

# **CHILDREN AND FAMILIES ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **PART 3 - children and young people in England with special Educational Needs OR DISABILITIES**

##### **Education, health and care plans**

##### *Section 49: Personal budgets and direct payments*

252. This section requires local authorities to prepare a personal budget for children or young people for whom the local authority maintains an EHC plan or has decided to make an EHC plan, if asked to do so by the child's parent or the young person. A personal budget is an amount available to secure particular provision set out in the EHC plan and provides a way of involving parents or young people in securing that provision.
253. Personal budgets can take the form of direct payments which families can spend themselves or notional budgets which they can devise with the local authority and which the local authority can spend on their behalf at their direction by arranging the provision in the EHC plan – or a combination of both.
254. Regulations will provide details about personal budgets, including provision that may be included in a personal budget or to which a direct payment may relate, the provision of information, support and advice in connection with personal budgets and direct payments, and when, to whom and on what conditions direct payments may or may not be made. Any regulations which authorise direct payments to a parent or a young person must require them to consent before a direct payment can be made. They must also require local authorities to stop making direct payments where that consent is withdrawn.
255. Special educational provision purchased with a direct payment will be treated as provision secured by the local authority for the purposes of fulfilling its duty under section 42(2) to secure the special educational provision in an EHC plan and health care provision purchased with a direct payment will be treated as provision arranged by the commissioning body for the purposes of fulfilling its duty under section 42(3).