

SEND'14 Frequently Asked Questions

Personal Budgets

What is a Personal Budget?

An education, health and care plan (EHCP) personal budget is an amount of money to support the achievement of all, or some, of the outcomes set out in the EHCP. Personal budgets are identified from the 'top-up' element of funding and would be identified and accessed through an EHCP.

How are Personal Budgets provided?

Personal budgets are provided in different ways:

Arranged: Local Authority (LA), School or college retains funds and commissions on behalf of the family, also known as notional budget. This is not dissimilar to the arrangements that families and the LA will be used to.

Third Party: Agreed funds are provided to an organisation or nominated individual (direct payment) who then takes responsibility for commissioning on behalf of the family.

Direct Payment: Agreed funds are provided to family via dedicated bank account and they take responsibility for commissioning and arrangement of services and provision as a result.

Will families be able to access personal budgets from the Children's Social Care teams? If so what work is being done to work out the costs involved?

EHCP personal budgets include funding from health and social care, and again this will be considered in the holistic assessment and planning process. In terms of associated costs, Social Care has developed a Resource Allocation System (RAS) to ensure that funding is equitable and consistent. As a result, there will be clear personal budget availability and this can be considered in the EHCP.

How is the level of personal budget determined?

The planning and decision making process needs to ensure that the right level of resources are provided, using the SEN Banding System, Social Care RAS, and the Health Continuing Care Framework. It should be that upon issue of the final EHCP, there is confidence that the level of resource (including personal budget, if any) can support the achievement of outcomes.

Should there be requests for changes for the amount of personal budget this will be considered through the monitoring and review process, and as with current arrangements, evidence will need to be provided should increased funding and resource be requested.

What accountability measures are in place?

In respect of all personal budgets, families are accountable and aware of their accountability during the assessment and planning process. More legal measures (contract) are taken where direct payments are made to the family or third party, in order to ensure that monies are used for the sole purpose of the provision outlined in the EHCP.

The LA still maintains responsibility for monitoring the use of resources delegated via the EHCP. This will be via returns made by the family (where direct payments are in place).

In order to limit the additional work this may create in the longer term, Surrey are looking at card payment monitoring systems, so that electronic monitoring can take place.

Does the personal budget requirement enable parents to ask for the money that would be spent on a mainstream school place and use to fund a special school place instead?

Personal budgets cannot be used to fund alternative types of school placement.

Should families wish to part fund placements with the LA, then this is separate issue and such discussions will not and should not be part of an EHCP personal budget discussion.

Are personal budgets available for children who are home educated?

If the child or young person (CYP) is in receipt of an EHCP and the LA and parents agree that the CYP should be educated at home then potentially the top-up funding would be available as a personal budget.

Funding

What additional resources have Surrey County Council put in place to support creative, free and person centred approaches by staff with CYP?

Together with schools, CYP and their parents/carers we have developed and are implementing a new system which keeps the CYP at the centre of the process. This is reflected throughout the assessment/intervention process and our new Pathway/Education Health and Care Plan and accompanying documentation. We have a detailed training programme which is being rolled out to key practitioners to ensure that those involved in joint working with CYP and their parent/carers have the right mix of skills, knowledge and experience in order to undertake their work. We are additionally resourcing SEN support teams to ensure capacity is maximised and this includes the appointment of two Education, Health and Care Co-ordinators to each of the area SEN teams.

What are the funding expectations on schools and the Local Authority in relation to the notional SEN budget and top up funding?

SEN funding in mainstream school consists of three elements:

Element 1 – is the basic per pupil funding which schools receive for every child whether or not they have special educational needs. A national assumption is being made that element 1 is the equivalent of a notional £4000 per pupil

Element 2 – this is an identified figure within the delegated budget which each school receives annually. The amount a school receives is calculated by reference to a funding formula which, amongst others, considers prior attainment and social deprivation factors. The level of support a school is expected to provide from element 2 of its funding has been nationally defined as a notional £6000 in value. The expectation is that a mainstream school must provide an additional £6000 of support for each individual child for SEN before they can access top-up funding. This does not mean that this is the amount the school will actually have received

Element 3 – this 'top-up' funding comes from the local authority and is accessed in Surrey through an Education, Health and Care Plan. In practice the Local Authority will not expect schools to ask for further support in the form of top-up funding until they have demonstrated that the cost of the provision required by the pupil exceeds the high needs threshold i.e. Element 1 plus £6000

What happens if the school does not attract sufficient funding through Element 2 to enable them to provide £6000 worth of arrangements for every pupil that needs it?

