

Birmingham Personal Budgets Policy

September 2014

The policy should include:

- Description of services across education health and social care that currently lend themselves to personal budgets
- How that funding will be made available – partners must set out in their joint commissioning arrangements their arrangements for agreeing Personal Budgets
- mechanisms of control for funding available to parents and young people (direct payment/notional budget/3rd party arrangements/combo of above)
- clear and simple statements of eligibility criteria and the decision making processes that underpin them

Introduction

A family or young person will be able to request a Personal Budget at the point where the Local Authority is drafting an EHC Plan.

Personal budgets are one element of a personalised approach to supporting children and young people with SEND and should be seen as an integral part of the coordinated assessment and EHC planning process where there is a clear focus on improving outcomes for children/young people with special educational needs and disabilities.

There is a clear expectation that the offer of Personal Budgets will increase over the transitional period of three and half years, as the SEN Reforms are implemented. This Personal Budget Policy is under development and will continue to be updated based on learning from implementation of the SEN Reforms, and formally reviewed at least annually.

Co-Production

Co-Production is at the centre of the new approach to supporting Children, Young People and Families. Personal Budgets should model co-production, not just in terms of planning around an individual but also in development and taking forward of this approach. Developing the offer of Personal Budgets will mean genuinely working with all partners, families, young people, parent carer forums and local providers.

Personal Budgets create opportunities to:-

- Meet presenting needs in a timely manner
- Give choice and control to parents & young people
- Direct services to providing support
- Meet stated outcomes in EHC plan
- Use resources effectively
- Create collaborations between sectors & services
- Ensure support interventions are not 'tagged on' in isolation of the curriculum & the learning environment
- Allow for greater choice in the market and support market development.

Genuine commitment to partnership and collaboration is important to support positive dialogue to explore all opportunities for personalisation of provision.

Decision making about Personal Budgets should be based on:

- **Transparency** – everyone understands how decisions are made, what is available, what choice exists and conversely what choices don't exist
- **Participation** – everybody who needs help in understanding what Personal Budgets may offer should be supported to do so

What is a personal budget?

For the purposes of EHC Plans, a personal budget is defined as an amount of money identified by the local authority to deliver provision set out in an EHC Plan where the parent or young person is involved in securing that provision (Section 9.95 Special Educational Needs and Disability Code of Practice 0-25)

Implementation advice from DfE states that a Personal Budget is a sum of funding available for Children and Young People where it is clear they need additional provision above that available to most Children and Young People through local services.

It is not the sum total of all the resources available to support a child or young person and Section J(PBs) of the EHC Plan does not need to list all the costs associated with supporting a child or young person. Rather this section should provide a detailed explanation of how a Personal Budget will be used to deliver agreed provision, the needs and outcomes it will meet and will explain how the money will be used, spent and managed including arrangements in relation to any direct payments.

There are four ways in which a child's parent or young person can be involved in securing provision:

- Direct payments – where the child's parents or young person receive the funding to contract, purchase and manage the service themselves
- An organised arrangement – where the local authority, school or college holds the funds and commissions the support specified in the plan. These are sometimes called notional arrangements and can also be used where contractual or funding arrangements mean that cash cannot be released as a direct payment or where economies of scale are present
- Third party arrangements – where direct payments are paid to and managed by an individual or organisation on behalf of the child's parent or young person
- A combination of the above

Who can request a personal budget?

The child's parent or the young person has a right to request a Personal Budget, when the local authority has completed an EHC needs assessment **and** confirmed that it will prepare an EHC plan. They may also request a Personal Budget during a statutory review of an existing EHC plan.

Personal Budgets should reflect the holistic nature of an EHC plan and can include funding for special educational, health and social care provision. They should be focused to secure the provision agreed in the EHC plan and should be designed to secure the outcomes specified in the EHC plan.

It is important to understand that not everything identified in an EHC Plan is available for personal budget. Options for personal budget are determined by the assessed needs of the child or young person and influenced by what is already available through the local offer of services, eligibility criteria for different components, local circumstances, commissioning arrangements and other individual factors such as school preference.

The Local Offer sets out what is available from education, health and social care to children and young people with special educational needs and disabilities, including those who do not have Education, Health and Care (EHC) plans.

