



Personal Budgets Policy for Children and Young People with Education, Health and Care Plans

Lead Directorate and service:	Children, Families and Schools – Children and Young People education and Schools
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1. Background:

The Special Educational Needs and Disability Code of Practice: 0-25 years has been in place since September 2014 and instigated the implementation of statutory guidance for organisations which work with and support children and young people with special educational needs or disabilities.

Section 3.38 of the Code of Practice (CoP) states that young people and parents of children who have Education, Health and Care (EHC) Plans, have the right to request a Personal Budget which may contain elements of education, social care and health funding. To support this, the CoP states that Councils should develop a policy for Personal Budgets. However, whilst the ethos of the CoP is for a holistic approach, the local authority is not responsible for the health funding of a Personal Budget.

A Personal Budget is an agreed amount of money identified by the local authority and health to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision. The money can be held directly by the parent or young person, or may be held and managed on their behalf by the local authority, school, college or other organisation or individual and used by them to commission the support required to meet the outcomes specified in the EHC plan.

Table 1: Summary of 144 Personal Budgets progressed since September 2014 (as at 29th February 2016):

	Total	Education	Health	Care
Direct Payments	118	0	2 Health only 1 both Health and Care together	115 Care only
Managed	17	8 Educ. only, 1 both Health and Care together/1 both Care and Educ.	0	7 Care only
Arranged	7	6 Educ. only 1 all Educ. Health and Care together		
PB Refusals	0	0	0	0
Total PBs	144			

2. **Definitions for the Purposes of this Policy:**

As defined in the Special Educational Needs and Disability Code of Practice: 0-25 years (2015), a child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her. A child of compulsory school age or a young person has a learning difficulty or disability if he or she has a significantly greater difficulty in learning than the majority of others of the same age, or has a disability which prevents or hinders him or her from making use of educational facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

3. **Policy Statement**

The Policy sets out:-

- 1) The legal and policy framework for Personal Budgets for Children and Young People with Education, Health and Care Plans.
- 2) The eligibility criteria for Personal Budgets
- 3) The decision making processes,
- 4) Descriptions of services across education, health and social care that currently lend themselves to the use of Personal Budgets and
- 5) Details of managing a personal budget.

Further details are included in Appendix 1, Personal Budgets Policy for Children and Young People with Education, Health and Care Plans.

4. **Corporate Requirements**

- Supporting Vulnerable People, Reducing Inequalities - supporting in times of need, protecting from harm and improving the quality of life.
- Promoting Health, Well-being and Independence – helping people to stay healthy, strong and fit for the future.

5. **Policy Development including Consultation**

The Personal Budgets Policy for Children and Young People with Education Health and Care Plans was initially developed by the Special Educational Needs and Disability (SEND) Personal Budgets Working Group, with representation from Children's Services; the Clinical Commissioning Group along with Adult Services, Accountancy and Parent Carers from East Riding Voices in Partnership (ERVIP). Over the next reviewing period, with further consultation, the policy content and future scope will be considered.

6. **Links with other Policies**

This policy is part of an integrated approach to all aspects of children and young peoples' commissioning as outlined within the Children's and Young Peoples Joint Commissioning Strategic Plan (2016-2018) and additional relevant underpinning strategies/policies. See link below for the full range of strategies that support outcomes for East Riding's children and young people:

<http://www2.eastriding.gov.uk/council/plans-and-policies/other-plans-and-policies-information/children-and-families/>

7. **Outcomes and impacts**

8. Personal budgets are focused on supporting children /young people achieve good outcomes. They are intended to give parent carers and young people more choice and control over how help and support is provided to meet their assessed needs and outcomes identified in their individual EHC plan.

9. **Policy Implementation**

This Personal Budgets Policy applies to those children and young people for whom an EHC Plan is maintained by the local community. Parents/carers and young people have been able to request a Personal Budget from 1 September 2014. This can be for social care, health or education; although not all young people with an EHC Plan will meet the criteria for social care or health support. Furthermore, it may not always be possible to offer a Personal Budget for all or any aspects of an EHC Plan. However, where a Personal Budget is agreed, payments to parent carers, the young person or other nominee, are made under the Care and Support (Direct Payments) Regulations 2014.

More detail is outlined in Appendix 1, Personal Budgets Policy for Children and Young People with Education, Health and Care Plans.

10. **Financial Implications**

If a Personal Budget is requested and agreed, the amount of money is not in addition to any services currently in place. Personal Budgets are not created from any new money available to services. Funding for personal budgets comes from releasing the value of a child/young person's provision from the services they might otherwise be expected to make use of. Not all services can have money removed in this way without adversely affecting other children that use the provision. However, this will be kept under review and may change in the future.

