



Education
Funding
Agency

Transitional protection for specialist provision

**Arrangements for academic year 2014 to
2015**

May 2014

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Introduction

1. Ministers and the Department for Education listened to issues raised by FE institutions, specialist post-16 institutions, (also known as independent specialist providers) and local authorities about the implementation of the High Needs Students (HNS) funding reform. Transitional protection for specialist provision was introduced in response to a specific concern that there might be a reduction in the number of students placed in specialist provision between 2013 and 2015 that, in turn, might result in a loss of capacity during the period when the reforms are bedding in.

2. We are offering a level of protection for specialist provision in specialist post-16 institutions and in eligible further education (FE) institutions over the two academic years 2013 to 2014 and 2014 to 2015. After this period, it is envisaged that the Children and Families Act will give parents and young people stronger rights to state a preference for where they want to study. Those FE institutions that potentially are eligible to receive transitional protection are listed in Annex A, which is based upon a review of final 2012 to 2013 academic year data that took place in November 2013.

3. The purpose of transitional protection is to protect specialist provision for students with high-cost low-incidence high needs. It will be only be paid in instances where the numbers of high needs places commissioned by local authorities in the 2014 to 2015 academic year are fewer than in the 2012 to 2013 academic year. We have consulted with Natspec and AoC in developing our approach to transitional protection for institutions that may be affected by such reductions.

4. This document sets out how transitional protection will work in the 2014 to 2015 academic year and gives examples of how institutions may be protected. We will communicate with institutions about the transitional protection arrangements through the [EFA e-bulletins](#), in addition to targeted email communication when we need to send information specific to institutions at the points indicated in the timeline.

5. Questions about the arrangements set out in this document should be addressed to your EFA territory mailbox:

- North - YPNorthern.EFA@education.gsi.gov.uk
- Central and South West - YPCentralSW.EFA@education.gsi.gov.uk
- South - YPSouthern.EFA@education.gsi.gov.uk

Payment and reconciliation of transitional protection funding in 2014 to 2015

Principles

6. In year two of the transitional protection arrangements, we will fund any reduction in the number of local authority commissioned high needs specialist provision places in the 2014 to 2015 academic year, when compared to the 2012 to 2013 academic year. Transitional protection will not be paid in the 2015 to 2016 academic year or beyond.

7. Institutions that did not require transitional protection in the 2013 to 2014 academic year may be eligible to receive transitional protection in the 2014 to 2015 academic year. However, it will be paid for one year only and at 80% of the institution's average 2012 to 2013 EFA funding rate per student.

8. Transitional protection will not protect differences between the 2012 to 2013 academic year EFA funding rate and the rates paid by local authorities for HNS placements commissioned in the 2014 to 2015 academic year. Places filled on a part-time or part-year basis are counted in the same way as full-time and full-year places for the purposes of calculating transitional protection.

9. The 2012 to 2013 academic year EFA Funding rate is based on education and training costs and does not include funding paid directly to the institution from other agencies such as health and social care.

10. Where an institution ceases to deliver some or all of its specialist provision directly and enters into new sub-contracting arrangements for the 2014/15 academic year, it should contact the appropriate EFA territorial mailbox listed in paragraph 5 to discuss how those placements should be accounted for within the transitional protection process.

11. In all cases institutions should adhere to the principles of funding set out in the [EFA 16 to 19 Funding Guidance for 2014 to 2015](#). Transitional protection funding can be used for a broad range of activities such as, but not limited to, restructuring the organisation, continuous staff professional development and the development of alternative provision such as shorter, intensive courses or day provision.

12. Transitional protection **CANNOT** be used to fund the recruitment of high needs students whose placements are not supported by their home local authority. Any additional enquiries about use of funds should be directed to the appropriate EFA territorial mailbox listed in paragraph 5. There are no plans to audit the transitional protection funds as a whole, however, all EFA funding is subject to audit and may be looked at as part of a sample during routine audit activity.

13. We will communicate directly with specialist post-16 institutions and eligible FE institutions to confirm data collection arrangements to support the calculation and reconciliation of transitional protection funding for the 2014 to 2015 academic year. A full timetable is provided on page 8 of this document.

14. We are aware that some specialist post-16 institutions are expanding their offer to students that are not high needs and we do not want to discourage this. Therefore, for the purposes of calculating transitional protection, we will only ask specialist post-16 institutions to confirm the number of high needs students at their institution.

