphs above for further information on how top-up funding works for PRUs, AP academies and AP free schools.

155. The only exception to this is where pupil premium is payable in respect of a pupil attending a PRU or special school maintained by the local authority. In this situation local authorities must adjust the school's budget in accordance with the same formula that applies to mainstream schools. In the case of AP and special academies, local authorities should claim from the academy an amount equivalent to the pupil premium

(as calculated according to the formula in the regulations), or pay the academy the relevant amount when a previously expelled pupil joins the academy.

156. Information about regulations covering the movement of funds in relation to expelled pupils who are placed in provision in other local authorities can be found under the section "*Inter-authority funding transfers*" in the [schools funding operational guide](#). The regulations relate to situations where a pupil is expelled from a maintained school in one local authority, and is either:

- subsequently provided with education in the same financial year at a maintained school, or otherwise than at school in a second local authority
- subsequently provided with education in the same financial year at a pupil referral unit, or otherwise than at school in a second local authority, and then at a maintained school or otherwise than at school in a third local authority.

## Funding by institution type

### Early years providers

157. Children aged zero to five with more complex needs and those in receipt of an education, health and care (EHC) plan are eligible to receive funding via the high needs block of the dedicated schools grant (DSG).

158. Local authorities can meet the costs of under 5s with high needs in different ways from their high needs budget. These may include special educational needs and disabilities (SEND) support provided directly as a central service for young children with high needs and early years providers. Place funding may also be used for early years provision, for example, at special schools, supplemented by top-up funding for individual children.

159. Additionally, local authorities are required to pass funding on to all early years providers delivering the free entitlements for eligible children aged between two and four through the early years block of the DSG. The [early years operational guidance](#) includes more information on how early years block funding is allocated and should be passed on to providers.

160. As set out in the early years operational guidance, there are additional early years funding streams to support children aged 3 and 4 with special educational needs and disabilities (SEND) to access their free entitlements.

161. The settings of 3 and 4 year-olds eligible for the disability access fund (DAF) (those in receipt of child disability living allowance and receiving [free early education](#)) will be entitled to receive a one-off payment of £615 per year.

162. All local authorities are required to establish an inclusion fund in their local funding systems for 3 and 4-year-olds with SEN taking up the free entitlement, regardless of the number of hours taken. This fund supports local authorities to work with providers to address the needs of individual children with low level or emerging SEN. The structure also supports local authorities to undertake their responsibilities to strategically commission SEN services as required under the [Children and Families Act 2014](#). Local authorities can establish their SEN inclusion funds using funding from either one or both of their early years block and high needs block of the DSG.

### Mainstream schools, academies and free schools

163. Mainstream schools without SEN units or resourced provision are funded for pre-16 pupils with SEND as follows:

- core funding: included within the funding through the local schools funding formula

- top-up funding: agreed per pupil top-up paid by commissioning local authority

164. Maintained mainstream schools will receive notification of their core funding allocations of pre-16 funding by the end of February, and mainstream academies and free schools by the end of March before that academic year begins. The per pupil funding for mainstream schools includes funding for pupils with SEND, whose additional support costs are lower than £6,000. Schools and academies should have sufficient funding in their delegated budget to enable them to support pupils' SEND where required up to the mandatory cost threshold of £6,000 per pupil per annum.

165. For pupils aged 5 to 15 years in mainstream schools, a notional SEN amount will be shown in the school's budget, this is an indicative amount that schools may set aside for pupils with SEND. Where there are a disproportionate number of pupils with SEND, additional funding may be provided outside the main funding formula as explained in the additional funding for mainstream schools section of this guidance document

166. . High needs place funding is only available to those schools with SEN units or resource provision.

167. Where individual pupils require additional support that costs more than £6,000, the excess should be met by top-up funding associated with the individual pupil. Top-up funding rates are for local authorities to determine, in consultation with schools and academies. While we expect commissioning local authorities to work constructively with providers to agree the levels of top-up funding required, local authorities bear the ultimate responsibility for decisions on top-up funding, as they are accountable for spending from their high needs budgets. Further information is provided in the section on top-up funding.

## Sixth forms

168. Mainstream sixth forms are funded for their core funding on the basis of an amount per student based on the post-16 national funding formula (element one), and £6,000 per high needs place (element two). Funding for pupils whose additional support costs are lower than £6,000 is provided within the disadvantage funding element of post-16 national funding formula. Local authorities should assume a national average amount of £5,200 for element one, comprising the £4,188 base rate and additional funding allocated through the post-16 funding formula (such as for disadvantage).

169. High needs place funding (element two) is available to schools for students with SEND requiring additional costs exceeding £6,000. Schools should have engaged with their local authority to agree place numbers. Local authorities have flexibility to agree with schools, academies and free schools alternative ways of calculating this element of high needs funding.

170. ESFA do not require information on changes to places funded in maintained schools as local authorities fund these institutions directly and have local flexibility to change the number of places as well as the method of calculating the allocation. Local authorities should, however, notify ESFA of changes to place numbers for academies and free schools, to ensure that they are funded on the correct basis.

171. As explained for pre-16 pupils, where individual pupils require additional support that costs more than £6,000, the excess should be met by top-up funding associated with the individual pupil.

