

## **Personal Budget Policy**

Children and Young People Disability Service,  
Achieving for Children, Royal Borough of  
Windsor and Maidenhead

## 1. Introduction

Co-production is at the centre of our approach to support children, young people and families. Personal budgets model co-production; and mean genuinely working with all partners; including families, children and young people, parent carer forums and local providers, to meet the outcomes desired by and for the child or young person.

This work supports Achieving for Children's vision that children and young people with disabilities have the best start in life and the ongoing support that they and their families need to fulfil their potential

### 1.1 Scope of Procedure

This procedure relates specifically to children and young people aged 0-25 with Special Educational Needs and/ disability and their families. The aim of intervention is to support children and young people's permanency needs and best possible outcomes.

### 1.2 Key Legislation and Guidance

Primary Legislation	The Children & Families Act 2014 The Care Act 2014
Secondary Legislation	The Special Educational Needs (Personal Budgets) Regulations 2014
Statutory Guidance	Special Educational Needs & Disability Code of Practice: 0 - 25 (2014, Department of Education)

Additional sources of information with regard to the legal framework, related relevant legislation and guidance:

- The National Health Act 2006
- The Children Act 1989
- The Chronically Sick & Disabled Persons Act 1970
- The Equality Act 2010
- The Mental Capacity Act 2005

Document author Suki Hayes-Lapham

SEN Commissioning and Short Break Manager v1 April 2019; v2 September 2020; v3  
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## 2 What is a Personal Budget?

A personal budget is an amount of money or resources dedicated to a child, young person or their family/ carer in order to deliver the outcomes for a child or young person set out in their support plan(s). The principle behind a personal budget is to ensure that families have a say concerning the funding allocated for their child or young person's care and professionals can then support families and work with them in a creative and personal way.

Families have told us that knowing how much money there is available to meet their child or young person's needs has helped them to choose the right provision to best meet the outcomes identified in the child or young person's care plan or Education, Health and Care Plan (EHCP).

Personal budgets can be made up in the following ways:

- **An organisational arrangement** – no money changes hands. Parents find out how much money is available and with support identify the different ways to spend that money to meet the outcomes of the child or young person's care plan. The services are then arranged on the family's behalf by the Local Authority, Education or Health Service.
- **Third party arrangement/ nominees** – a third party organisation, trust or nominated person holds the money and supports parents to decide the best way to spend the funding, they then buy the services chosen on the families behalf.
- **Direct payment** – Parents are given the cash to buy and manage the services themselves to meet the outcomes identified in the child's care plan.
- **A combination of the above.**

In addition to the funding identified through the assessment process, some parents/ carers may want to use a reasonable amount of their own resources to further support the outcomes identified in their child's care plan. This would be funded by the parents/ carers. If the Local Authority is already funding a service agreed through the EHCP, parents/ carers or a young person can not ask for additional private support from the Local Authority.

## 3 Who is Eligible for a Personal Budget?

Any eligible child, young person or their family/carers can request a personal budget for aspects of the provision outlined in their Education, Health and Care Plan (EHCP) if parents or young people wish it.

Eligibility for a **personal budget for social care (Direct Payments)** will be restricted to children and young people assessed as needing support from the Children and Young People Disability Service.

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Eligibility for a **personal budget for education** will be restricted to children and young people assessed as eligible for an EHCP.

The statutory regulations state<sup>1</sup>:

*Persons to whom direct payments may be made*

**5.—(1) A local authority may make direct payments, as appropriate, to—**

*(a) the child's parent;*

*(b) the young person; or*

*(c) a person nominated in writing by the child's parent or the young person to receive direct payments on their behalf.*

**(2) Direct payments may only be made to an intended recipient if the person—**

*(a) appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them;*

*(b) Where the recipient is an individual and is over compulsory school age;*

*(c) Does not lack capacity within the meaning of the 2005 Act to consent to the making of direct payments to them or to secure the agreed provision with any direct payment; (this means the person must have the mental capacity to manage a budget) and*

*(d) Is not a person described in the Schedule.” (Section 13 of this document).*

#### **4 What can be included in a Personal Budget?**

Exactly what could be included in a personal budget, relating to an individual child or young person, would be outlined in the child's social care plan or EHCP. It includes full details of need and proposed costings.

