

SCHEDULE 1: SPECIFICATION & MONITORING

NON-MAINTAINED SPECIAL SCHOOL SPECIFICATION

Definitions

Pre 16 Education Definitions

<p>“Education, Health and Care Plan”</p> <p>“EHC Plan”</p>	<p>Means a plan as defined in section 37(2) of the Children and Families Act 2014 (legislation.gov.uk)</p>
<p>“High Needs Funding Guidance”</p>	<p>Means High needs funding arrangements: 2023 to 2024 - GOV.UK (www.gov.uk)</p>
<p>“NMSS Regulations”</p>	<p>Means the Non-Maintained Special School (England) Regulations 2015</p> <p>The Non-Maintained Special Schools (England) Regulations 2015 (legislation.gov.uk)</p> <p>Non-Maintained Special Schools Regulations 2015 - GOV.UK (www.gov.uk)</p>
<p>“Non-Maintained Special Schools: Intervention and Accountability”</p>	<p>Means Non-maintained special schools: intervention and accountability - GOV.UK (www.gov.uk)</p>
<p>“PE and Sport Premium”</p>	<p>Means Pupil premium and other school premiums - GOV.UK (www.gov.uk)</p>
<p>“PE and Sport Premium Conditions of Grant”</p>	<p>Means Pupil premium and other school premiums - GOV.UK (www.gov.uk)</p>
<p>“Pre 16 Education”</p>	<p>Means special educational provision for pupils up to and including year 11</p>
<p>“Pupil Premium”</p>	<p>Means Pupil premium - GOV.UK (www.gov.uk)</p>

“Pupil Premium: Conditions of Grant (NMSS)”	Means Pupil premium: allocations and conditions of grant 2023-24 - GOV.UK (www.gov.uk)
“Qualifications”	Means the ESFA List of Qualifications approved for funding 14-19 Overview - List of Qualifications approved for funding (education.gov.uk)
“Recovery Premium Funding”	Means Recovery premium funding - GOV.UK (www.gov.uk)
“Recovery Premium Funding: Conditions of Grant”	Means Coronavirus (COVID-19) recovery premium funding: allocations and conditions of grant 2023/24 - GOV.UK (www.gov.uk)
“National Tutoring Programme”	Means National Tutoring Programme: guidance for schools, academic year 2023/24 - GOV.UK (www.gov.uk)
“National Tutoring Programme: Conditions of Grant”	Means National Tutoring Programme (NTP) grant funding: conditions of grant for 2022 to 2023 academic year - GOV.UK (www.gov.uk)
“SEND Code of Practice”	Means SEND code of practice: 0 to 25 years - GOV.UK (www.gov.uk)
“Special Education Provision”	Means educational or training provision that is additional to, or different from that made generally available for others of the same age.
“Teachers’ Pay Grant: Conditions of Grant”	Means Teachers’ pay grant: allocations for 2022 to 2023 financial year - GOV.UK (www.gov.uk)
“Universal Infant Free School Meals: Conditions of Grant”	Means Free school meals (FSM) funding - GOV.UK (www.gov.uk)

16-19 Education Definitions

<p>“16 to 19 Education Financial Support for Students Advice”</p>	<p>Means 16 to 19 education: financial support for students - GOV.UK (www.gov.uk)</p>
<p>“16 to 19 Education: Funding Allocations Supporting Documents”</p>	<p>Means 16 to 19 funding: allocations - GOV.UK (www.gov.uk) 16 to 19 funding allocations supporting documents for 2023 to 2024 - GOV.UK (www.gov.uk)</p>
<p>“16 to 19 Education: Funding Guidance”</p>	<p>Means 16 to 19 education: funding guidance - GOV.UK (www.gov.uk)</p>
<p>“16 to 19 Student Support Funding Guidance”</p>	<p>Means 16 to 19 Bursary Fund guide 2023 to 2024 academic year - GOV.UK (www.gov.uk) Free meals in further education funded institutions guide 2023 to 2024 academic year - GOV.UK (www.gov.uk) Residential Bursary Fund 2023 to 2024 - GOV.UK (www.gov.uk) Residential Support Scheme 2023 to 2024 academic year - GOV.UK (www.gov.uk)</p>
<p>“16-19 Tuition Fund”</p>	<p>Means funding provided to support small group tuition for 16 to 19 students in English, maths and other courses where learning has been disrupted.</p>
<p>“16-19 Tuition Fund Guidance”</p>	<p>Means 16 to 19 tuition fund 2023 to 2024 - GOV.UK (www.gov.uk)</p>
<p>“Education, Health and Care Plan” “EHC Plan”</p>	<p>Means a plan as defined in section 37(2) of the Children and Families Act 2014 (legislation.gov.uk)</p>