## Special units and resourced provision

172. In summary, mainstream schools are funded for SEN units and resourced provision through:

- pre-16 core funding: a combination of per-pupil funding through the local schools funding formula, plus £6,000 per place for those occupied by pupils on roll and £10,000 per place for the remainder of places to be funded
- pre-16 top-up funding: agreed per pupil top-up paid by commissioning local authority
- post-16 core funding: element 1 (based on the 16 to 19 national funding formula) plus element 2 (£6,000 per place) based on the number of places to be funded
- post-16 top-up funding for students with high needs: element 3 agreed per pupil top-up paid by the commissioning local authority

173. Mainstream schools may be funded for pre-16 high needs places if they have special units and/or resourced provision. Depending on the range and type of services on offer, it is also possible for such provision to be a centrally funded service commissioned by the local authority, normally under a service level agreement with the school or academy. Where there are changes to specialist provision, such as new special units or resourced provision, at academies and free schools, this must first be approved through the [significant change process](#).

174. Resourced provision and SEN units vary widely, reflecting the local approach to inclusion. In resourced provision pupils tend to spend most of their time in mainstream classes only attending the facilities for individual support, to learn a specific skill (for example braille for visually impaired pupils), to receive medical or therapeutic support (for physically disabled pupils) or to access specialist equipment. The facilities can be in a suite or dispersed throughout the school. Pupils in an SEN unit tend to spend the majority of their time there, only attending mainstream classes for a few lessons, such as PE, assembly or for lunch.

175. Pre-16 places at a special unit and resourced provision that are occupied by pupils recorded on the school census as sole or dual (main) at a special unit or resourced

provision are funded at £6,000 per place. Pupils in these places will also attract funding through the mainstream school formula.

176. Other places are funded at £10,000. This may apply where:

- the place is or will be occupied by a pupil registered on the roll of another school
- a place is not occupied at the time of the school census count, but is likely to be filled, and requires funding
- spare capacity is required for another reason

177. ESFA confirm the number of funded high needs places in mainstream academies and free schools as a result of the annual place change notification process. The total number of places to be funded in maintained schools is decided at a local level by the local authority that maintains the school, taking full account of places that may be commissioned by other local authorities.

178. Information collected via the authority proforma tool (APT) is used to determine the place funding rate for SEN units and resourced provision. For mainstream academies and free schools, ESFA reconciles place occupancy data provided in the APT with the number of places confirmed as part of the place change notification process to determine the rate of place funding for mainstream academies and free schools in line with the following principles:

- outcomes from the place change notification process informed ESFA of the number of high needs places to fund
- the APT records the number of places occupied by pupils on the roll of the school or academy as at October (that is, recorded as sole or dual (main) registered when the school census is completed)
- place funding has not therefore been allocated for pre-16 place numbers recorded in the APT that exceed the number of pre-16 places confirmed as part of the place change notification process, as the latter relates to the number of places to be funded
- the number of occupied places recorded in the APT are funded at £6,000 per place
- where the number of pre-16 places confirmed in the place change notification process is greater than the number of occupied places provided via the APT, the difference is the number of places that are funded at £10,000 per place

## **Maintained special schools, special academies and special free schools**

179. Pre-16 and post-16 high needs places at maintained special schools, special academies and special free schools are funded at £10,000 per place. In addition, they receive per pupil top-up funding paid by the commissioning local authority. Following

publication of the place change notification outcomes there is a 2-week enquiry window for local authorities and institutions to raise significant issues. Institutions receive allocations from ESFA by the end of March, in advance of the academic year; maintained special schools are notified of their allocations (that is, their budget shares) by their local authority by the end of February.

180. A special schools protection – otherwise known as a minimum funding guarantee (MFG) – will continue to apply to maintained special schools and special academies (including special free schools) in 2021 to 2022. The MFG for mainstream schools – at least +0.5% per pupil – covers their core budget but does not cover the high needs top-up funding they receive. That element is not protected, because it can change significantly when a single pupil with high needs leaves the school. For special schools, however, the top-up funding they receive is a much higher proportion of their overall funding, and so it is covered by the equivalent of the MFG for special schools. Because it protects more of their total budget, we are continuing to set the level of that broader protection slightly lower – at 0% per pupil.

181. This means that no special school will receive from their local authority less per pupil next year on a like-for-like comparison with their pupil cohort this year. The calculation is based on the assumption that the number and type of places remains the same between 2020 to 2021 and 2021 to 2022. It also assumes that all pupils in the school are placed by the provider local authority (for example, where the school is located) and that all top-up funding rates received by the school are those set by that local authority.

182. See Annex 1 for further information on the protection, including a worked example.

## **Non-maintained special schools (NMSSs)**

183. All places in NMSSs (pre and post-16) are funded at £10,000 per year. In addition, they receive per pupil top-up funding paid by the commissioning local authority. We base NMSS funding allocations on the pupil number data from the latest October school census, uplifted by the difference between the previous year's October and January census pupil number data. Any negative movement is capped at zero to ensure that no school is funded on numbers less than those recorded in their latest October census. If a school has a significant number of pupils over and above their allocated place numbers, and they have concerns about how that will be funded through the lagged funding approach, they should contact ESFA.

## **Independent schools**

184. Independent schools, including independent special schools and independent AP sit outside the high needs place funding system. Where a local authority has commissioned a place in an independent school, the local authority is responsible for all

the funding for that child or young person with SEND (that is, the local authority must provide the equivalent of both place and top-up funding from their high needs budget). The total expenditure on these placements should be included in the relevant high needs top-up funding line of each local authority's section 251 returns.

185. More information about how local authorities should discharge their responsibilities for children and young people with SEND in independent schools is set out in the SEND code of practice, in particular paragraphs 9.131 to 9.136.

