

Personal Budgets and Special Educational Needs (SEN): England

We use the term 'deaf' to refer to all types of hearing loss from mild to profound.
This includes deafness in one ear or temporary hearing loss such as glue ear.
We use the word 'parent' to refer to all parents and carers of children.

Introduction

This factsheet has been created to help parents of children or young people with Education, Health and Care (EHC) plans to gain a better understanding of Personal Budgets and how you can use them to improve services for your deaf child.

From 1 September 2014, the Government in England started replacing statements of Special Educational Needs (SEN) with Education, Health and Care (EHC) plans as part of the SEN reforms. For more information about EHC plans please visit the National Deaf Children's Society website at www.ndcs.org.uk/sen.

Parents of children and young people with EHC plans will now, by law, have the opportunity to request a Personal Budget when their plan is being drafted or reviewed.

Personal Budgets are available for education provision in England only.

Social care and health Personal Budgets

You do not have to have an EHC plan in order to access a social care or health Personal Budget. However, there is still an assessment process involved and the needs of your child must meet a set of criteria which will vary depending on which area you live in. For more information a good resource is KIDS's handbook on Personal Budgets which can be downloaded from their website www.kids.org.uk/yp-personal-budgets.

What is a SEN Personal Budget?

A SEN Personal Budget is an amount of money that has been identified by the local authority to deliver provision outlined within an EHC plan where the parents or young person have control over how it is spent. They are **completely optional** and you can instead choose to have support delivered in the same way as it has been previously by, for example, the local authority.

There are four different ways in which an SEN Personal Budget can be managed.

1. **Direct payments** – parents and young people are given funding directly to spend.
2. **Notional arrangements** – the local authority, school or college holds the funding and commissions the support needed on behalf of the parent or young person.
3. **Third party arrangements** – the funding is held by a third party who handles the funding on behalf of the parent.
4. A **combination** of the above.

The option you take will depend on your personal preference and also whether the local authority feels you can manage a direct payment. Some people are not allowed direct payments by law such as those receiving treatment for drug or alcohol addiction.

What can Personal Budgets be used for?

The introduction of Personal Budgets into the education sector is relatively new and there is still uncertainty over how much they will be used to meet the needs of deaf children and young people. Local authorities are expected to state within their Local Offers what provisions will lend themselves to the use of Personal Budgets.

Examples could be:

- specialist equipment such as fire alerting systems or radio aids
- speech and language therapy
- communication support such as sign language interpreters or speech to text reporters
- British Sign Language (BSL) or Cued Speech tuition
- short breaks.

The Personal Budget can only be used to achieve outcomes stated within the EHC plan. For example, you could only use a Personal Budget to purchase speech and language therapy support if the plan says that your child needs support with their speech and language. You would not be able to use the Personal Budget for any other purpose.

Local authorities are allowed to turn down requests for Personal Budgets if they feel that:

- supplying a Personal Budget means that services for other children with SEN suffer
- it is an inefficient use of local authority resources
- their proposed use is considered not to be in the best interests of the child or young person.

If the purchased service is being provided at a school or college then permission from the head teacher to use that purchased service in the school or college is required.

Real life examples

Below are two examples of how Personal Budgets have been used by families of deaf children.

Claire is mum to Ansel, two-and-a-half, who has auditory neuropathy spectrum disorder and hypoplastic auditory nerves, his hearing loss ranges from moderate to profound. They were asked to be part of the pilot EHC plans in Birmingham as Ansel has additional medical needs including a tracheostomy.

Claire said: "We were lucky to have an excellent Early Years teacher and Teacher of the Deaf who took time getting to know us. The assessment process was very comprehensive, looking at Ansel's entire needs as a little person, not just his deafness or education. It did however mean a very intensive period of multiple assessments, some of which were less relevant. The meetings we had to develop the plan were very thorough, which was important, but did take a lot of time. Things which are critical to Ansel's well-being and our family life, such as respite care, were considered. We were able to give lots of input as parents, including our aspirations for Ansel which are more holistic than just his educational achievements.

"Critically for us we were supported to access a Personal Budget, allowing us to attend formal courses in BSL – we advocated strongly that Ansel had a right to support to make his home accessible for his communication needs, similarly to a child with a physical disability needing equipment or adaptations."

