Notice of Meeting

Cabinet Member for Education & Learning Decisions

Date & time	Place	Contact	Chief Executive
Tuesday, 26 July 2022 at 10.30 am	Woodhatch Place, Cockshot Hill, Reigate, RH2 8EF	Angela Guest angela.guest@surreycc.gov.uk	Joanna Killian

If you would like a copy of this agenda or the attached papers in another format, eg large print or braille, or another language please email angela.guest@surreycc.gov.uk.

This meeting will be held in public. If you would like to attend and you have any special requirements, please contact Angela Guest on angela.guest@surreycc.gov.uk.

Cabinet Member
Denise Turner-Stewart

AGENDA

1 DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter

i. Any disclosable pecuniary interests and / or
ii. Other interests arising under the Code of Conduct in respect of any item(s) of business being considered at this meeting

NOTES:

- Members are reminded that they must not participate in any item where they have a disclosable pecuniary interest
- As well as an interest of the Member, this includes any interest, of which the Member is aware, that relates to the Member's spouse or civil partner (or any person with whom the Member is living as a spouse or civil partner)
- Members with a significant personal interest may participate in the discussion and vote on that matter unless that interest could be reasonably regarded as prejudicial.

2 PROCEDURAL MATTERS

a Members' Questions

The deadline for Members' questions is 12pm four working days before the meeting (20/07/2022*).*

b Public Questions

The deadline for public questions is seven days before the meeting (19/07/2022).

c Petitions

The deadline for petitions was 14 days before the meeting, and no petitions have been received.

3 FAIR ACCESS PROTOCOL 2022/23 (Pages 5 - 32)

The proposed Fair Access Protocol for 2022/23 sets out the criteria that the local authority will use to determine which children will be placed under Surrey's Fair Access Protocol and how cases will be considered.

4 SEND PERSONAL BUDGETS DRAFT (Pages 33 - 52)

The proposed SEND Personal Budgets policy 2022/23 sets out the criteria that the local authority will use to determine whether a request for a personal budget can be agreed and in which circumstances this might include a direct payment.

Joanna Killian
Chief Executive
Published: Friday, 15 July 2022

MOBILE TECHNOLOGY AND FILMING – ACCEPTABLE USE

Those attending for the purpose of reporting on the meeting may use social media or mobile devices in silent mode to send electronic messages about the progress of the public parts of the meeting. To support this, Council has wifi available for visitors – please ask at reception for details.

Anyone is permitted to film, record or take photographs at council meetings with the Chairman's consent. Please liaise with the council officer listed in the agenda prior to the start of the meeting so that the Chairman can grant permission and those attending the meeting can be made aware of any filming taking place.

Use of mobile devices, including for the purpose of recording or filming a meeting, is subject to no interruptions, distractions or interference being caused to the PA or Induction Loop systems, or any general disturbance to proceedings. The Chairman may ask for mobile devices to be switched off in these circumstances.

It is requested that if you are not using your mobile device for any of the activities outlined above, it be switched off or placed in silent mode during the meeting to prevent interruptions and interference with PA and Induction Loop systems.

Thank you for your co-operation

This page is intentionally left blank

SURREY COUNTY COUNCIL

DENISE TURNER- STEWART, CABINET MEMBER FOR EDUCATION AND LEARNING DECISIONS

DATE: 26 JULY 2022

LEAD OFFICER: LIZ MILLS, DIRECTOR FOR EDUCATION AND LIFELONG LEARNING

SUBJECT: FAIR ACCESS PROTOCOL 2022/23

ORGANISATION STRATEGY PRIORITY AREA: Empowering Communities

SUMMARY OF ISSUE:

Each local authority must have a Fair Access Protocol in place and all schools in a local authority area must participate in it. The Fair Access Protocol ensures that vulnerable and unplaced children, who are not successful in gaining a place through the normal in-year admissions process, are offered a place at a suitable school within 20 school days. This includes admitting children above the published admission number to schools that are already full.

The proposed Fair Access Protocol for 2022/23 sets out the criteria that the local authority will use to determine which children will be placed under Surrey's Fair Access Protocol and how cases will be considered. It complies with the Department for Education (DfE) School Admissions Code ("the Code") which came into force on 1 September 2021 and with the DfE guidance on fair access that was issued in July 2021 alongside the new Code.

RECOMMENDATIONS:

It is recommended that the Cabinet Member agrees the proposed Fair Access Protocol for 2022/23.

REASON FOR RECOMMENDATIONS:

- The local authority is required to have a Fair Access Protocol in place that all schools must participate in.
- The proposed Protocol meets the requirements of the 2021 DfE School Admissions Code.
- The Protocol will ensure that vulnerable and unplaced children can be placed in school quickly where they are unable to secure a place through the normal in-year admissions procedure.
- When seeking to place a child under the Protocol, no school will be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who meet one of the other categories set out in the protocol.

DETAILS:

1. A copy of the proposed Fair Access Protocol for 2022/23 is attached as Annex 1.

2. The Protocol complies with the statutory requirements of the Code.

3. Surrey's Fair Access Protocol has generally worked well, with 80 children to date being referred under the Protocol in 2021/22 (36 primary and 44 secondary). Of these 80 children, 45 children were placed in a school directly by the School Admissions team, and 35 children were placed in school via a fair access panel. Of the 80 children, 41 were asylum seekers or refugees accompanied by their parents. Any **unaccompanied** asylum seeking children are classed as looked after children, who cannot be placed through fair access.

4. As anticipated, Surrey has seen a reduction in the number of children placed under fair access in 2021/22 – 80 children to date, compared to 180 in 2020/21. This is for the following reasons:

   - a change within the Code to the categories of children who are eligible for placement under the Protocol;

   - confirmation within the Code that a child must only be placed through fair access when they have been unable to secure a place through the in-year admission procedures;

   - confirmation within the Code that admission must not be refused on the basis that they may be eligible to be placed via fair access; and

   - clarification within the Code of the circumstances when admission might legally be refused in year, for a year group that is the normal year of entry and a year group that is not (different rules apply).

5. No changes are proposed to the Fair Access Protocol for 2022/23 other than:

   - an additional sentence added to paragraph 5.2 as a reminder that Looked After Children are outside the remit of this Protocol, so the categories of fair access do not apply to them. Paragraph 5.2 references section 10 which gives more detail about Looked After Children.

   - an additional sentence added to paragraph 10.2 to clarify that unaccompanied asylum seeking children are classed as Looked After Children.

   - minor wording changes in paragraphs 7.11 and 7.22 to add clarity;

   - an additional sentence added to paragraph 12.1 to clarify how funding for Year 11 students admitted under the Protocol after the October census will be issued;

   - dates have been updated from 2021/22.

6. There were significant changes made to the 2021/22 Protocol to comply with the new Code, and schools and Surrey professionals have become familiar with these during this academic year.

7. The School Admissions team held a survey on fair access with all schools in the spring term of 2022 to seek schools' views on some of the more operational

elements of the Protocol that were not bound by the statutory requirements of the Code, as well as to seek views on some of the more challenging aspects of the Protocol. This survey followed on from briefings on in year admissions and fair access that the School Admissions team ran for all schools in the autumn term, which were well received.

8. 79 schools responded to the spring term survey. There were various comments on the operation of the Protocol and suggestions for change, although some of these would not be possible because of the statutory requirements of the Code.

9. The School Admissions team presented the initial survey results to the Fair Access Review Group at their March meeting, with more detailed results at the April meeting. The Review Group consists of representatives from primary and secondary schools, Pupil Referral Units, local authority Education & Inclusion Service Managers, Area Inclusion Managers and Surrey's School Admissions team. The Assistant Directors are copied into all agendas and meeting notes and are represented at the Review Group through their service managers.

10. The Review Group reflected that the survey with schools did not identify any specific changes needed to the Protocol for 2022/23, which acts as a legal framework behind the operation of fair access.

11. The School Admissions team is formulating an action plan to take forward some of the operational points brought up in the survey responses, and the Review Group will work through this action plan during 2022/23.

12. In addition, the School Admissions team issued Frequently Asked Questions to schools about in year admissions and fair access in June 2022. These sought to address some of the common misconceptions about these areas of admissions; and to clarify what is statutory and where a flexible approach can be applied to the resolution of a case.

CONSULTATION:

13. The draft Protocol for 2022/23 was distributed on 10 June 2022 by the School Admissions team to all schools and Pupil Referral Units and to the Primary and Secondary Phase councils for consideration. The Education and Inclusion Service Managers and the Area Inclusion Managers were also consulted.

14. This was a 'light touch' consultation which explained that no changes were proposed to the Protocol, although schools were invited to make any individual comments that they wished by 27 June 2022.

15. The School Admissions team received no comments to that consultation.

RISK MANAGEMENT AND IMPLICATIONS:

16. The Fair Access Protocol reduces the risk of children being left out of school by ensuring there is a shared responsibility between the local authority and schools to place a child in school within 20 school days where they have been unable to secure a place through the normal in-year admissions process.

17. Once placed in a school, the Protocol ensures that children will be placed on roll as soon as possible, but within no more than five school days, to ensure that no child remains out of school for longer than necessary.

18. The Protocol reduces the risk of undersubscribed schools being asked to admit more than their fair share of children who need to be placed under the Protocol.

Financial and value for money implications:

19. Funding remains available to schools in 2022/23 when admitting pupils permanently excluded from their previous school, dependent on the date of the exclusion and the school that the child had previously been permanently excluded from. The basis of this funding is specified by the DfE and it is generally funded from sums recovered from the excluding school.

