

## **SCHEDULE 2: SPECIFICATION & MONITORING**

This Schedule 2 comprises Schedule 2A which sets out the specification for the Services to be provided by the NMSS and Schedule 2B which sets out the circumstances in which the Department will intervene in the provision of those Services.

### **Schedule 2A: NON-MAINTAINED SPECIAL SCHOOL SPECIFICATION**

#### **Definitions specific to the Services**

In addition to the definitions in Schedule 1, the following capitalised words shall have the following meanings:

<b>“16 to 19 Education Financial Support for Students Advice”</b>	Means <a href="https://www.gov.uk">16 to 19 education: financial support for students - GOV.UK (www.gov.uk)</a>
<b>“16 to 19 Education: Funding Allocations Supporting Documents”</b>	Means <a href="https://www.gov.uk">16 to 19 funding: allocations - GOV.UK (www.gov.uk)</a> and <a href="https://www.gov.uk">16 to 19 funding allocations supporting documents for 2024 to 2025 - GOV.UK (www.gov.uk)</a> which form part of the Funding Rules.
<b>“16 to 19 Education: Funding Guidance”</b>	Means <a href="https://www.gov.uk">16 to 19 education: funding guidance - GOV.UK (www.gov.uk)</a>
<b>“16 to 19 Student Support Funding Guidance”</b>	Means <a href="https://www.gov.uk">16 to 19 Bursary Fund guide 2024 to 2025 academic year - GOV.UK (www.gov.uk)</a> <a href="https://www.gov.uk">Free meals in further education funded institutions guide 2024 to 2025 academic year - GOV.UK (www.gov.uk)</a> <a href="https://www.gov.uk">Residential Bursary Fund Guide: Academic year 2024 to 2025 - GOV.UK (www.gov.uk)</a> <a href="https://www.gov.uk">Residential Support Scheme guide: academic year 2024 to 2025 - GOV.UK (www.gov.uk)</a>

<p><b>“Education, Health and Care Plan”</b></p> <p><b>“EHC Plan”</b></p>	<p>Means a plan as defined in section 37(2) of the <a href="https://www.legislation.gov.uk">Children and Families Act 2014 (legislation.gov.uk)</a></p>
<p><b>“Funding Rates and Formula Guidance”</b></p>	<p>Means <a href="https://www.gov.uk">Funding rates and formula - GOV.UK (www.gov.uk)</a> which form part of the Funding Rules.</p>
<p><b>“Funding Regulations”</b></p>	<p>Means <a href="https://www.gov.uk">Funding guidance for young people 2024 to 2025 rates and formula - GOV.UK (www.gov.uk)</a> <a href="https://www.gov.uk">Advice: funding regulations for post-16 provision - GOV.UK (www.gov.uk)</a></p>
<p><b>“High Needs Funding Guidance”</b></p>	<p>Means <a href="https://www.gov.uk">High needs funding arrangements: 2024 to 2025 - GOV.UK (www.gov.uk)</a> which form part of the Funding Rules.</p>
<p><b>“NMSS Regulations”</b></p>	<p>Means <a href="https://www.legislation.gov.uk">The Non-Maintained Special Schools (England) Regulations 2015 (legislation.gov.uk)</a> <a href="https://www.gov.uk">Non-Maintained Special Schools Regulations 2015 - GOV.UK (www.gov.uk)</a></p>
<p><b>“Non-Maintained Special Schools: Intervention and Accountability”</b></p>	<p>Means <a href="https://www.gov.uk">Non-maintained special schools: intervention and accountability - GOV.UK (www.gov.uk)</a></p>
<p><b>“PE and Sport Premium”</b></p>	<p>Means <a href="https://www.gov.uk">Pupil premium and other school premiums - GOV.UK (www.gov.uk)</a></p>
<p><b>“PE and Sport Premium Conditions of Grant”</b></p>	<p>Means <a href="https://www.gov.uk">Pupil premium and other school premiums - GOV.UK (www.gov.uk)</a></p>
<p><b>“Pupil Premium”</b></p>	<p>Means <a href="https://www.gov.uk">Pupil premium - GOV.UK (www.gov.uk)</a></p>