The second example on the next page is not an example of a SEN personal budget. It came from a social care team and has been included in this factsheet to show how a personal budget could be used to purchase communication support.

Joe's family has received a Personal Budget for five years through their local authority's social care team. He is 11 years old, profoundly deaf and has attention deficit hyperactivity disorder (ADHD).

The budget is £2000 per year and paid into a dedicated account in monthly instalments. It is used to provide Joe and his hearing brother (who also has ADHD) with childcare and to access activities such as a summer play-scheme and a Scouts group.

When discussing the administration of the Personal Budget Joe's mother, Jenny says, "I have to provide receipts for the money used. I am supposed to do this monthly but I tend to do it annually. Not everyone provides receipts but school etc. is getting better at this as they are using computerised systems. Sometimes I lose receipts so can't claim or I pay using the wrong account then transfer the money across to repay myself and can't remember what it was for. It is time consuming which is why I put off doing it." She adds, "My employees all have to be CRB checked and I have to have an insurance policy in case people are injured in my home – this comes out of the budget.

"The budget makes a big difference to our family. We are reasonably comfortable financially but I wouldn't have been able to afford the play schemes, babysitters and support workers out of our own budget which are essential for our family to function. With my children's additional needs, reciprocal playdates don't happen. Family who are not local to us are not necessarily confident/willing to help. My Mum who lives 100 miles away is willing but gets exhausted, she is in her 70's and doesn't know their routines which is essential. The local cheaper play schemes are 'free play' which mean that my children with their poor language, creative and social skills are isolated and bored."

Jenny believes that receiving a direct payment is better than the local authority having control of the budget (notional budget): "The advantage of the budget is that I can organise it myself which is a thousand times quicker than waiting for the Disabled Children's Team to have endless authorisation meetings. I can be flexible how I use it and it is more cost efficient. My CSW is a friend of a friend so I'm not paying agency fees just giving her some pocket money for helping Joe at Scouts."

Please look out for updates to this factsheet. We will be publishing further examples of parents' and young people's experiences of Personal Budgets over time.

How and when do I decide whether to have a Personal Budget?

Figure 1 shows how Personal Budgets are agreed within the EHC plan process.