To monitor the cost of support, as outlined in the Children and Families Act 2014 and related guidance, we will employ a value for money approach towards all expenditure. This means that we will work flexibly with parents and other providers to procure what is requested by the family.

However, we will be able to exclude some areas from being subject to direct payments if this would destabilise a service provision for others attending it. This would also apply to other areas where it is difficult to disaggregate an individual cost from an overall amount (Code of Practice 9.103 to 9.106).

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<sup>1</sup> [The Special Educational Needs \(Personal Budgets\) Regulations 2014](#)

#### 4.1 Personal Budgets for Education

Personal budgets are an allocation of funding made for children and young people with SEND and their families, after an assessment of their needs, and will be outlined in an Education, Health and Care Plan (EHCP). It will cover aspects of the Plan that can be offered as a personal budget. It will not cover the cost of a named educational placement.

At the point of the nomination of the name of the school/ college the aspects of a direct payment that could be part of a plan will be outlined, if parents/young people have expressed a wish to have a direct payment.

Funding components for education are split into three elements. Elements 1 and 2 are either integral to the school's funding or are spent at the discretion of the school. These two elements would not be available to include in any direct payment. The three elements are explained below:

- **Element 1 funding** is the amount the school receives for every pupil who attends the school, normally around £4,000. This is irrespective of any SEND requirement and is used by the school to fund the building and staffing requirements.
- **Element 2 funding** is the amount of money delegated to a school in order to augment funding for children assessed as having an educational need – up to £6,000 per student with recognised SEND need that they can, at their discretion, use to support that student's learning.
- **Element 3 funding** is anything over and above £10,000 per pupil per year and is over and above the combined amount of elements 1 & 2 that the pupil would need to support their learning. This funding is also known as the "top up" funding and part of this is eligible for inclusion in a direct payment.

If a parent or young person chooses to use a personal budget to pay for any services or staff in their school or college, they would need to seek permission from the Head Teacher / delegated lead professional prior to any other agreement or plans being made. This discussion should occur at the earliest possible opportunity.

Therefore, any discussion about the direct employment of support staff within a school would need to be carefully planned as part of the assessment process and agreement for the personal budget. Part of the discussion with a parent and young person will be the difference in the allocation of an education element if the parental/young person's choice is mainstream or special provision (as outlined in the Code of Practice 9.112).

Any staff employed in schools/ colleges would have to follow that institution's code of conduct, for instance in speaking to others and dress code.

#### **4.2 Home to School Transport**

If requested, and the transport criteria, as set out in the Royal Borough of Windsor and Maidenheads (RBWM) SEND Transport Policy are met, an amount per mile (outlined in the SEND Transport Policy) would be granted if a personal travel budget was agreed. As previously stated, this will also be subject to ensuring not only value for money, but not destabilising current services that would negatively impact on other service users.

The Royal Borough of Windsor and Maidenheads SEND transport policy is available from: [https://www3.rbwm.gov.uk/downloads/200292/school\\_transport](https://www3.rbwm.gov.uk/downloads/200292/school_transport)

#### **4.3 Personal Budgets for Health**

A personal health budget will make it clear to parents how much money is available for the health care needs of their child. They can then discuss and agree the best way it can be spent, to meet the outcomes in the child's care plan. This funding will not be able to pay for care normally received from a family doctor or emergency care.

For more information, please read 'Personal health budgets for children, young people and families':

<https://www.england.nhs.uk/healthbudgets/understanding/child-young-family/>

Within Berkshire, a personal budget request can be made by or on behalf of a child who is in receipt of Continuing Health Care funding (CHC).

#### **4.4 Personal Budgets (Direct Payments) for Social Care**

Personal budgets (Direct Payments) can be an allocation of funding made for children and young people with SEND and their families, after an assessment of their needs and will be outlined in a Social Care Plan and/ or Education, Health and Care Plan.