<b>“Pupil Premium: Conditions of Grant (NMSS)”</b>	Means <a href="https://www.gov.uk/pupil-premium-2024-to-2025-conditions-of-grant-for-non-maintained-special-schools-nmss">Pupil premium 2024 to 2025: conditions of grant for non-maintained special schools (NMSS) - GOV.UK (www.gov.uk)</a>
<b>“Qualifications”</b>	Means the ESFA List of Qualifications approved for funding 14 to 19 <a href="https://www.education.gov.uk/overview-list-of-qualifications-approved-for-funding">Overview - List of Qualifications approved for funding (education.gov.uk)</a>
<b>“SEND”</b>	Means special educational needs and disabilities
<b>“SEND Code of Practice”</b>	Means <a href="https://www.gov.uk/send-code-of-practice-0-to-25-years">SEND code of practice: 0 to 25 years - GOV.UK (www.gov.uk)</a>
<b>“Services Expiry Date”</b>	Has the meaning in Paragraph 13.
<b>“Services Start Date”</b>	Has the meaning in Paragraph 12.
<b>“Special Educational Provision”</b>	Has the meaning set out in section 21(1) of the Children and Families Act 2014.
<b>“Student Bursary Support Service (SBSS)”</b>	Means <a href="https://www.education.gov.uk/student-bursary-support-service">Student Bursary Support Service (education.gov.uk)</a>
<b>“Study Programme”</b>	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 or an apprenticeship. <a href="https://www.gov.uk/16-to-19-study-programmes-guide-for-providers">16 to 19 study programmes: guide for providers - GOV.UK (www.gov.uk)</a>
<b>“Teachers’ Pay Additional Grant: Conditions of Grant”</b>	Means <a href="https://www.gov.uk/teachers-pay-additional-grant-2024-to-2025">Teachers' pay additional grant 2024 to 2025 - GOV.UK (www.gov.uk)</a>

<p><b>“Teachers’ Pension Employer Contribution Grant Conditions of Grant”</b></p>	<p>Means</p> <p><a href="https://www.gov.uk/government/news/teachers-pension-employer-contribution-grant-2024-for-schools-high-needs-settings-and-local-authorities-2024-to-2025">Teachers’ pension employer contribution grant 2024 for schools, high needs settings and local authorities: 2024 to 2025 - GOV.UK (www.gov.uk)</a></p>
<p><b>“Universal Infant Free School Meals: Conditions of Grant”</b></p>	<p>Means</p> <p><a href="https://www.gov.uk/government/news/free-school-meals-fsm-funding">Free school meals (FSM) funding - GOV.UK (www.gov.uk)</a></p>

## Background

1. Non-Maintained Special Schools (NMSSs) are specially set up (in accordance with section 342 of the Education Act 1996) to offer Special Educational Provision to Pupils with special educational needs and disabilities (SEND). An NMSS is not a community or foundation special school nor an Academy School.
2. The high needs element of the education 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 schools to meet their duties under the [Children and Families Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/6).
3. The funding for the supply of the Services (as described more fully in this Schedule 2A) by the NMSS is provided by both the Department and the relevant local authority.
4. Top-up funding is funding that the local authority pays to the NMSS, in addition to the funding detailed at Paragraph 3 above, to meet the total cost of Special Educational Provision required by a Pupil attending the NMSS 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 basis for the Funding specified in Paragraph 3 above is section 14 of the Education Act 2002.
6. The table of definitions set out in this Schedule 2 includes references to various documents/guidance that are not necessarily used in this Schedule 2. Such documents/guidance are listed for completeness since they form part of the regulations and the Funding Rules with which the NMSS needs to comply.

## **The Services**

7. The NMSS has been established to provide Special Educational Provision to Pupils with special educational needs and disabilities (SEND). The NMSS must comply with:
  - a. The provisions of this Agreement;
  - b. Chapter 2 of Part IV of the Education Act 1996;
  - c. The NMSS Regulations;
  - d. Part 3 of the Children and Families Act 2014; and
  - e. All other applicable Law.
8. In order for the Department to make payments to the NMSS, the NMSS must meet the requirements set out in this Schedule 2. The Department will fund an agreed number of places at the NMSS in accordance with Paragraph 10 below (with funding levels set out in Schedule 3).
9. The Services to be delivered under this Agreement are to be provided to relevant Pupils attending the NMSS.
10. In accordance with the terms of this Agreement, for each school place allocated based on the October 2023 School Census data relating to Pupils attending the NMSS, the Department will pay the NMSS £10,000 per annum.
11. The payment referred to under Paragraph 10 is the only payment that the Department will make to the NMSS under this Agreement unless the NMSS qualifies for an additional payment under Paragraphs 23 to 29 of this Schedule 2. The Department may make supplemental payments at its discretion.