20. In addition, maintained schools and academies will continue to receive Age Weighted Pupil Unit (AWPU) funding for Year 11 pupils placed on roll after 06 October 2022 and before the end of the spring term 2023 under categories d) and j) of the Protocol (but not previously permanently excluded), on a pro rata basis. Late Year 11 placements are particularly problematic because schools will not ordinarily receive funding at any stage because this cohort will have left the school by the next October census date. It is hoped that this will offer some incentive to schools to admit Year 11 children. The cost of this funding has been negligible in recent years as few Year 11 pupils are placed under the Protocol.

21. The Fair Access Protocol is important in ensuring timely placement of vulnerable pupils in mainstream schools when that is appropriate. It is recognised that inclusion in mainstream schools is generally the best option for the child, as well as the most cost-effective solution for the Council.

22. Whilst the cost of payments to schools admitting Year 11 pupils under the Fair Access Protocol is already provided for within the high needs block (HNB) of the Dedicated Schools Grant, there is an overall need for major cost reductions to be found in the high needs block to remove the current operating deficit. Continuation of payments for Year 11 pupils supports inclusion of these pupils and may avoid incurring much higher costs for alternative placements elsewhere and should continue but needs to be kept under review in the overall context of the HNB.

Section 151 Officer commentary:

23. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed Government funding this requires an increased focus on financial management to ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium-term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial

sustainability as a priority in order to ensure stable provision of services in the medium term.

24. As such, the Section 151 Officer supports these recommendations to ensure appropriate protocols are in place to ensure vulnerable and unplaced children can be placed in schools quickly outside of the normal admissions process as required.

Legal implications – Monitoring Officer:

25. The 2021 DfE School Admissions Code requires local authorities to have a Fair Access Protocol in place to ensure that education can be secured quickly for children who have no school place and that all schools in an area admit their fair share of children with challenging behaviour under the Protocol, including children excluded from other schools.

26. The proposed Fair Access Protocol has been updated to reflect the new requirements of the 2021 DfE School Admissions Code and is legally compliant.

Public sector equality duty:

27. The public sector equality duty (Section 149 of the Equality Act 2010) applies to the decision to be made by the Cabinet Member in this report. There is a requirement when deciding upon the recommendations to have due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups and eliminate any unlawful discrimination. These matters are dealt with in the equalities paragraphs of the report and in the attached Equalities Impact Assessment (EIA).

Consultation:

28. There is a clear expectation in public law that the Council should carry out a consultation process whenever it is considering making significant changes to service provision. Whilst no changes have been proposed for the 2022/23 Protocol, schools have nonetheless been consulted on the draft Protocol and invited to make comments if they wish, although none have been received.

General Decision-Making:

29. In coming to a decision on this issue, the Cabinet Member needs to take account of all relevant matters. The weight to be given to each of the relevant matters is for the Cabinet Member to decide. Relevant matters in this context will include the statutory requirements, the policy considerations, the impacts of the options on service provision, the Medium-Term Financial Plan (MTFP), the Council's fiduciary duty, any relevant risks and the public sector equality duty.

Best value duty:

30. The best value duty is contained in section 3 of the Local Government Act 1999 as a result of which the Council is under a duty to make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The relevant guidance states that Councils should consider overall value, including economic, environmental and social value when reviewing service provision.

Equalities and diversity:

31. An Equality Impact Assessment has been completed and is included in Annex 2.

32. There are no negative impacts on any equality group. Placements under the Fair Access Protocol are currently in the region of 80 a year, and as such this Protocol will not affect many people nor have a severe effect on some people.

33. The Fair Access Protocol is designed to ensure that children who are out of school are placed in school quickly. This will ensure that the equality groups identified in the EIA will face a positive impact as a result of this Protocol as they will be placed in school quickly, even if a school is full.

Other implications:

34. The potential implications for the following Council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	Set out below
Safeguarding responsibilities for vulnerable children and adults	Set out below
Environmental sustainability	No significant implications arising from this report
Public Health	No significant implications arising from this report

Corporate Parenting/Looked After Children implications:

35. Looked After Children are placed in accordance with Surrey's Protocol for the Processing of In Year Admissions for Children in Care, and thus they are not considered under Surrey's Fair Access Protocol.

Safeguarding responsibilities for vulnerable children and adults implications:

36. The Fair Access Protocol provides for vulnerable or challenging children who are out of school to be placed in school quickly and this contributes to Surrey's safeguarding responsibilities for vulnerable children.

WHAT HAPPENS NEXT:

37. The Protocol will be shared with all schools and relevant officers and implemented for 2022/23.

38. The Fair Access Review Group will monitor the effectiveness of the Protocol throughout the year.

Contact Officer:
Claire Potier, Service Manager, School Admissions
claire.potier@surreycc.gov.uk

Consulted:

- Liz Mills, Director for Education & Lifelong Learning
- Jane Winterbone, Assistant Director for Education
- Rachel Hickman, Legal and Democratic Services
- David Green, Strategic Finance - Children, Families and Learning
- Education & Inclusion Service Managers
- Area Inclusion Managers
- All primary and secondary schools and PRUs
- Primary and Secondary Phase Councils
- Fair Access Review Group

Annexes:
Annex 1 – 2022/23 Fair Access Protocol
Annex 2 – Equality Impact Assessment

Sources/background papers:

- DfE School Admissions Code - September 2021
- DfE Fair Access Protocols Guidance - July 2021

This page is intentionally left blank

ANNEX 1

Fair Access Protocol

2022/2023

SURREY
COUNTY COUNCIL

Surrey's Fair Access Protocol 2022/23

1. Introduction

1.1 This document sets out the Fair Access Protocol which will be operated by Surrey in partnership with all state funded mainstream schools during the academic year 2022/23.

1.2 This Protocol applies to children living in Surrey and complies with the requirements of the 2021 School Admissions Code (the Code) and the DfE guidance on Fair Access Protocols issued in July 2021.

1.3 Roles and responsibilities of stakeholders involved in the fair access process are set out in Appendix 1.

2. Background

2.1 Paragraph 3.14 of the Code confirms that each local authority **must** have a Fair Access Protocol to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible**.**

2.2 Paragraph 3.15 of the Code confirms that the Protocol **must** be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities **must** participate in it.

2.3 Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Failure by a school to engage in the Protocol will not prevent a child being placed at that school.

3. Legal principles of the Code in relation to Fair Access

3.1 Fair Access Protocols only apply to children who are applying for a place in year and not those who are applying for a place as part of the normal admissions round.

3.2 The majority of children applying in year will be admitted to a school through each school's in year admission procedures. However, this Protocol will be triggered when a child is refused admission through the in-year process and is identified as falling within one of the criteria set out within paragraph 5.2 of this Protocol.

3.3 For children applying for a place at a school in the normal year of entry (i.e. where a PAN exists for entry into that year group - normally Reception, Year 3 or Year 7), admission can only be refused in year if:

- the PAN has been reached; or
- the child has been permanently excluded from two or more schools and the last exclusion was within the last two years - paragraph 3.8 of the Code sets out the limited exceptions to this rule.

3.4 For children applying for a place at a school for a year group that is **not** the normal year of entry, admission can only be refused in year if:

- the child has been permanently excluded from two or more schools and the last exclusion was within the last two years - paragraph 3.8 of the Code sets out the limited exceptions to this rule; or
- the school is full and can argue prejudice; or
- the school is undersubscribed but can argue prejudice on the basis of the child having challenging behaviour (in accordance with the definition set out in paragraph 3.5 of this Protocol) and otherwise meets the conditions set out in paragraph 3.8 of this Protocol.

3.5 The Code defines challenging behaviour as 'where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour **or** it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

3.6 The following reasons **on their own** should not be grounds for considering that a child may display challenging behaviour:

- poor attendance elsewhere;
- a defined number of suspensions, without consideration of the grounds on which they were made;
- special educational needs; or
- having a disability.

3.7 A child with challenging behaviour may also be disabled as defined in the Equality Act 2010. All schools have a duty to make reasonable adjustments for students with disabilities. Schools should be aware that a child who displays challenging behaviour may do so as a result of their disability or any unmet needs. Schools must therefore consider whether any reasonable adjustments can be put in place to support the needs of a particular child when considering whether admission should be refused on these grounds.

3.8 Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child for placement through this Protocol, **only if**:

- the school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools; and
- it believes that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

3.9 An admission authority must not refuse to admit a child to a school solely on the basis that they would be, or they believe they would be, eligible to be placed via this Protocol.

3.10 An admission authority must not refuse to admit a child solely because information has not been received from their previous school.

3.11 The provision to refuse a child on the basis of challenging behaviour cannot be used to refuse admission to looked after children, previously looked after children or children who have an Education, Health and Care Plan naming the school in question.

3.12 Admission authorities must also not refuse to admit a child thought to be potentially disruptive or likely to exhibit challenging behaviour on the grounds that the child is first to be assessed for special educational needs.

3.13 This Protocol can only be used to place children who fall within one of the groups set out in paragraph 5.2 of this Protocol where it can be demonstrated that reasonable measures have been taken to secure a place through the in-year procedures. In accordance with the Code, this might be where an application has been made to at least one school and this has been refused or where the local authority has confirmed that there are no places available at any school within a reasonable distance.