## **Pupil referral units (PRUs), AP academies and AP free schools**

186. PRUs, AP academies and AP free schools are funded as follows, (further information is available in the section on alternative provision):

- pre-16 core funding: £10,000 per place based on number of places to be funded
- pre-16 top-up funding: agreed per pupil top-up paid by commissioning school or local authority
- post-16 core funding: element 1 (based on 16 to 19 national funding formula) plus element 2 (£6,000 per SEND place)
- post-16 top-up funding: agreed per student top-up paid by commissioning local authority

187. We encourage schools and local authorities to explore the most effective arrangements for AP commissioning and funding in their area. For instance, there is flexibility for local authorities to devolve some decision making and funding for AP to schools, and there is evidence to show that this can be effective in supporting mainstream schools' work with their most challenging pupils. Local authorities should provide information locally and consult with the schools forum about such arrangements.

188. It should be noted that PRUs, AP academies and AP free schools will not receive AP place funding for post-16 students because these institutions are, by definition, schools set up to educate children of compulsory school age. In the event that an AP institution does have post-16 high needs students with special educational needs, usually with an EHC plan, these places are funded on the same basis as post-16 students in mainstream schools.

## **Further education (FE) institutions**

189. FE institutions, including colleges and independent learning providers, receive core funding on the basis of an amount per student calculated using the post-16 national funding formula (element 1) and £6,000 per high needs place (element 2). Top-up funding for students with high needs (element 3) is paid directly by the local authority commissioning the place.

190. Element 1 student numbers are allocated directly by ESFA to colleges for students aged 16 to 19 and those aged 19 to 25 with EHC plans. The number of students and amount of funding paid has no impact on local authorities' high needs budgets. Funding is provided within the disadvantage funding element of the mainstream 16 to 19 funding allocation for students with SEND, but whose additional support costs are lower than £6,000 and who therefore do not count as students with high needs.

191. For 2021 to 2022, local authorities should assume a national average amount of £5,200 for element 1, comprising the £4,188 base rate and additional funding allocated through the post-16 funding formula (such as for disadvantage), in respect of all post-16 high needs students.

192. The number of high needs places (element 2) that determines the high needs funding of £6,000 per place is based on the number of places funded for the 2020 to 2021 academic year, subject to any changes to those numbers as a result of the place change notification process. As indicated above, it is essential that FE institutions discuss with their provider local authority (that is, the one in which the main college or provider headquarters is located) how many places should be funded as set out in the high needs place funding section above.

193. Further information about how place funding works, including where students exceed place numbers, can be found in the high needs place funding section above. It is also open to FE institutions to agree with their provider local authority an alternative method of calculating this element of funding (that is, a calculation that is not necessarily a number of high needs places times £6,000), subject to the requirements outlined in the 'High needs place funding - flexibility to allocate differently' section.

194. There are a number of situations where a 14 to 16-year-old may be studying in a college:

- students who achieved a level 2 qualification early and are choosing to enrol on a full level 3 course, and home-educated students are counted as 16 to 19-year-olds; such students are funded alongside 16 to 19-year-olds via the 16 to 19 funding formula for element 1 and £6,000 per place for element 2
- students enrolled in a school or academy but studying part-time in college are not funded as 16 to 19-year-olds, as the school or academy will receive funding in respect of these students via the pre-16 process applicable to that institution
- some colleges are eligible to be directly funded by ESFA for 14 to 16-year-olds
- these students should be recorded in the individualised learner record (ILR) accordingly and will be funded for element 1 via the 16 to 19 formula using a separate process
- for element 2 these students are counted as 16 to 19-year-olds and funded at £6,000 per place using the same process as for 16 to 19-year-olds
- further details for FE institutions on funding for directly recruited 14 to 16-year-olds in colleges can be found in the Enrolment of 14 to 16-year-olds in FE guidance

## Special post-16 institutions (SPIs)

195. All SPIs in their second year onwards of direct ESFA funding are allocated place funding (element 1 and element 2) on the basis on their latest R06 ILR return. In addition, they receive top-up funding based on an agreed amount per student paid by the commissioning local authority. If a SPI has a significant number of students over and above their allocated place numbers and they have concerns about how that will be funded through the lagged funding approach, they should contact ESFA.

196. To be eligible to receive high needs place funding from ESFA for the first time, SPIs must successfully complete the [High needs funding: due diligence process](#) for special post-16 providers.

197. Such SPIs must also be notified to ESFA through the annual place change notification process. Their allocations are determined by the numbers returned by the local authority in which they are located.

## Hospital education

198. Hospital education is defined as education provided at a community special school or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the [Education Act 1996](#) (exceptional provision of education), where the child is being provided with such education by reason of a decision made by a medical practitioner.

199. Although we allocate funding to local authorities for hospital education without reference to the age of the young people receiving the education, local authorities' duties differ for young people aged 16 and over. This may affect their decisions on funding education for young people in this age group, such as those in independent hospital schools.

200. Our long term intention is to introduce a formulaic hospital education factor in the high needs national funding formula that takes into account both local authority spending data and NHS data, thereby better responding to the number of patients needing education. Our work to progress this has been delayed because of the impact of Covid-19 pandemic on the NHS, hospitals and hospital schools.

201. In the meantime, as in previous years, hospital education can continue to be funded by local authorities based on either an amount per place, or as a centrally funded local authority service. An example of the latter is where the local authority employs teachers directly to work in a hospital or offer home tuition to pupils who are confined to their home because a medical practitioner has decided that is where they should be. Some local authorities commission such services through hospital schools or PRUs. In all cases local authorities should ensure that there is clarity on how hospital education is provided and funded locally. Such provision in maintained institutions or central services,

should report their planned and actual expenditure in the relevant tables of the section 251 budget and outturn statements.

202. Funded hospital education places can be found in maintained special schools (usually a particular type of special school known as a hospital school), maintained PRUs (sometimes known as medical PRUs), special and AP academies and free schools. Often these institutions will have a combination of hospital education places and other high needs (AP and SEND) places.