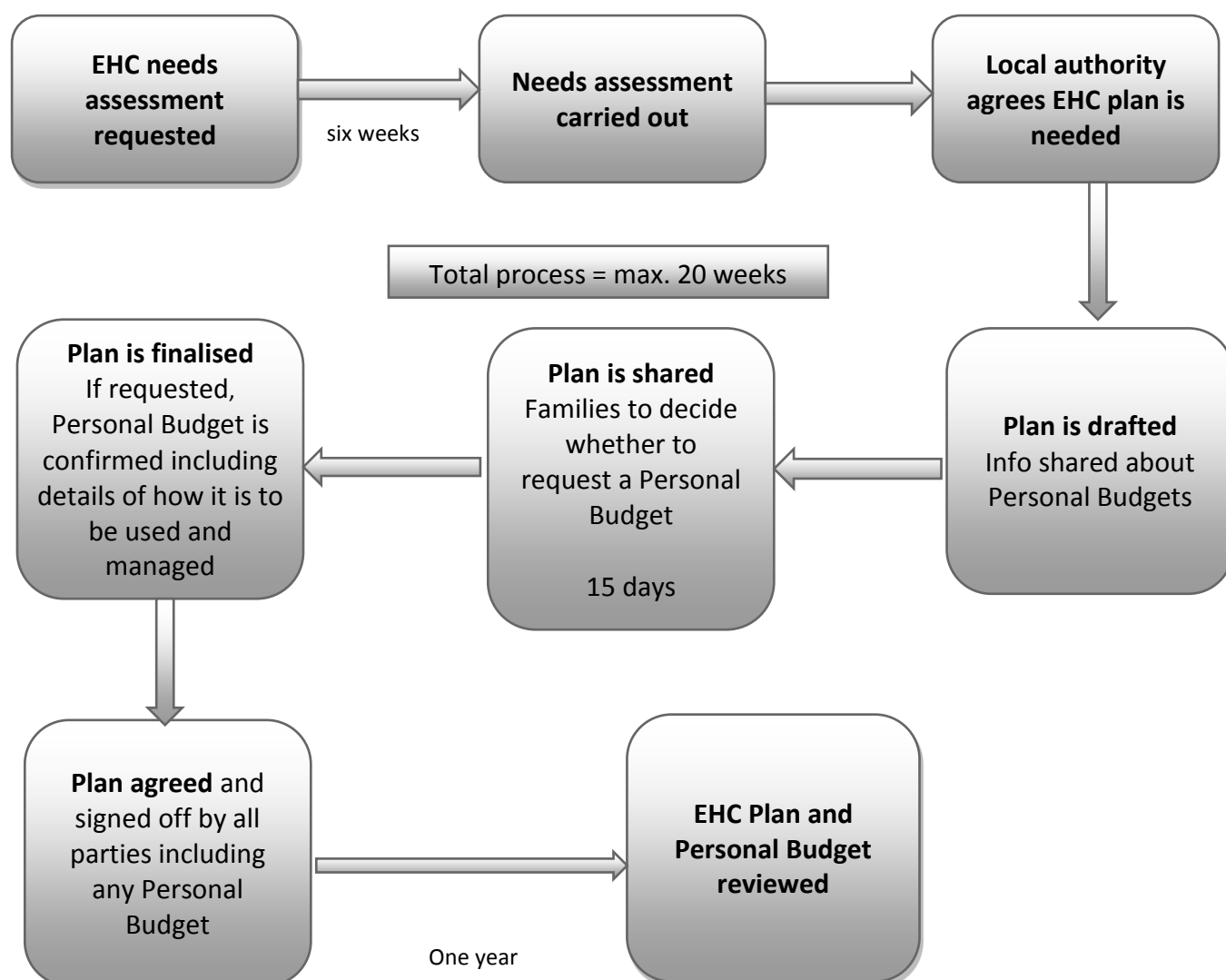


Figure 1 – Personal Budgets and the EHC plan process

Is there any support available to help families make decisions about Personal Budgets?

Yes. Local authorities are expected to provide details of independent organisations that can offer support and advice. These may include a brokerage service. They can help you input into an EHC plan, identify services for your child and work out how much your Personal Budget needs to be.

Where does the funding for Personal Budgets come from?

There are several potential streams or sources of funding as shown in Figure 2. Where the funding comes from will depend on the outcomes within the EHC plan being linked to the Personal Budget, and the responsibilities of the various departments. It is possible that funding can come from the school or college if the head teacher is in agreement. As a parent/carer, you should not have to worry which funding stream is used, but it is good for you to be aware that different sources exist.

Sometimes a Personal Budget is funded by two or more different streams. This is sometimes called an **integrated Personal Budget**.