11. **Evaluation**

Parent carers and young people are able to request a Personal Budget in order to meet their assessed needs and outcomes, as outlined in their EHC Plan. These plans are reviewed on an annual basis to ensure they continue to meet individual needs.

Personal Budgets are an evolving process. The way in which Personal Budgets are used will be regularly evaluated and this will inform any review of the Policy. Therefore in addition, the Personal Budgets Policy for Children and Young People with Education, Health and Care Plans will be reviewed as part of the bi-annual corporate policy review programme.

11. **References**

Special Educational Needs and Disability Code of Practice: 0-25 years (2015). Source: DfE.

12. **Appendices**

Appendix 1 - Personal Budgets Policy for Children and Young People with Education, Health and Care Plans.

Appendix 1

Personal Budgets Policy for Children and Young People with Education, Health and Care Plans

1. Introduction

- 1.1 This Policy applies to those children and young people for whom an Education, Health and Care (EHC) plan is maintained by the Local Authority.
- 1.2 A Personal Budget is an agreed amount of money identified by the local authority and/or health to deliver provision set out in an EHC plan, where the parent or young person is involved in securing that provision. Personal Budgets should reflect the holistic nature of an EHC plan and can include funding for education, health and social care provision. The Personal Budget should be sufficient to secure the provision agreed in the EHC plan which will deliver the outcomes specified in the EHC plan.
- 1.4 The Personal Budget can be held directly by the parent or young person, or may be held and managed on their behalf by the local authority, school, college or other organisation or individual and used to commission the support specified in the EHC plan. However, whilst the ethos of the Code of Practice (CoP) is for a holistic approach the local authority is not responsible for the health funding of a Personal Budget.
- 1.5 By choosing a Personal Budget, parent carers and young people will be given the opportunity to have a say in the way their outcomes will be met, giving more flexibility, choice and control.
- 1.6 A Personal Budget is not the total sum of all the resources that are available to support a child or young person and the EHC plan does not need to list all the costs associated with supporting a child or young person. The EHC plan should, however, provide a detailed explanation of how a Personal Budget will be used to meet the needs and outcomes and explain how the money will be used, spent and managed including arrangements in relation to any Direct Payments.

2. Legal and Policy Framework

- 2.1 The Special Educational Needs and Disability Code of Practice: 0-25 years has been in place since September 2014 and instigated the implementation of statutory guidance for organisations which work with and support children and young people with special educational needs or disabilities.
- 2.2 Section 3.38 of the Code of Practice (CoP) states that young people and parent carers of children who have Education, Health and Care (EHC) plans have the right to request a Personal Budget, which may contain elements of education, social care and health funding.
- 2.3 The implementation of the Special Educational Needs (Personal Budgets and Direct Payments) Regulations 2014 also came into force in September 2014 and forms the legislative framework within which all Personal Budgets must be governed.

3. Scope of Personal Budgets

- 3.1 A Personal Budget can include funding from education, health and social care and the scope of that budget will vary depending on the needs of the individual, the eligibility criteria for the different components and the mechanism for delivery.
- 3.2 Personal Budgets are not created from any new money available to services and will reflect local circumstances, commissioning arrangements and school preference. Funding for Personal Budgets comes from identifying the cost or value of the services the Council would ordinarily put in place to meet the child's assessed needs and then offering an amount as a Personal Budget.. Not all services can be provided as a PB as having money removed in this way without adversely affecting other children that use the provision. However, services where budgets can be used will be kept under review.
- 3.3 The provision required in order to meet the identified needs, following assessment or review, will be agreed between the Council, Health (where appropriate), and parent carer or young person and will be clearly set out in the support plan or EHC plan.
- 3.4 At present, the services that could be provided via a Personal Budget from the local authority are highlighted below. The list will be subject to change as our local offer evolves over time:

3.4.1 Social Care

- Short breaks
- Specialist equipment
- Personal care
- Transport

3.4.2 Education

- Specialist workers
- Therapies over and above the core contract the local area has in place with Health Services.
- Home to School transport

3.4.3 Health

- Specialist equipment
- Personal health care
- Short breaks for a nursing care need

- 3.5 Examples of services that are currently unable to be offered as a Personal Budget include:

3.5.1 School staff, e.g., teaching assistants to support access to the curriculum

3.5.2 School placements

3.5.3 Overnight residential short breaks in East Riding maintained Special Schools.

4. Eligibility

- 4.1 Parent carers or the young person have a right to make a request for a Personal Budget when the local authority has completed an EHC needs assessment and confirmed that it will prepare an EHC plan. A Personal Budget can also be requested during a statutory review of an existing EHC Plan.

