



Education  
Funding  
Agency

# **Transitional Protection for Specialist Provision**

**Arrangements for Academic Year 2013 to  
2014**

**August 2013**

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## Introduction

1. Ministers and the Department for Education have listened to issues raised by FE institutions, independent specialist providers and local authorities about the implementation of the High Needs Students (HNS) funding reform. Transitional protection for specialist provision is being introduced in response to a specific concern that there may be a reduction in the number of students placed in specialist provision between now and 2015 that, in turn, might result in a loss of capacity during the period when the reforms are bedding in.
2. We will offer a level of protection for specialist provision in independent specialist providers (ISPs) and in eligible further education (FE) institutions over the next two academic years. After this period, it is envisaged that the Children and Families Bill will give parents and young people stronger rights to state a preference for where they want to study. Those FE institutions eligible to receive transitional protection are listed in Annex A but this list is subject to change once full 2012 to 2013 academic year data is reviewed in December 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 2013 to 2014 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 2013 to 2014 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](mailto:YPNorthern.EFA@education.gsi.gov.uk)
  - Central and South West - [YPCentralSW.EFA@education.gsi.gov.uk](mailto:YPCentralSW.EFA@education.gsi.gov.uk)
  - South - [YPSouthern.EFA@education.gsi.gov.uk](mailto:YPSouthern.EFA@education.gsi.gov.uk)

# Payment and reconciliation of transitional protection funding in 2013 to 2014 academic year

## Principles

6. In year one, the 2013 to 2014 academic year, we will fund any reduction in the number of local authority commissioned high needs specialist provision, when compared to the 2012 to 2013 academic year, at 100% of the institution's average 2012 to 2013 EFA funding rate per student. In year two, the 2014 to 2015 academic year, we will fund any reduction in the number of local authority commissioned high needs specialist provision, when compared to the 2012 to 2013 academic year, at 80% of the institution's average 2012 to 2013 academic year EFA funding rate per student. Transitional protection will not be paid in the 2015 to 2016 academic year or beyond.
7. 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 2013 to 2014 academic year. 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.
8. In all cases institutions should adhere to the principles of funding set out in the [EFA 16 to 19 Funding Guidance for 2013 to 2014](#). 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.
9. Transitional protection **CANNOT** be used to fund the recruitment of high needs students whose placements are not supported by their home local authority, for example, where they are not subject to either a learning difficulty assessment (LDA) or Education Health and Care Plan (EHCP). Any additional enquiries about use of funds should be directed to the relevant territorial service delivery team. 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.
10. When issuing allocations for the 2013 to 2014 academic year, we adjusted lagged student number totals (Element 1) for FE institutions to reflect the total number of specialist placements within each institution in the 2012 to 2013 academic year. We also made upward adjustments to ISP student number totals (Element 1) where the number of places commissioned by local authorities was lower than the number of EFA funded placements at each institution in the 2012 to 2013 academic year. Therefore, to avoid double-funding, this will be deducted when calculating any transitional protection paid in the 2013 to 2014 academic year.

11. We will communicate directly with ISPs and eligible FE institutions to confirm in-year data collection arrangements to support the calculation and reconciliation of transitional protection funding for the 2013 – 2014 academic year.
12. The principle underpinning transitional protection for ISPs and FE institutions is the same but there is a difference in the timing of the initial payment for ISPs. The reasons for this difference are:
  - a. historical local authority commissioned education and training provision that attracts EFA funding at ISPs has now been replaced by the 2013 to 2014 funding methodology and local authority commissioned provision will attract EFA element 1 and 2 funding, with significant funding from local authority element 3 “top up funding”; and
  - b. ISPs 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 ISPs this funding represents a higher percentage of revenue funding than the equivalent funding for FE institutions.

## **Payment and reconciliation for ISPs**

13. All ISPs that received funding through the EFA placement budget in the 2012 to 2013 academic year will be eligible for transitional protection.
14. In year one, the 2013 to 2014 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 100% of the institution’s 2012 to 2013 academic year EFA average funding rate per student. We have already shared with ISPs the data we hold on the 2012 to 2013 academic year, both in terms of placements and their average cost. We will update this ahead of the calculation of payments in September 2013 and February 2014, following reconciliation of the EFA ISP placements database, and reflect any changes in our payments to ISPs.
15. We will make the first set of payments to ISPs in September 2013, based on an early 2013 to 2014 student count submitted to us by ISPs by 31<sup>st</sup> August 2013. We will issue by 9<sup>th</sup> August 2013 a template to collect this information.
16. We will collect in-year data on student numbers and use this to recalculate and pay any balance of transitional protection in February 2014. 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.
17. Where a local authority HNS placement is filled after transitional protection has been calculated and then paid in February, we will arrange to 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. We will communicate any requirement to recover funds to the ISPs concerned at the earliest opportunity but historical data indicates that student recruitment after 1<sup>st</sup> November is very limited, and we expect that the requirement to recover funds will reflect this pattern.