3.14 Eligibility for this Protocol does not limit a parent's right to make an in-year application to any school for their child. Admission authorities must process these applications in accordance with their usual in-year admission procedures and they must not refuse to admit such children on the basis that they may be eligible to be placed via this Protocol.

3.15 Parents continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via this Protocol.

3.16 There is no duty to comply with parental preference when allocating a place through this Protocol, but parents' views should be taken into account.

3.17 This Protocol will seek to place a child in a school that is appropriate to any particular needs they may have and will not require a school to automatically admit a child in place of a child permanently excluded from the school.

3.18 Where it has been agreed that a child will be considered under this Protocol, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via this Protocol, arrangements will be made for the child to start at the school as soon as possible.

3.19 Admission authorities must admit children when asked to do so in accordance with this Protocol.

3.20 When seeking to place a child under this Protocol, no school - including those with available places - will be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who meet one of the other categories set out in paragraph 5.2 of this Protocol.

4. Additional principles of Surrey's Fair Access Protocol

4.1 Whilst this Protocol provides for the most vulnerable children to be admitted to school quickly, unnecessary transfers between schools are strongly discouraged. Schools are expected to work with children and their families/carers to prevent unnecessary transfers between schools.

4.2 Surrey works together with schools to reduce and prevent permanent exclusion. Managed moves which may be arranged between schools before a child reaches the point of permanent exclusion will not qualify as a placement under this Protocol.

4.3 Admission authorities will not cite oversubscription as a reason for not admitting a child when seeking to place a child under this Protocol, unless an extra child would breach the Infant Class Size Regulations and the child to be admitted could not be treated as an excepted child (see Appendix 2 for cases that might be considered as an exception to Infant Class Size legislation for applications for KS1).

4.4 Children placed under this Protocol will be given priority for admission over others on a waiting list.

4.5 Where a child leaves a school for home education, the outgoing school will notify their allocated Inclusion Officer who will offer a home visit to the family (within 10 days of the deregistration) before the child is registered as receiving home education. The intention is to prevent unnecessary or inappropriate departures from a school and to avoid the family seeking admission to another school shortly afterwards that may result in a referral under this Protocol.

5. Categories of children

5.1 In order to be placed under this Protocol a child must meet the following criteria:

- live in Surrey; and
- have a legal right to access state funded education; and
- be seeking a place outside the normal admissions round; and
- be of statutory school age.

5.2 This Protocol will **only** be used to place children who fall within one of the following groups where they have been refused a school place in accordance with paragraphs 3.3 and 3.4 of this Protocol and where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedure. As per section 10, Looked After Children are outside the remit of this Protocol, so these categories do not apply to them.

a) children either subject to a Child in Need Plan or a Child Protection Plan or having had one of these within 12 months at the point of being referred to this Protocol;

b) children living in a refuge or in other Relevant Accommodation at the point of being referred to this Protocol;

c) children from the criminal justice system;

d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;

e) children with special educational needs (but without an Education, Health & Care Plan), disabilities or medical conditions;

f) children who are carers;

g) children who are homeless;

h) children in formal kinship care arrangements (as evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order);

i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;

j) children who have been refused a school place on the grounds of their challenging behaviour and referred on the basis of paragraph 3.8 of this Protocol;

k) children for whom a place has not been sought due to exceptional circumstances. It is for the local authority to decide whether a child qualifies to be placed under this category, based on the circumstances of the case;

l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable

DRAFT

distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted;

m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

6. Identification of children who meet the criteria for placement under this Protocol

6.1 Most children will come to the attention of the School Admissions team or the school as part of the in-year admission application process.

6.2 Where an application form is received by either the School Admissions team or an own admission authority school, the application will be processed in accordance with in-year procedures. A place can only be refused in year for the reasons set out in paragraphs 3.3 and 3.4 of this Protocol.

6.3 If a place is refused, the School Admissions team or the school will advise the parent that they are unable to offer a place, setting out the reasons and informing them of their right of appeal, within no more than 15 school days of the application being received.

6.4 Where the school is making the refusal, they must let the School Admissions team know that they are unable to offer a place, the reason for the refusal and indicating if they believe the child meets the criteria for placement under this Protocol.

6.5 Where refusal is on the basis of challenging behaviour, the School Admissions team will liaise with the Area Inclusion Manager to ensure the conditions for refusal and referral under this Protocol have been met, in accordance with paragraphs 3.3 to 3.8 of this Protocol.

6.6 Most children who are permanently excluded from a Surrey school and those who are ready for reintegration to a mainstream school from a Surrey Pupil Referral Unit (PRU) or other alternative provision will be identified by the Area Inclusion Manager / Head of PRU. The Area Inclusion Manager / Head of PRU will consider whether a managed placement might be arranged directly with a school or whether the child should be referred for placement under this Protocol. Where it is decided that a placement should be secured under this Protocol, the Area Inclusion Manager will refer the details to the School Admissions team.

7. Process for agreeing a placement

7.1 Once it has been agreed that a child will be considered under this Protocol, a school place must be allocated within 20 school days.

7.2 A senior manager within the School Admissions team will consider each case, liaising with the Area Inclusion Manager as appropriate, and will decide whether it is appropriate to refer the case directly to a school for placement or whether the circumstances of the case warrant discussion at a placement panel. Generally, children who meet categories d) and j) within paragraph 5.2 of this Protocol will be referred to a panel for placement. However, children falling within one of the other categories will generally be referred directly to a school for placement.

DRAFT

Direct placements

7.3 Where it is agreed that the case will be referred directly to a school, the School Admissions team will agree the school(s) to be approached, liaising with the Area Inclusion Manager as appropriate, and will make the referral with the reasons and details of the case.

7.4 The following will be taken into account when deciding which school(s) to approach:

- parental preference (the parent/carer can still submit an appeal and so it is helpful to demonstrate that this has been considered);
- whether a school is in special measures, has recently come out of them or is otherwise assessed by the local authority as needing support;
- whether a school has a particularly high proportion of children with challenging behaviour or previously excluded children;
- the number and percentage of LAC and EHCP children within each school and number of children already admitted to a school under this Protocol to each year group;
- any genuine concerns about the admission by either the parent/carer;
- a strong view of the parent/carer about the religious ethos of a school;
- which schools are nearest by road and straight line, availability of transport and travelling times;
- which schools have vacancies;
- the needs of the child;
- any previous schools attended, especially if the child was removed from school for elective home education and the child is returning to the same phase of education.

7.5 Schools will be given five school days to put forward any concerns and, if no school has indicated their willingness to admit within that time, the School Admissions team will decide on the placement.

7.6 The placement will be confirmed within 20 school days of the original fair access referral and the School Admissions team will send notification to the parent/carer. A copy will also be sent to the school and the Area Inclusion Manager, who in turn will share it with the attached Inclusion Officer.

Placement panels

7.7 Where a child meets categories d) and j) within paragraph 5.2 of this Protocol or where it is considered that the circumstances of the case otherwise warrant placement at panel, the School Admissions team will provide schools with reasonable notice and information as to how and when discussions around the placement of the child will take place, making sure the timetable will allow a decision to be made within 20 school days of the referral.

7.8 In considering which schools to invite to a panel meeting under this Protocol, the School Admissions team will take account of the child's school history, where the child lives and the circumstances of the case.

7.9 The most suitable school for many children is likely to be a school that is close to the child's home. Advantages of inviting schools close to the child's home address are as follows:

- there are likely to be less transport issues or costs;
- if the school is nearer there are likely to be fewer barriers which prevent the child from attending;
- there may be better parental support and participation;
- the child will be better placed to participate in extracurricular activities;

- the child is more likely to develop friendship groups from his/her local community;
- it is less likely that appeals for other schools will be upheld;
- it establishes a clear and transparent way for referrals to be made.

7.10 However there are also advantages of inviting schools in the area where the child was previously at school, and such placements can lead to a more informed and considered process which in turn can lead to a successful and supported placement:

- the previous school can comment on the child's behavioural and educational history at the panel;
- support services may already be familiar and be supporting the child;
- it ensures collegiate working between schools in the same area which in turn improves shared approaches to managing behaviour and attendance;
- it establishes a culture of shared problem solving of individual cases within the same area;
- schools can challenge the poor practice of other schools within the same area and this may in turn reduce the number of hard to place cases;
- it can encourage collaborative working between schools.

7.11 Paperwork in relation to the cases to be considered at panel will be distributed no later than five days before the panel meeting.

7.12 A representative from the School Admissions team, the Area Inclusion Manager and a representative from the PRU, as appropriate, will attend the panel at which placement decisions are to be taken. Other representatives will be invited as appropriate.

7.13 Panels are expected to consider the case of each child and to agree a placement at the most suitable school within the area of the panel.

7.14 For own admission authority schools, the delegated representative at the panel will not need to seek prior or subsequent authorisation from their governing body to admit a fair access child. This is because when a child is placed in accordance with this Protocol, the admission authority for that school should admit the child.

7.15 In considering cases, panels will have regard to:

- parental preference (the parent/carer can still submit an appeal and so it is helpful to demonstrate that this has been considered);
- whether a school is in special measures, has recently come out of them or is otherwise assessed by the local authority as needing support;
- whether a school has a particularly high proportion of children with challenging behaviour or previously excluded children;
- the number and percentage of LAC and EHCP children within each school and the number of children already admitted to a school under this Protocol to each year group;
- any genuine concerns about the admission by either the parent/carer or the school;
- a strong view of the parent/carer about the religious ethos of a school;
- distance, availability of transport and travelling times;
- which schools have vacancies;
- the needs of the child;
- any previous schools attended, especially if the child was removed from school for elective home education and the child is returning to the same phase of education.

