

Personal budget policy for children and young people with an education, health, and care (EHC) plan

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Purpose

This policy is Kent County Council's guidance document on personal budgets for children and young people with special educational needs and disabilities. It is relevant to parents, young people and all those who support children and young people with special educational needs and disabilities.

The policy is framed within the following legislation and guidance:

- Part 3 (s. 49) of the Children and Families Act 2014
- Special educational needs and disability code of practice: 0 to 25 years, Chapter 9, January 2015
- The Special Educational Needs (Personal Budgets) Regulations 2014
- The Care Act 2014
- The National Health Service (Direct Payments) Regulations 2013.

Young people and parents of children who have an education health and care (EHC) plan have the right to request a personal budget, which may contain elements of education, social care, and health funding. The request can be made either during a statutory assessment (at the draft plan stage), or when an education health and care plan is being reviewed or re-assessed. "A personal budget is an amount of money identified by the local authority to deliver provision set out in an education, health and care (EHC) plan where the parent or young person is involved in securing that provision" (Children and Families Act 2014, Section 49).

This policy document establishes a baseline from which personal budgets may be developed through engagement with parents, young people and partners in education, health, and social care.

Eligibility

Young people, who are no longer of statutory school age (i.e., who have finished Year 11) and parents of children with an EHC plan have the right to request a personal budget. This applies when the local authority has completed an EHC needs assessment or a re-assessment or during a statutory review of an existing EHC plan.

Useful definitions

Direct payment: the part of a personal budget that is a cash payment made to an individual, so that they can arrange their own services. The payment must be sufficient to enable users to purchase services to meet their outcomes and needs as specified in the EHC plan. If agreed, a direct payment will be made to the child's parent or to the young person or to a nominee.

Indicative/notional budget: the amount of money the local and health authorities estimate it will cost to meet a child's/young person's education, health and care assessed needs.

Personal budget: the amount of money that the local and health authorities have agreed it will cost to meet the outcomes in the EHC plan. A personal budget is allocated in recognition that the child's or young person's support needs cannot be met in full by mainstream/universal or targeted services without an additional individual investment being made. The personal budget can be payable as a direct payment, and it may be provided from 3 different funding streams for example, education, health, and social care.

Targeted support: services and support targeted on a group of children and young people due to a particular learning support need. At a school level, targeted support will mean support focussed on one or more children and young people in a class or in a group, where there is a shared offer of support. This may include funding of support staff. This support will be funded through the budgets of early years settings, schools, and colleges.

Young person: for the purpose of this policy, this describes a young person, who is no longer of compulsory/statutory school age i.e., who has reached the end of Year 11.

Options for managing a personal budget

Provision can be secured by:

- Direct payments: where young person/parent would be given the cash to contract, purchase and manage services themselves.
- An arrangement: where the local authority, school or college holds the funds and commissions the support
- Third party arrangements: where funds (direct payments) are paid to and managed by an individual or organisation on behalf of the child's parent or the young person
- A combination of the above.

Use of a personal budget

A personal budget can be used **only on the support/provision set out in an EHC plan**. This can include funding for the special educational, health and social care support that will help to achieve the outcomes set out in the plan. A personal budget **does not** cover payment for a place at the school or college, or the general provision for children or young people, including those who need SEN support. A personal budget **does include** any additional/top up funding (known as Element 3 funding) that is for provision specified in an EHC plan. It can also include support that is managed by the school, early years setting or college, but only if the headteacher, manager or principal agree.

Some children/young people may not be eligible for the education element of a personal budget, if their needs are being addressed by the specialist services, available at a special school, such as speech and language therapy or occupational

therapy. This is because the local authority is unable to separate out or 'disaggregate' the personal budget from the overall budget, agreed with the NHS.

Difference between a personal budget and a direct payment

A personal budget is the indicative/notional amount of money that would be needed to cover the cost of making the special educational provision specified in an EHC plan. Funding can come from education, health, and social care. With a direct payment the parent or young person is given a cash payment for some services and manages the funds themselves. The parent or young person is responsible for buying the service and paying for it.

A personal budget can include a direct payment if it is agreed that this is the best way to manage part of the personal budget. Direct payments can be used for special educational provision, being provided in a school/college, or setting, but only if the school/college or setting agrees.

Amount of a direct payment

How much you get will depend on what has been set out in the EHC plan. It will vary from one person to another. If the local authority has agreed to make a direct payment, it must be enough to pay for the service or services specified in the EHC plan.

Benefits of a personal budget

A personal budget can give flexibility to how resources are used, for instance, education and social care and/or health payments can be used to pay for one personal assistant to work in a number of settings with the child (and maybe support their travel). It means that individual solutions can be considered to meet individual needs.

The decision-making process

Each request for a personal budget will be considered on its own individual merits. The use of a personal budget should be informed by a person-centred approach to planning to ensure that any personal budget is used in the most appropriate and efficient way. If the local authority is unable to identify a sum of money for a personal budget or refuses a request for a direct payment for special educational provision, reasons will be provided in writing to the child's parent or young person.

Who can receive a direct payment?

Direct payments can be made to the child's parent or young person or to a nominee, where requested in writing by the parent or young person. In each case, the local authority must be satisfied that the recipient is capable of managing direct payments without assistance (or with any available assistance), where relevant, is over statutory school age, has capacity to consent to receiving direct payments and is not an excluded person as set out in the Schedule of the Personal Budget regulations.

The choice of a nominee can be changed or withdrawn in writing at any time by the child's parent or young person.

