



# Children and Families Act 2014

## 2014 CHAPTER 6

### PART 3

#### CHILDREN AND YOUNG PEOPLE IN ENGLAND WITH SPECIAL EDUCATIONAL NEEDS OR DISABILITIES

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

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

- (1) A local authority that maintains an EHC plan, or is securing the preparation of an EHC plan, for a child or young person must prepare a personal budget for him or her if asked to do so by the child's parent or the young person.
- (2) The authority prepares a “personal budget” for the child or young person if it identifies an amount as available to secure particular provision that is specified, or proposed to be specified, in the EHC plan, with a view to the child's parent or the young person being involved in securing the provision.
- (3) Regulations may make provision about personal budgets, in particular—
  - (a) about requests for personal budgets;
  - (b) about the amount of a personal budget;
  - (c) about the sources of the funds making up a personal budget;
  - (d) for payments (“direct payments”) representing all or part of a personal budget to be made to a child's parent or a young person, or a person of a prescribed description in prescribed circumstances, in order to secure provision to which the budget relates;
  - (e) about the description of provision to which personal budgets and direct payments may (and may not) relate;
  - (f) for a personal budget or direct payment to cover the agreed cost of the provision to which the budget or payment relates;
  - (g) about when, how, to whom and on what conditions direct payments may (and may not) be made;

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*Changes to legislation: There are currently no known outstanding effects for the Children and Families Act 2014, Section 49. (See end of Document for details)*

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- (h) about when direct payments may be required to be repaid and the recovery of unpaid sums;
  - (i) about conditions with which a person or body making direct payments must comply before, after or at the time of making a direct payment;
  - (j) about arrangements for providing information, advice or support in connection with personal budgets and direct payments.
- (4) If the regulations include provision authorising direct payments, they must—
- (a) require the consent of a child's parent or a young person, or a person of a prescribed description in prescribed circumstances, to be obtained before direct payments are made;
  - (b) require the authority to stop making direct payments where the required consent is withdrawn.
- (5) Special educational provision acquired by means of a direct payment made by a local authority is to be treated as having been secured by the authority in pursuance of its duty under section 42(2), subject to any prescribed conditions or exceptions.
- (6) Subsection (7) applies if—
- (a) an EHC plan is maintained for a child or young person, and
  - (b) health care provision specified in the plan is acquired for him or her by means of a payment made by a commissioning body under section 12A(1) of the National Health Service Act 2006 (direct payments for health care).
- (7) The health care provision is to be treated as having been arranged by the commissioning body in pursuance of its duty under section 42(3) of this Act, subject to any prescribed conditions or exceptions.
- (8) “Commissioning body”, in relation to any specified health care provision, means a body that is under a duty to arrange health care provision of that kind in respect of the child or young person.

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**Modifications etc. (not altering text)**

- C1** S. 49(1)(2)(3)(d)(4)(a) modified (1.9.2014) by [The Special Educational Needs and Disability Regulations 2014 \(S.I. 2014/1530\)](#), regs. 1, 64(1)(b), 64(2), **Sch. 3 Pt. 2**

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**Commencement Information**

- I1** S. 49 in force at 1.4.2014 for specified purposes by [S.I. 2014/889](#), **art. 3(f)**
- I2** S. 49 in force at 1.9.2014 in so far as not already in force by [S.I. 2014/889](#), **art. 7(a)** (with savings and transitional provisions in [S.I. 2014/2270](#) (as amended (1.4.2015) by [S.I. 2015/505](#) and (1.9.2015) by [S.I. 2015/1619](#)))

**Changes to legislation:**

There are currently no known outstanding effects for the Children and Families Act 2014, Section 49.