Options for personal budget relate to more specialist or individualised provision.

In addition, where a direct payment is requested as part of a personal budget, the local authority in relation to both education and social care services, must be satisfied that the person who receives the direct payments will:

- Use them in an appropriate way
- Act in the best interests of the child

Regulations governing the use of direct payments for special educational needs 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
- Seek agreement from educational establishments where a service funded by a direct payment is delivered on their premises

Personal Budgets Child and family at the centre

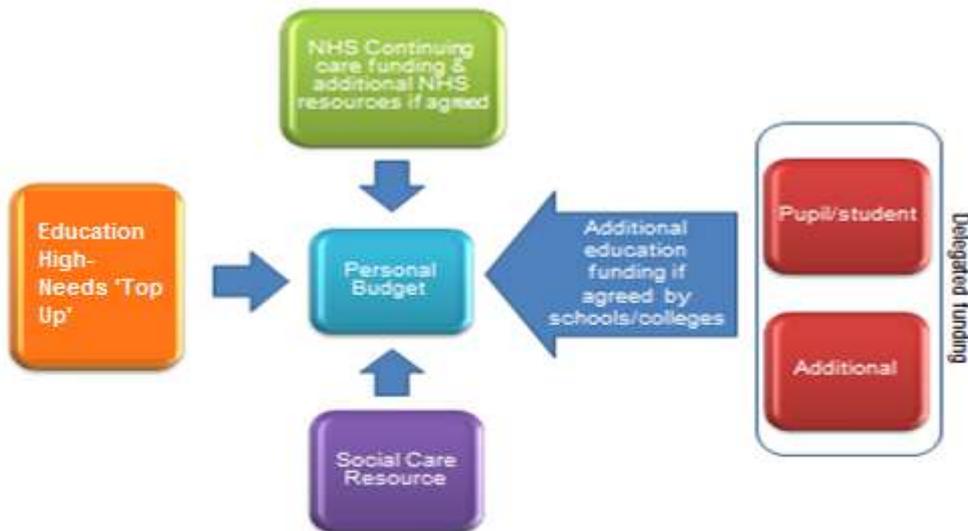


SEND Special Educational Needs
Charity Partner

Personal Budgets A whole system of support and opportunity



in **Control**



- **Education** – any funding for personal SEN budget is for learning outcomes. In the future we are planning that, in most instances, this will be linked to CRISP assessment or SEN Banded funding for Element 3 (top-up) funding. The source of funding is the Local Authority centrally managed Direct Schools Grant High Needs block. The funding from the Local Authority's High Needs block for the SEN element of a Personal Budget will be based on assessed needs of the child or young person and will usually be for support that is required in addition to the support a school or college is expected to provide from within delegated funding as part of the local offer.

Schools and colleges can choose to contribute from their delegated funding (Element 1 and Element 2)

- **Health** – offer individual funding for children with complex health needs as established by the criteria set out within the Continuing Care Decision-Making Tool (DMT)

Personal Health Budgets are not appropriate for all aspects of NHS care an individual may require. Full details of excluded services are set out in guidance provided by NHS England and include primary medical (ie GP services) and emergency services.

Since April 2014, everyone receiving NHS Continuing Healthcare (including children’s continuing care) has had a right to ask for Personal Health Budget, including a direct payment. From October 2014, this group will benefit from the right to have a Personal Health Budget.

- **Social Care**

Children and young people under 18

For children and young people under 18, the local authority is under a duty to offer direct payments for services which the local authority may provide to children with disabilities, of their families, under section 17 of the Children Act 1989. A personal social care budget will be 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. This is determined by local eligibility and whether the child is a ‘child in need’ as defined in the Children’s Act.

People over 18

The Care Act 2014 mandates, for the first time in law, a Personal budget as part of the care and support plan for people over 18 with eligible care and support needs, or where the local authority decides to meet needs. It also clarifies people’s right to request a direct payment to meet some or all of their care and support needs, and covers people with and without capacity to request a direct payment.

How are decisions made?

Each funding stream has its own decision-making system for allocating resources. These are known collectively as Resource Allocation Systems (RAS).

