

**Personal Budget Policy and Procedures  
for children and young people with an Education,  
Health and Care Plan**

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# EHC Personal Budget and Procedure

## Introduction

The Children and Families Act (2014) gives parents and carers of children with Education, Health and Care Plans (EHCPs), and young people over the age of 16, greater choice and control over support arrangements. If a child or young person receives an Education, Health and Care Plan (EHCP) you will be able to ask for a personal budget, part of which might be available through a direct payment. More details about direct payments are given below.

Local authorities must identify those areas of spending which are deemed “personal budgets” and the parents of children or young people themselves must be given the opportunity to influence how this funding is used or, in some cases, actually control the receipt and spending of cash.

There are many children and young people who have a special educational need or disability (SEND) but who do not need additional support as their needs are met by existing services.

Special schools or other specialist settings will, in the majority of cases, be designed, organised and resourced to meet fully all the educational needs of their pupils. All education providers, including Early Years settings, schools, academies, colleges and other learning providers, are focused on supporting all the children or young people to achieve quality learning outcomes. The teacher or practitioner will be focused on helping every child or young person to succeed and details of additional support provided must be included in local offer statements.

Some children and young people will need additional support to achieve their learning outcomes. This is targeted support and providers (Early Years settings, schools, academies and colleges) receive funding from the Local Authority (LA) for this. The targeted support might include, for example, focused literacy support or a behaviour management programme.

A small number of children and young people will require additional and individual support over and above the targeted support so that they can participate in learning activities, enjoy the learning experience and achieve well. At the moment most of these children and young people would have an EHCP which may be supported by a personal budget. Examples where families may need to access additional support for their child are:

- additional support from Education to ensure that a child’s learning needs are met. This could include home to school transport, specialist equipment or types of therapy, and would make up a **personal SEND budget** with a focus on learning outcomes.
- additional support from the National Health Service (NHS) where a child has a complex long-term and/or life-limiting condition. This would make up a **personal health budget** focused on health outcomes;

- additional support from Social Care where a child needs additional support at home or where a family needs a short break from caring. This would make up a **personal care budget** focused on outcomes around family and home life, being safe when out and about in the local community and being able to take part in life outside of school.

All the above are examples of items that are over and above those that a provider (e.g. school) is expected to provide as part of their local offer and together would form the child or young person's overall **personal budget**. The key area of change arising from the SEND reforms (introduced by the Children and Families Act (2014)) is that instead of a family being provided with these services by the LA, school or NHS, a single budget is identified and work takes place to plan how this can best be used to meet the child or family's needs and to improve learning outcomes.

This policy describes the services across education, health and social care that currently lend themselves to the use of a Personal Budget, how the funding will be made available, the eligibility criteria and decision making process.

### **What is a Personal Budget?**

A personal budget is one part of a personalised approach to supporting children and young people with SEND. A personal budget is an amount of money identified by the LA to deliver all or some of the provision set out in an EHCP. By having a say in the way this budget is used, a parent or young person can play an active role in how support is provided to ensure the outcomes detailed in the Plan are achieved.

It should not be seen in isolation but as an integral part of the EHCP assessment process and with a clear focus on improving outcomes for children and young people with SEND/

### **How will a personal budget be managed?**

A personal budget can be managed in the following ways:

- through a Direct Payment to the parent/carer or young person
- the LA manages the budget and commissions support
- the funds are paid to a third party to manage on behalf of the young person or parents
- a combination of all three

### **What is a Direct Payment?**

Young people between the ages of 16 and 25 and parents of children have a right to ask the LA to prepare a personal budget once the authority has completed the EHCP assessment and confirmed that it will prepare an EHCP.

Parents and young people may also request a personal budget once they already have an EHCP, during a statutory review of an existing EHCP.

### **Who cannot receive a direct payment?**

**Please see Appendix 2**

### **Social Care Personal Budgets**

Personal budgets and direct payments have been available to adults and parents of disabled children for a number of years and, as a result, the management and monitoring arrangements are already in place.

The scope of direct payments in social care currently extends to:

- Older people and disabled people over the age of 16:
- People with physical and/or sensory disabilities, people with learning disabilities, people with mental health issues, and people who do not have the mental capacity to consent to Direct Payments can have an appointed person to manage Direct Payments on their behalf.
- A person with parental responsibility for a disabled child aged under 16.
- Parents and people with legal parental responsibility and who are not necessarily the child's parents.