DRAFT

7.16 Once a placement decision is made at panel, the School Admissions team will send notification to the parent/carer within 20 school days of the original fair access referral. A copy will also be sent to the school and the Area Inclusion Manager, who in turn will share it with the attached Inclusion Officer.

7.17 More information on the expectation of panels is set out in Appendix 3.

Arrangements for placing on roll

7.18 The receiving school will contact the parent/carer and make arrangements for the child to go on roll as soon as possible, but no later than five school days of the placement being agreed and for a start date no later than five school days of going on roll.

7.19 Where a placement is from a Surrey PRU or alternative provision, the child should be removed from that school roll and should not be dual registered.

7.20 Support for the admission process may be available from the attached Inclusion Officer. If required, where the child was previously open to Access to Education (A2E), reintegration support may also be available from the A2E team for the child's first two weeks in school.

7.21 Placing on roll should not be subject to a meeting with the parent/carer, although a meeting might be arranged to discuss a start date and to discuss the child's integration to the school.

Mitigation where placements cannot be agreed

7.22 In the unlikely event of a child not being placed through this Protocol, the School Admissions team will identify a school in liaison with the Education and Inclusion Service Manager or their delegated representative. In such circumstances, the school identified must admit the child without delay. In the event of the identified school refusing to admit the child, the School Admissions team will follow due process in order to instruct a community or voluntary controlled school or to direct an own admission authority school to admit the child, including making a referral to the Secretary of State in relation to academies.

8. Monitoring of placements

8.1 The School Admissions team will monitor each placement to ensure that the child is placed on roll and the satisfactory completion of 12 weeks.

8.2 A child will not be counted as having been placed under this Protocol for a particular school if the placement breaks down within 12 school weeks of the child's start date and the child is taken off roll at that school. The reintegration of children returning to mainstream school from a PRU may be managed over a period longer than 12 weeks, at the decision of the Area Inclusion Manager.

8.3 A placement will be considered to have broken down within 12 weeks if the child's behaviour would ordinarily warrant permanent exclusion. In such cases the Area Inclusion Manager will determine whether or not the placement should be considered to have broken down. Where a placement is considered to have broken down, the Area Inclusion Manager will work with the school to identify a solution which might include the school referring the child for alternative provision or placement at an alternative school.

8.4 Once on roll any attendance issues should be dealt with as appropriate through the school's attached Inclusion Officer.

8.5 Under no circumstances will a school ask a parent/carer to withdraw a child from the school's roll. If a school continues to face difficulty with a child who is on their roll, such as through poor attendance or challenging behaviour, they will seek support from the Area Inclusion Manager or the Area Lead for Specialist Teachers for Inclusive Practice (STIPS) in the first instance.

8.6 If information comes to light which indicates that a school has taken a child off roll inappropriately or has not sought appropriate support for a child whilst they were on roll, the School Admissions team will refer that information to the Area Inclusion Manager who will liaise with the school as appropriate.

9. Children with an Education, Health & Care Plan

9.1 Children with an Education, Health & Care Plan (EHCP) are outside the remit of this Protocol as these children are placed in accordance with the SEND Code of Practice.

9.2 However children who are awaiting an EHCP will continue to be considered under normal admissions processes, including this Protocol as appropriate, until their EHCP is agreed.

9.3 This Protocol does not replace the process for assessing the specialist needs of a child and putting in place appropriate provision.

10. Looked After Children

10.1 Looked After Children are children who are in the care of the local authority as defined by Section 22 of the Children Act 1989.

10.2 Looked After Children are placed in accordance with Surrey's Protocol for the Processing of in year admissions for Children in Care and are outside the remit of this Protocol. This includes unaccompanied asylum seeking children.

11. Out of area applications

11.1 Occasionally applications will be received from children who live outside Surrey but who otherwise meet the criteria for placement under this Protocol.

11.2 As these children do not meet the criteria for placement under this Protocol, schools should consider these applications in accordance with normal in year processes

11.3 However, if the child falls within a category of fair access as set out in paragraph 5.2 of this Protocol and the preferred school is unable to offer a place, the application will be referred back to the child's home local authority to effect an alternative placement.

12. Funding

12.1 Surrey fair access children admitted into Year 11 at a state funded mainstream school under categories d) and j) of this Protocol (but not previously permanently excluded) after 6 October 2022 but before the end of the spring term 2023, and who do not already qualify for part year Age Weighted Pupil Unit (AWPU) funding, will receive pro rata AWPU funding from the date of their admission to the end of August 2023, provided that the placement has lasted for four

weeks or more. The School Admissions team will validate this and will inform the Schools Funding team accordingly so that funding can be provided.

Payment will only be made once the placement has lasted four weeks or more, in line with the following timescales:

- placements made in the autumn term which have lasted four weeks or more by the end of that term - payment will be issued in January 2023;
- placements made up to the end of March 2023 which have lasted four weeks or more by that date - payment will be issued at the end of March 2023;
- remaining payments will be made in the summer term 2023.

In all cases a proportion of the funding will be reclaimed if the child subsequently leaves the school.

12.2 Permanently excluded children admitted to mainstream schools under this Protocol will be funded as follows:

a) When a child is permanently excluded from a school at any time in the local authority's financial year, the school's budget is reduced by the annual value of pupil led funding attracted by a pupil of the same age and characteristics multiplied by 1/52 x the number of weeks from the date of permanent exclusion to the end of the local authority's financial year (except for Year 2s excluded from an infant school during the summer term; Year 6s excluded from a junior or primary school during the summer term; or Year 11s excluded during the summer term for which a separate calculation applies).

b) Where a previously permanently excluded child is admitted to another school, the receiving school's budget is increased by the annual value of pupil led funding for a pupil of the same age and characteristics multiplied by 1/52 x the number of weeks from the date of re-admission to the end of the local authority's financial year (except for Year 2s excluded from an infant school during the summer term; Year 6s excluded from a junior or primary school during the summer term; or Year 11s excluded during the summer term for which a separate calculation applies).

c) Pupil led funding includes the basic entitlement rate; plus deprivation, low prior attainment and EAL funding where the pupil is eligible for such funding. A further adjustment is made where the pupil generated pupil premium for the school.

12.3 Panels are expected to take into account the distance and journey times when considering the most suitable placement. Subject to the maximum walking distance appropriate to the child's age being breached, transport will normally be arranged for the most appropriate public transport route. Where there are other suitable modes of transport but a taxi is deemed appropriate to support integration, this will normally only be funded for one term, and beyond that the child would be expected to travel on an alternative mode of transport to school. Where there are exceptional circumstances the parent/carer could request that the taxi provision is extended, and this would be considered as a transport case review by a senior officer in Surrey's Travel Assistance team.

12.4 Funding arrangements within this Protocol will be reviewed subject to the outcomes of any changes to the funding of schools by the Department for Education or decisions made by Schools Forum to vary funding to schools.

DRAFT

13. Data and reporting

13.1 A log of all placements made through this Protocol will be maintained by the School Admissions team and reported to schools.

13.2 As part of its annual report to the Office of the Schools Adjudicator, Surrey is required to report on the effectiveness of this Protocol, including how many children have been admitted to each type of school. Under the 2021 Code, Surrey's annual report must be produced by 31 October each year and must be published locally.

14. Review of the Fair Access Protocol

14.1 This Protocol will be reviewed on an ongoing basis by the Fair Access Review Group, which consists of representatives from primary and secondary schools, Pupil Referral Units, Education & Inclusion Service Managers, Area Inclusion Managers and Surrey's School Admissions Team.

14.2 In the event that the majority of schools (more than 50%) can no longer support the principles and approach of this Protocol, they should initiate a review by writing to the Service Manager for School Admissions, setting out the aspects of the Protocol that they wish to be reviewed. Any review will be subject to the matter under dispute not being a statutory requirement.

14.4 In such circumstances, the existing Protocol will remain binding on all schools until a new one is adopted.

DRAFT

Appendix 1

Roles and responsibilities

1. **School Admissions team:**

- consider applications for an in-year place for community and voluntary controlled schools and admission authority schools that opt in to the service;
- where a place is refused under the in-year process, issue outcome letters to parents within a maximum of 15 school days advising them of their right of appeal;
- where a place is refused, identify if the child meets one of the fair access categories;
- receive and validate fair access referrals from own admission authority schools;
- liaise with the Area Inclusion Manager to validate refusals under challenging behaviour;
- notify parents that placement is being considered through the Fair Access Protocol;
- decide the most appropriate process for placement, liaising with the Area Inclusion Manager as appropriate;
- where a direct placement is deemed appropriate, allocate a school to the child in liaison with schools and the Area Inclusion Manager as appropriate, within 20 school days of the referral;
- where a panel placement is deemed appropriate, establish which schools should be invited, organise the date and refer the details to those schools within five days of the panel meeting, making sure the timetable will allow a decision to be made within 20 school days of the referral;
- send a representative to the panel meeting;
- send the outcome letter following confirmation of the placement, copying to the school and the Area Inclusion Manager;
- if a child is unplaced at panel, allocate a school to the child via a direction/Secretary of State referral if necessary;
- monitor each placement to ensure the child is placed on roll and completes 12 weeks on roll;
- maintain statistics on number of fair access placements agreed for each school per year group, in which category and whether the 12 week threshold is met;
- respond to FOI and subject access requests in relation to fair access and panel meetings.