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

## **Payment and reconciliation for FE institutions**

19. FE institutions eligible for transitional protection will be those identified through the 2012 to 2013 academic year ILR with 20 or more students who required additional learning support (ALS) in excess of £19,000 above the funding formula and/or were funded as a specialist placement where the cost of the placement exceeded £19,000. Those FE institutions eligible to receive transitional protection are listed in Annex A but this list is subject to change once full 2012 to 2013 academic year data is reviewed in December 2013.
20. We will collect in-year data on student numbers and use this to calculate and pay transitional protection in February 2014. 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.
21. Where a local authority HNS placement is filled after transitional protection has been calculated and then paid in February, we will arrange to 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.
22. Worked examples are provided below to illustrate how these arrangements will work in practice.

## Timeline for transitional protection in 2013 to 2014

Table 1 - Timeline for transitional protection in 2013 to 2014 academic year

Stages	Institutions concerned	By Dates
EFA issues 2012 to 2013 academic year actual high needs student numbers and average funding levels to ISPs	ISP	3 July 2013
EFA issues template to ISPs to enable early return of local authority commissioned 2013 to 2014 academic year HNS placements	ISP	16 August 2013
ISPs return completed template confirming numbers of approved local authority commissioned 2013 to 2014 HNS placements to EFA	ISP	31 August 2013
EFA calculates ISP transitional protection funding payable and communicates with ISPs	ISP	20 September 2013
EFA pays ISPs 50% of HNS transitional protection funding calculated	ISP	30 September 2013
ISPs and FE institutions make final ILR returns for 2012 to 2013 (R14)	FE & ISP	25 October 2013
ISPs and FE institutions make first ILR returns for 2013/14 (R04)	FE & ISC	5 December 2013
EFA calculates FE transitional protection funding and communicates with FE institutions. EFA calculates final ISP transitional protection funding and communicates with ISPs	FE/ISP	14 February 2014
EFA makes final payments to FE institutions and ISPs for 2013 to 2014	FE & ISP	28 February 2014
EFA reviews full-year recruitment data and communicate with FE institutions and ISPs any adjustments/recovery to be made	FE & ISP	31 July 2014 – 30 November 2014

## Calculation and worked examples

### Calculation of transitional protection funding for ISPs

**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 2013 to 2014

Equals

**C)** The number of unfilled HNS placements to receive transitional protection funding in 2013 to 2014

Multiplied by

**D)** The average funding rate of students in EFA funded placements in 2012 to 2013 (with Element 1 deduction set out in paragraph 10)

Equals

**E)** The transitional protection funding payable to ISPs in 2013 to 2014

### 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 2013 to 2014. We will monitor the costs of places that fall within the proximity of this threshold and may adjust transitional protection funding accordingly to ensure we are only funding unfilled HNS placements.

Equals

**C)** The number of unfilled HNS placements to receive transitional protection funding in 2013 to 2014

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 Element 1 deduction set out in paragraph 10)

Equals

**E)** The transitional protection funding payable in 2013 to 2014

## Information sources used in the calculation

**Table 2 – Information sources used in the calculation**

Information sources	Institutions concerned
ISP and FE institutions' own records of HNS placements and costs in academic year 2013 to 2014	FE/ISP
EFA 2012 to 2013 academic year ISP placements database containing EFA funded placements at ISPs.	ISP
EFA 2013 to 2014 academic year funding allocations statements	FE/ISP
August 2013 template return containing numbers of 2013 to 2014 academic year approved local authority commissioned HNS placements	ISP
Individualised Learner Record (ILR) 2012 to 2013 academic year containing 2012 to 2013 high cost ALS (over £19,000)	FE
EFA 2012 to 2013 academic year records for specialist placements over £19,000 in FE institutions (Annex 4 provision)	FE

### Worked Example 1 - ISP

An ISP records a higher number of HNS placements in its in-year data than is recorded in its August template return. The 2012 to 2013 average funding rate is unchanged at the final reconciliation of the ISP placements database in November 2013. The overall impact is a reduction in transitional protection payable, which is taken into account when the second payment is made in February 2014.