203. The [School and Early Years Finance Regulations](#) require that hospital education places in maintained schools and PRUs are funded at least at the same level per place as in the previous funding year. This requirement is also reflected in the funding arrangements for hospital education places in academies. [DSG conditions of grant](#) require local authorities to treat academies the same as maintained schools in their funding arrangements. These requirements will remain in place and incorporated in the regulations and conditions of grant for 2021 to 2022.

204. Local authorities are reminded that the high needs national funding formula provides local authorities with an 8% increase in hospital education funding, from the 2020 to 2021 allocations of hospital education funding. Local authorities should consider carefully, following consultation with their maintained hospital schools, academies and other providers of hospital education, how much of this increase is passed on to them, taking into account any increase in their costs. If a local authority intends to pass on an increase to an academy funded for hospital education places, this should be notified to ESFA via the 2021 to 2022 place change notification process.

205. The hospital education funding guidance explains the process for those local authorities wishing to apply for additional funding due to new hospital education provision. We are aware that many hospital schools will have had to change their delivery of educational provision during 2020 and 2021, as a result of Covid-19, and that some of these changes may ultimately be more permanent. Local authorities should engage with their maintained hospital schools and academies, other hospital education providers, and the relevant NHS hospital trusts, to plan ahead for 2021 to 2022, including discussion of the funding implications of temporary or permanent changes in provision.

206. Medium secure adolescent psychiatric forensic units, which cater mainly for young people aged 16 and over are funded in 2021 to 2022, using the same hospital education funding methodology of an amount per place no less than their funding per place in 2020 to 2021. Such education provision exists in a very small number of units, some of which are in maintained schools and academies where the funding is allocated, either from the local authority or ESFA respectively. Others are operated by the local authority in whose area the institution is situated, or by charitable organisations and mental health trusts funded directly by ESFA.

207. Local authorities' duties may require them to commission hospital education from other independent providers, not in receipt of funding directly from ESFA.

208. In these circumstances, local authorities would be expected to pay the costs of this education from their high needs budgets. The law does not necessarily require local authorities to commission a particular education provider in order to discharge their duties, though decisions about education provision should not unnecessarily disrupt a child or young person's education or treatment.

209. Independent hospital education provision may be funded either as a single service by the local authority area where the provision is located, or on the basis of payments for individuals from those authorities where the child or young person normally resides. In both cases the provider should confirm with the relevant local authority that they are content to commission and fund the education provision.

210. If funding is provided as payments for individual children and young people, the provider should receive such confirmation from the local authority in writing (if possible), before delivering the education provision to the child or young person, and certainly before requesting any funding.

## High needs funding: post-16 special circumstances

### High needs place funding: flexibility to allocate differently

211. Local authorities are reminded that funding for post-16 places in maintained schools (including maintained special schools) and pupil referral units (PRUs) is included and will remain in the dedicated schools grant (DSG) paid to local authorities, rather than being deducted from local authorities' DSG allocations and paid as sixth form grant. Local authorities have flexibility to make changes to maintained school and PRU place numbers. Post-16 students in PRUs (and alternative provision (AP) academies and AP free schools) are not funded in the same way as pre-16 students. See the 'Alternative Provision' section for more information.

212. Secondary maintained school and academy sixth forms, and all further education (FE) institutions are funded at £6,000 per place for one element (sometimes referred to as element 2) of their high needs funding allocation. As indicated above, this element of funding for maintained secondary schools and PRUs remains in local authorities' DSG high needs allocations. In the case of academies and FE institutions, this funding is deducted from the initial allocations of high needs funding to authorities by ESFA, and paid directly to the institutions, on the basis of the published data on place numbers and any changes notified by local authorities.

213. We are continuing the flexibility introduced previously, whereby a local authority can reach agreement with a mainstream maintained school or academy with a sixth form, a PRU or AP academy with a sixth form, a sixth form or FE college or an independent learning provider (ILP), that this element of the institution's funding can be calculated and paid in a different way directly by the local authority, subject to the following requirements:

- there must be agreement on the alternative funding approach between the local authority and post-16 institutions involved, and this agreement should have been reached by autumn 2020
- the alternative arrangement must ensure a continuation of the £6,000 cost threshold for top-up funding, to maintain consistency in the high needs funding system
- in other words, the funding methodology should continue to provide institutions with funds to meet the additional costs of supporting students with special educational needs up to £6,000 per annum, with top-up funding meeting the costs in excess of that threshold
- local authorities should be aware that the import/export adjustment will continue to operate as explained above whatever alternative methodology is used
- the institutions involved must continue to provide information about students with high needs through the school census and individualised learner record (ILR) according to the current definition, which means that such students must have

been assessed by the local authority as having high needs, and the institution must be receiving top-up funding for their support costs in excess of £6,000

- this school census and ILR information provides the data that allows the import/export adjustment to operate fairly for local authorities

214. The local authority can make such alternative funding arrangements by agreement with its maintained secondary schools and PRUs without any formal notification to ESFA.

215. Where an alternative funding methodology is agreed with an academy or FE institution, the local authority should notify ESFA through the place change notification process that the place number is to be reduced. The place number would be zero if the local authority has agreed with the institution that the alternative methodology covers the equivalent of all the institution's place funding, including those places filled by students placed by other authorities.

216. The place number would be larger than zero if the institution receives funding for places to be occupied by students from other local authorities. In all cases, the deduction from the local authority's high needs allocation would reflect the reduced place number, because the local authority has agreed the change with the institutions involved and will pay the funding to the institution concerned directly.