2. **Area Inclusion Manager:**

- refer recently excluded children to a Pupil Referral Unit;
- consider whether a managed placement can be arranged with a school for a child in a Pupil Referral Unit or in alternative provision ready for mainstream reintegration, or whether the child needs to be placed via the Protocol;
- notify the School Admissions team when a child in a Pupil Referral Unit is ready to be placed in school via the Protocol, along with written information from the PRU on the child's progress;
- attend panel meetings as appropriate;
- provide data on the number and percentage of LAC and EHCP children within each school to the Admissions team and to panel meetings;
- where a placement breaks down, work with the school to identify an alternative solution;
- support the School Admissions team in validating refusals on the basis of challenging behaviour;
- benchmark data to establish which schools have a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and share that with the School Admissions team and at panel meetings.

DRAFT

3. **Access to Education (A2E):**

- provide reintegration support as appropriate to the incoming school.

4. **Pupil Referral Units (PRUs):**

- inform the Area Inclusion Manager of pupils in the PRU who are ready for reintegration into a mainstream school;
- receive referrals from the Area Inclusion Manager for recently excluded pupils;
- provide written information on the child's progress at the PRU to the Area Inclusion Manager;
- attend the area panels as appropriate;
- where possible, provide reintegration support to the incoming school.

5. **Schools:**

Own admission authority schools who manage their own in year admissions:

- consider applications for an in-year place;
- where a place is refused under the in-year process, issue outcome letters to parents within a maximum of 15 school days explaining the reason for refusal and advising them of their right of appeal;
- where a place is refused under the in-year process and the child meets one of the fair access categories, complete a Fair Access Referral Form within two school days and send to the School Admissions team setting out the reason for refusal and why the case meets fair access.

All schools:

- where a direct placement is being sought, respond within 5 school days to a request from the School Admissions team to admit a child, giving a full written explanation if unable to admit;
- where a school is invited to a panel, ensure the Headteacher or delegated colleague attends and has read all paperwork in advance;
- contribute to decision making at panels to maintain an equitable distribution of fair access pupils among schools;
- once a fair access placement is agreed, make contact with the family and arrange for the child to go on roll as soon as possible, but no later than 5 school days of the offer and to start no later than a further 5 school days;
- where appropriate, make a referral to the area SEND team as soon as a placement is agreed.

DRAFT

Appendix 2

Exceptions to the Infant Class Size Limit

Section 1 of the School Standards & Framework Act (SSFA) 1998 limits the size of an infant class (i.e. a class in which the majority of children will reach the age of five, six or seven during the school year) to 30 pupils per school teacher.

However, the School Admissions (Infant Class Sizes) (England) Regulations 2012 permit children to be admitted as exceptions to the infant class size limit. These children will remain an 'excepted pupil' for the time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:

a) children admitted outside the normal admissions round with an education, health and care plan specifying a school;
b) looked after children and previously looked after children admitted outside the normal admissions round;
c) children admitted, after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process;
d) children admitted after an independent appeals panel upholds an appeal;
e) children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
f) children of UK service personnel admitted outside the normal admissions round;
g) children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
h) children with special educational needs who are normally taught in a special educational needs unit attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.

DRAFT

Appendix 3

Expectations of Fair Access Panels

There are clear benefits of utilising a panel to place children under the Fair Access Protocol, especially for children who exhibit challenging behaviour and those returning from alternative provision, as long as a placement can be agreed within the maximum 20 school days. Fair Access panels provide for a fair and transparent distribution of children and enables headteachers to make collaborative decisions.

Where a panel operates, the following expectations apply:

1. All schools will participate in the panel process.
2. The representative from the school must be authorised to participate in discussions, make decisions on placing children via the Protocol, and admit pupils when asked to do so under the Protocol.
3. If a school has no representation at a panel, that school could still be allocated a fair access child.
4. Schools that have already admitted a fair access child in the current academic year could still be allocated further fair access children.
5. For own admission authority schools, the delegated representative will not need to seek prior or subsequent authorisation from their governing body to admit a fair access child. This is because when a child is placed in accordance with the Fair Access Protocol, the admission authority for that school must admit the child.
6. All children will be placed at the panel.
7. Paperwork will be circulated at least five school days before a panel.
8. Paperwork will be as comprehensive as possible and will include information made known to the School Admissions team or the Area Inclusion Manager / Pupil Referral Unit as appropriate.
9. Attendees will have read the paperwork in advance of the panel.
10. Panel paperwork will include a named person and contact details for the previous school if available.
11. Panels may be heard virtually where appropriate.
12. Service representatives will be invited to attend panel meetings where it is felt that they might contribute to the discussion or be needed to support integration to a school.
13. Placement decisions will be made in the best interests of the child.
14. A child may be placed within the area where they were previously at school, even if their preference is for schools in another area. This is to increase a school's accountability for a child leaving that school.
15. Where a placement in another area is thought to be in the child's best interests, representatives from both areas might be invited to the panel meeting.
16. Notes of meetings will be made, which will set out the factors that informed the decision. These will be circulated to all those invited and will be made available under a Subject Access Request, as appropriate.

DRAFT

ANNEX 2

www.surreycc.gov.uk

SURREY
COUNTY COUNCIL

Making Surrey a better place

Addressing Inequalities

Equalities Impact Assessment

Surrey County Council Equality Impact Assessment Template

Stage one – initial screening

What is being assessed?	**Fair Access Protocol 2021/22**
Service	**School Admissions**
Name of assessor/s	**Claire Potier**
Head of service	**Jane Winterbone**
Date	**30/06/2022**
Is this a new or existing function or policy?	**Existing policy under review**

Write a brief description of your service, policy or function. It is important to focus on the service or policy the project aims to review or improve.
This EIA relates to the processes and criteria for Surrey's Fair Access Protocol. Each local authority is required to have a Fair Access Protocol which ensures that access to education is secured quickly for Surrey children who have no school place and that all schools in Surrey admit children their fair share of children with challenging behaviour under the Protocol.

Indicate for each equality group whether there may be a positive impact, negative impact, or no impact.

Equality Group	**Positive**	**Negative**	**No impact**	**Reason**
Age	**X**			Schools will receive pro rata AWPU funding for some Year 11 pupils admitted after 06 October 2022 until the end of the Spring term 2023
Gender Reassignment			**X**	

Disability	**X**			Children with special educational needs & disability who do not have an EHCP and children with disabilities or medical conditions which have already impacted on their attendance or participation at school will be placed more effectively in school through the Fair Access Protocol if they have been unable to secure a school place
Sex			**X**	
Religion and belief	**X**			In considering a placement, the School Admissions team or placement panel will have regard to a view of the parent regarding the religious ethos of a school
Pregnancy and maternity			**X**	
Race	**X**			Asylum seeker and refugee children will be placed more effectively in school through the Fair Access Protocol if they have been unable to secure a school place
Sexual orientation			**X**	
Carers	**X**			Children who are carers will be placed in school more effectively through the Fair Access Protocol if they have been unable to secure a school place
Other equality issues – please state	**X**			Previously Looked After Children will be placed in school more effectively through the Fair Access Protocol if they have been unable to secure a school place
HR and workforce issues			**X**	

Human Rights implications if relevant			**X**	

If you find a negative impact on any equality group you will need to complete stage one and move on to stage two and carry out a full EIA.

A full EIA will also need to be carried out if this is a high profile or major policy that will either effect many people or have a severe effect on some people.

Is a full EIA required?	**Yes (go to stage two)**	**No** **X**
If no briefly summarise reasons why you have reached this conclusion, the evidence for this and the nature of any stakeholder verification of your conclusion.		
There are no negative impacts on any equality group. Placements under the Fair Access Protocol are in the region of 80 a year, and as such this Protocol will not affect many people nor have a severe effect on some people.		
Briefly describe any positive impacts identified that have resulted in improved access or services		
The Fair Access Protocol is designed to ensure that children who are out of school are placed in school quickly. The equality groups identified above will face a positive impact as a result of this Protocol as they will be placed in school quickly, even if a school is full.		

For screenings only:

Review date	
Person responsible for review	**Claire Potier**
Head of Service signed off	**Jane Winterbone**
Date completed	**30 June 2022**

- Signed off electronic version to be kept in your team for review
- Electronic copy to be forwarded to Equality and Diversity Manager for publishing

Stage 2 – Full Equality Impact Assessment - please refer to equality impact assessment guidance available on Snet

SURREY COUNTY COUNCIL

DENISE TURNER- STEWART, CABINET MEMBER FOR EDUCATION AND LEARNING DECISIONS

DATE: 26 JULY 2022

LEAD OFFICER: LIZ MILLS, DIRECTOR FOR EDUCATION AND LIFELONG LEARNING

SUBJECT: SPECIAL EDUCATIONAL NEEDS AND DISABILTIES (SEND) PERSONAL BUDGETS POLICY 2022/23

ORGANISATION STRATEGY PRIORITY AREA: EMPOWERING COMMUNITIES

SUMMARY OF ISSUE:

Each local authority must have a Special Educational Needs and Disabilities (SEND) Personal Budgets policy in place and published on the Local Offer website.