## **Services Commencement and Duration**

12. Services Start Date: 1<sup>st</sup> August 2024
13. Services Expiry Date: 31<sup>st</sup> July 2025

## **Service Requirements**

### Admissions

14. The NMSS must admit eligible Pupils to the NMSS from the Services Start Date.
15. This Agreement covers the period between the Services Start Date and the Services Expiry Date and the NMSS cannot record or report any Pupils under this Agreement after the Services Expiry Date. This Agreement will be replaced by a new Agreement that will govern the

period after the Services Expiry Date..

16. The NMSS must admit children and young people with an EHC Plan which names the NMSS in accordance with section 43 of the [Children and Families Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/6).

#### Non-Maintained Special School Delivery

17. The NMSS must have regard to the SEND Code of Practice in the exercise of its functions under Part 3 of the [Children and Families Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/6).
18. The NMSS must deliver Special Educational Provision to eligible Pupils as set out in the NMSS Regulations and, where a Pupil has an EHC Plan, as specified in that Pupils' EHC Plan.
19. The NMSS will maintain evidence of the delivery of the Services to support the information provided in the School Census and/or as required by the Education and Skills Funding Agency. 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 is balanced and broadly based, and includes English, mathematics and science.
21. The NMSS must make arrangements to ensure, as far as practicable, that every Pupil receives religious education and attends religious worship as required by the NMSS Regulations.
22. The NMSS must make arrangements to ensure that all Pupils provided with a secondary education receive sex education as required by the NMSS Regulations.
23. Where the NMSS is in receipt of PE and Sport Premium, the NMSS must deliver the Services so as to meet the requirements set out in PE and Sport Premium: Conditions of Grant.
24. Where the NMSS is in receipt of Pupil Premium, the NMSS must deliver the Services so as to meet the requirements set out in Pupil Premium: Conditions of Grant (NMSS).
25. 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.
26. Where the NMSS is in receipt of the Teachers' Pay Additional Grant, the NMSS must comply with the Teachers' Pay Additional Grant: Conditions of Grant.
27. Where the NMSS is in receipt of the Teachers' Pension Employer Contribution Grant, the NMSS must comply with the Teachers' Pension

#### Employer Contribution Grant: Conditions of Grant.

28. Where Pupils aged 16 to 19 are eligible, the NMSS will support them 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. This may include the following:
- a. 16 to 19 Bursary Fund – provision of financial support to help Pupils 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 Pupils;
  - c. Residential Bursary Fund – provision of support towards accommodation costs for eligible Pupils participating in a designated specialist subject area, e.g. land-based Study Programmes, for which it is too far to travel to each day; and
  - d. Residential Support Scheme – provision of support towards accommodation costs for eligible Pupils who cannot access the same or similar substantial Level 2 or Level 3 Qualifications within a reasonable daily travelling distance.
29. Where the financial support is for a bursary for an eligible Pupil in a defined vulnerable group, the NMSS must access such support for the eligible Pupil from the Student Bursary Support Service (SBSS), as set out in the 16 to 19 Student Support Funding Guidance and the 16 to 19 Education Financial Support for Students Advice.
30. Payments from the Department relate to the actual delivery of the Services. Where the NMSS's actual delivery will result in or has already resulted in an overpayment by the Department to the NMSS, the Department reserves the right to deduct the amount owed from payments due to the NMSS under this Agreement or any other Agreement between the Parties, for current or subsequent months or years accordingly.
31. Where the NMSS's actual delivery has resulted in an underpayment by the Department to the NMSS (e.g. due to over-delivery by the NMSS), the Department is under no obligation to provide additional funding or to adjust the amount due to the NMSS.

#### Non-Maintained Special School Delivery Administration

32. The NMSS will submit Pupil Data to the Department to comply with Clause 5 (Submission of Pupil Data) of this Agreement.
33. The NMSS must keep the Department informed of any changes to its bank details.

34. 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 Pupils appropriate to their needs; and
  - d. The Services meet the public benefit test.

### **The Department**

35. The Department will pay for the Services as set out in Schedule 3, Non-Maintained Special School Education Payments.
36. The Department will monitor the Services as set out in Schedule 2B, Non-Maintained Special School Education Monitoring.



## **SCHEDULE 2B: 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 the guidance Non-Maintained Special Schools: Intervention and Accountability as amended from time to time.

## **SCHEDULE 3: 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 20<sup>th</sup> 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).