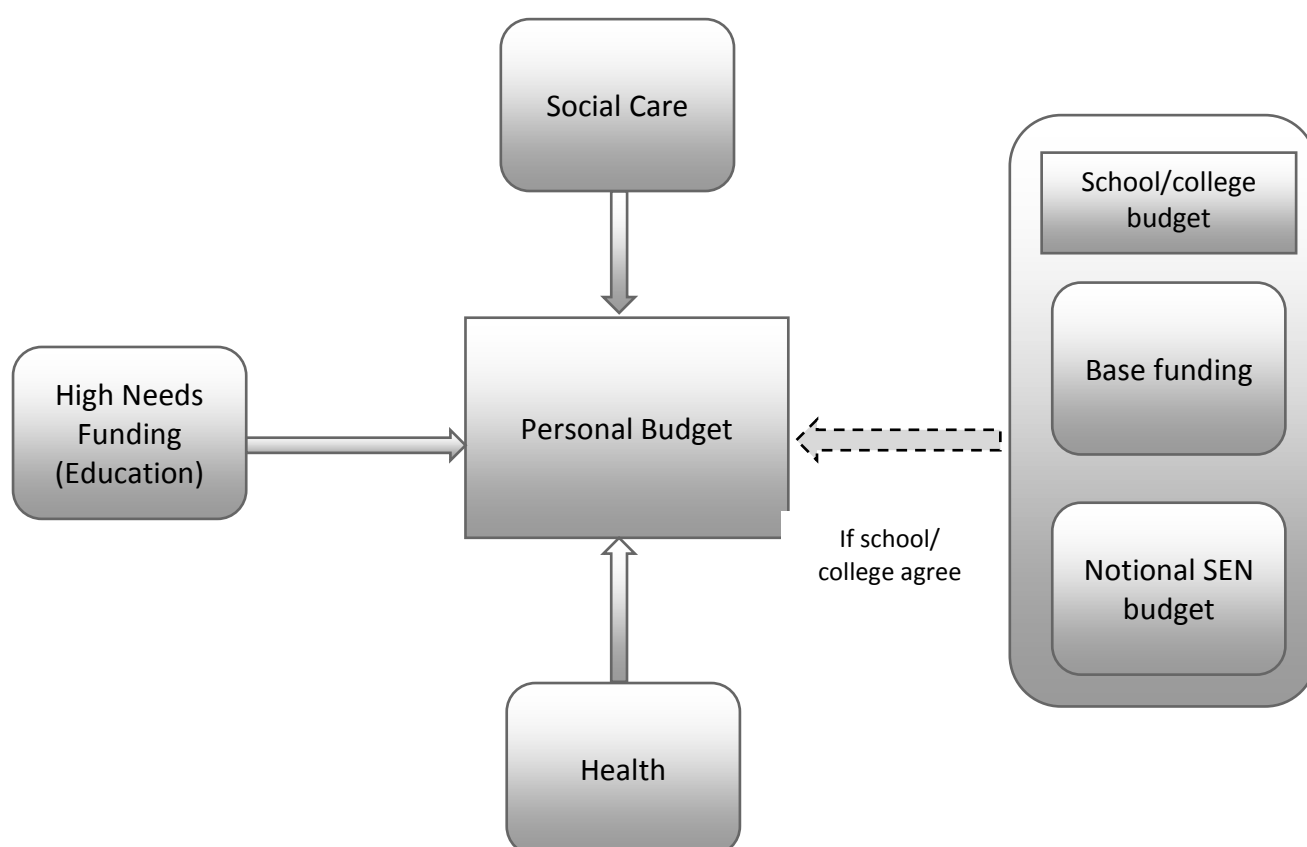


Figure 2 – Personal Budget funding streams/sources

How much money can my child receive in a Personal Budget?

This will depend on what you would like to use the Personal Budget for. The local authority should have a 'resource allocation system' which is used to help them provide an estimate of how much money you could receive. When the Personal Budget is finalised, by law it must be enough to cover the cost of the provision that has been agreed within your child's EHC plan.

There are no minimum or maximum amounts of funding. However, you should remember that local authorities are permitted to turn down requests for Personal Budgets if they feel that:

- supplying a Personal Budget means that services for other children with SEN suffer
- it is an inefficient use of local authority resources.

What are the implications of direct payments?

If you decide to receive a direct payment you will need to be aware of the risks. The local authority has the power to request full or partial repayment if, for example:

- your child's circumstances have changed meaning they no longer need the provision for which the Personal Budget had been agreed
- you fail to keep evidence of expenditure
- you did not spend all the money.

You will be required to set up a separate bank account for any direct payments you receive. If you feel your financial management skills are poor (for example if you find it difficult to set money aside), then a direct payment may not be the best option for your family.

If you have a third party arrangement, where an organisation or individual is managing your child's Personal Budget, it is important for them to have your trust. You and your child should still be fully involved in how the Personal Budget is spent.

What happens when my child reaches 16?

Young people over the age of 16 can request an EHC plan independently of their parents. However, their parents can still be involved if the young person wishes.

For young people who already have a Personal Budget and reach the age of 16, it is not yet clear what should happen. Young people who are seen to be responsible may be asked if they would like control of their Personal Budget and this could form part of their 'transition plan' to adulthood. We think that this is most likely to happen on the date of the first EHC plan review after they turn 16.

What should I do if I disagree with the local authority?

If you are unhappy with a decision made about a Personal Budget, then you have the right to complain to the local authority. Things that you can complain about include, for example:

- if the local authority rejects your request
- if there is not enough funding to purchase what your child needs
- if the local authority requests a repayment of the direct payment.

Where possible, the best time to raise any concerns about Personal Budgets is before the EHC plan is signed off. However, a local authority can choose to finalise the EHC plan even if you are unhappy about the decision they take on Personal Budgets.

In other areas, if you're not happy about something that's in your child's EHC plan, you could make a complaint to a Tribunal. However, decisions specifically about Personal Budgets cannot be taken to Tribunal unless it is because the provision a child needs is not available (with or without a Personal Budget).