- 4.2 Local authorities must consider each request for a Personal Budget on its individual merits. However, whilst a Personal Budget can be for social care, health or education, not all young people with an EHC plan will meet the criteria for social care or health support. Eligibility for Children's Social Care is set out in the Threshold Guidance of need and intervention.
- 4.3 When a Personal Budget is agreed and parents/young people indicate that they wish to take all or part of the budget as a Direct Payment, the payments, are made under The Care and Support (Direct Payments) Regulations 2014 to parent carers, the young person or other nominee. These regulations state that the person receiving the payment must appear, to the local authority, to be capable of managing direct payments without assistance or with such assistance as may be available to them.

5. Decision Making Processes

- 5.1 An indication of the level of funding that is likely to be required to make the provision specified, or proposed to be specified in the EHC plan should be given to the child's parent or the young person.
- 5.2 The resource allocation for Personal Budgets is currently discussed, moderated and agreed through individual panel based approaches across education, health and care services.

5.2.1 Social Care Needs Allocation Process

Currently, the Council's resource allocation for children's specialist social care services is based on the single assessment which meets the Council's duties to assess children in need. The assessment, undertaken by a social worker, is a snapshot of the child and family needs at a moment in time. When assessing the support that the child/young person requires, the current family circumstances, extended family networks and community resources that can be universally accessed, are also taken into account.

Once the outcomes, based on the needs assessment, are identified, discussions about how these can best be met are held between the social worker and the family. This could be by using available existing services arranged by children's social care, an allocation of a Personal Budget, or a combination of the two. The proposed plan is then presented, by the social worker who completed the assessment, to the Children's Specialist Services Multi-Agency Resource Panel who will then consider and agree the allocation of a support package for the intended outcomes. This is then fed back to the family by the social worker.

5.2.2 Health Needs Allocation Process

If the child or young person has any health needs identified as part of the single assessment process which may meet the eligibility criteria for children's continuing health care funding, these will also be presented and discussed at the Children's Specialist Services Multi-Agency Resource Panel.

5.2.3 Educational Needs Allocation Process

The Council's resource allocation for special educational needs is based on the statutory assessment. This assessment is considered at the special educational needs panel and takes into account all the advice and support needs outlined in the assessment. The amount of funding allocated to an education, health and care plan in order to meet the educational needs of the child is determined by a banding system. There are four bandings for special schools and eight for mainstream schools. The EHC Co-ordinator or lead professional will discuss with the parent which elements, if any, of the educational support needs are available as a Personal Budget.

NB Where a Personal Budget is proposed for special educational provision, agreement from the early years setting, school or college must be secured, if any of the provision is to be delivered on that institution's premises. Where agreement cannot be reached with the early years setting, school or college, the element of the Personal Budget will not be approved. However, work will continue with the child's parent or the young person and the school, college or early years setting to explore other opportunities for the personalisation of provision in the EHC plan.

- 5.3 If seeking a Personal Budget, the child's parent or the young person will be given an indication of the level of funding that is likely to be required to make the provision specified, or proposed to be specified in the EHC plan. At this stage, any figure discussed is indicative only and is a tool to support the planning process including the development of the draft EHC plan. The final allocation of the funding budget must be sufficient to secure the agreed provision specified in the EHC plan and will be set out as part of that provision. When a Personal Budget is requested and agreed, the amount of money allocated is not in addition to any services currently in place.
- 5.4 It is intended that the Personal Budgets process will evolve over time and the current process for allocation is under review.

6. Refusals and Appeals

- 6.1 It may not always be possible to offer a Personal Budget for all or any aspects of an EHC plan. This is particularly so if it would have an adverse impact on services provided or arranged by the local authority for other EHC plan holders, or where it should not be an efficient use of the local authority's resources. In these circumstances, the local authority will inform the child's parent or the young person of the reasons it is unable to identify a sum of money and work with them to explore services personalised through other means.
- 6.2 If the request for a Personal Budget is refused, the local authority will set out the reasons in writing and inform the child's parent or the young person of their right to request a formal review of the decision. The local authority will consider any subsequent representation made by the child's parent or the young person and notify them of the outcome, in writing, setting out the reasons for their decision.
- 6.3 Where a disagreement relates to the actual special educational provision to be secured through a Personal Budget the child's parent or the young person can appeal to the First-tier Tribunal (SEN and Disability), even though it is to be funded by a Personal Budget. For Health and Social Care provision the relevant complaints processes will be followed to enable the child's parent or the young person to challenge the decision.