Resource allocation systems are essential to ensure fair and equitable use of resources, and are an important part of the process of EHC needs assessment.

They provide information about how much the different elements of an EHC Plan are likely to cost (indicative budget) and provide the information for Section J of an EHC Plan ie the resources required for the EHC Plan and costs for any options for personal budget that have been agreed as part of the EHC needs assessment.

The ways decisions are made to allocate resources according to each child or young person's needs should be simple and transparent.

Although each of the commissioning agencies in Birmingham operate their own resource allocation system at the moment, it is anticipated that this may become more integrated as ways of aligning or pooling budgets and joint commissioning develop from September 2014.

What services currently lend themselves to Personal Budget in Birmingham?

Implementation of personal budgets is complex, and, as with the local offer, the personal budget offer from September 2014 is the start of an ongoing process. The scope and availability of personal budgets will be developed and revised over time through regular review and consultation with parents, children and young people and the implementation of joint commissioning strategies.

An important question to consider is how a personal budget fits with other sources of support, access and opportunity at school, college or in training. Personal budgets, and how they might be used, are only one part of a much wider system of learning opportunities, support and activities available to children and young people who need additional individual resources to enable them to make good educational progress.

Services which currently lend themselves to personal budgets in Birmingham are as follows:

Education: No education services currently lend themselves to a personal budget

In the medium and longer term, the offer of personal SEN budgets is likely to increase relating to:

- Element 3 High Needs Block 'top-up' funding identified through CRISP (Criteria for Special Provision) or the SEN Banded Funding Matrix
- Transport/travel assistance.

High needs 'top-up' funding (Element 3) currently goes to schools and colleges to provide the support required by the child/young person to meet their identified outcomes. The scope of a personal budget for special educational needs will vary depending on a young person's or child/parent's preference for school or educational institution. For example, as part of their core provision, special schools and colleges make some specialist provision available that is not normally available in mainstream schools and colleges. The particular choice of a special school with integrated specialist provision may reduce the scope for a personal budget.

If a few parents or young people would like to be pioneers and work with us to explore expanding the offer of a Personal Budget then we would welcome this. We hope they can help us develop and change the systems to do this. Please let us know via your SEN Co-ordinator.

Health:

- NHS Continuing Care for children
- NHS Continuing Health care

In the medium or longer term, it is anticipated that respite care services could lend themselves to personal health budget

Social Care:

- 'Short breaks' packages of support for children under 18 agreed as part of a Child in Need Plan
- Packages of support agreed as part of an Adult Care Plan

Each of these options for personal budget are described in more detail below. More information, or links to more information, about these options can also be found on the Local Offer website

Health: Personal Health Budget

Services that currently lend themselves to personal budget are those related to:

- NHS Continuing Care for Children
- NHS Continuing Healthcare

Eligibility

Eligibility for a personal health budget is determined by whether the child or young person receives NHS Continuing Care for Children or NHS Continuing Health Care because they have a primary health need that has been assessed against key indicators including the nature, complexity, intensity and unpredictability of the primary health need. Services outside of NHS Continuing Care for Children and NHS Continuing Health Care will be considered for a personal budget if it is over and above those services deemed as universal services and targeted services and support.

In the medium or longer term, it is anticipated that respite care could lend itself to personal budget

Funding

Funding is via the Clinical Commissioning groups or via the Continuing Health Care Team based within the Commissioning Support Unit (CSU). It is made available through an agreed Care Plan.

Decision making

Decisions about NHS Continuing Care for Children or NHS Continuing Health Care are made using the nationally adopted decision making tool.

Allocations of funding outside of this will be made by a panel of senior commissioners with key input and support from clinical professionals

Monitoring and review

Reviews and monitoring of care and expenditure will be undertaken with respect to the nature of the care funded. In the case of Continuing Health Care (CHC) provision, this will be monitored and reviewed via the CHC team

Social Care

For children and young people with higher levels of need who require statutory or specialist services, short breaks provision following a Social Work assessment can lend itself to personal budget. There are a range of services which are available to be accessed through direct payments, including Home /Care Support; personal care; evening and day provision and some externally commissioned overnight provision; social activity.