Local Authorities identify within each school's budget a notional SEN budget from which they can provide a level of support for all their pupils with SEN. This is not a ring-fenced amount, and it is for the school to provide high quality appropriate support from the whole of its budget.

The SENCo, head teacher and governing body should establish a clear picture of the resources that are available to the school. They should consider their strategic approach to meeting SEN in the context of the total resource available, including any resources targeted at particular groups, such as pupil premium.

Is top-up funding from the high needs block available to academies?

Yes the same legislation applies to maintained schools, academies and free schools.

What about high attaining pupils with social and emotional difficulties?

'it should not be assumed that that attainment in line with chronological age means that there is no learning difficulty or disability. Some learning difficulties and disabilities occur across the range of cognitive ability and if left unaddressed may lead to frustration, which may manifest itself as disaffection, emotional or behavioural difficulties'

Code of Practice

Irrespective of the origin of a pupils special educational needs there is the same duty on education settings and the Local Authority to provide high quality SEN support funded through the elements outlined above.

What funding from other agencies will go into the EHCP?

The Education, Health and Care Plan will detail all the support arrangements a child or young person requires in order to progress towards their outcomes. Where this support needs to be provided by health or social care colleagues this will be recorded in the plan

Health Funding

When will Surrey provide specialists like OT?

Surrey County Council (SCC) have jointly commissioned a review of Occupational Therapy Services for children and young people in Surrey, with Health and Social Care. The review is being carried out by the College of Occupational Therapy and will provide the basis for a joint commissioning strategy with Surrey's Clinical Commissioning Groups, a single service specification and recommendations on future service delivery and pathways.

When is Surrey going to provide more speech and language therapists?

Surrey County Council and Surrey's Clinical Commissioning Groups are currently developing a joint commissioning strategy for Speech and Language Therapy (SLT), which proposes that Surrey County Council takes commissioning responsibility for school aged children who require support with speech, language and communication needs in order for them to progress with their learning. The strategy also details proposals around making more effective use of the £4.1m that is currently being spent on Speech and Language Therapy for 0-19 year olds in Surrey. The strategy also makes proposal around upskilling the wider workforce, which includes other health professionals, families and school staff to support children and young people with SLCN. This strategy will be out for consultation before Christmas.

How will outcomes e.g. SLT/OT/Physio be funded when there is no EHCP?

The proposal for SCC to take on a greater commissioning role for school aged children who require SLT to access the curriculum is based around trying to ensure the child or young person has the appropriate support in place regardless of whether or not they have an EHCP. Part of the re-commissioning of therapy services will include a greater provision of support and resources for schools and families.

How is joint commissioning, involving health in particular, going to work?

Responsibilities will be more clearly defined, with clear agreements in place over responsibilities. There will be a single service specification in place, for example with Speech and Language Therapy, and there will be agreed shared areas of responsibility.

How will therapy support for young people aged 19-25 be provided?

Colleagues in SCC post-16 commissioning are facilitating discussions between colleges and therapy providers, where colleges will buy in therapy provision or support directly if required, rather than SCC commissioning this.

Will the new system mean that parents home educating children with SEN could be entitled to funding / personal budget to buy their own therapy?

As therapies are currently commissioned by both Surrey County Council and

Surrey's Clinical Commissioning Groups and tied up contracts with therapy provider, we are not currently able to include these as part of a Personal Budget.

SEN Code of Practice

When can parents or a young person appeal to the send tribunal?

Parents and young people have a right of appeal to the First tier Tribunal against the following decisions:

- Refusal to undertake an EHC needs assessment
- Refusal to issue an EHC plan
- Refusal to re-assess under section 44
- Refusal to amend an EHC plan following a review or re-assessment
- To cease to maintain an EHC plan
- The contents of an EHC plan

If a parent, young person or a school/college asks the LA to carry out an EHC needs assessment then the LA **must** respond to the request within 6 weeks saying if they will or will not carry out the assessment. In Surrey the parent/young person would be informed of the decision not to undertake an EHCP assessment following the Team around the family meeting with the EHCP co-ordinator.

Once the assessment has been agreed and evidence gathered, the LA at the partnership resources forum will make a decision whether to issue an EHC Plan. If a EHC plan is not issued then the parent/young person has the right to appeal this decision.

In addition, following the issuing of a final plan, the parent / young person has a right of appeal against the contents of an EHC plan. Such appeals can be about:

- (i) The child or young person's special educational needs
- (ii) The support arrangements
- (iii) The setting named or the type of setting

For all of these decisions there is now a requirement for compulsory mediation to have been considered BEFORE most types of cases can be heard at the first tier tribunal.