Access to a Social Care personal budget would be through the Social Worker.

### **Personal Health Budgets (PHBs)**

Currently the NHS Mandate requires Clinical Commissioning Groups to make available a personal health budget to those families eligible for Children's Continuing Care (CCC) or for those over 18 eligible for Continuing Health Care (CHC).

### **How do individuals request a personal health budget up to the age of 25?**

Those eligible for CCC can do so through their CCC key contact, However as part of the Education, Health and Care Plan process a family may request a personal/health budget at the point they are informed that an EHC Plan will be prepared or during a statutory review of an existing EHCP and this request would be made to the CCG via the SEND Team.

### **What are the criteria for Children's Continuing Care? How is eligibility decided?**

NHS Children's Continuing Care is support provided for children and young people under 18 who need a tailored package of care because of their disability, an accident or illness.

It is different from NHS continuing healthcare, which can be provided to adults who have very severe or complex health needs.

More information can be found at

<https://www.gov.uk/government/publications/children-and-young-peoples-continuing-care-national-framework>.

### **How would this be included in an EHC plan?**

The Children's Continuing Care needs would be described in section C, provision would be cited in section G, and the budget outlined in section J of the EHC Plan.

### **What is the transition age from Children's Continuing Care to adults' Continuing Health Care?**

The transition age is 18. However children should be identified from age 14 but the first formal adult assessment as part of a transition plan would be undertaken at 17½ and that informs professionals involved of the likelihood of meeting eligibility for CHC. At 17 years and 11 months a further adult assessment is carried out and at this point eligibility for CHC would be determined.

### **Education Personal Budgets**

Personal budgets for educational provision have not been available before 1 September 2014 and any request will be considered on merit.

We will not issue a personal budget if:

- The request is not linked to achieving outcomes in the Education, Health and Care Plan;
- The service has already been commissioned and is accessible;
- It falls outside the scope of this policy on eligible spend;
- It does not meet the child or young person's needs, aspirations or outcomes;
- It does not achieve better value for money;
- The cost of the specified special educational provision is part of a larger sum that cannot be disaggregated without having an adverse impact on other services, or where it would not be an efficient use of services

### **What provision could be included in a personal budget for a child with an EHC Plan?**

An EHCP personal budget can include funding from education, health and social care. However the level of the budget will vary according to the need of the child or young person. Personal budgets are based on the clear, agreed outcomes set out in the EHC Plan. The decision making process to establish and agree a budget should be clear and **must** be open to challenge with parents able to request a review of decisions in relation to direct payments.

The provision to be delivered through a personal budget will be set out as part of the provision specified in the EHC Plan. Where a personal budget has been agreed, the Plan **must** also set out the details of the needs and outcomes to be met by the budget and the arrangements for any use of direct payments including the services that they will be used for, the amount and frequency of the payments and arrangements for review. Direct payments **must** be set at a level that will deliver the provision specified in the plan.

Where the Local Authority is unable to meet a request to include particular education or social care provision in a personal budget or a direct payment the reasons will be provided in writing. The parent or young person will also be given the opportunity to request a formal review of the decision if a direct payment is not available. Decisions in relation to the health element (personal health budget) remain the responsibility of the Clinical Commissioning Group or other health commissioning bodies and where they decline a request for a direct payment, they **must** set out the reasons in writing and provide the opportunity for a formal review. Where more than one body is unable to meet a request, the local authority and partners should consider sending a single letter setting out the reasons for the decisions.

The personal budget can include funding from education, health and social care. However, the scope of that budget will vary depending on the needs of the individual as well as the eligibility criteria for the different components and the mechanism for delivery. It will reflect local circumstances and commissioning arrangements and the type of school parents (or the young person) request.

## **Education funding**

Many children and young people with special educational needs or a disability attend school or Post 16 provision and are supported by their funding and do not need any additional support. Schools have, what is called, a notional SEN budget to support children and young people with special educational needs. The school or Post 16 provider should make it clear what support they provide. The information is also available in the "Local Offer" a statement which makes it clear which support and services are provided by the LA.

However there are some children and young people who do need additional support, where it is now part of an EHC Plan, and the school or Post 16 provider might need some additional funding.