15. Where a specialist post-16 institution has used transitional protection to broaden its offer to high needs students (e.g. offer traineeships to high needs students) it should contact the appropriate EFA territorial mailbox listed in paragraph 5 to discuss how those placements should be accounted for within the transitional protection process.

16. When calculating transitional protection funding, we will continue to deduct costs for Element 1 and Element 2 place funding allocated to institutions for the academic year 2014 to 2015, where this would otherwise represent double funding.

17. The principle underpinning transitional protection for specialist post-16 institutions and FE institutions is the same but there is a difference in the timing of the initial payment for specialist post-16 institutions. The reasons for this difference are:

- historical local authority commissioned education and training provision that attracts EFA funding at specialist post-16 institutions has been replaced by the new funding methodology and local authority commissioned provision that attracts EFA element 1 and 2 “place funding”, with significant funding from local authority element 3 “top up funding”; and
- specialist post-16 institutions have historically been paid on a different payment profile to FE institutions (termly rather than monthly), and due to the complex and profound learning difficulties and/or disabilities of students at specialist post-16 institutions this funding represents a higher percentage of revenue funding than the equivalent funding for FE institutions.

Payment and reconciliation for specialist post-16 institutions

18. All specialist post-16 institutions that received funding through the EFA placement budget in the 2012 to 2013 academic year are potentially eligible for transitional protection

19. In the 2014 to 2015 academic year, we will fund any reduction in the number of local authority commissioned HNS placements, when compared to the 2012 to 2013 academic year, at 80% of the institution’s 2012 to 2013 academic year EFA average funding rate per student.

20. We will make the first set of payments to specialist post-16 institutions in September 2014, based on an early 2014 to 2015 student count submitted to us by specialist post-16 institutions by 8th August 2014. We will issue a template to collect this information by 11th July 2014 .

21. We will collect in-year data on student numbers in November and use this to recalculate and pay any balance of transitional protection in January 2015. Accurate

data collection is vital to ensure transitional protection can be evidenced and paid correctly. All payments will be subject to data validation checks and contingency arrangements in the event of data collection problems.

22. Where a local authority HNS placement is filled after transitional protection has been calculated and then paid in January 2015, we will recover the transitional protection paid for that place. The principle of this funding is to protect unfilled places and we expect that once a place has been filled, the commissioning local authority will release appropriate funds from their Dedicated Schools Grant to support a student in that commissioned place. Historical data indicates that student recruitment after 1st November is very limited, and we expect that the requirement to recover funds will reflect this pattern. As a condition of transitional protection funding, we expect institutions to communicate to EFA any requirement to reduce or recover funds at the earliest opportunity.

23. Worked examples 1, 2 and 3 are provided below to illustrate how these arrangements will work in practice.

Payment and reconciliation for FE institutions

24. FE institutions potentially eligible for transitional protection have been identified as those with 20 or more students who required additional learning support (ALS) in excess of £19,000 and/or were funded as a specialist placement where the cost of the placement exceeded £19,000 in the 2012 to 2013 academic year. Those FE institutions potentially eligible to receive transitional protection are listed in Annex A. The list was finalised in December 2013 based on full 2012 to 2013 academic year data.

25. We will collect in-year data on student numbers in November and use this to calculate and pay transitional protection in January 2015. Accurate data collection is vital to ensure transitional protection can be evidenced and paid correctly. All payments will be subject to data validation checks and contingency arrangements in the event of data collection problems.

26. Where a local authority HNS placement is filled after transitional protection has been calculated and then paid in January 2015, we will recover the transitional protection paid for that place. The principle of transitional protection is to protect unfilled places and we expect that once a place has been filled, the commissioning local authority will release appropriate funds from their Dedicated Schools Grant to support a student in that place. As a condition of transitional protection funding, we expect institutions to communicate to EFA any requirement to reduce or recover funds at the earliest opportunity.