“Funding Rates and Formula Guidance”	Means Funding rates and formula - GOV.UK (www.gov.uk)
“Funding Regulations”	Means Funding Guidance for Young People 2023 to 2024 Advice: funding regulations for post-16 provision - GOV.UK (www.gov.uk)
“High Needs Funding Guidance”	Means High needs funding arrangements: 2023 to 2024 - GOV.UK (www.gov.uk)
“Maths and English Condition of Funding Guidance” and “Condition of Funding”	Means 16 to 19 funding: maths and English condition of funding - GOV.UK (www.gov.uk)
“matrix Standard”	Means The matrix Standard Business Accreditation Standard
“Qualifications”	Means the ESFA List of Qualifications approved for funding 14-19 Overview - List of Qualifications approved for funding (education.gov.uk)
“SEND Code of Practice”	Means SEND code of practice: 0 to 25 years - GOV.UK (www.gov.uk)
“Student Bursary Support Service (SBSS)”	Means Student Bursary Support Service (education.gov.uk)
“Study Programme”	Means a Learning Programme designed for an individual Learner aimed at supporting their development and progression in line with their aspirations for sustainable paid work, further or higher education, an apprenticeship or traineeship-type provision. 16 to 19 study programmes: guide for providers - GOV.UK (www.gov.uk)

<p>“Sub-Contracting Funding Rules”</p>	<p>Means Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) - GOV.UK (www.gov.uk)</p>
<p>“Teachers’ Pay Grant: Conditions of Grant”</p>	<p>Means Teachers’ pay grant: allocations for 2022 to 2023 financial year - GOV.UK (www.gov.uk)</p>
<p>“Teachers’ Pension Scheme Increased Employer Contributions”</p>	<p>Means Teachers’ pension scheme employer contribution grant: further education providers - GOV.UK (www.gov.uk)</p>
<p>“Traineeships Funding Guidance”</p>	<p>Means ESFA funded 16 to 18 traineeships - GOV.UK (www.gov.uk)</p>
<p>“Universal Infant Free School Meals: Conditions of Grant”</p>	<p>Means Free school meals (FSM) funding - GOV.UK (www.gov.uk)</p>

Background

1. NMSS are specially set up to offer Special Education Provision to children and young people with complex special educational needs and disabilities (SEND) requiring EHC Plans.
2. The High Needs element of the funding system supports provision for children and young people with SEND from their early years until they reach the age of 25, enabling both local authorities and institutions to meet their statutory duties under the [Children and Families Act 2014 \(legislation.gov.uk\)](http://legislation.gov.uk).
3. The funding for the supply of these Services in respect of High Needs Learners by the NMSS is provided by both the Department and the local authority which is responsible for maintaining the Pupil’s EHC Plan.
4. Top-up funding is funding that the local authority and the NMSS agree is required above the place funding detailed at paragraph 3 above for each Learner to meet the total cost of education provision required by a High Needs Pupil and a High Needs Learner as assessed by the commissioning local authority. A separate agreement will be entered

into by the local authority and the NMSS, where appropriate, to specify the terms and conditions governing any top-up funding paid by the local authority to the NMSS.

5. The legal bases for these Services are Section 14 Education Act 2002.
6. The documents listed in the Definitions of this Schedule for Pre 16 Education are those documents produced by the Department which constitute the Regulations for these Services.
7. The documents listed in the Definitions of this Schedule for 16-19 Education are those documents produced by the Department which constitute the Funding Rules for these Services.

The Services

8. The Services to be delivered under this Agreement are to be provided to High Needs Pupils and High Needs Learners.
9. In accordance with the terms of this Agreement, for each school place allocated based on the October 2019 School Census data to a High Needs Pupil and a High Needs Learner, the Department will pay the NMSS £10,000 per annum.
10. The payment referred to under paragraph 9 is the only payment the Department will make to the NMSS under this Agreement unless the NMSS qualifies for an additional payment under paragraphs 23 to 29 and 36 to 39 of this Schedule.

Services Commencement and Duration

11. Non-Maintained Special School Services Start Date: 1st August 2023
12. Non-Maintained Special School Services Expiry Date: 31st July 2024

Service Requirements

Admissions

13. The NMSS shall admit eligible High Needs Pupils and Learners onto these Services from the Services Start Date.
14. The NMSS shall not admit High Needs Pupils and Learners onto these Services after the Services Expiry Date.
15. Subject to the provisions of the [Children and Families Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/26), the NMSS must admit all children and young people with an Education, Health and Care Plan naming the NMSS.
16. The NMSS must have regard to the SEND Code of Practice.

