

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

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.

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](#)

4. Information, advice and support

Advice and assistance in connection with personal budgets is available through SEND Advice Surrey¹ – 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://sendadvice.surrey.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

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.

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.

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 Health 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.

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.

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.

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.

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