Personal budgets are one element of a personalised approach to supporting children and young people with SEND and should be seen as an integral part of the coordinated assessment and Education Health and Care (EHC) planning process where there is a clear focus on improving outcomes for children/young people with special educational needs and disabilities. A family or young person will be able to request a personal budget at the point where the Local Authority is drafting an Education Health and Care (EHC) Plan or as part of the annual review of an EHC Plan.

The Special Educational Needs (Personal Budgets) Regulations 2014 ('The Regulations') provide the legislative framework for local authorities to follow in offering personal budgets. Personal budgets are offered alongside the introduction of Education, Health & Care (EHC) Plans, and children and young people assessed as needing an EHC Plan have had the option of requesting a personal budget since September 2014.

The proposed SEND Personal Budgets policy 2022/23 sets out the criteria that the local authority will use to determine whether a request for a personal budget can be agreed and in which circumstances this might include a direct payment.

RECOMMENDATION:

It is recommended that the Cabinet Member agrees the proposed SEND Personal Budgets policy for publication by 1 September 2022.

REASON FOR RECOMMENDATIONS:

- The local authority is required to have a SEND Personal Budgets policy in place and published on the Local Offer website.
- The proposed policy meets the requirements set out in the Special Educational Needs (Personal Budgets) Regulations 2014.
- The policy will ensure that there is transparency and consistency in decision making in response to any requests for a Personal Budget and in some cases a Direct Payment.

DETAILS:

1. A copy of the proposed SEND Personal Budgets policy for 2022/23 is attached as Annex 1.

2. The policy complies with the statutory requirements set out in the Special Educational Needs (Personal Budgets) Regulations 2014.

3. Surrey currently has over 12,000 children and young people with an EHC Plan (EHCP). Any young person with an EHC Plan aged 16-25 or their parents of children (under 16) with an EHC Plan can request a personal budget and the local authority must publish a policy which sets out the criteria that will be used to determine whether a personal budget and, in some cases, a direct payment can be agreed.

4. The SEN and Disability Code of Practice (June 2014 paragraph 9.95 defines a Personal Budgets as: '*an amount of money identified by the local authority to deliver provision set out in an EHC Plan where the parent or young person is involved in securing that provision.'*

5. The SEN and Disability Code of Practice (June 2014 paragraph 9.98) further goes on to state that '*The child's parent or the young person has a right to request a personal budget, when the local authority has completed an EHC needs assessment and confirmed that it will prepare an EHC plan. They may also request a personal budget during a statutory review of an existing EHC plan.'*

6. There are four ways in which personal budgets can be delivered:

   6.1 Direct payments – where the child's parents or young person receive the funding to contract, purchase and manage the services themselves.
   6.2 An organised arrangement – where the local authority, school or college holds the funds and commissions the support specified in the plan. These are sometimes called notional arrangements and can also be used where contractual, or funding arrangements mean that cash cannot be released as a direct payment or where economies of scale are present.
   6.3 Third party arrangements – where direct payments are paid to and managed by an individual or organisation on behalf of the child's parent or young person.
   6.4 A combination of the above.

7. Options for personal budgets differ depending on the type of educational institution for which parents or young people express a preference. Advice on these options will be provided to families by SEND Case Officers. Families can also access information advice and guidance from the Local Offer website and from SEND Advice.

8. Personal budgets should reflect the holistic nature of an EHC Plan and can include funding for special educational, health and social care provision. They should be focused on the provision agreed in the EHC Plan and should be designed to secure the outcomes specified in the EHC Plan. It is important to note that not everything identified in an EHC Plan is available as a personal budget.

9. The regulations governing the use of direct payments for special educational needs place a number of additional requirements on both local authorities and parents before a direct payment can be agreed. These include requirements to:
   - Consider the impact on other service users and value for money
   - Seek agreement from educational establishments where a service funded by a direct payment is delivered on their premises

10. The process for requesting a personal budget should be a collaborative process involving young people, children, and parents in decision making. The opportunity to consider options, and make a request for a personal budget, is part of the EHC multi-agency assessment process.

11. At the co-production meeting, where the draft EHC Plan is developed and outcomes agreed, the child's parents and the young person can indicate if they would like to request a personal budget for any of the available elements and how, if agreed, they would like to manage this.

12. If agreed, this is then included in the draft EHC Plan ready for the consultation phase with the family and the appropriate educational institutions, and final approval by the decision-making panel where the relevant commissioners are represented.

13. If a direct payment is to be made, a formal agreement is set up between the family and the relevant commissioning agency. This includes monitoring and review arrangements to ensure the direct payment is used to buy the service which the child/young person has been assessed as needing as part of the EHC Plan, and where necessary, the recovery of unspent sums.

14. Decisions on whether to allocate personal budgets will be based on the efficient use of existing resources and value for public funding. EHC Plans will be costed within a value for money context (e.g., looking at whether services for which a personal budget has been requested cost more than services provided directly). We recognise that, in some instances, larger organisations, such as the Council or an education provider, can source services or equipment at a better price than an individual could secure. As such, it would not represent value for money to provide a higher amount through a personal budget.

15. Each decision is made on its own individual merits and budgets may be agreed to meet outcomes for a set period. Each funding stream has its own decision-making system for allocating resources. For budgets associated with an EHC Plan decisions will be made by the Education Heath Care Plan Governance Board, which includes representation from Education, Health, and Social Care. Terms of reference for the board are available on the local offer website.

16. The key principles in considering any request will be whether:
    16.1 There is clear evidence of special educational needs which the request is seeking to meet.
    16.2 The request is linked to the achievement of specific outcomes in the EHC Plan.
    16.3 The request **will not** be met through the education, health and care provision and support allocated within the package.
    16.4 The services for which a personal budget has been requested could be commissioned more cost effectively if they were included within the package.

17. The policy will be formally reviewed every three years. Minor amendments may be made by officers on an annual basis, with changes published on the Local Offer website.

CONSULTATION:

18. The draft policy was issued for consultation on Friday, 1 July 2022 and runs until 22 July 2022. This was shared with a range of stakeholders, including schools, parent and carer forums and members of the public.
    At the time of writing, there have been 8 responses received with no implications resulting in change to the policy. Any further responses will be taken into consideration and a FAQs document will be published to address the questions raised. A supplementary report will be provided to the Cabinet Member following the end of the consultation with any recommendations.

RISK MANAGEMENT AND IMPLICATIONS:

19. The SEND Personal Budgets policy reduces the risk of inconsistent decisions being made in response to requests for personal budgets.

20. The policy ensures clarity and transparency of decision making, thereby increasing parental confidence.

21. The policy ensures that there is accountability for ensuring value for money in all decisions.

Financial and value for money implications:

22. The funding for personal budgets and direct payments can come from education, health, and social care funding streams. Personal budgets can be notional budgets, but where direct payments are agreed, these will always be made in accordance with the published guidelines.

Section 151 Officer commentary:

23. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed Government funding this requires an increased focus on financial management to ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium-term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.

24. As such, the Section 151 Officer supports these recommendations to ensure appropriate policies are in place to ensure transparency and consistency in decision making.

Legal implications – Monitoring Officer:

25. The draft policy has been written in compliance with the Special Educational Needs (Personal Budgets) Regulations 2014. At the time of writing, the consultation on the proposed new policy is ongoing. When the consultation concludes the Cabinet Member will be provided with a supplementary report which addresses the outcome of the consultation process. In taking her decision to approve the draft policy, the Cabinet Member will need to consider the outcome of the consultation together with the Equality Impact Assessment and conscientiously take it into account.

Equalities and diversity:

26. An EIA is currently being drafted and will incorporate work with Adult Social Care, Surrey Coalition and any views which are collated during the consultation period which is still ongoing.

27. Education, Health, and Care Plans (EHCPs) are available to children and young people up to the age of 25 and any additional needs outside of this would be picked up through adult social care assessment and transition which can take place from year 9. All requests for an EHC assessment are carried out based on need regardless of any protected characteristic.

28. The SEND Personal Budget policy is directly linked to an EHCP and would only be used for an education element of the plan. The policy would not be used for any other purpose.

Other implications:

29. The potential implications for the following Council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Environmental sustainability	No significant implications arising from this report
Public Health	No significant implications arising from this report

WHAT HAPPENS NEXT:

30. Timescales
    - 22 July consultation end and responses will be taken into consideration. A supplementary report will be provided to the Cabinet Member following this with any further recommendations.
    - 26 July paper to Cabinet committee
    - 27 July CFLL presentation of draft policy
    - August – training delivered to staff
    - 1 September – policy published on Surrey website Local Offer pages

31. Next steps
    - A Frequently Asked Questions document will be published to respond to the questions raised and circulated to respondents.
    - Any responses which are raised about protected characteristics will be addressed in the EIA before final sign off
    - Signed off policy to be included in Surrey website Local Offer pages so it can be accessed by external visitors.
    - Put communication plan in place
    - Training session for all staff who need to understand the policy in relation to EHCPs

32. Communication
    - The outcome will be communicated via internal and external communication channels to staff, anyone who has been consulted on the issue (officers, members, public, stakeholders, partners).

Contact Officer:
Julia Katherine, Assistant Director Inclusion and Additional Needs (Policy Performance and Practice) Julia.Katherine@Surreycc.gov.uk

Consulted:
Officers of Surrey County Council; the partners of the additional needs Partnership Board; schools and colleges; ATLAS; School SENCos; Surrey SEN Teams; Family Voice Surrey; Director of Education and Life-Long Learning and Assistant Directors; Children's Social Care; Adult Social Services.