217. It is important for local authorities to note that no changes will be made to the import/export adjustment in the national funding formula, because the provider local authority (the local authority area where the institution is based), will still be expected to meet the costs of all the places in the institution. This includes those places to be occupied by students for whom other commissioning local authorities are paying the top-up funding.

218. This flexibility encourages local authorities and institutions to collaborate in making special provision for their students. Examples of alternative approaches could be:

- an agreement to fund a college directly a lump sum per year over three years, to provide certainty to the local authority and college on the level of provision and funding that will be made, subject to specified tolerances relating to the actual number of students with high needs receiving support
- an agreement that a school sixth form will be funded for its students with special educational needs and disabilities (SEND) on the basis of similar proxy measures as are in the local pre-16 funding formula

219. We may collect further information from local authorities about any alternative funding calculations they make.

## Post-16 study programmes

220. The majority of young people with high needs attending a school, college or special post-16 institution (SPI) will be subject to an education, health and care (EHC) plan. Local authorities must use the evidence from the EHC plan to make consistent, effective and robust assessments of the support the young person will need to move towards a positive outcome.

221. Local authorities and institutions should collaborate to agree a suitable study programme for a young person, which must be tailored to their individual aspirations and support needs.

222. A full-time study programme has a minimum duration of 540 hours and there is no set maximum. Local authorities or colleges should not set an arbitrary maximum number of hours for a study programme, but instead should provide the number of hours required by the student to complete the programme. A funding requirement for all programmes is that they meet the condition of funding for maths and English.

223. A supported internship is one type of full-time study programme specifically aimed at young people aged 16 to 25 who have an EHC plan, who want to move into employment and need extra support to do so. Students on supported internships, although they have an EHC plan, are not necessarily students with high needs requiring additional support costing more than £6,000.

## Part-time or part year students: post-16

224. We also consider young people to be high needs students when they are part-time or part year and their additional support funding would total more than £6,000 if provided over the full academic year, as agreed with the local authority in which the student is resident. See guidance regarding the [funding rates and formula](#) used in the funding arrangements for 16 to 19-year-olds for more information.

225. Where an institution has enrolled, or is considering enrolling, a high needs student who will attend on a part-time or part-year basis, they should hold discussions with the relevant local authority as commissioners of high needs provision. The normal funding approach should then apply in line with the principles outlined in this guide.

## Students aged 19 to 25 with an education health and care (EHC) plan

226. Students aged 19 to 25 with an EHC plan who are continuing in education may have a range of options, including attending FE institutions, independent learning providers and SPIs. The school funding regulations require that a local authority may not

use its high needs budget to fund places, or pay top-up funding, for 19 to 25 year olds attending:

- a maintained school
- an academy school
- an AP academy
- a non-maintained special school (NMSS)
- an independent school

227. There is an exception for those 19-year-olds who are completing a secondary education course started before they were 18 years old.

228. Some schools may consider that they have the appropriate specialist expertise to prepare students aged 19 to 25 with an EHC plan for adult life, including independent living and employment. To receive high needs funding for such young people, a school would have to set up a legally and financially separate entity to provide the appropriate environment for young people of that age group. To be eligible to receive high needs place funding from ESFA for the first time, SPIs must successfully complete the [High needs funding: due diligence process](#) for special post-16 providers. The [high needs funding due diligence process for new special post 16 providers](#) guidance contains more information.

229. Such SPIs must also be notified to ESFA through the annual place change notification process. Their allocations are determined by the numbers returned by the local authority in which they are located.

230. For information on learners aged 19 to 25 without an EHC plan see Annex 4.

## **Students aged over 25**

231. A local authority must keep an EHC plan under review. For a student with an EHC plan when they are 24 years old, the plan normally ceases when the student turns 25, although local authorities have a power to extend an EHC plan until the end of the academic year in which the student turns 25.

232. If a local authority extends the EHC plan until the end of the academic year, the local authority must continue to provide top-up funding to the institution until that time.

233. If the local authority makes an exceptional decision not to extend the EHC plan to the end of the academic year, it must discuss the transition arrangements for the young person with ESFA. Place funding is allocated to the institution by ESFA for the full academic year and would not normally be clawed back if the EHC plan is not extended.

234. Local authorities are not responsible for commissioning provision for students with SEND who are 19 to 25 without an EHC plan or who are over the age of 25. Links to the funding arrangements for these students are at Annex 4.

## Annex 1: special schools minimum funding guarantee

235. The minimum funding guarantee (MFG) protection for special schools in 2021 to 2022 is set by a condition of grant that applies to local authorities' dedicated schools grant (DSG) and protects schools from seeing a reduction in funding from year to year assuming that the number and type of places remains the same between 2020 to 2021 and 2021 to 2022 financial years. It also assumes that all pupils in the school are placed by the provider local authority and that all top-up rates received by the school are those set by the provider local authority.

236. Funding the school receives in respect of the [teachers' pay grant](#) (TPG), the teachers' pension employer contribution grant (TPECG), and the pensions supplementary fund, including the additional high needs funding that will replace these grants from 2021 to 2022, should be excluded from the MFG calculation. When calculating protection, local authorities should make sure that they are comparing like for like. Adjustments can be made for changes in the nature of the provision, for example, if previous top-up rates included an element for a commissioned service which is no longer provided by the school, the value of that element can be discounted when calculating the MFG protected level.

237. Once the MFG assessment confirms 2021 to 2022 top-up funding rates received by the school are in line with the guarantee, they can then be applied to reflect the actual number and type of places at the school.