This is a new feature of the Children and Families Act 2014. For most types of appeals a parent or young person will need to obtain a certificate from a mediation advisor. This will show that they have been informed about mediation and that either they have chosen not to pursue mediation or have participated in mediation but remain dissatisfied.

Information about this mediation service can be found at www.surreycc.gov.uk/sendchanges

Is there still a two year check? YES

Does Health still have to notify the Local Authority if they suspect the child has special educational needs? YES

When a child is aged between two and three years old they may be invited to an *NHS development review* and, if they are in Ofsted registered childcare they will have a *two year progress check*.

The development review is different to *the progress check*.

The two year development review forms part of the Government's **Healthy Child Programme** (HCP) that aims to make sure families are healthy, supported and have access to the services they need. Not every family in Surrey will be invited to have a two year review.

The Government's **Healthy Child Programme** (HCP) 0-5 years has a focus on working across services for 0-5s. One of the HCP's core functions is to recognise disability and developmental delay. This includes a responsibility to provide information, support, referral and notification to others. In **particular there is a duty to inform the local education authority if it is suspected that a child may have special educational needs**.

The progress check at age two is a new requirement of the revised **Early Years Foundation Stage**. This is the framework that sets the standards for learning, development and care of children from birth to five years and must be followed by all registered childcare providers.

The progress check looks at the child's learning and development and will identify and strengths and needs for extra support in any areas.

Why has behaviour been removed as an area of need? As part of the Special Educational Needs (SEN) reforms; Social, Mental and Emotional Health (SMEH) has replaced Behavioural, Social and Emotional Difficulties (BESD) category of need. This change recognises that behaviour is an indicator of underlying needs and unmet issues. To change behaviour we need to deal with the underlying issues.

Behavioural difficulties do not necessarily mean that a child or young person has a SEN. Consistent disruptive or withdrawn behaviours can indicate underlying and unmet needs and so it's important to look across the range of indicators to check where difficulties originate.

What is meant by outcomes in the EHC plan?

An outcome can be defined as the benefit or difference made to an individual as a result of an intervention. EHC plans should be focused on education and training, health and care outcomes that will enable children and young people to progress in their learning and, as they get older, to be well prepared for adulthood.

“Outcomes are not a description of the service being provided – for example the provision of three hours of speech and language therapy is not an outcome. In this case, the outcome is what it is intended that the speech and language therapy will help the individual to do that they cannot do now and by when this will be achieved.”

Outcomes are personal; something that those involved have control and influence over and which is specific, measurable, achievable, realistic and time bound (SMART).

The person-centred approach of the new EHC plans means that when agreeing outcomes, it is important to consider both what is important to the child or young person – what they themselves want to be able to achieve – and what is important for them as judged by others with the child or young person’s best interests at heart. Outcomes should always enable children and young people to move towards their long-term aspirations.

How do we measure progress without using national curriculum levels?

The reforms to the national curriculum remove the current system of ‘levels’ that is used to report children’s attainment and progress. By removing levels the government is allowing teachers greater flexibility in the way that they plan and assess pupils’ learning. There are clear expectations set out in the new programmes at each key stage. The curriculum a school offers must include an assessment system which enables schools to check what pupils have learned and whether they are on track to meet expectations at the end of the key stage, and to report regularly and meaningfully to parents.

National curriculum and assessment from September 2014 guidance is available on the DFE website and links to the range of options available to schools to track progress are provided. Ofsted do not have any predetermined view as to what specific assessment system a school should use. Their main interest will be whether the approach adopted by a school is effective. They will be looking to see that it provides accurate information showing the progress pupils are making.

What is inadequate progress?

The Code of Practice outlines that:

“A pupil has SEN where their learning difficulty or disability calls for special educational provision, namely provision different from or additional to that normally available to pupils of the same age.”

“Class and subject teachers, supported by the senior leadership team, should make **regular assessments of progress for all pupils**. These should seek to identify pupils making less than expected progress given their age and individual circumstances.

This can be characterised by progress which:

- is significantly slower than that of their peers starting from the same baseline
- fails to match or better the child's previous rate of progress
- fails to close the attainment gap between the child and their peers
- widens the attainment gap

Where progress continues to be less than expected the first response should be high quality teaching targeted children's areas of weakness.

The class or subject teacher, working with the SENCO, should assess whether the child, despite interventions continues not to progress. Schools should put arrangements in place to secure better progress. The pupil's response to such support can help identify their particular needs.