We are not currently able to offer a direct payment for services which are currently fully commissioned by the department from in house providers. For example, we are unable to offer a cash rate for Birmingham City Children's Homes, which are already fully funded and it would not be possible to decommission the provision for a small number of children.

Eligibility

Children and young people under 18

Eligibility is determined through Social Work assessment of individual needs and circumstances. This is used to develop a relevant Support Plan with identified outcomes and short break provision presented to DCSC Community Resource Panel. Agreed provision is incorporated into the EHC Plan. Services are provided on the basis that children meet the criteria for service. It will be available for generally short break and home care services that are commissioned to be taken by the family as direct payments.

Young People over 18

To request an individual budget, a young person must have been assessed by a social care worker as having 'critical' or 'substantial' needs.

Decision making

Children and young people under 18

The Community Resource Panel uses its Resource Allocation system (RAS) to determine whether the identified needs of the child meet the threshold for support, identify the resources and agree how the resources will be delivered. Personal budget can be accessed as a direct payment. As part of the assessment of the child or young person's needs, informal networks of support (social capital and community wealth) and family resources are also identified as part of the overall package of support for the child or young person (see In Control website).

Monitoring and review

All decisions are subject to annual review of needs or earlier if a child or young person's support plan needs to be reviewed.

Mechanisms of control

Direct payments are set up as a formal agreement with a requirement for a quarterly return and reporting of the under use of funds for the equivalent of 6 to 7 weeks with repayment if necessary of unused/surplus amounts.

It is available for families to use a third party organisation to manage their direct payments and ensure that the money is used to support the child and pay any necessary expenses for carers (i.e. national insurance). This service is available on an individual basis and will be discussed during the assessment.

Appeal Panel

Appeals received against a decision by the Community Resource Panel are reviewed by an Independent Team Manager (i.e. someone who has not been involved in the previous management or assessment decision) and also selected Panel members to be impartial from the previous assessment

Transition and Adult Services¹

Adult Social Care Services have been providing individual budgets and direct payments for many years. The current procedure is that young people who are approaching 17 and have an EHC Plan will be screened to see whether they are likely to meet Adult Care Eligibility Criteria. With agreement with the young person and their family, they will be put forward for an assessment for Adult Social Care, if appropriate. Our aim is that a decision is made before the age of the young person being 17.5years. This will allow six months for planning and commissioning services if the young adult meets the Adult Social Care Eligibility Criteria.

¹ This section is subject to review as there are currently plans to implement at 14 – 25 social care team which will straddle the current Disabled Children’s Social Care Team and the Adult Transition Team. Work is ongoing to prepare this initiative.

How to make a request for personal budget as part of EHC needs assessment

The process for requesting a personal budget should be a collaborative process involving young people children and parents in decision making. Developing and implementing individual EHC Plans will provide an important route for identifying issues and developing the involvement of young people and parents.

It has been recognised through good family support work and Early Support provision that keyworking and facilitation skills are essential to ensure that all families have opportunities to contribute their views regardless of their individual circumstances .

The opportunity to consider options, and make a request for personal budget, is part of the EHC assessment process.

Once a Request for EHC assessment is received by the Local Authority, the SENAR Principal Officer will start to prepare to present the request to EHC Panel. This includes preparing an indicative budget based on CRISP assessment of a child or young person's educational needs, what transport arrangements might need to be considered, and any other relevant health or social care assessment that has been carried out where resource allocation decisions have been made.

If the EHC Panel agree that an EHC Plan can be prepared, the SENAR Principal Officer acts as the Plan Coordinator and works with the family and the relevant professionals to continue the assessment process, develop a clear understanding of the outcomes to be achieved, the resources required and the options for personal budget.

At the EHC meeting, where the draft Plan is developed and outcomes agreed, the child's parents and young person indicate whether they would like to request a personal budget for any of the available elements and how, if agreed, they would like to manage this.

This is then included in the draft EHC Plan ready for the consultation phase with the family and the appropriate educational institutions, and final approval by the EHC Panel where the relevant commissioners are represented.