Outputs

Non-Maintained Special School Delivery

Pre 16 Education

17. The NMSS will deliver eligible Pre 16 Education to High Needs Pupils as set out in the NMSS Regulations for the Funding Year.
18. The NMSS will take steps to ensure it spends the allocated funding in the Funding Year.
19. The NMSS will maintain evidence of the delivery of the Services to support the information provided in the School Census. In all circumstances the NMSS must retain attendance and enrolment records.
20. The NMSS is responsible for the curriculum but must ensure that the curriculum provided to High Needs Pupils is balanced and broadly based, and includes English, mathematics, science.
21. The NMSS must make arrangements to ensure, as far as practicable, that every High Needs Pupil receives religious education and attends religious worship as required by the NMSS Regulations.
22. The NMSS must make arrangements to ensure that all High Needs Pupils provided with a secondary education receives sex education as required by the NMSS Regulations.
23. Where the NMSS is in receipt of PE and Sport Premium, the NMSS will deliver the PE and Sport Premium to the requirements set out in PE and Sport Premium: Conditions of Grant.
24. Where the NMSS is in receipt of Pupil Premium, the NMSS will deliver the Pupil Premium to the requirements set out in Pupil premium: Conditions of Grant (NMSS).
25. Where the NMSS is in receipt of Recovery Premium Funding, the NMSS will deliver the Recovery Premium Funding to the requirements set out in the Recovery Premium Funding: Conditions of Grant.
26. Where the NMSS is in receipt of Universal Infant Free School Meals, the NMSS must comply with the Universal Infant Free School Meals: Conditions of Grant.
27. Where the NMSS is in receipt of funding for the National Tutoring Programme, the NMSS must comply with the National Tutoring Programme: Conditions of Grant.
28. Where the NMSS is in receipt of the Teachers' Pay Grant, the NMSS must comply with the Teachers Pay Grant: Conditions of Grant.

29. Where eligible, the NMSS will receive a grant for Teachers' Pension Scheme Increased Employer Contributions, this is additional funding to support increased employer pension contributions for this Funding Year.

16 to 19 Education Delivery

30. The NMSS will deliver an eligible Study Programme to High Needs Pupils and High Needs Learners as set out in the Funding Regulations for the Funding Year.
31. The NMSS will take steps to ensure as many High Needs Learners as possible achieve their Study Programmes. The Department will monitor the achievement rate as part of an overall risk assessment.
32. The NMSS will take steps to ensure it spends the allocated funding in the Funding Year.
33. The NMSS will maintain evidence of the delivery of the Services to High Needs Pupils and High Needs Learners as set out in the Funding Regulations.
34. For any traineeships started on or before 31 July 2023, and where the NMSS delivers traineeships to High Needs Pupils and High Needs Learners, delivery must meet the requirements set out in the Traineeships Funding Guidance. From 1 August 2023 the standalone traineeship programme will come to an end and traineeships will be integrated back into the Study Programme, which will fund traineeship-type provision from this date.
35. As set out in the Maths & English Condition of Funding Guidance, the NMSS must ensure High Needs Pupils and High Needs Learners study maths and/or English as part of their Study Programme in each academic year where the High Needs Learners are:
- a. aged 16 to 18 who do not hold a GCSE grade 9 to 4, A* to C (a standard pass grade) or an equivalent qualification in these subjects; and
 - b. doing a programme of 150 hours or more, which started on or after 1 August 2014.
36. Where the High Needs Pupils and High Needs Learners are aged 16 to 19 are eligible, the NMSS will support them to take part in their Study Programme through the provision of bursary funding, including for free meals and accommodation as set out in the 16 to 19 Student Support Funding Guidance and 16 to 19 Education Financial Support for Students Advice.
- a. 16 to 19 Bursary Fund – provision of financial support to help High Needs Pupils and High Needs Learners overcome specific barriers to participation so they can

- remain in education. This can be either through the bursary for defined vulnerable groups or through the discretionary bursary;
- b. Free meals in further education – the provision of free meals to eligible High Needs Pupils and High Needs Learners;
 - c. Residential Bursary Fund – provision of support towards accommodation costs for eligible High Needs Pupils and High Needs Learners participating in a designated specialist subject area, e.g. land-based Study Programmes, which it is too far to travel to each day; and
 - d. Residential Support Scheme – provision of support towards accommodation costs for eligible High Needs Pupils and High Needs Learners who cannot access the same or similar substantial Level 2 or Level 3 Qualification within a reasonable daily travelling distance.
37. Where the financial support is for a bursary for an eligible High Needs Pupil or a High Needs Learner in a defined vulnerable group, the NMSS must access such support for the eligible Learner from the Student Bursary Support Service (SBSS), as set out in the 16 to 19 Student Support Guidance and 16 to 19 Education Financial Support for Students Advice.
 38. The NMSS will support eligible High Needs Pupils and High Needs Learners via High Needs Funding as set out in the High Needs Funding Guidance and SEND Code of Practice. This supports Services for Learners with special educational needs and disabilities (SEND) until they turn 19.
 39. Where the NMSS is engaged in the delivery of activity funded through the 16-19 Tuition Fund, the NMSS must comply with the requirements set out in the 16-19 Tuition Fund Guidance.
 40. The NMSS must provide high quality and easily accessible information and advice in helping High Needs Pupils and High Needs Learners to understand the opportunities and support available to them about education, training or connected matters (including employment);
 - a. Where one of the main objectives of the Provision to be provided under this Agreement is to deliver information and advice, the NMSS will have to have or attain the matrix Standard accreditation within the Funding Year; and
 - b. If the information and advice is embedded as part of the delivery of the Provision the NMSS must work towards achieving the matrix Standard accreditation within the Funding Year.
 - c. Where the Provision is delivered by a sub-contractor on behalf of the NMSS, the requirements set out in sub-paragraphs 40.a and 40.b must be applied to the sub-contractor. This does not apply where the NMSS retains responsibility for the delivery of