How does EHCP impact on home educated students?

Section 7 of the Education Act 1996 gives parents the right to educate children, including children with SEN, at home. This has not changed.

Where the local authority already knows that a child has SEN or the parents/carers have made the local authority aware that the child may have SEN, the Local Authority should work in partnership with, and support, parents to ensure that the special educational needs of these children are met.

HOWEVER

Section 22 of the Children and Families Act 2014

Local authorities do not have a duty to assess every home educated child to see whether they have SEN or not. In cases where local authorities and parents agree that a child or young person with an EHC plan should be educated at home and home education is 'named' on the plan, the local authority is under a duty to arrange the special educational provision set out in the plan.

In cases where the EHC plan 'names' a school and the parents decide to take the child or young person out of school to educate at home, the local authority is not under a duty to make the special educational provision set out in the plan, provided it is satisfied that the arrangements made by the parents to educate the child or young person at home are suitable.

The local authority must review the plan annually to ensure the plan continues to be appropriate. Where the local authority has decided that the provision is appropriate, it should ensure that the plan names the type of school that would be suitable, but states that the parents have made their own arrangements.

EHCP Business Process

To what extent are Social Care and Health involved in the new process? What are the expectations on them?

The spirit of the new legislation is for honest and effective partnership that includes families, the voluntary and community sector, education, social care and health. Specifically children and young people who meet the threshold for Social Care needs and resources, the appropriate team representative will attend the Partnership Resources Forum (PRF) when Social Care need to be involved in the allocation of resources. All agencies will have early intervention strategies which will continue to be key in identifying and meeting needs at an early stage.

How will you support and engage parents in the process?

Parent/Carers are an important part of the process and plans will be person centred and developed with families using Person Centred Planning (PCP) approaches. Support and guidance to engage families will be available at every stage including through the early Pathway Plan and other early help interventions. The Local Offer includes the range of support and guidance available to families, Children and Young People from 0-25 years. Surrey Parent Partnership and other parent support groups will be a key source of support and guidance for families, in addition Partnership Forums and Independent Support will be available to ensure parental engagement and participation at all parts of the process.

Early identification, assessment and making the right provision at the right time

The new process places an emphasis on early identification of needs new shortened timescales will ensure putting in place the arrangements to meet these needs. The Local Authority has produced documents and guidance including Right provision at the Right time and a Banding Matrix which help support this new process. The EHCP Business process runs on a key worker model for families and Team Around the Family meetings to discuss and review needs and arrangements in place with all key practitioners involved with the child including Parents/Carers and Children and Young People where appropriate. A training programme including e- training is in place including a home focussed assessment, Person Centred Planning and co-production to support practitioners with the new processes and report formats from 1st September 2014.

Early intervention and timely support is key and pre-school children will continue to access support through discretionary funding.

The option of a personal budget provides families with greater flexibility and transparency in terms of the resources being put in place to meet Children and

Young People's needs. Early disagreement resolution is an important part of the new legislation and the Local Authority are required to make arrangements for additional support.

Processes

The Code of Practice introduces four broad areas of SEN

- Communication and interaction
- Cognition and Learning
- Social, mental and emotional health difficulties
- Sensory and/or physical

The new Business Process includes timescales for each stage of the process. The EHCP Co-ordinator is tasked with making decisions in partnership with others at the Team Around the Family (TAF) 2 meeting. Timescales are available within the SEND 14 guidance documents. EHC Plans will have a reviewing process to ensure Children and Young People's needs are being met. Training will be provided for SENCoS through the SENCo networks and examples of EHC Plan requests will be shared. The Pathway Plan is part of the Business Process and is required as evidence for the arrangements that are being made available through the Children and Young People's setting. This may include plans from partner agencies. The SEND14 documents include further guidance on templates to be used.

When requesting an EHCP assessment, the school or college will need to provide a costed provision map indicating progress made with current arrangements and provision. Questions concerning funding can be found in the section on Funding in SEND14 documents.

For Personal Budgets and Mediation Arrangements see above /SEND documents and Local Offer.

SEN Department will work directly with families at every stage of process. A key worker principle runs right through the process. Discretionary Funding Procedures remain unchanged.

PRFs include parent representatives but not the parent/carer representative of young person in question. Parent/Carers/young person has a right to appeal at key points in the decision process.

All current statements will transfer to EHC Plans over a period of three years. The Local Authority will provide a timetable and families will be informed.

Further information and resources can be found online at:

www.surreycc.gov.uk/sendchanges

www.surreyparentpartnership.org.uk

www.familyvoicesurrey.org