27. Worked example 4 is provided below to illustrate how these arrangements will work in practice.

Timeline for transitional protection in 2014 to 2015

Stages	Institutions concerned	By dates
EFA issues template to specialist post-16 institutions to enable early return of local authority commissioned 2014 to 2015 academic year HNS placements. Queries on template completion should be raised as early as possible.	Specialist post-16 institutions	11 July 2014
Specialist post-16 institutions return completed template confirming number of local authority commissioned 2014 to 2015 HNS placements to EFA.	Specialist post-16 institutions	8 August 2014
EFA calculates specialist post-16 institution transitional protection funding where applicable and issues contract variations.	Specialist post-16 institutions	13 August 2014
Deadline for return of contract variations by specialist post-16 institutions for inclusion in September 2014 payment run	Specialist post-16 institutions	29 August 2014
EFA pays specialist post-16 institutions who have returned signed original contract variations 50% of HNS transitional protection funding calculated	Specialist post-16 institutions	30 September 2014
EFA issues template to specialist post-16 institutions and FE institutions to make return of local authority commissioned 2014 to 2015 academic year HNS placements. Queries on template completion should be raised as early as possible.	FE & specialist post-16 institutions	5 November 2014
Specialist post-16 institutions and FE institutions return completed template confirming numbers of approved local authority commissioned 2014 to 2015 HNS placements to EFA	FE & specialist post-16 institutions	21 November 2014
EFA calculates transitional protection funding payable to specialist post-16 institutions and FE institutions and issues contract variations	FE & specialist post-16 institutions	26 November 2014
Deadline for return of contract variations by specialist post-16 institutions and FE institutions for inclusion in January 2015 payment run	FE & specialist post-16 institutions	12 December 2014
EFA pays transitional protection funding to specialist post-16 institutions and FE institutions who have returned signed original contract variations	FE / specialist post-16 institutions	31 January 2015
EFA reviews full-year recruitment data and	FE & specialist post-	December

Stages	Institutions concerned	By dates
communicate with FE institutions and specialist post-16 institutions any adjustments/recovery to be made	16 institutions	2015

Table 1 - Timeline for transitional protection in 2014 to 2015 academic year

Calculation and worked examples

Calculation of transitional protection funding for specialist post-16 institutions

A) The number of students in EFA funded placements in 2012 to 2013

Minus

B) The number of students funded by local authority commissioned HNS placements in 2014 to 2015

Equals

C) The number of unfilled HNS placements to receive transitional protection funding in 2014 to 2015

Multiplied by

D) The average funding rate of students in EFA funded placements in 2012 to 2013 (with any Element 1 or Element 2 deduction as set out in paragraph 16)

Equals

E) The transitional protection funding payable to specialist post-16 institutions in 2014 to 2015

Calculation of transitional protection funding for FE institutions

A) The number of students in EFA funded specialist placements costing £19,000 or above and/or whose additional learning support costs were £19,000 or above in 2012 to 2013

Minus

B) The number of students funded by local authority commissioned HNS placements that cost £19,000 or above in 2014 to 2015.

Equals

C) The number of unfilled HNS placements to receive transitional protection funding in 2014 to 2015

Multiplied by

D) The Average funding rate of students in EFA funded specialist placements costing £19,000 or above and/or whose additional learning support costs were £19,000 or above in 2012 to 2013 (with any Element 1 or Element 2 deduction as set out in paragraph 16)

Equals

E) The transitional protection funding payable in 2014 to 2015

Information sources used in the calculation

Information sources	Institutions concerned
Specialist post-16 institutions and FE institutions' own records of HNS placements and costs in academic year 2014 to 2015	FE / specialist post-16 institutions
EFA 2012 to 2013 academic year specialist post-16 institutions placements database containing EFA funded placements at specialist post-16 institutions.	Specialist post-16 institutions
EFA 2014 to 2015 academic year funding allocations statements (for Element 1 and 2 deductions where applicable)	FE / specialist post-16 institutions
Template returns containing numbers of 2014 to 2015 academic year approved local authority commissioned HNS placements	FE / specialist post-16 institutions
Individualised Learner Record (ILR) 2012 to 2013 academic year containing 2012 to 2013 high cost ALS (over £19,000)	FE institutions
EFA 2012 to 2013 academic year records for specialist placements over £19,000 in FE institutions (Annex 4 provision)	FE institutions

Table 2 – Information sources used in the calculation

Worked Example 1 - specialist post-16 institution

A specialist post-16 institution records a higher number of HNS placements in its November data than is recorded in its August template return. The impact is a reduction in transitional protection payable, which is taken into account when the second payment is made in January 2015.

