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

Information for Parents and Carers

Personal Budget Policy

Children/Young People aged 0-25 with Special Educational Needs and/or disabilities and their family/carers

1. Purpose of this document

The purpose of this document is to outline the policy of the Royal Borough of Kensington and Chelsea Council and Westminster City Council in relation to the Children and Families Act, 2014 (section 49), the Statutory Guidance and Code of Practice for special educational needs and disability 0-25 years, 2014 (9.92 – 9.121) and the Special Educational Needs (Personal Budgets) Regulations 2014.

This also relates to National Framework for NHS Continuing Healthcare and NHS-funded Nursery Care (October 2018) which incorporates the NHS Continuing Healthcare Practice Guidance (paragraphs 296 – 300) and Guidance on Direct Payments for Healthcare (March 2014).

2. Introduction to Personal Budgets

Personal budgets are designed to give children, young people and their families more control over the services they receive and how they are organised. The budget is an amount of money identified by the Local Authority (or, in the case of a personal health budget, by the NHS) in order to secure the provision, achieve outcomes and deliver aspects of support set out in an Education, Health and Care Plan (EHCP) or in a Care Plan. This enables young people and/or parents/carers over the age of 16 to organise support themselves.

Personal budgets can be made up in the following ways:

A. **The education setting or the Council will hold the budget and pay for all provision.** In the case of a personal health budget, this would be managed by the NHS.
B. An independent organisation will manage the budget. The Council pays an agreed amount to the organisation to buy the provision agreed in the EHCP and pay reasonable costs towards the cost of managing the budget. The decision to do this is made by the Council/NHS and the family/young person.

C. The family/young person will hold all or some of the budget and manage it as a direct payment (see 7.1 below for more information). The Council/NHS pays an agreed amount to the nominated person to pay (using a pre-paid card) for the provision agreed in the EHCP.

D. A combination of any of the above options.

Some of the advantages of having a personal budget are that young people and parents/carers can:

- know how much money is available to pay for them or their child’s own support to meet the agreed outcomes;
- have more choice and control over how some of the outcomes are achieved for them or their child;
- have a choice over how the money to support them or their child is held and managed.

This means you will be able to have a say in the way decisions are made, so long as the agreed outcomes in the EHCP are met.

3. Who is eligible for a personal budget?

If a child/young person meets the criteria for one of more of the following areas of support, then they are entitled to request a personal budget:

- an EHCP which sets out additional educational support to help them to achieve their outcomes
- support from the local Disabled Children’s Team
- support from the local Short Break Service
- NHS continuing care
- home to school travel assistance.
If the child/young person is eligible for more than one funding stream, it may be possible to bring them together into a single personal budget.

4. **What are the advantages of having a personal budget?**

A personal budget is an amount of money the Council has assessed as necessary to spend in order to meet a child/young person’s eligible social care needs, special educational needs or that the NHS has assessed as necessary to spend in order to meet a child/young person’s continuing health care needs.

A personal budget enables parents/carers to have more choice and control over purchasing and arranging the assistance or services a child/young person need. They are intended to give the individual the maximum degree of choice and control over how their eligible needs are met.

If a service can meet a child/young person’s needs within a reasonable cost and there are no funding barriers (e.g. block contracts) then we are committed to work with families to meet their wishes.

4.1. **Examples of what can be bought using a personal budget**

A personal budget can be used for a range of things to meet education, health or care outcomes, including:

- Activity or support to be delivered outside school or college e.g. Short Breaks
- In some cases, we may consider occupational therapy equipment for a child/young person, this is decided on a case by case basis (see Frequently Asked Questions for Front Door contact details)
- A service that is bought specifically for an individual child/young person (i.e. Employ a carer for support in the home or community – see paragraph 7)
- Shared activities or support for a group of children/young people with EHCPs or Care Plan who have similar needs
- Home to school travel assistance for eligible children/young people (this scheme is in development as of February 2019)
- Resources, specialists and interventions in school or college (only with direct agreement)

If any of the services need to be delivered in a school or other education setting, the Head of that setting needs to agree. This is because they are
responsible for all children in the setting and they must make sure that no negative impact is caused to any other child.

4.2. Examples of what cannot be personal budget funded via Direct Payment

Personal budgets are not a welfare benefit and are only to be used in ways agreed by the Council or NHS. For children and young people, the personal budget must be clearly aligned to achieving the outcomes which are set out in the EHCP or Social Care Plan.

- Anything that is not specified in the EHCP or Care Plan (other than travel assistance)
- Anything that will not achieve identified outcomes in the EHCP or Care Plan (other than travel assistance)
- Things that are ordinarily available in a school or college
- School or college places
- In the case of a personal health budget, services such as GPs and Accident and Emergency

5. How do I request a personal budget?

5.1. SEN

Young people with SEND and parents/carers of children have the right to request an SEN personal budget once the Council has completed an EHC needs assessment and confirmed that it will prepare an EHCP. A request can also be made during an annual review. The request for an SEN personal budget can only be considered at these stages.