238. Where a local reorganisation takes place and there are changes to bandings, the 2020 to 2021 pupil numbers and types for each school should be attributed as far as possible to the new bandings in order to assess whether any special school loses more than the MFG set by the local authority in 2021 to 2022. If the MFG is breached and the local authority proposes to fund below the guaranteed level, the local authorities should apply for an exemption to the MFG using the disapplication request form. Any such request will be expected to have the agreement of the local schools forum and have been the subject of thorough consultation with the schools concerned. Information provided should include the impact on the schools affected. Requests will be considered on a case-by-case basis.

239. [Disapplication](#) of the condition of grant may also be sought where it is not possible to compare the top-up funding rates between the 2 years (for example, where there has been a major reorganisation of local provision).

240. The worked examples provide two scenarios of how the MFG is calculated for a 100-place special school. The first table shows the funding in 2020 to 2021, when it was occupied by a total of 90 pupils, 30 in each of 3 different bands. This is considered a baseline and the same number of places, pupils and levels of need should be used for 2021 to 2022. The calculation then highlights the impact of any such changes on top-up

amounts or other schools budget funding, whilst offering the same level of provision, the implications of which are summarised below.

**Table 3: MFG calculation – a worked example of a baseline**

Special schools funding: 2020 to 2021	Band 1	Band 2	Band 3	Total
Number of places	30	35	35	100
Number of pupils	30	30	30	90
Top-up rate	£3,000	£4,000	£5,000	N/A
Place funding	£300,000	£350,000	£350,000	£1,000,000
Top-up funding	£90,000	£120,000	£150,000	£360,000
Total funding	£390,000	£470,000	£500,000	£1,360,000

**Table 4: MFG calculation – a worked example where the funding remains above 0% MFG**

2021 to 2022: MFG scenario 1	Band 1	Band 2	Band 3	Total
Number of places	30	35	35	100
Number of pupils	30	30	30	90
Top-up rate	£2,700	£4,100	£5,300	N/A
Place funding	£300,000	£350,000	£350,000	£1,000,000
Top-up funding	£81,000	£123,000	£159,000	£363,000
Total funding	£381,000	£473,000	£509,000	£1,363,000
MFG % difference from 2020 to 2021	N/A	N/A	N/A	0.2%

**Table 5: MFG calculation – a worked example where the funding is below 0% MFG**

2021 to 2022: MFG scenario 2	Band 1	Band 2	Band 3	Total
Number of places	30	35	35	100
Number of pupils	30	30	30	90

<b>Top-up rate</b>	£3,000	£3,800	£4,500	N/A
<b>Place funding</b>	£300,000	£350,000	£350,000	£1,000,000
<b>Top-up funding</b>	£90,000	£114,000	£135,000	£339,000
<b>Total funding</b>	£390,000	£464,000	£485,000	£1,339,000
<b>MFG % difference from 2020 to 2021</b>	N/A	N/A	N/A	-1.8%

241. In the first scenario, one of the three top-up funding rates has reduced. Overall, though, the funding for the school would remain above the 0% MFG level if the number and types of places remained the same. Therefore, 2021 to 2022 top-up funding rates are in line with the guarantee and funding to the special school should reflect these rates (for students placed by the provider local authority), the number of students in each band and the actual numbers of places.

242. In the second scenario, two of the three top-up funding rates have reduced. However, in this case the funding for the school is below the 0% MFG level and so the rates will need further adjustment in order to be in compliance with the condition of grant.

## Annex 2: Responsibility for children and young people who move between local authorities

243. Local authorities are responsible for conducting the education, health and care (EHC) plan needs assessment and, where necessary, issuing EHC plans and securing the provision specified, for children and young people who are in the local authority's area.<sup>2</sup> Local authorities should fund any special educational provision for children and young people with EHC plans from the high needs block of the dedicated schools grant (DSG), which is allocated on a formulaic basis, including factors relating to the characteristics of the children and young people resident in their area.<sup>3</sup>

244. Under the Children and Families Act 2014, local authorities are responsible for children and young people with special educational needs (SEN) who are 'wholly or mainly resident' in their area. These duties are defined on where the child or young person lives and not on where they are educated. Where a child or young person is educated outside the area of the local authority where they usually live, the local authority in whose area the child normally lives is responsible for conducting the EHC needs assessment and issuing an EHC plan where necessary, and for securing and funding that provision. Some children and young people may require 52-week residential educational placements (particularly those with the most complex needs). In such cases, it is the department's view that the child or young person continues to be considered as living in the area of the local authority that placed them in the residential provision and, therefore, they would continue to have the duty to maintain any EHC plan.<sup>4</sup>

245. The high needs national funding formula, as well as using data relating to the children and young people resident in the local authority's area, includes a basic entitlement factor and import/export adjustment that together ensure local authorities are appropriately compensated for the high needs place funding for schools and colleges. This funding allocation is paid directly to the institutions either by the local authority that maintains the school or by the ESFA in the case of academies and colleges.

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<sup>2</sup> Section 24(1) of the [Children and Families Act 2014](#) states: "A local authority in England is responsible for a child or young person if he or she is in the authority's area and has been (a) identified by the authority as someone who has or may have special educational needs, or (b) brought to the authority's attention by any person as someone who has or may have special educational needs."

<sup>3</sup> Further information can be found in the [high needs national funding formula: technical note](#).

<sup>4</sup> A residential school or college placement, even for 52 weeks of the year, is educational provision and not a place where a child or young person lives, i.e. the child or young person will remain resident at their family home.

246. Where a child or young person moves from the area of one local authority into the area of another (for example, changes where they usually live), the 'new' local authority becomes responsible for meeting the statutory SEN duties.<sup>5</sup> If the child or young person already has an EHC plan, the 'old' local authority is required to transfer the EHC plan to the 'new' local authority on the day of the move, or within 15 working days of becoming aware of the move. The 'new' local authority then becomes wholly responsible for maintaining the plan and funding the specified educational provision. The 'new' local authority must review the EHC plan within 12 months of the plan being made or being reviewed by the old authority, or within 3 months of the plan being transferred (whichever is later). The 'new' local authority may conduct a new EHC needs assessment, regardless of when the previous EHC needs assessment took place, since local variations may mean that arrangements in the original EHC plan are no longer appropriate.