Annexes:
SEND Personal Budgets policy for 2022/23

Sources/background papers:
N/A

This page is intentionally left blank

Surrey SEND personal budgets policy

Table of contents

Surrey SEND personal budgets policy 1
1. Purpose 2
2. Introduction 3
3. What is a personal budget? 3
4. Information, advice and support 4
5. Co-production 4
6. Who can request a personal budget? 5
7. How to make a request for personal budget as part of EHC needs assessment or annual review 7
8. How are decisions made? 8
9. When can the local authority cease a payment? 8
10. What services currently lend themselves to personal budget in Surrey? 9
11. EHCP governance board 10
12. Monitoring and review 11
13. Mechanisms of control 11
14. Appeals and complaints 11
15. Mediation 11
16. Frequently asked questions 11

DRAFT

1. Purpose

This policy includes:

- A description of services across education, health, and social care that currently lend themselves to personal budgets.
- How that funding will be made available – partners must set out in their joint commissioning arrangements their arrangements for agreeing personal budgets.
- Mechanisms of control for making funding available to young people and parents (this includes direct payments, notional budgets, third party arrangements or any combination of these).
- Clear and simple statements of eligibility criteria and the decision-making processes that underpin them.

Our shared vision for all children and young people with Special Educational Needs and Disabilities (SEND) and their families is that:

- Children and young people are at the centre of our thinking, and we work with families as partners in meeting their children's needs and planning how we will deliver support in the future.
- The local authority (education and social care) and health share responsibility for making sure that high quality support is in place for children and families when and where they need it.
- All places, settings and organisations that provide education and/or support to children and their families are welcoming of children with additional needs/SEND and have a good understanding of their needs.
- Children and young people with additional needs/SEND can access the help and support they need to thrive and achieve within their local communities.
- Children and young people can go to a school that meets their needs, access services and play an active role in the community close to where they live.
- Families have easy access to information which helps them understand how best to meet their child's needs and access the help that is offered. They can easily find out about activities and support available to them in their local communities. They help us identify gaps in services and areas for improvement.
- Children's additional needs are identified as soon as possible and there is a quick response. Decisions about support are based on achieving the best outcomes for the child, including helping them develop more resilience and independence as they move towards adulthood.
- Children and families have access to the same level of high-quality support wherever they live in Surrey. We have a good, shared understanding of our children with additional needs/SEND in Surrey and our support offer matches their needs.
- Children, and families are supported and enabled to achieve healthier lives.

DRAFT

2. Introduction

A family or young person will be able to request a Personal Budget at the point where the Local Authority is drafting an Education Health and Care (EHC) Plan or as part of the annual review of an EHC Plan.

Personal budgets are one element of a personalised approach to supporting children and young people with SEND and should be seen as an integral part of the coordinated assessment and EHC planning process where there is a clear focus on improving outcomes for children/young people with special educational needs and disabilities.

The Special Educational Needs (Personal Budgets) Regulations 2014 ('The Regulations') provide the legislative framework for local authorities to follow in offering Personal Budgets. Personal budgets are offered alongside the introduction of Education, Health & Care (EHC) Plans, and children and young people assessed as needing an EHC Plan have had the option of requesting a personal budget since September 2014.

3. What is a personal budget?

The SEND Code of Practice defines a personal budget in the following terms:

'A personal budget is an amount of money identified by the local authority to deliver provision set out in an EHC Plan where the parent or young person is involved in securing that provision.'
SEN and Disability Code of Practice June 2014 para. 9.95

'The child's parent or the young person has a right to request a personal budget, when the local authority has completed an EHC needs assessment and confirmed that it will prepare an EHC plan. They may also request a personal budget during a statutory review of an existing EHC plan.'
SEN and Disability Code of Practice June 2014 para. 9.98

There are four ways in which a child's parent or young person can be involved in securing provision:

- Direct payments – where the child's parents or young person receive the funding to contract, purchase and manage the services themselves.
- An organised arrangement – where the local authority, school or college holds the funds and commissions the support specified in the plan. These are sometimes called notional arrangements and can also be used where contractual, or funding arrangements mean that cash cannot be released as a direct payment or where economies of scale are present.
- Third party arrangements – where direct payments are paid to and managed by an individual or organisation on behalf of the child's parent or young person.
- A combination of the above.

Further information about personal budgets and direct payments can be found on the local offer here: Direct payments | Surrey Local Offer

DRAFT

4. Information, advice and support

Advice and assistance in connection with personal budgets is available through SEND Advice Surrey[1] – Special Educational Advice and Disabilities information, advice, and support. SEND Advice Surrey is served by IPSEA-trained SEND advisors and can offer impartial, confidential, and free advice, which is at 'arm's length' to the local authority.

Options for personal budgets differ depending on the type of educational institution for which parents or young people express a preference. Advice on these options will be provided by SEND Case Officers.

Young people aged 16 and over will be supported by their Case Officers to participate fully in decisions about the outcomes they wish to achieve. This may include requesting a personal budget to deliver specific outcomes.

Young people who are eligible for social care or health support will receive specific advice about the support which is available to help them personally and information about the option of having a personal budget.

A programme of training will also be delivered to relevant local authority and health staff, including Key Workers, Social Workers and Case Officers, to ensure that there is a consistent approach and that they are able explain the personal budget options, benefits, and responsibilities that individuals and families should consider. This will include how decisions are to be properly made and recorded to demonstrate good administrative

5. Co-production

Co-production is at the centre of the new approach to supporting children and young people with additional needs/SEND and their families. Personal budget processes should model co-production. Developing the offer of personal budgets will mean genuinely working with all partners, families, young people, parent carer forums and local providers.

Personal budgets create opportunities to:

- Meet presenting needs at the earliest opportunity to offer the greatest support.
- Give greater choice and control to young people with additional needs/SEND and their families.
- Meet stated outcomes in EHC Plans, where these cannot be met by existing services.
- Use resources in the most effective way, to achieve specified outcomes.
- Ensure support interventions are integrated into the holistic support for the child.

[1] https://sendadvicesurrey.org.uk/

Decision making about personal budgets should be based on:

- **Openness**
  Everyone understands how decisions are made, what is available, what choice exists and conversely what choices don't exist.
- **Involvement**
  Everybody who needs help in understanding what personal budgets may offer should be supported to do so.
- **Transparency**
  Provision of better record keeping will be key to avoiding future similar issues.

6. Who can request a personal budget?

The child's parent and or carer of the young person has a right to request a personal budget, when the local authority has completed an EHC needs assessment **and** confirmed that it will prepare an EHC Plan. They may also request a personal budget during a statutory review of an existing EHC Plan.

Personal budgets should reflect the holistic nature of an EHC Plan and can include funding for special educational, health and social care provision. They should be focused to secure the provision agreed in the EHC Plan and should be designed to secure the outcomes specified in the EHC Plan.

It is important to understand that not everything identified in an EHC Plan is available as a personal budget. Options for personal budgets are determined by the assessed needs of the child or young person and influenced by what is already available through the local offer of services, eligibility criteria for different components, local circumstances, commissioning arrangements and other individual factors such as school preference. The local authority would always consider the availability of local authority services prior to commissioning any external provider.

The 'local offer' sets out what is available from education, health, and social care to children and young people with special educational needs and disabilities, including those who do not have EHC Plans.

Options for personal budgets relate to more specialist or individualised provision. In addition, where a direct payment is requested as part of a personal budget, the local authority in relation to both education and social care services, must be satisfied that the person who receives the direct payments will:

- Use them in an appropriate way
- Act in the best interests of the child

The regulations governing the use of direct payments for special educational needs place a number of additional requirements on both local authorities and parents before a direct payment can be agreed. These include requirements to:

- Consider the impact on other service users and value for money
- Seek agreement from educational establishments where a service funded by a direct payment is delivered on their premises

DRAFT

Education

- Any funding for personal SEN budget is for learning outcomes.
- The funding from the Local Authority's High Needs block for the SEN element of a personal budget will be based on the assessed needs of the child or young person and will usually be for support that is required in addition to the support a school or college is expected to provide from within delegated funding as part of the local offer.
- Schools and colleges can choose to contribute from their delegated funding (Element 1 and Element 2).

Health

- Offer individual funding for children with complex health needs as established by the criteria set out within the Continuing Health Care tool
- Personal Health Budgets are not appropriate for all aspects of NHS care an individual may require. Full details of excluded services are set out in guidance provided by NHS England including primary medical (i.e., GP services) and emergency services.
- Since April 2014, everyone receiving NHS Continuing Healthcare (including children's continuing care) has had a right to ask for Personal Health Budget, including a direct payment. Since October 2014, this group has benefitted from the right to have a Personal Health Budget.

Social Care

- **Children and young people under 18**
  For children and young people under 18, the local authority is under a duty to offer direct payments for services which the local authority may provide to children with disabilities, or their families, under section 17 of the Children Act 1989. A personal social care budget will be focused on outcomes around family and home life, being safe when out and about in the local community and being able to take part in life outside of school. This is determined by local eligibility and whether the child is a 'child in need' as defined in the Children Act 1989.
- **People over 18**
  The Care Act 2014 mandates, for the first time in law, a personal budget as part of the care and support plan for people over 18 with eligible care and support needs, or where the local authority decides to meet needs. It also clarifies a person's right to request a direct payment to meet some or all of their care and support needs, and covers people with and without capacity to request a direct payment.