If a Direct Payment is to be made, a formal agreement is set up between the family and the relevant commissioning agency. This includes monitoring and review arrangements to ensure the direct payment is used to buy the service which the child/young person has been assessed as needing as part of the EHC Plan, and where necessary, the recovery of unpaid sums.

EHC Panel

The EHC Panel has been established to support the statutory EHC assessment process required from September 2014. The EHC Panel is led by senior managers with commissioning roles in Education, Health and Social Care.

The purpose of the EHC Panel is to provide a clear and equitable framework and process in considering the assessed needs of children and young people with Special Educational Needs and Disability (SEND). One of the core functions of the EHC Panel is to ratify the EHC Plan and any arrangements for personal budget.

Resolving disputes

The Panel process assumes each of the assessing agencies, separately and together, have made their assessment of needs and made decisions about resources prior to coming to panel. If there is disagreement between the funding agencies, the Education, Health and Social Care Commissioners have developed the necessary protocol to deal with this.

Double Funding

Funding will be monitored and it is expected that any double funding will be recouped.

Complaints

The commissioned services will have to provide complaints or other dispute resolution in their relationship with the families if they use Direct Payments to fund their provision.

Mediation

From September 1st 2014, the Children and Families Act introduces a duty on local authorities to arrange for parents and young people to receive information on mediation before they appeal to the Tribunal and to arrange mediation for parents and young people who want it. This is in addition to the existing duties to make disagreement resolution services available to parents.

Advice and support for parents and young people

There is a SEND Information, Advice and Support Service (IASS) in every local authority. This service will be able to provide information, advice and support for parents of children and young people with SEN or disabilities, young people and children with SEN or disabilities about education, health and social care.

These services provide legally based, impartial, confidential and accessible information, advice and support and will be able to offer face to face, telephone and electronic information and advice as well as casework and representation when

needed.

IASSs will often work with parents and children/young people together but must also ensure that they are able to provide a service directly and separately to children and to young people

Additional support

Families may receive help from an independent supporter, provided by private, voluntary and community sector organisations who is independent of the local authority. Information will be available through the Local Offer website

FAQ

Parents and young people involved in the pilot programme to develop EHC Plans within Birmingham have raised important questions about personal SEN budgets. Their contributions will help collaborative development of future policy and direction. Some of the questions raised are included below.

My child will go to a mainstream school. When Top Up funding based on a CRISP assessment of needs is released for a personal budget can we buy health services with the funds? eg Speech and language tuition

CRISP Top-up funding currently goes to the school to use to support the provision identified for an individual child. This money is not currently available for a personal budget. In the future if a personal budget is requested, the amount of money stays the same. You will need to look at everything as a whole and work with the school and LA on the best way to support your child from the available resources. If top-up was £2000 and you wanted all or part eg £500 of this as personal budget to buy extra speech and language therapy - would this mean that the school couldn't afford to provide as much Teaching Assistant support, for example?. Would this be the best way to use it - would you need the Teaching Assistant support to help implement the speech and language therapy advice? Would it be better to maintain the same level of TA support? Also the LA has to consider the impact on other service users and value for money and Seek agreement from educational establishments where a service funded by a direct payment is delivered on their premises.

Do we as her parents have to have a plan/make a plan of how the money will be spent?

Yes – a personal budget has to be used to support an identified outcome on the EHC Plan and this has to be agreed by the school, LA and/or NHS.

Are there proformas to be filled in around the way we spend the money?

Yes - there will be monitoring arrangements and information about these will be available as the funding mechanism develop to support options for personal SEN budgets.

If not all of the money is spent during the year, what happens to the unspent money? Is it returned back to the Authority?

Yes – these arrangements are already in place for social care direct payments.

Who monitors the spending and how often? Once a term? And how is it monitored?

Parents' are responsible for how money is spent and complying with the LA monitoring arrangements which will take place at least annually, but this may change as we implement DPs across a wider range of services.

Is there a training pack for parents on how to manage and spend their child's funds?

Yes - there will be information available as well as the possibility of third party arrangements where direct payments are paid to and managed by an individual or organisation on your behalf.

Is the money split? i.e. home and school?

Yes, it could be. This sort of decision would depend on the identified outcome and the discussions between parents/young person, school and LA/NHS about best way to meet your child's needs.