Children and young people with additional needs in the Royal Borough of Windsor and Maidenhead, who are eligible for the Children and Young People's Disability Service (CYPDS), can request a personal budget for their needs.

CYPDS want to offer children and young people with disabilities and their families more choice, flexibility and control over the services that they are assessed as needing from social

care, to help achieve their goals. For some families a personal budget (Direct Payment) may be the best way of doing this.

A Social Care Personal Budget can be money (direct payments) that can come from Social Care which families can spend on services and support for their disabled child or young person's needs. It can be used for services from both statutory and independent sector providers, mixing and matching what is available from different organisations.

Direct payments can only be used to fund the identified support needs that have been outlined in a child or young person's support plan. If a family or young person wishes to spend their direct payments on something that is not stipulated in their agreed plan, they must seek and receive approval to do so.

A direct payment cannot be spent on anything that is illegal.

CYPDS operate a Panel to ensure fair access.

#### **4.5 Mileage**

If mileage is agreed for either a personal budget/ direct payments via social care or education, the maximum allowance to be paid per session is 20 miles at 45p per mile.

#### **4.6 Therapeutic services costs**

CYPDS have an agreed rate of pay per hour for therapies requested through a personal budget/ direct payment. This agreed rate of pay will be discussed with parents, young person or educational setting in advance of the set up of the personal budget/ direct payment.

If the rate of pay does not match the cost per hour of the therapist, the parent/ carer or the educational setting will fund any additional cost.

This will only be offered if the current therapy service is unable to meet the needs outlined in the EHC plan.

### **5 What is a Panel?**

A Panel is a way of making fair and equitable allocation of funding to the whole population of children and young people eligible for support from a funding source. The panel is multi-agency with representatives from social care, SEN and education providers.

The Personal Budget amount is then set and agreed following approval of the Support Plan.

## **6 Costing/ Best Value**

The EHCP/ Social Care plan will be costed, within a value for money context (e.g. not costing more than services provided directly).

Throughout the child/ young person's journey and statutory assessments, there will be a cycle of 'understand–plan–do–review' .

The resource allocation process will allow co-production of the plan whilst ensuring it meets the value for money aspects.

## **7 How individuals get their money**

If an EHCP is in place and a direct payment is agreed CYPDS has a system in place to administer money and make payments. If the opportunity arose for a pooled budget with Health and/or Education this would be considered on a case by case basis.

Any agreed costs from Health would be paid by an agreed process to fund the plan. The money will be given to parents of the child or to the young person usually on a 4 weekly basis. The eventual aim will be for pooled budgets between Health and the Council.

Parents of a child or the young person themselves will be expected to sign a Personal Budget or Direct Payment Agreement before any payment is made. This agreement will outline the parameters of use of the payments, how it should be managed and how spend will be accounted for. It will also outline other aspects, such as any employed people having to have an enhanced Disclosure Barring Service (criminal record) check. Further information can be found at:

[Direct Payments](#)

[Personal Budgets](#)

Although there will normally be a set amount of money paid on a 4 weekly cycle there may be one off payments, for instance around specific equipment needs, that could be paid via the personal budget/ direct payment mechanism. A value for money judgement will be made in these circumstances. Any equipment would need to meet professional specifications and plans for the maintenance of the equipment would be required. If used in a school or other similar setting, agreement from the setting would need to be given prior to use.



## **8 When can you ask for a Personal Budget?**

A request can be made either during a Statutory Assessment (at the draft Plan stage), or when an Education, Health and Care Plan or Social Care Plan is being reviewed/ re-assessed.

When a Statutory Assessment of SEND commences, if eligible, the personal budget process will be discussed with the family and young person. They must be asked if this is something they may be interested in pursuing. The benefits and responsibilities around the personal budget will be explained.

Some families may already be accessing personal budgets (direct payments) in terms of care, and these will continue throughout the statutory process, and be incorporated, as relevant, in the final EHCP if one is issued. Additionally some families who are not currently accessing a personal budget (direct payment) for care may wish to pursue this.