The money used to pay for this is referred to as "High Needs Block" funding and is usually paid by the LA to the school or Post 16 provider. It might be used to increase the level of individual support or to provide specific resources for the child.

The additional funding might be used instead to provide a budget to a parent or carer so that the parent or carer might organise this support themselves.

### **What is funded through the High Needs Block?**

North Tyneside Council uses the High Needs Block funding to:

- Provide extra top up funding to Schools, Academies, Free Schools and Further Education Providers.

This money is used to meet the agreed educational outcomes in either a SEN Support Plan or an Education, Health and Care Plan. This top up funding could be included in a personal budget but if it is used to support a child in school it could not be paid as a Direct Payment unless it is agreed by the Head Teacher.

Top up funding is also paid to our special schools. Although the cost of support could be included in a personal budget, it will not be available as a Direct Payment. This is because the schools already provide specialist provision.

- Top up funding – independent providers

This money is paid to non-maintained and independent special schools to meet the needs of children and young people with Education, Health and Care Plans. We would only consider placing a child in one of these schools if we were confident that their needs could not be met in local provision.

This funding could be shown in a personal budget but will not be available as a Direct Payment. This is because the schools already provide specialist provision.

- Other alternative provision

Sometimes, children and young people need to access other types of provision e.g. a Pupil Referral Unit. A Pupil Referral Unit cannot be named in an Education, Health and Care Plan, and therefore the cost cannot be considered for a personal budget.

- SEN Commissioned Outreach Services

SEN Commissioned Outreach Services provide advice and support to schools. North Tyneside Council commissions Outreach Services including Sensory Support, Language and Communication Team, Portage/LEAPS and Moving On.

This resource is not available as a Direct Payment. This is because they provide a specialised service to school.

- Hospital education services

The Home and Hospital Tuition service provides support to children who are unable to attend school because of their illness. Details about the service are included in the Local Offer. The cost is not, at this stage, available as a Direct Payment.

- Specialist equipment

If a child with a special educational need requires some specialist equipment so that they can access the school curriculum, the facilities or information, we can consider these costs as part of a personal budget and direct payment. We would still need to be satisfied that any alternative equipment meets the needs of the child or young person, is linked to the agreed outcomes in the Plan and achieves good value for money.

A SEN personal budget does not include funding for the school place. It could:

- Add to existing learning support;
- Fund time to bring all key parties together to bridge the gap between home and school / other learning provision and to build a team of dedicated support;
- Fund some specialist input;
- Fund work experience or work based learning opportunities;
- Add to the technology available to help a student learn.

### **What will be included?**

In principle, the cost of any provision that is identified within a child's EHC Plan could form part of the personal budget but not all of it would be given to families as a direct payment.

The Personal budget could cover the special education, health and care services detailed in an Education, Health and Care Plan. It must be based on the clear, agreed outcomes that are set out in the EHC Plan. Examples of personal budgets in some of the Pathfinder Local Authorities are shown in Appendix 1.

All cases will be considered on individual merit.

The type of educational provision that would be considered for a personal budget is shown below:

<b>Service / provision</b>	<b>Can this be included in a personal budget?</b>	<b>Could this be given to parents as a direct payment?</b>
The cost of the support in	Yes, but only if the Head	Yes, if the Head Teacher



school that is funded from the school budget such as teaching assistant support, specialist resources. etc.	Teacher or Principal agrees	or Principal agrees
Support or provision from top up funding.	Yes	Yes
Specialist equipment for the child.	Yes, if it is being considered by the LA  Yes, if considered by the school and the Head Teacher or Principal gives consent.	Yes
Home to school transport	Possibly, but only if the child is entitled to free home to school transport and it is more cost effective for the LA if parents make their own arrangements.	Possibly
Central services	No	No
Specialist provision	No	No

### **How will decisions be taken in North Tyneside?**

The implementation of the SEND reforms provide an opportunity to extend the current arrangements within Social Care and Health to cover personal budgets identified through an EHC assessment. The responsibilities for the key services would be as follows:

#### **SEN services**

The Assessment Co-ordinator will discuss the option of a personal budget with the family, once a decision has been taken to start an EHC assessment or at the statutory annual review meeting.