information and advice to the High Needs Pupils and High Needs Learners.

- d. Once achieved, matrix Standard accreditation is valid for three years. The NMSS must continue to demonstrate their continuous improvement via annual continuous improvement checks with the matrix Standard assessor.

Non-Maintained Special School Delivery Administration

41. The NMSS will submit Pupil Data to the Department to comply with Clause 21, Submission of Pupil Data.
42. The NMSS must keep the Department informed of any changes to their bank details.
43. In addition to the obligations set out in Clause 30, Sub-Contracting, the NMSS will adhere to the requirements set out in the Sub-Contracting Controls.
44. The NMSS will deliver the Services in a way that ensures:
 - a. Value for money;
 - b. The protection of public funds;
 - c. The effective delivery of a high-quality service for High Needs Pupils and High Needs Learners appropriate to their needs; and
 - d. Meets the public benefit test.

The Department

45. The Department will pay for the Services as set out in Schedule 2, Non-Maintained Special School Education Payments.
46. The Department will monitor the Services as set out in Schedule 1B, Non-Maintained Special School Education Monitoring.

SCHEDULE 1B: MONITORING

NON-MAINTAINED SPECIAL SCHOOL MONITORING

Intervention and Accountability

1. The Department will intervene if an NMSS is under-performing or failing as set out in Non-Maintained Special Schools: Intervention and Accountability and as amended from time to time.

Non-maintained Special School Delivery Reconciliation

2. Payments from the Department will be reconciled to the volume of High Needs Pupils and High Needs Learners supported and cash earned by the actual delivery of the Services for the period to the timetable published in the Funding Guidance. Where the NMSS's actual delivery will result or has already resulted in an overpayment to the NMSS by the Department, the Department reserves the right to deduct the amount owed from payments due to the NMSS under the Agreement or any other Agreement between the Parties, for current or subsequent months or years accordingly.
3. Where the NMSS's actual delivery has resulted in an underpayment to the NMSS by the Department, the Department is under no obligation to provide additional funding or to adjust the amount due to the NMSS accordingly. Any adjustment shall not exceed the overall maximum agreement value set out in Schedule 2, Non-Maintained Special Schools Payments.
4. A review will take place at the end of the period of this Agreement in respect of the Provision specified in Schedule 1, Non-Maintained Special Schools Specification. The Department will notify the NMSS of the volume and value of the Study Programmes delivered and compare this to the total funding paid under this Agreement as specified in Schedule 2, Non-Maintained Special Schools Payments. At this stage the Department reserves the right to conduct a final cash reconciliation. Any overpayment made to the NMSS by the Department will be repayable within 30 days of receiving an invoice. The Department reserves the right to reduce future payments to recover any overpayments. The Department is under no obligation to pay any additional funding above the overall maximum agreement allocation value specified in Schedule 2, Non-Maintained Special Schools Payments.

SCHEDULE 2: PAYMENT

NON-MAINTAINED SPECIAL SCHOOL EDUCATION PAYMENTS

1. The Department will make the payments set out in the Funding Agreement to this Schedule.
2. All payments by the Department for these Services will be made via BACS on or before the 20th of the month.
3. Under Item 5A to Group 6 of Schedule 9 of the VAT Act 1994, the supply of education or vocational training funded by the Department and the supply by the person providing that education or vocational training, of any goods or services essential to that provision, is considered to be an exempt supply for VAT purposes. The Department is generally unable to recover any Value Added Tax charged. The maximum funding payable under this Agreement, as set out in the Funding Agreement of this Schedule is inclusive of all of the costs of the Service including, but not limited to, and any other VAT or taxes to be charged, where they apply.

Funding Agreement

4. The following Funding Agreement sets out the funding available for these Services (except where the Services are accessed by students via the SBSS).