Transitional Protection funding example 1, stage 1		September 2013	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	100	Number comes from our ISP placements database at end August (as notified to ISPs on 3 July, unless changes are identified subsequently)

Transitional Protection funding example 1, stage 1		September 2013	Explanation
B	Number of students funded by local authority commissioned HNS placements in 2013 to 2014	80	Number provided to us by ISP during August using the template
C	Number of unfilled placements to receive transitional protection funding in 2013 to 2014	20	$A - B = C$
D	Average funding rate of students funded by EFA placement budget in 2012 to 2013	£54,950 minus £4,950 equals £50,000	Amount comes from our ISP placements database at 12 August (as notified to ISPs on 3 July, unless changes identified subsequently).  Includes Element 1 deduction (see paragraph 10) to create an amount payable per unfilled placement.
E	Transitional protection funding payable in 2013 to 2014	£1,000,000	$C \times D = E$
F	Transitional protection to be paid in September 2013 (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		February 2014	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	100	Year-end reconciliation of our ISP placements database confirms the number of placements in 2012 to 2013. In this example, there is no change from the figure reported earlier
B	Number of students funded by local authority commissioned HNS placements in 2013 to	83	In-year data collection confirms the number of HNS placements in 2013 2014, which is an increase of 3 students on the August template return

Transitional Protection funding example 1, stage 2		February 2014	Explanation
	2014		in this example
C	Number of unfilled placements to receive transitional protection funding in 2013 to 2014	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	Average funding rate of students funded by EFA placement budget in 2012 to 2013	£54,950 minus £4,950 equals £50,000	Year-end reconciliation of our ISP placements database confirms the average funding rate of placements in 2012 to 2013. In this example, there is no change from the figure reported earlier.  Includes Element 1 deduction set out in paragraph 10.
E	Transitional protection funding payable in 2013 to 2014	£850,000	In this example, the amount of transitional protection calculated for 2013 to 2014 changes in February due to the reduction in placements to be protected
F	Balance of transitional protection funding to be paid in February 2014	£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 ISP in February.

## Worked Example 2 – ISP

An ISP records a higher number of HNS placements in its in-year data collection than is recorded in its August template return. The 2012 to 2013 average funding rate is unchanged at the final reconciliation of the ISP placements database in November 2013. The overall 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 2013	Explanation
A	Number of students funded by EFA	5	Number comes from our ISP placements database at end August

Transitional Protection funding example 2, stage 1		September 2013	Explanation
	placement budget in 2012 to 2013		(as notified to ISPs on 3 July, unless changes are identified subsequently)
B	Number of students funded by local authority commissioned HNS placements in 2013 to 2014	4	Number provided to us by ISP during August using the template
C	Number of unfilled HNS placements to receive transitional protection funding in 2013 to 2014	1	$A - B = C$
D	Average funding rate of students funded by EFA placement budget in 2012 to 2013	£64,250 minus £4,250 equals £60,000	Amount comes from our ISP placements database at 12 August (as notified to ISPs on 3 July, unless changes identified subsequently). Includes Element 1 deduction (see paragraph 10) to create an amount payable per unfilled placement.
E	Transitional protection funding payable in 2013 to 2014	£60,000	$C \times D = E$
F	Transitional protection to be paid in September 2013 (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		February 2014	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	5	Year-end reconciliation of the EFA ISP placements database in November 2013 confirms the number of placements in 2012 to 2013. In this example, there is no change from the figure reported earlier

Transitional Protection funding example 2, stage 2		February 2014	Explanation
B	Number of students funded by local authority commissioned HNS placements in 2013 to 2014	5	In-year data collection for the ISP confirms the number of placements in 2013 to 2014, 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 2013 to 2014	0	Following in-year data collection, there are no unfilled HNS placements to be protected
D	Average funding rate of students funded by EFA placement budget in 2012 to 2013	£64,250 minus £4,250 equals £60,000	Year-end reconciliation of our ISP placements database confirms the average funding rate of placements in 2012 to 2013. In this example, there is no change from the figure reported earlier.  Includes Element 1 deduction set out in paragraph 10.
E	Transitional protection funding payable in 2013 to 2014	£0	The amount of transitional protection calculated for 2013 to 2014 changes in February due to the reduction in placements to be protected
F	Balance of transitional protection funding to be paid in February 2014	- £30,000	As £30,000 was paid in September, we make arrangements with the ISP to recover this amount as the place has been filled and will be funded by the commissioning local authority.

### Worked Example 3 – ISP

An ISP records a higher number of HNS placements in its in-year data collection than is recorded in its August template return. The 2012 to 2013 EFA average funding rate is increased at the final reconciliation of the ISP placements database in November. The overall impact is a reduction in transitional protection payable, which is taken into account when the second payment is made in February 2014. It is identified later that an additional HNS placement was filled after the point at which February payments were calculated and a recovery of transitional protection funding for this placement is required.

