



# IPSEA

Independent Parental Special Education Advice

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## How can I get a personal budget to pay for the provision in my son/daughter's EHC Plan?

First it is important to distinguish between what is meant by a personal budget and a direct payment – they are different concepts.

### Personal Budgets

If a Local Authority prepares a personal budget it will identify a *notional* amount which would be needed to secure provision that is specified, or which is proposed to be specified in an EHC Plan. This is with a view to the child's parent or the young person being involved in securing the provision. It is not an actual sum of potential "cash" that a parent or young person could expect to be paid out at any time.

You are able to request a personal budget for certain elements of provision in an EHC plan and we have some information on our website here:

<https://www.ipsea.org.uk/what-you-need-to-know/personal-budgets-and-direct-payments>

As those resources show, there are specific regulations dealing with personal budgets and these make clear that there are only certain time periods when a request for a personal budget can be made, which are:

- at any time during the period in which a draft EHC Plan is being prepared; and
- at any time during the period in which an EHC Plan is being reviewed or re-assessed.

Although there is a right to make a request for a personal budget the LA can, in certain circumstances, lawfully refuse to issue a personal budget. This will apply in situations where the notional amount needed for a particular child's provision is part of a larger overall budget (for example, if LA speech therapy services in an area are provided as part of an overall contract with the NHS speech therapists to provide such therapies). If the LA can show that 'separating out' or 'disaggregating' the amount required for a particular child's speech therapy to calculate their personal budget would have an adverse effect on services provided for other children with an EHC plan or would be an inefficient use of LA resources; then they can refuse to issue that personal budget.

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## Providing advice to parents of children with special educational needs

It is also worth noting that a personal budget will **only** be available for the special educational provision which is actually in an EHC plan. If the LA will not agree to include a particular form of provision within the plan, the right to request a personal budget will not assist the parents or young person in trying to secure that provision.

However, if the provision is actually specified in the EHC plan, and the Local Authority is able to identify the amount available to secure that provision, then they can issue such a budget, which must be recorded in the EHC plan, and will mean that a request for direct payments could then be made.

## **Direct Payments**

Direct payments are the actual monetary payments which will be paid to a child's parent or to a young person so that they can use them to secure the provision to which the budget relates.

However, it is also worth noting that there are limitations on the making of direct payments in certain circumstances too. A Head teacher of a school or Principal of post-16 institution has a right of veto on direct payments being used to pay for provision which takes place within their school or college, and if they refuse to allow payments to be used, the LA will simply not be able to make such direct payments. The practical benefits of the right to request a personal budget / direct payments might well be limited therefore, depending on what a parent or young person wanted to use them for. They cannot, for example, be used to fund the costs of a placement at a school or college, and can **only** be used to secure the costs of special educational provision.

Any personal budget / direct payments which are issued **must** be sufficient to cover the special educational provision for which they are being used, and if the costs of the provision changed, the payments should be reviewed and be increased by a corresponding amount

There is also no right of appeal to the Tribunal in respect of personal budgets / direct payments and the only method of recourse, if the LA refuses to issue one; will be via the LA internal complaint procedures. There is therefore no 'automatic entitlement' to a personal budget or direct payments – parents or young people have a right to request such a budget, and the LA must consider this request, but there is certainly no absolute obligation on LA to provide one or to make direct payments.

The Local Authority must publish information about the availability of personal budgets in EHC Plans in its Local Offer (for more information on this, and other Local Authority duties see our website):

<https://www.ipsea.org.uk/what-you-need-to-know/la-duties>

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## **Providing advice to parents of children with special educational needs**

There is also information about Personal Budgets in the new SEN and Disability Code of Practice 0-25 that you can find here:

[https://www.ipsea.org.uk/file-manager/SENlaw/send\\_code\\_of\\_practice\\_january\\_2015.pdf](https://www.ipsea.org.uk/file-manager/SENlaw/send_code_of_practice_january_2015.pdf)

You'll see that the Local Authority should have 'early discussions' with parents about the options for, and provide impartial information about personal budgets (paragraphs 9:27 and 9:29).

Paragraphs 9:95 – 9:100 of the Code of Practice also give further information about requesting a personal budget, and refer to the 'Making it Personal' Project, which also has further guidance and information:

<http://www.in-control.org.uk/what-we-do/community-of-change/children-and-young-people/useful-resources/making-it-personal.aspx>

We can only provide information through this service, rather than offer direct advice. So if you need this, or you wish to discuss the situation with someone, you should book a call with one of our Advice Line volunteers:

<https://www.ipsea.org.uk/contact/advice-and-support/advice-line>