7. Mechanisms for delivery of a Personal Budget

- 7.1 There are four ways in which the child's parent and/or the young person can be involved in securing provision:
- 7.1.1 Direct Payments – where individuals receive the cash to contract, purchase and manage services themselves.
 - 7.1.2 An arrangement- whereby the Council, school or college holds the funds and commissions the support specified in the EHC plan (known as a notional budget).
 - 7.1.3 Third Party Arrangement –funds (Direct Payments) are paid to and managed by an individual or organisation on behalf of the child's parent carer or the young person.
 - 7.1.4 A combination of the above.

- 7.2 Where a parent carer or young person chooses to take all or part of their Personal Budget as a Direct Payment, this part of their Personal Budget will be subject to the legislative rules as set out in the Special Educational Needs (Personal Budgets and Direct Payments) Regulations 2014.
- 7.3 A Direct Payment involves a cash payment being given to the parent carer of the child or young person or directly to the young person if over the age of eighteen and deemed able to manage the payment, as per Section 3.2 of the Special Educational Needs (Personal Budgets and Direct Payments) Regulations 2014.
- 7.4 The Council must be satisfied, if the Direct Payment option is chosen, that the person who receives the payment proposes to secure the agreed provision in an appropriate way and that the service or provision purchased is able to meet the agreed outcomes.
- 7.5 If a Personal Budget is taken as a Direct Payment, whatever services the individual decides to purchase with their allocation, it is considered to be a private purchase and they must be able to evidence how that service is able to meet the identified needs and outcomes in Education, Health and Care (EHC) plan.
- 7.6 The Council will provide written notice of the conditions for receipt of any Direct Payment alongside the final EHC plan. The child's parent or the young person should confirm their decision and agreement of the budget. Where appropriate, this must include their agreement, in writing, of the conditions for receipt of the Direct Payment. Where the child's parent or the young person has nominated a person to receive payments on their behalf, the agreement must come from the proposed recipient.

8. Payment of Funds

- 8.1 Prior to the Council making a Direct Payment, parent carers and/or the young person (aged 16 plus) will need to sign a single contract which makes it clear what conditions they have to agree to. They will also need to open a separate bank account to be used solely for receiving cash payments for the use of Direct Payments. This account can also be used for other cash payments from the Council, such as Personal Travel Budgets. A record must be kept of all money paid in and withdrawn and all receipts must be retained and may be requested at any time by the Council to show how the funding has been spent.
- 8.2 Thereafter the funding allocation agreed as a Direct Payment will be paid at the earliest opportunity, but not usually later than a maximum of 8 weeks after the final EHC Plan has been agreed.
- 8.3 Frequency of payments will be dependent upon the requirements of the package and will be agreed in advance by the Council and parent carer or young person to receive the payments.

9. Monitoring

- 9.1 The allocation of a Personal Budget will be monitored, at least annually, as part of the regular statutory review process.
- 9.2 Where the parent carer or young person has chosen to take all or part of their Personal Budget as a Direct Payment, the Council will monitor the use of that payment in order to ensure that the provision or services purchased continue to be appropriate to meet the outcomes required and are meeting the assessed needs. Monitoring will also assess how the payment is working in practical and financial terms, i.e. whether the payments have been used effectively, and whether the funding continues to be sufficient to secure the agreed provision.

10. Misuse of Funds

- 10.1 It is a requirement that Personal Budgets are used only to meet the needs and outcomes outlined in the support plan or EHC plan agreed between the Council and the parent carer or young person. The Plan will include a detailed explanation of how the Personal Budget should be used to meet the needs and outcomes; and explain how the money will be used, spent and managed, including arrangements in relation to any Direct Payments.
- 10.2 The Council may require that all or part of a Direct Payment must be repaid if it is deemed that all or part of it has not been used to secure the agreed provision, if any theft, fraud or other offence has occurred in connection with the Direct Payment, and if the child or young person has died.
- 10.3 In the event that the Council decides that all or part of the Direct Payment must be repaid, it must give reasonable notice, in writing, to the person receiving the Direct Payments.

11. Stopping a Personal Budget

- 11.1 Following a review of the EHC or support plan if, based on the individuals changing needs, it is decided to stop, increase or reduce the amount of the Personal Budget, reasonable notice in writing to the person receiving the Personal Budget will be given. This will include an outline of the reasons for this decision. The person receiving the Personal Budget may request a formal review of the decision and the Council will consider any subsequent representation and notify them of the outcome, in writing, setting out the reasons for their decision.
- 11.2 The person receiving the Personal Budget may, at any point, request that it ceases and ask the Council to take over responsibility for the provision necessary to meet the agreed outcomes set out in the support plan or EHC plan, by giving one month's notice.