Your local authority's Local Offer should provide information about the complaints process.

If following the registering of your complaint, you are not satisfied with the outcome reached and you feel that the local authority has not followed the law, you can take the issue to the Local Government Ombudsman (LGO) who will decide whether an injustice has taken place or if procedures have not been properly followed. More information about the LGO can be found at their website at www.lgo.org.uk.

Other things that you can do if you are not happy include the following.

- Contact our Freephone Helpline. We will be raising issues brought to our attention with local authorities.
- Write to your councillor. You can use the Write to Them website (www.writetothem.org.uk) to find out who your local councillor is.
- Write to your MP and ask them to raise the issue with the local authority and with the Secretary of State for Education. You can use the Write to Them website (www.writetothem.org.uk) to find out who your local MP is.
- As a last resort, if the local authority has failed to meet their legal requirements, then you could consider initiating legal action against them. The grounds on which you may be able to take legal action may be limited. Contact our Freephone Helpline for further information and advice on this option.

Tell us about your experiences

We'd love to hear from you. If you have requested or received a Personal Budget recently please get in touch with our Freephone Helpline. Hearing about your experiences will help us update this guidance and produce case studies that will help other families who might be thinking about Personal Budgets. These can be anonymous and no information will be shared about your experiences without your permission.

Information resources

National Deaf Children's Society: *Special Educational Needs (SEN) Reforms Frequently Asked Questions*

www.ndcs.org.uk/sen

Children and Families Act 2014

www.legislation.gov.uk/ukpga/2014/6/contents/enacted

The Department for Education: *Special Educational Needs and Disability Code of Practice*

www.gov.uk/government/publications/send-code-of-practice-0-to-25

The Department for Education: A parent/carers guide to the above Code of Practice

www.gov.uk/government/publications/send-guide-for-parents-and-carers

The Department for Education: Information for young people about SEN reform

www.gov.uk/government/publications/sen-and-disability-support-changes-information-for-young-people

The Special Educational Needs (Personal Budgets) Regulations 2014

www.legislation.gov.uk/ukdsi/2014/9780111114056

NHS England: Personal Health Budgets

www.personalhealthbudgets.england.nhs.uk/

KIDS: *Taking a Personal Approach: A Parent's Guide to Personal Budgets*

www.kids.org.uk/yp-personal-budgets

Information about other elements of SEND reform, including Education, Health and Care plans (EHC plans) and Local Offers, can be viewed on our website at www.ndcs.org.uk/sen. local authority after an EHC needs assessment has determined that an EHC plan is necessary.

Glossary

Annual review the review of an EHC plan which the local authority must carry out at least every 12 months.

Education, Health and Care (EHC) needs assessment an assessment of a child's/young person's education, health and care needs, carried out by the local authority in consultation with relevant professionals such as Teachers of the Deaf, educational psychologists and speech and language therapists. Local authorities must consult the child/young person and parents throughout the process.

Education, Health and Care plan (EHC plan) an EHC plan sets out a child's/young person's education, health and social care needs, the desired outcomes which parents, professionals and, wherever possible, the child or young person have identified, and the support which is to be provided to help the child or young person achieve the desired outcomes. It is drawn up by the local authority after an EHC needs assessment has determined that an EHC plan is necessary.

Local Offer Local authorities have to set out in their Local Offer information about provision they expect to be available across education, health and social care for children and young people in their area who have SEN or are disabled, including those who do not have EHC plans.

Outcomes EHC plans must specify the outcomes sought for the child or young person. These are outcomes which will enable children and young people to progress in their learning and be well prepared for adulthood.

Personal Budget 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.

SEND reforms the name given to the changes being implemented through the Children's and Families Act that impact on children with special educational needs and disabilities.

Special Educational Needs (SEN) a child or young person has SEN if their learning difficulty or disability calls for special educational provision, that is provision which is different from or additional to the provision normally made for other pupils of the same age. You may also see the acronym SEND used – this is intended to include children who have both special educational needs and a disability.

Tribunal an independent body which considers appeals by parents (or young people aged 16 or over) against local authority decisions on EHC needs assessments and EHC plans. The Tribunal also hears claims of disability discrimination. Its full title is First-tier Tribunal (Special Educational Needs and Disability)