Decision to make direct payments

The local authority is only able to agree a direct payment, if it is satisfied that the recipient will act in the best interests of the child or young person; that the direct payments will not have an adverse impact on other services provided for children or young people with an EHC plan and that the agreement of a direct payment to secure the agreed provision, is an efficient use of the authority's resources. A direct payment for education can only be made to meet the special educational provision, as set out in an EHC plan.

Where a direct payment will be used for goods/services in a school, college or for relevant early years provision, the head teacher/principal or equivalent or the provider of early years education must consent in writing. Any staff employed by parents/young person would have to have permission from the headteacher/college principal or early years provider to work within that setting.

Safeguarding

When parents or young people are managing a personal budget/direct payment and are purchasing or arranging support, they have a responsibility to be aware of safeguarding issues. Parents and young people have a responsibility to ensure services are safe and of an acceptable quality, and that any services arranged through a personal/direct payment are appropriately registered and monitored. The council requires all tutors, personal assistants, etc to have been checked under the Disclosure and Barring Service (DBS) prior to them starting work. Where a personal budget has been agreed and parents/carers will recruit the staff, the local authority will fund the cost of the DBS process.

Notification of decision to make direct payments

The local authority must provide written notice to the recipient, specifying the following:

- the name of the child or young person in respect of whom direct payments are to be made
- the goods or services which are to be secured by direct payments
- the proposed amount of direct payments
- any conditions on how direct payments may be spent
- the dates for payments into the bank account approved by the local authority.

How a direct payment will be paid

The process for paying a direct payment will be administered by an independent organisation, (currently ['We Are Beams'](#)), which is commissioned and funded by the local authority to administer and monitor any direct payments.

The recipient must agree to the following:

- use the direct payments only to secure the agreed provision
- must notify the Local Authority of any change in relevant circumstances
- must ensure use of a bank account, approved by the local authority, which is only used for purposes connected with direct payments and only accessible by the recipient and approved named persons
- must keep a record of money paid in and out
- must on request provide information or evidence about that account or the goods/services secured.

Review of a direct payment

The local authority must monitor the use of direct payments. A review of specified matters must take place at least once in the first three months and when undertaking a review or a re-assessment of an EHC plan. The review must consider whether to continue the use of direct payments to secure agreed provision; whether the direct payments have been used effectively; whether the amount continues to be sufficient; whether the decision to make a direct payment still applies and whether the recipient has complied with the conditions for being allocated a direct payment.

A recipient may ask the local authority to review the making and use of direct payments, which must be considered by the local authority.

Reduction of a direct payment

Where the local authority decides to reduce the amount of direct payments, it must provide reasonable notice of this to the recipient in writing, setting out the reasons for its decision. It must re-consider its decision, if asked to do so by the recipient and must take into account representations/views provided. The outcome of this process and the reasons for the decision must be sent to the recipient in writing. The local authority is not required to undertake more than one reconsideration.

Repayment and recovery of direct payments

The local authority may require the recipient to repay all or part of the direct payments, where the child's or young person's circumstances have changed; all or part of the direct payments have not been used as agreed; an offence has been committed in relation to direct payments; or when the child or young person has died. Repayment will be sought for any portion of the direct payments that has not already been spent. Notice of repayment, the amount to be repaid, the reasons for the decision and a reasonable timescale for repayment will be sent to the recipient in writing.

It must re-consider its decision, if asked to do so by the recipient and must take into account representations/views provided. The outcome of this process and the

reasons for the decision must be sent to the recipient in writing. The local authority is not required to undertake more than one reconsideration.

Stopping direct payments

The local authority must stop making direct payments, if notified in writing by the recipient that they no longer wish to receive the direct payment; if the recipient is no longer entitled to receive a direct payment; if a review identifies that direct payments should cease; if the direct payment is having an adverse impact on other services, provided for children and young people with an EHC plan and it is no longer compatible with the efficient use of its resources; and consent has not been obtained from a young person, who is no longer of statutory school age.

Notice of the decision to stop making direct payments must be given to the recipient in writing before payments are stopped. It must re-consider its decision, if asked to do so by the recipient and must take into account representations/views provided. The outcome of this process and the reasons for the decision must be sent to the recipient in writing. The local authority is not required to undertake more than one reconsideration.

Transition: when a child becomes a young person

When a child, whose parent or nominee has been receiving direct payments on their behalf, reaches the end of statutory schooling i.e., at the end of Year 11, the local authority must take reasonable steps to ascertain whether they wish, as a young person, to consent to receiving direct payments. Where the young person confirms their wish to receive direct payments, the local authority will ensure that they are entitled and meet the conditions for receiving a direct payment, before making a direct payment. The young person may also provide in writing their consent to the direct payments being made to their parent or nominee. This will be agreed by the local authority, if the young person is entitled and conditions for receiving a direct payment are met.

Personal budget not agreed

If the local authority is not able to agree a request for a personal budget or a direct payment, the child's parent or young person will be informed of the decision and the reasons for this in writing. They will be informed of their right to request a review of the decision. At that point the child's parent or young person will be able to submit their representations/views about the decision to the person/persons carrying out the review.

The outcome of the review and the reasons for the decision will be sent to the child's parent or young person as soon as the process is completed.

Other kinds of personal budget

Some people have had personal budgets for health provision (a personal health budget) and for social care provision (for example fair access to short breaks). They

may have managed some or all the provision using a direct payment. You can find out more by [visiting Kids website](#).

Further information, advice or support can be found at Information, Advice and Support Kent, who are happy to discuss any queries you have about personal budgets in relation to EHC plans. They can be contacted as follows:

Information, Advice and Support Kent:

- call: 03000 41 3000
- email: jask@kent.gov.uk.