## **9 Managing and using the Direct Payment element of a Personal Budget**

Parents will have control of the agreed direct payment, both managing the funds and spending them. From the end of compulsory schooling (Y11) this will change to the young person whose plan it is, unless unable to do so under the Mental Capacity Act, or the young person requests that the family manage the funding on their behalf.

A discussion about who will be responsible for the Personal Budget will occur at the point of transfer. If it is decided that the budget should be placed with the young person, they and their family will be offered support in order to minimise problems, stress and failure.

A Social Worker, Assessment Coordinator or Adult Social Worker would normally make the decision about mental capacity in terms of the specific question concerning the young person's capacity to manage a personal budget at that point in time. The process would only be applied if a personal budget was requested and would be about the management of the personal budget and ability to make decisions about this, in terms of meeting the outcomes and provision set out in the Education, Health and Care Plan.

The Direct Payments team will provide general support and assistance to recipients of personal budgets. If further or specialist support is required by the young person receiving payments, this will be discussed further and the best placed person or team will deliver this. Usually this would be the lead professional.

Clear information about services and provision available in the area that could be used with a personal budget will be available via the [Local Offer](#)

## **10 Personal Budgets and the Local Offer**

The “local offer” site is a web based resource that will allow individuals and families to see what is available to them in their area. It will be updated on a regular basis to show what is currently available. This will be a main source of information about support and activities that can be included.

If a parent or young person wishes to use provision not listed in the Local Offer they should approach their Lead Professional/ Social Worker, SENCo, Education or relevant Health professional. If this provision needs validating to be part of the local offer a process will occur to enable this decision to be made. Providing the resource or activity is legal, accredited and/ or safe and appropriate.

An advantage of a personal budget is that it could be used in creative and personal ways to deliver the required support, rather than in rigid predefined ways of meeting assessed needs. Parents/young people who receive direct payments would be expected to spend within the amount of their direct payment, although provision could be supplemented by other sources such as Disability Living Allowance, personal finances or a local charity.

## **11 Monitoring**

Monitoring will be by each agency contributing to the funding for the plan. They will want to ensure that the outcomes and provision in the EHCP/Social Care Plan are being met. The minimum will be a six monthly review by Care, with one multi agency review being part of the annual review by all parties.

However, more regular reviews can occur, for instance the family/young person directly contacting a lead worker to say that they wish to have a review of their needs as they feel the current arrangement is not meeting their needs.

If it were found that the personal budget was not being used to meet the provision/outcomes outlined in the Social Care Plan or EHCP or it was being misspent, the direct payments would be suspended and Health/ Local Authority would investigate the concerns. If the concerns were found to be valid, we would withdraw the option of direct payments and would consider recovery of funds through legal channels.

If parents and/ or young people wish to combine personal budgets to provide value for money, this can be done as part of community commissioning in agreement with the appropriate Health and/or Local Authority commissioners.

## 12 Managing changes in circumstances

Any changes in a family's circumstances will be taken into account as part of the regular review of needs and the personal budget/direct payments. There would also be opportunities for the family/young person to say how the arrangements made in their support plan(s) are working for them.

A regular review will also occur as part of the 'understand–plan–do–review' cycle in terms of a child/ young person's development. On a formal basis this will occur as part of the annual review, but can occur for individual elements more frequently than this. If necessary then the financial element at the end of the Social Care Plan or EHCP will be modified. If a significant change in needs occur, then a review sooner than annually will occur to amend the text in the Social Care Plan or EHCP as well.

If there are fluctuating circumstances, i.e. a child who has different care and health needs dependent upon a health condition, then this will be taken into account as part of the support plan, if mutually agreed. This could either entail the family being able to request a "top up" amount or there being a contingency that could be reclaimed by the Local Authority and/ or Health at the end of the next financial year. This will be built into the ongoing discussion between the family/ young person and Lead Professional from the appropriate agency and/ or a key worker if there is one for the family/ young person.