## Looked after children (LAC)

247. LAC are those who have been taken into care or who are being provided with accommodation by a local authority in its statutory role under the [Children Act 1989](#). More than half of LAC have some form of SEN, and it is likely that a significant proportion of them will have an EHC plan. A significant proportion of LAC live with foster parents or in a children's home, and attend schools in a different local authority to the local authority that looks after them. The [Care Planning, Placement and Case Review Regulations 2010](#) distinguish between the "responsible authority" (the local authority that looks after the child) and the 'area authority' (the local authority in which the child is placed). Local authorities who place LAC in another local authority's area (for example with foster parents) need to be aware of that authority's special education needs and disabilities (SEND) local offer if the children have special educational needs. Where an assessment for an EHC plan has been triggered, the assessment must be carried out by the authority where the child lives (is wholly or mainly resident), which may not be the same as the authority that looks after the child.<sup>6</sup> If a disagreement arises, the authority that looks after the child will act as the 'corporate parent' in any disagreement resolution.

248. When a local authority places a LAC with an EHC plan in another local authority's area (for example with foster parents), the local authority where the LAC lives (is wholly or mainly resident) becomes responsible for maintaining their EHC plan (including paying any top-up funding), in the same way as any child or young person who moves from one local authority's area to another.

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<sup>5</sup> See the [SEN Code of Practice](#), 9.157-9.162.

<sup>6</sup> This is set out in section 10.8 of the [SEN Code of Practice](#).

249. The policy intention behind this is that the local authority where the child lives knows their local schools and educational provision better, so they are better able to assess whether the child needs special educational provision on top of what is ordinarily available.

250. Inter-authority recoupment regulations permit the local authority where a LAC with an EHC plan lives to recoup the cost of primary or secondary education, which will include additional SEND educational provision (for example, top-up funding), from the placing local authority (the local authority responsible for looking after the child). Any place funding is covered through the funding formula, as described above. The recoupment regulations do not provide for recoupment of costs of further education provision and so costs of additional SEND provision for young people in further education cannot be recouped in this way. Details of how and when inter-authority claims for recoupment should be made are set out in the respective regulations.

## **Post-19 provision for young people accommodated under the Care Act 2014**

251. For a young person aged 19 to 25, the local authority where they live is responsible for conducting any EHC needs assessment, issuing an EHC plan where necessary, and for securing and funding that provision.

252. Children cease to be 'looked after' when they are over the age of 18 (some children will cease to be looked after at 16 or 17 and others will continue to be looked after until their 18th birthday). The [recoupment regulations](#) apply only to LAC (up to their 18<sup>th</sup> birthday), and so do not apply to those aged 19 or over. Once they are no longer looked after, the recoupment regulations no longer apply, meaning the local authority where the young person lives will need to meet the costs in the same way as for any other young person who lives in their area. Some care leavers will remain living with their former foster parents past their 18th birthday in 'Staying Put' arrangements, but they are no longer 'looked after'. The local authority which 'looked after' a child remains responsible for meeting their leaving care duties under the [Children Act 1989](#), regardless of where the young person may now be living in England or Wales.<sup>7</sup> This includes providing the young person with support for the expenses associated with living near where they are seeking work, working, or receiving education or training.

253. Decisions on adult social care placements may change the local authority responsible for making SEN provision. It is the department's view that, where a young adult is accommodated under the [Care Act 2014](#) in a residential adult social care

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<sup>7</sup> See section 23A(4) of the [Children Act 1989](#).

placement (as opposed to residential education) made on a long-term basis (for example, with the intention that it is to be permanent for the foreseeable future), it is likely to be considered to be a change in the adult's residence. Therefore, if a young person aged 19 to 25 has been accommodated under the Care Act 2014 in a permanent residential care placement in a different local authority area, it is likely they will have moved into the area of the 'new' local authority unless there are factors indicating otherwise. Therefore, for the purposes of the Children and Families Act 2014, the 'new' local authority would be responsible for securing and maintaining any EHC plan.

## Annex 3: Health and social care costs

254. Where a child or young person with SEN has relevant health or social care needs, these should be addressed within an EHC plan. Responsibility for securing the provision specified in the plan sits with the relevant statutory bodies: the local authority for education and social care provision, and either the Clinical Commissioning Group or (in some cases) NHS England for health provision.

255. The high needs block is intended to meet the educational costs of children and young people with special educational needs or who require alternative provision. The DSG may only be used for the purposes specified in the conditions of grant and School and Early Years Finance Regulations. This means that the high needs block may not be used to meet non-educational costs, except where specifically permitted. The costs of securing health provision (specified in section G of an EHC plan) should be met by either the Clinical Commissioning Group or NHS England. The costs of securing social care provision (specified in sections H1 and H2 of an EHC plan) should be met by the local authority from their social care budgets.

256. However, the Children and Families Act 2014 acknowledges that specific types of health or social care provision may be considered as education or training. This particularly applies to therapies such as speech and language therapy, physiotherapy and occupational therapy. The Children and Families Act 2014 requires that health or social care provision which educates or trains a child or young person must be treated as special educational provision. This means that it will be recorded in Section F of an EHC plan and will be treated as special educational provision and, therefore, in scope of the high needs budget. However, all decisions about whether health care provision or social care provision should be treated as special educational provision must be made on an individual basis.