Transitional Protection funding example 3, stage 1		September 2013	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	70	Number comes from our ISP placements database at end August (as notified to ISPs on 3 July, unless changes are identified subsequently)
B	Number of students funded by local authority commissioned high needs student placements in 2013 to 2014	65	Number provided to us by ISP during August using the template
C	Number of unfilled high needs student placements to receive transitional protection funding in 2013 to 2014	5	$A - B = C$
D	Average funding rate of students funded by EFA placement budget in 2012 to 2013	£44,700 minus £4,700 equals £40,000	Amount comes from our ISP placements database at 12 August (as notified to ISPs on 3 July, unless changes identified subsequently).  Includes Element 1 deduction (see paragraph 10) to create an amount payable per unfilled placement.
E	Transitional protection funding payable in 2013 to 2014	£200,000	$C \times D = E$
F	Transitional protection to be paid in September 2013 (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		February 2014	Explanation
A	Number of students funded by EFA placement budget in 2012 to 2013	70	Year-end reconciliation of the EFA ISP placements database confirms the number of placements in 2012 to 2013.

Transitional Protection funding example 3, stage 2		February 2014	Explanation
			In this example, there is no change from the figure reported earlier
B	Number of students funded by local authority commissioned HNS placements in 2013 to 2014	66	In-year data collection for the ISP confirms the number of placements in 2013 to 2014, 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 2013 to 2014	4	As a result, in this example, the number of unfilled HNS placements to be protected changes by -1 between August and the year-end reconciliation
D	Average funding rate of students funded by EFA placement budget in 2012 to 2013	£46,700 minus £4,700 equals £42,000	Year-end reconciliation of the EFA ISP placements database revises the average funding rate of placements in 2012 to 2013. In this example, there is an increase of £2,000 from the figure reported earlier  Includes Element 1 deduction set out in paragraph 10.
E	Transitional protection funding payable in 2013 to 2014	£168,000	In this example, the amount of transitional protection calculated for 2013 to 2014 changes in February due to the reduction in HNS placements to be protected and the change to the average funding rate
F	Balance of transitional protection funding to be paid in February 2014	£68,000	As £100,000 of the new total of £168,000 was paid in September, a balance of £68,000 remains to be paid in February.

Transitional Protection funding recovery, example 3, stage 3		July 2014	Explanation
	Number of students affected by	1 x £42,000	The ISP reports that an additional local

Transitional Protection funding recovery, example 3, stage 3	July 2014	Explanation
recovery of transitional protection funding after February 2014		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 £42,000. We make arrangements with the ISP 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 February 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 February 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 February 2014 payment calculation and a recovery of transitional protection funding for this placement is required.

Transitional Protection funding example 4, stage 1		February 2014	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 in 2013 to 2014	25	In-year data collection confirms the number of placements in 2013 to 2014
C	Number of unfilled HNS placements to receive	5	A - B = C

Transitional Protection funding example 4, stage 1		February 2014	Explanation
	transitional protection funding in 2013 to 2014		
D	Average funding rate of students funded by EFA specialist placement (Annex 4) in 2012 to 2013 and/or ALS over £19,000	£31,800 minus £4,800 equals £27,000	Amount comes 2012 to 2013 ILR R14 final return and from reconciliation of the FE institution's EFA specialist placement funding (Annex 4) for 2012 to 2013.  Includes Element 1 deduction (see paragraph 10) to create an amount payable per unfilled placement.
E	Transitional protection funding paid in February 2014	£135,000	$C \times D = E$

Transitional Protection funding recovery, example 4, stage 2		July 2014	Explanation
	Number of students affected by recovery of transitional protection funding after February 2014	1 x £27,000	The FE institution reports that an additional local authority commissioned HNS placement student has been recruited after the point at which the February 2014 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 in Annex A but this list is subject to change once full 2012 to 2013 academic year data is reviewed in December 2013.

Abingdon and Witney College  
Barnfield College  
Bedford & Luton Education Business Partnership  
Bedford College  
Birmingham City Council  
Bridgwater College  
Central Bedfordshire College  
Chelmsford College  
City College Norwich  
City College Plymouth  
City of Wolverhampton College  
East Durham College  
Gateshead College  
Great Yarmouth College  
Hackney Community College  
Hertford Regional College  
Leeds City College  
Leicester College  
New College Durham  
North Hertfordshire College  
Oaklands College  
Southend on Sea Borough Council  
St Brendan's Sixth Form College  
St Vincent College  
The Manchester College  
Totton College  
Truro & Penwith College  
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Walsall College  
West Nottinghamshire College  
Weston College  
Wiltshire College



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