## 13 Who would be excluded from holding a Personal Budget?

The regulations (the legal guidance for the law relating to personal budgets) state the following<sup>2</sup>:

*"The following persons may not receive direct payments*

*(a) a person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(a), imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;*

*(b) a person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section*

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<sup>2</sup> [The Special Educational Needs \(Personal Budgets\) Regulations 2014](#)

177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;

(c) a person who is released on licence under Part 2 of the Criminal Justice Act 1991(a), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(b) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour;

(d) a person who is required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act(c);

(e) a person who is subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000(d);

(f) subject to a youth rehabilitation order imposed in accordance with paragraph 22 (drug treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to a drug treatment requirement;

(g) subject to a youth rehabilitation order imposed in accordance with paragraph 23 (drug testing requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which includes a drug testing requirement;

(h) subject to a youth rehabilitation order imposed in accordance with paragraph 24(intoxicating substance treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement.”

Additional circumstances where a personal budget may not be authorised:

- The child is in care. If in long term foster care the foster parents may access a personal budget if there is agreement of this as part of a care plan.
- The child has a Child Protection Plan. Any use of a personal budget would have to be part of the plan agreed at the multi professional Core Group meeting. If the use of it was felt not to meet the aims of the plan, and to compromise the safety of the child/ young person, it would not be agreed.
- A person subject to a drug or alcohol treatment programme (as in the regulations). If the person wishes to receive a direct payment and may be covered by this, there will be a discussion between the Local Authority and person involved to explore their particular circumstances in relation to the regulations.
- If a person has a gambling addiction this also may preclude them from receiving a personal budget.
- The young person has a youth rehabilitation order.

## 14 Appeal Process

If the family or young person is not satisfied with either the process or the outcome of the EHCP, there is an appeal process in place to provide a forum for discussion, mediation and grievance. This is part of the Children and Families Act 2014 Section 3, parts 51 – 60 and covered in the SEN code of practice – Chapter 11.

An appeal of a Personal Budget can occur under the following circumstances:

- An aspect of provision listed in the Education, Health and Care Plan has not been offered in a personal budget, which is wished for by the parent of a young person if old enough and with the mental capacity to appeal
- A personal budget has not been offered
- The monies listed are felt not to be sufficient to cover the needs of the young person
- A person has been deemed by the funding authority or authorities as ineligible to receive a direct payment

There are other grounds for appeal. These are covered in the Act and the Code of Practice. Initially, it would go to the appropriate commissioner to respond to the appeal. This must be in writing to:

**SEND Business Manager**

Children and Young People Disability Service  
Achieving for Children  
Town Hall  
St Ives Road  
Maidenhead  
Berkshire, SL6 1RF  
**Tel:** 01628 685878

**Email:** [cypds@achievingforchildren.org.uk](mailto:cypds@achievingforchildren.org.uk)

If the parent/ young person still disagrees with the decision then any appeals will follow the process laid out in the Children and Families Act 2014 and/or the Code of Practice relating to the personal budgets for SEN and disability.

## 15 Ceasing Personal Budgets/ Direct Payments

The Local Authority may cease payments if:

- The person is in the categories listed in the exclusions section above

- It is found that the personal budget is not being used for the specific purpose outlined in the EHCP and permission for deviation of expenditure was not sought by the family or young person
- The use of direct payments is having an adverse impact on other services provided by the Local Authority or having an impact on the provision for other children and young people with an EHCP
- There has been no consent from a young person post statutory school age to receive them
- There is evidence to show that the additional support is not making a difference

In these circumstances notice of cessation will be given in writing to the family or person receiving the payment by the local authority, along with the rights of appeal.

Contact Details:

**Children Young People Disability Service**

Achieving for Children

Town Hall

St Ives Road

Maidenhead

Berkshire, SL6 1RF

**Tel:** 01628 685878

**Email:** [cypds@achievingforchildren.org.uk](mailto:cypds@achievingforchildren.org.uk)

If the person or family receiving the payments no longer wishes to use direct payments to provide the provision, they need to inform their Lead Professional. The Lead Professional will ask for this to be confirmed in writing for our records. Once this is received, the direct payments will cease and we will discuss with the person or family how they would like the support to be funded going forward.