	Transitional Protection funding example 1, stage 1	September 2014	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	100	Number comes from our specialist post-16 institution placements database reconciled at November 2013

B	Number of students funded by local authority commissioned HNS placements in 2014 to 2015	80	Number provided to us by specialist post-16 institution during August using the template
C	Number of unfilled placements to receive transitional protection funding in 2014 to 2015	20	$A - B = C$
D	80% of average funding rate of students funded by EFA placement budget in 2012 to 2013	£50,000	Amount comes from our specialist post-16 institution placements database reconciled at November 2013.
E	Transitional protection funding payable in 2014 to 2015	£1,000,000	$C \times D = E$ There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)
F	Transitional protection to be paid in September 2014 (50% of total due)	£500,000	Half of the estimated transitional protection funding calculated at this point is paid in September

	Transitional Protection funding example 1, stage 2	January 2015	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	100	Number comes from our specialist post-16 institution placements database reconciled at November 2013
B	Number of students funded by local authority commissioned HNS placements in 2014 to 2015	83	In-year data collection confirms the number of HNS placements in 2014 to 2015, which is an increase of 3 students on the August template return in this example

C	Number of unfilled placements to receive transitional protection funding in 2014 to 2015	17	As a result, in this example, the number of unfilled HNS placements to be protected changes by -3 between August and the year-end reconciliation
D	80% of average funding rate of students funded by EFA placement budget in 2012 to 2013	£50,000	Amount comes from our specialist post-16 institution placements database reconciled at November 2013.
E	Transitional protection funding payable in 2014 to 2015	£850,000	In this example, the amount of transitional protection calculated for 2014 to 2015 changes in January due to the reduction in placements to be protected. There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)
F	Balance of transitional protection funding to be paid in January 2015	£350,000	As £500,000 of the new total of £850,000 was paid in September, a balance of £350,000 is paid to the specialist post-16 institutions in January.

Worked Example 2 – specialist post-16 institution

A specialist post-16 institution records a higher number of HNS placements in its November data than is recorded in its August template return. The impact is a recovery of the transitional protection paid in September. There are no unfilled places to be protected because recruitment to HNS placements is at the same level as in the 2012 to 2013 academic year.

	Transitional Protection funding example 2, stage 1	September 2014	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	5	Number comes from our specialist post-16 institution placements database reconciled at November 2013

B	Number of students funded by local authority commissioned HNS placements in 2014 to 2015	4	Number provided to us by specialist post-16 institution during August using the template
C	Number of unfilled HNS placements to receive transitional protection funding in 2014 to 2015	1	$A - B = C$
D	80% of average funding rate of students funded by EFA placement budget in 2012 to 2013	£60,000	Amount comes from our specialist post-16 institution placements database reconciled at November 2013.
E	Transitional protection funding payable in 2014 to 2015	£60,000	$C \times D = E$ There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)
F	Transitional protection to be paid in September 2014 (50% of total due)	£30,000	Half of the estimated transitional protection funding calculated at this point is paid in September

	Transitional Protection funding example 2, stage 2	January 2015	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	5	Number comes from our specialist post-16 institution placements database reconciled at November 2013
B	Number of students funded by local authority commissioned HNS placements in 2014 to 2015	5	In-year data collection for the specialist post-16 institution confirms the number of placements in 2014 to 2015, which is an increase of one part-year student on the August template return in this example

C	Number of unfilled placements to receive transitional protection funding in 2014 to 2015	0	Following in-year data collection, there are no unfilled HNS placements to be protected
D	80% of average funding rate of students funded by EFA placement budget in 2012 to 2013	£60,000	Amount comes from our specialist post-16 institution placements database reconciled at November 2013.
E	Transitional protection funding payable in 2014 to 2015	£0	The amount of transitional protection calculated for 2014 to 2015 changes in January due to the reduction in placements to be protected There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)
F	Balance of transitional protection funding to be paid in January 2015	- £30,000	Because £30,000 was paid in September, we make arrangements with the specialist post-16 institution to recover this amount as the place has been filled and will be funded by the commissioning local authority.

Worked Example 3 – specialist post-16 institution

A specialist post-16 institution records a higher number of HNS placements in its in-year data collection than is recorded in its August template return. The overall impact is a reduction in transitional protection payable, which is taken into account when the second payment is made in January 2015. It is identified later that an additional HNS placement was filled after the point at which January payments were calculated and a recovery of transitional protection funding for this placement is required.

	Transitional Protection funding example 3, stage 1	September 2014	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	70	Number comes from our specialist post-16 institution placements database reconciled at November 2013

B	Number of students funded by local authority commissioned high needs student placements in 2014 to 2015	65	Number provided to us by specialist post-16 institution during August using the template
C	Number of unfilled high needs student placements to receive transitional protection funding in 2014 to 2015	5	$A - B = C$
D	80% of average funding rate of students funded by EFA placement budget in 2012 to 2013	£40,000	Amount comes from our specialist post-16 institution placements database reconciled at November 2013.
E	Transitional protection funding payable in 2014 to 2015	£200,000	$C \times D = E$ There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)
F	Transitional protection to be paid in September 2014 (50% of total due)	£100,000	Half of the estimated transitional protection funding calculated at this point will be paid in September