DRAFT

7. How to make a request for personal budget as part of EHC needs assessment or annual review

The process for requesting a personal budget should be a collaborative process involving young people, children, and parents in decision making. Developing and implementing individual EHC Plans will provide an important route for identifying issues and developing the involvement of young people and parents.

It has been recognised through good family support work and early support provision that key-working and facilitation skills are essential to ensure that all families have opportunities to contribute their views regardless of their individual circumstances.

The opportunity to consider options, and make a request for a personal budget, is part of the EHC assessment process.

At the co-production meeting, where the draft EHC Plan is developed and outcomes agreed, the child's parents and the young person can indicate if they would like to request a personal budget for any of the available elements and how, if agreed, they would like to manage this.

If agreed, this is then included in the draft EHC Plan ready for the consultation phase with the family and the appropriate educational institutions, and final approval by the decision-making panel where the relevant commissioners are represented.
If a Direct Payment is to be made, a formal agreement is set up between the family and the relevant commissioning agency. This includes monitoring and review arrangements to ensure the direct payment is used to buy the service which the child/young person has been assessed as needing as part of the EHC Plan, and where necessary, the recovery of unpaid sums.

Eligibility

- Young people who have an EHC Plan and their parents/carers have a right to request a personal budget for their support at any time while a draft EHC Plan is being prepared or an existing plan is being reviewed or re-assessed.

- The Personal Budget may contain elements of Education, Social Care and/or Health funding.

- The specific circumstances in which a personal budget for Education, Health and/or Care will be considered are outlined under sections 3, 4 and 5.

DRAFT

8. How are decisions made?

Each decision is made on its own individual merits and budgets may be agreed to meet outcomes for a set period. Each funding stream has its own decision-making system for allocating resources. For budgets associated with an EHC Plan decisions will be made by the Education Heath Care Plan Governance Board (EHCPGB), which includes representation from Education, Health, and Social Care. Terms of reference for the board are available on the local offer website.

The legal basis for decisions is outlined in our document *Legal Tests for EHCP Decision-Making* and the process in the *Personal Budget Request Decision Flow Chart*, both of which are also available on our local offer website.

Decisions on whether or not to allocate personal budgets will be based on the efficient use of existing resources and value for public funding. EHC Plans will be costed within a value for money context (e.g., looking at whether services for which a personal budget has been requested cost more than services provided directly). We recognise that, in some instances, larger organisations, such as the Council or an education provider, can source services or equipment at a better price than an individual could secure. As such, it would not represent value for money to provide a higher amount through a personal budget.

The key principles in considering any request will be whether:

- There is clear evidence of special educational needs which the request is seeking to meet.
- The request is linked to the achievement of specific outcomes in the EHC Plan.
- The request **will not** be met through the education, health and care provision and support allocated within the package.
- The services for which a Personal Budget has been requested could be commissioned more cost effectively if they were included within the package.

9. When can the local authority cease a payment?

There will be review of direct payments/personal budgets through the annual review process. We will stop making direct payments/personal budgets if:

- The recipient has notified us in writing that he or she no longer consents to receive the direct payments.
- The recipient ceases to be a person to whom direct payments may be made as set out below.
    - following a review, it appears that the recipient is not using the payment to secure the agreed provision.
    - the agreed provision can no longer be secured by means of direct payments.
- At any point we become aware that the making of direct payments is:
    - having an adverse impact on other services which we provide or arrange for children and young people with an EHC Plan which we maintain; or
    - no longer compatible with the efficient use of our resources.
    - we have taken reasonable steps to ascertain whether the young person consents to direct payments and have not received confirmation of this consent.

DRAFT

10. What services currently lend themselves to personal budget in Surrey?

Personal budgets in Surrey have been used for provision outlined in the EHC Plan that relate to therapies, drama, respite, sports, music or tutoring.

Service/provision	**Can this be included in a Personal Budget?**	**Could this be given to parents as a direct payment?**
The cost of the support in an education setting that is funded from the school budget, such as teaching assistant support, specialist resources, etc.	Yes, but only if the Centre Manager, Head Teacher or Principal agrees.	Yes, if the Centre Manager, Head Teacher or Principal agrees
Support or provision from top up funding e.g., funding used to provide support over and above what the school provides	Yes	Yes
Specialist equipment for the child.	Yes, if the need has been identified by a professional	Yes
Home to school transport	Yes, but only if the child is entitled to free home to school transport and it is more cost effective for the LA if parents make their own arrangements.	Yes, but only if the child is entitled to free home to school transport and it is more cost effective for the LA if parents make their own arrangements.
Central commissioned services	No	No
Specialist provision	No	No
Therapy services		

Implementation of personal budgets is complex, and, as with the local offer, the personal budget offer is the start of an ongoing process of review. The scope and availability of personal budgets will be developed and revised over time through regular review and consultation with parents, children, and young people and the implementation of joint commissioning strategies.

An important question to consider is how a personal budget fits with other sources of support, access and opportunity at school, college or in training. Personal budgets, and how they might be used, are only one part of a much wider system of learning opportunities, support, and activities available to children and young people who need additional individual resources to enable them to make good educational progress.

DRAFT

Education
We are not currently able to offer a direct payment for services which are currently fully commissioned by the department from in house providers.

A personal budget may be considered where a young person is recorded as in 'Education Other Than at School' (EOTAS), it is the intention that this is provided by services directly commissioned by the local authority to assist the family in management of that provision.

High needs 'top-up' funding (Element 3) currently goes to schools and colleges to provide the support required by the child/young person to meet their identified outcomes. The scope of a personal budget for special educational needs will vary depending on a young person's or child/parent's preference for school or educational institution. For example, as part of their core provision, special schools, and colleges make some specialist provision available that is not normally available in mainstream schools and colleges. The choice of a special school with integrated specialist provision may reduce the scope for a personal budget.

Where possible, all transport should be commissioned through the delivery hub of the Surrey School Travel & Assessment Team. If, however, staff need to procure transport at short notice for vulnerable children or young people, then this needs to be arranged directly with an approved SCC supplier to ensure that any drivers/passenger assistants used have been vetted and hold an TCC Authorised Identity Badge – the list of suppliers can be found by searching for 'Product directory taxi services' on SCC Info, the council's intranet system. Where new providers are procured, this is part of the due diligence process and for existing providers we are moving them to these arrangements. This is to ensure that all the funding that is provided to support the young person is delivered and that there is a legal arrangement with the provider and Surrey County Council. However, if there is a reason why the family feel that this is not appropriate, we are happy to review this on a case-by-case basis.

Health
- NHS Continuing Care for children
- NHS Continuing Health care

In the medium or longer term, it is anticipated that respite care services could lend themselves to personal health budget

Social Care
- 'Short breaks' packages of support for children under 18 agreed as part of a Child in Need Plan
- Packages of support agreed as part of an Adult Care Plan

11. EHCP governance board

The purpose of the EHCP governance board is to provide a clear and equitable framework and process in considering the assessed needs of children and young people with SEND. One of the functions of the EHCP governance board is to ratify the EHC Plan and any arrangements for personal budgets.

12. Monitoring and review

All decisions about a personal budget are subject to annual review of needs or earlier if a child or young person's plan needs to be reviewed.

13. Mechanisms of control

Personal budgets and direct payments are set up as a formal agreement with a requirement for a quarterly return and reporting of the under use of funds for the equivalent of over 6 weeks with repayment, if necessary, of unused/surplus amounts.

It is available for families to use a third-party organisation to manage their direct payments and ensure that the money is used to support the child and pay any necessary expenses for carers (i.e. national insurance). This service is available on an individual basis and will be discussed during the assessment.

14. Appeals and complaints

Complaints about the process of setting up, administering, and monitoring the personal budgets will be managed under the Council and the CCG complaint procedures. Details of these procedures will be provided by the Case Officer.
(More details to be added in here of the right to request a review of decision)

15. Mediation

From 1 September 2014, the Children and Families Act introduced a duty on local authorities to arrange for parents and young people to receive information on mediation before they appeal to the Tribunal and to arrange mediation for parents and young people who want it. This is in addition to the existing duties to make disagreement resolution services available to parents.

16. Frequently asked questions

Do we as her parents have to have a plan/make a plan of how the money will be spent?
Yes – a personal budget must be used to support an identified outcome on the EHC Plan, and this must be agreed by the school, local authority and/or NHS.

Are there proformas to be filled in around the way we spend the money?
Yes - there will be monitoring arrangements and information about these will be available as the funding mechanisms develop to support options for personal SEN budgets. (links to be added)

If all the money is not spent during the year, what happens to the unspent money? Is it returned to the Authority?
Yes – these arrangements are already in place for social care direct payments.

DRAFT

Who monitors the spending and how often? Once a term? And how is it monitored?
Parents are responsible for how money is spent and complying with the local authority monitoring arrangements which will take place at least annually, but this may change as we implement direct payments across a wider range of services.

Is there a training pack for parents on how to manage and spend their child's funds?
Yes - there will be information available as well as the possibility of third-party arrangements where direct payments are paid to and managed by an individual or organisation on your behalf.

Is the money split? i.e., home and school?
Yes, it could be. This sort of decision would depend on the identified outcome and the discussions between parents/young person, school, and local authority/NHS about best way to meet your child's needs.

When will the policy be reviewed?

The policy will be formally reviewed every three years. Minor amendments may be made by officers on an annual basis.

DRAFT

This policy should be read in conjunction with the Surrey County Council direct payments policy