As part of the Education, Health and Care assessment and review arrangements, any provision to meet the agreed outcomes in an Education, Health and Care Plan will be discussed at a multi-agency meeting. This will be held toward the end of the assessment and will involve the child or young person, parents, carers and the professionals who submitted the advice. The joint outcomes will be agreed at that meeting. Similar principles should apply at the annual review of the plan.

At that meeting, the early years setting, school or Further Education Provider will also provide information on how much they are able to fund. This will be built into the plan and personal budget, although not all services or provision could be managed through a direct payment to the family.

A notional personal budget would be allocated to any child or young person with an Education, Health and Care Plan.

If a parent or young person requests a personal budget, the Assessment Co-ordinator will calculate the costs of provision within an EHC Plan and draft the budget, based on the joint outcomes that were agreed at the meeting. The Assessment Co-ordinator would also determine which aspects of the support costs would be included in a personal budget and as a direct payment and then liaise with relevant colleagues in Commissioning Finance.

### **Direct Payments Team**

- Would discuss the implications of direct payments with the parents or young person
- Prepare the direct payment agreement and make payments
- Monitor the use of the direct payment

### **How is it monitored, how will it be paid**

A direct payment would be paid into a separate bank account and monitored by the Direct Payments Team. Staff in both the SEND Team and the Direct Payments Team will work closely with parents and carers or young people so that everyone is aware of:

- their responsibilities:
- the benefits and disadvantages of managing a direct payment and
- the arrangements for payments and monitoring the payment.

The use of Direct Payments is shown at Appendix 1.

## Appendix 1

### Use of direct payments

Direct payments are cash payments made directly to the child's parent, the young person or their nominee, allowing them to arrange provision themselves. They **must** be set at a level that will secure the provision specified in the EHC plan. If a direct payment is not set a suitable level, it **must** be reviewed and adjusted. Local authorities **must not** make direct payments for the purpose of funding a school place or post-16 institution.

Local authority and health commissioning body duties to secure or arrange the provision specified in EHC plans are discharged through a direct payment only when the provision has been acquired for, or on behalf of, the child's parent or the young person and this has been done in keeping with regulations. Funding **must** be set at a level to secure the agreed provision in the EHC plan and meet health needs agreed in the Personal Health Budget Care Plan.

Direct payments for special educational provision, health care and social care provision are subject to separate regulations. These are:

- the Community Care, services for Carers and Children's Services (Direct Payments) Regulations 2009 (the 2009 regulations will be replaced by those made under the Care Act 2014)
- the National Health Service (Direct Payments) Regulations 2013
- The Special Educational Needs (Personal Budgets) Regulations 2014

The regulations have many common requirements including those covering consent, use of nominees, conditions for receipt, monitoring and review of direct payments and persons to whom direct payments **must not** be made (such as those subject to certain rehabilitation orders – see pages 4 and 5 for more detail). Detailed arrangements for direct payments should be set out in section J of the EHC Plan.

Local Authorities **must** offer direct payments for social care services. For both education and social care the local authority **must** be satisfied that the person who receives the direct payments will use them in an appropriate way and that they will act in the best interests of the child or young person. Regulations governing the use of direct payments for special educational provision place a number of additional requirements on both local authorities and parents before a direct payment can be agreed. These include requirements to consider the impact on other service users and value for money and to seek agreement from educational establishments where a service funded by a direct payment is delivered on their premises.

Direct payments for health require the agreement of a Care Plan between the CCG and the recipient. This requirement can be fulfilled by sections G and J of the EHC plan as long as it includes the following information:

- the health needs to be met and the outcomes to be achieved through the provision in the plan

- the things that the direct payment will be used to purchase, the size of the direct payment, and how often it will be paid
- the name of the care co-ordinator responsible for managing the Care Plan
- who will be responsible for monitoring the health condition of the person receiving care
- the anticipated date of the first review, and how it is to be carried out
- the period of notice that will apply if the CCG decides to reduce the amount of the direct payment
- where necessary, an agreed procedure for discussing and managing any significant risk, and
- where people lack capacity or are more vulnerable, the plan should consider safeguarding, promoting liberty and where appropriate set out any restraint procedures

## Appendix 2

### **Who cannot receive a direct payment**

The regulations about personal budgets state the following:

*“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 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.*