	Transitional Protection funding example 3, stage 2	January 2015	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	70	Number comes from our specialist post-16 institution placements database reconciled at November 2013
B	Number of students funded by local authority commissioned HNS placements in 2014 to 2015	66	In-year data collection for the specialist post-16 institution confirms the number of placements in 2014 to 2015, which is an increase of 1 student on the August template return in this example

C	Number of unfilled placements to receive transitional protection funding in 2014 to 2015	4	As a result, in this example, the number of unfilled HNS placements to be protected changes by -1 between August and the November template
D	80% of average funding rate of students funded by EFA placement budget in 2012 to 2013	£40,000	Amount comes from our specialist post-16 institution placements database reconciled at November 2013.
E	Transitional protection funding payable in 2014 to 2015	£160,000	In this example, the amount of transitional protection calculated for 2014 to 2015 changes in January due to the reduction in HNS placements to be protected and the change to the average funding rate. There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)
F	Balance of transitional protection funding to be paid in January 2015	£60,000	As £100,000 of the new total of £160,000 was paid in September, a balance of £60,000 remains to be paid in January.

Transitional Protection funding recovery, example 3, stage 3	April 2015	Explanation
Number of students affected by recovery of transitional protection funding after January 2015	1 x £40,000	The specialist post-16 institution reports that an additional part-year local authority commissioned HNS placement student has been recruited after the in-year data collection. This reduces the number of unfilled HNS placements to three and reduces transitional protection by 1 x £40,000. We make arrangements with the specialist post-16 institution to recover this amount as the place has been filled and will be funded by the commissioning local authority.

Worked Example 4 – FE institution

An FE institution records a lower number of students funded by local authority commissioned HNS placements of £19,000+ at the point of calculating the January payment than the equivalent number of EFA funded students recorded for 2012 to 2013 academic year. The institution receives a transitional protection funding payment in January reflecting the number of unfilled HNS placements over £19,000 that this represents. It is identified later that an additional HNS placement was recruited above the number recorded at the point of the January 2014 payment calculation and a recovery of transitional protection funding for this placement is required.

	Transitional Protection funding example 4, stage 1	January 2015	Explanation
A	Number of students funded by EFA specialist placement (Annex 4) and/or ALS over £19,000 in 2012 to 2013	30	Number comes from 2012 to 2013 ILR R14 final return and reconciliation of EFA funded specialist placements (Annex 4)
B	Number of students funded by local authority commissioned high needs student placements of £19,000 or more in 2014 to 2015	25	In-year data collection confirms the number of placements in 2014 to 2015
C	Number of unfilled HNS placements to receive transitional protection funding in 2014 to 2015	5	$A - B = C$
D	80% of average funding rate of students funded by EFA specialist placement (Annex 4) in 2012 to 2013 and/or ALS over £19,000	£27,000	Amount comes from 2012 to 2013 ILR R14 final return and reconciliation of EFA funded specialist placements (Annex 4)
E	Transitional protection funding paid in January 2015	£135,000	$C \times D = E$ There may be an Element 1 or Element 2 deduction at this point, as required (set out in paragraph 16)

Transitional Protection funding recovery, example 4, stage 2	May 2015	Explanation
Number of students affected by recovery of transitional protection funding after January 2015	1 x £27,000	The FE institution reports that an additional local authority commissioned HNS student placement of £19,000+ has been recruited after the point at which the January 2015 payment was calculated. This reduces the number of unfilled HNS placements to four and reduces transitional protection by 1 x £27,000. We arrange recovery of this amount with the FE institution, as the place has been filled and will be funded by the commissioning local authority.

Annex A – List of Eligible FE Institutions

Those FE institutions eligible to receive transitional protection are listed below. The list was finalised in December 2013 based on the full 2012 to 2013 academic year data.

Abingdon and Witney College
Barnet and Southgate College
Bedford College
Birmingham Metropolitan College
Bridgwater College
Chelmsford College
City College, Norwich
City College, Plymouth
City of Wolverhampton College
East Durham College
Easton and Otley College
Hackney Community College
Hertford Regional College
Leeds City College
Leicester College
Newcastle College
North Hertfordshire College
Oaklands College
Southend-on-Sea Borough Council
St John Rigby Roman Catholic Sixth Form College
St Vincent College
Totton College
Truro and Penwith College
W S Training
Walsall College
West Nottinghamshire College
Weston College



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