257. While independent and non-maintained provision frequently offers integrated education, health and social care provision, only educational costs should be funded by the DSG. In some cases, the integrated package of support will be costed and charged through a single fee. In such cases the local authority should charge non-educational costs to the responsible partners. We would expect the relevant partners to have agreed the basis for the placement and its funding before it is confirmed (for example, before a final EHC plan is issued). The social care element of accommodating children with SEN in schools should be charged appropriately.

## Annex 4: other information

258. This section provides information that may be useful but is not covered in this guidance.

### Support funding through the ESFA adult education budget

259. Support funding is available through the ESFA adult funding methodology for learners aged 19 and above without an education, health and care (EHC) plan. Support funding (learning and learner support) enables providers to meet the additional needs of learners who may have certain barriers to start or complete their learning goal.

### Learning support

260. Learning support is available to meet the cost of putting in place a reasonable adjustment, as set out in the [Equality Act 2010](#), for learners and apprentices who have an identified learning difficulty or disability, to achieve their learning goal.

261. Learning support must not be used to deal with everyday difficulties that are not directly associated with a learner's or apprentice's learning on their programme.

262. Learning support will be earned at a fixed monthly rate if it has been reported in the individualised learning record (ILR) or claimed on the earnings adjustment statement.

### Exceptional learning support (ELS) claims above £19,000

263. Learners who need significant levels of support to start or continue learning can get access to ELS if their support costs more than £19,000 in a funding year.

264. Learners aged 19 to 24 requiring significant levels of support would normally be expected to have an EHC plan provided by their local authority and, therefore, would access funding from their local authority.

265. If a learner has support costs of more than £19,000 in a funding year, providers can claim ELS.

266. Providers must submit ELS claims at the beginning of the learner's programme, or when you identify the learner requires support costs more than £19,000 in a funding year, by completing and sending the [ELS claims document](#).

267. To claim ELS for a learner aged 19 to 24 you must confirm why the individual does not have an EHC plan. This should be a letter or email from the learner's local authority stating the reasons why the individual does not need an EHC plan.

## Learner support

268. Learner support is available to provide financial support for learners with a specific financial hardship preventing them from taking part or continuing in learning. Before providers award support to a learner or apprentice, you must identify their needs within:

- hardship funding: general financial support for vulnerable and disadvantaged learners
- 20+ childcare funding: for learners aged 20 or older on the first day of learning who are at risk of not starting or continuing learning because of childcare
- residential access funding: to support learners where they need to live away from home

269. Full details of support funding are contained within the [ESFA adult education budget guidance](#).

270. Information on the ESFA adult education budget funding and performance rules is available within the [adult education budget guidance](#).

271. The ESFA adult education budget will only apply to:

- individuals resident in areas of England outside of the devolved local authority areas undertaking ESFA funded AEB provision
- continuing AEB funded learners in England, including those resident in a devolved local authority area, who have not completed their learning by 31 July 2020
- learners resident in England attending providers who meet the specified criteria above and will be funded nationally in 2020 to 2021 and 2021 to 2022
- learners resident in England, including those resident in a devolved local authority area, undertaking a 19 to 24 traineeship programme

## Support funding through the apprenticeships funding methodology

272. Funding support for apprentices (all ages) is met by ESFA through the apprenticeship funding methodology. ESFA will provide learning support for apprentices to help with learning that affects their ability to continue and complete their apprenticeship. Learning support and Learner support for all age apprentices follow the [apprenticeship funding rules](#).

273. Apprentices (aged 16 to 24) with an EHC plan are able to access learning support and exceptional learning support as detailed in the apprenticeship funding rules.

274. Additionally, apprentices aged 16 to 18, and apprentices with an EHC plan, or care leavers aged 19 to 24, will qualify for an additional payment of £1000 towards

additional costs of training for both the provider and the employer. Full details are available in the 'additional payments' section of the apprenticeship funding rules.

275. More information on apprenticeships is available within the [further education and skills apprenticeships guidance](#).

## **Free meals for further education (FE) institutions**

276. Further information on free meals for [FE institutions can be found in 16 to 19 education: financial support for students](#) guidance. This includes information for institutions where the cost of meals is sometimes included as part of the package of support that is agreed with local authorities.

## **Special educational needs and disabilities (SEND) code of practice**

277. Local authorities, maintained schools and academies, general FE colleges, non-maintained schools and all independent special schools and special post-16 institutions on the section 41 approved list must have regard to the department's statutory guidance on the SEND system for children and young people aged 0 to 25.

## **Welsh students studying in English FE colleges**

278. The Welsh government may consider paying high needs funding for students from Wales studying in English FE colleges. The institution should assess the needs of the student and then contact the Welsh government to discuss payment of high needs place and top-up funding (elements 2 and 3). The funding through the 16 to 19 national funding formula (element 1) will be paid in the usual way direct by ESFA to colleges.

279. Institutions are not expected to recruit students from outside their normal recruitment area and should note that the Welsh government may decide not to make top-up payments for students at an English institution where suitable alternative provision (AP) is available nearer to their home.

## **Welsh pupils with high needs attending English schools**

280. English and Welsh local authorities continue to have a statutory basis for the recoupment of the costs of certain pupils with high needs who are attending schools across the border from where they live. The [inter-authority recoupment regulations](#) enable local authorities to recover the costs of pupils with EHC plans, pupils in special schools, and pupils in hospital education.

281. There are no equivalent statutory arrangements for pupils or students from other countries in the UK or elsewhere, and local authorities and institutions are able to negotiate the recovery of costs as they consider appropriate, taking account of other relevant legislation (such as the Equalities Act 2010).



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