5.2. Social Care/Health

For a child/young person who has social care or continuing health care needs and who is already in receipt of services through the Disabled Children Team, Short Break Service or NHS Continuing Healthcare the request for a personal budget can be made by contacting your Social worker or Short Breaks worker. For new requests contact Front Door Bi-Borough Health Notifications (see Frequently Asked Questions)
5.3. **Travel Assistance (this is under development in February 2019)**

For a child/young person who is eligible for home to school travel assistance, a request can be made if they meet the criteria.

6. **Applying for a Personal Budget**

Young people and parents/carers of children are asked to carefully check the routes for making a personal budget application below. Applications for a personal budget must fall into one of the listed categories to be considered (the young person or parent/carer should make it clear if they believe that the child/young person falls within more than one criteria). Further information can be obtained from the relevant education, health or social care services and accessed on the Local Offer (see Frequently Asked Questions).

The outcome of the application will be sent to the applicant in writing. If the application is unsuccessful reasons will be provided together with full details of the Council’s and the CCG’s appeals process, where relevant.

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Personal budgets are optional for the child’s parent/carer or the young person but the Council is under a duty (the Special Educational Needs Personal Budgets Regulations 2014) to prepare a budget when requested. Personal budgets should reflect the holistic nature of an EHCP and can include funding for special educational, health and social care provision.

Similarly, children in receipt of continuing care have a right to have a personal health budget.

The Council will consider each request for a personal budget on its own individual merits. The Short Breaks guidelines (see appendix 1) need to be met for a short breaks package to be allocated. This does not mean that a personal budget cannot be allocated from education or health.

7. **How is the personal budget calculated?**

7.1. **SEN**
For an **SEN** personal budget, the Council is developing a Resource Allocation System (RAS) to undertake an assessment of the child/young person’s needs and determine the indicative funding that is required in order to meet their educational needs. This will be built into the EHC needs assessment process. While the whole of this funding will make up the personal budget, it is unlikely that the whole personal budget can be taken as a direct payment. While the RAS is in development, the Council will consider the cost of the provision that is required to enable the child to meet the specific outcome in the EHCP in order to determine whether a personal budget can be offered and calculate the value of this budget.

### 7.2. Social Care

For a **social care** personal budget, the Council will undertake an assessment of the child/young person’s needs and use that to provide an indication of the level of personal budget that is appropriate in order to meet their needs. The Resource Allocation System (RAS) is used for this purpose. The RAS is an online assessment tool so the personal budget is based on the assessed needs of the individual child and the cost of local services, to enable it to create an indicative budget following the assessment. It does not suggest which services someone should use to meet their needs; instead producing an estimated value which the family/carer can use to start planning care and support for their child/young person.

### 7.3. Health

For a **Continuing Health Care** personal budget, the NHS will undertake an assessment of the child/young person’s needs and use that to provide an indication of the level of personal budget that is appropriate in order to meet their needs.

### 7.4. Transport

For a **Transport** personal budget, this is based on the distance between the child/young person’s home address and their nearest appropriate school. This scheme is currently in development.

### 8. What happens once a personal budget has been agreed?

A personal budget offered to support a child/young person can be drawn from different sources of funding.

**Social care:**

A) The parent and/or young person will be contacted by the Bi-Borough Direct Payments Officer

B) A parent and/or young person will be expected to sign a Direct Payment Agreement before the payment is made
C) Evidence will be required from parent and/or young person (bank details and submission of parent’s vendor form)

D) If a carer is to be employed an enhanced Disclosure Barring Service (criminal record) check will be required

All relevant safeguarding checks should be conducted and the organisation or individual safe to work with children and/or vulnerable adults. This will include providing evidence that any professional is fully qualified and registered to deliver any specialist service that requires registration to a professional body in order to practice

Education:

Process to be confirmed

Health:

Process to be confirmed

9. Direct Payments

A personal budget is the amount of money allocated by the local authority to ensure assessed needs are appropriately met. Direct payments are a funding choice in personal budgets.

A direct payment means the family or young person get all or some of the budget and spend the money in line with the agreed EHCP or Care Plan.

Parents/carers or the young person (over the age of 16) can ask for a direct payment to manage the personal budget. This will be considered by the Council or NHS and a clear decision will be provided to confirm if a direct payment is agreed.

To provide a direct payment, the Council or NHS must be satisfied that:

- It will be used to pay for things that have been agreed in the EHCP
- It is an appropriate way to pay for things that have been agreed in the EHCP
- The person receiving the direct payment will act in the best interests of the child/young person
• It will not cost more than services the Council already provides.

If, for any reason, we are unable to agree a request for a direct payment, the Council will contact a parent/carer explaining the reasons why and what action can be taken.

9.1. How Direct Payments are administered?

Personal budgets taken as a direct payment are transferred on to a prepaid debit card that will be ordered. The nominated holder is then responsible for making payments to pay for the support on behalf of the child/young person as agreed in the EHCP or Care Plan. This removes the need for the holder to open a separate bank account and enables all transactions to be viewed online.

If parent/carer is employing a carer to support in the home or to take a child/young person out in the community. This would need to adhere to our recommended provider Paypacket, who support families employing carers. Please contact our direct payments coordinator for information on employing a carer (see Frequently Asked Questions).

Alternatively, a parent/carer can choose to have the personal budget managed and allocated services managed by the Council.

Frequently Asked Questions

1) How do I access the local offer?
   Kensington and Chelsea - https://www.rbkc.gov.uk/localoffer
   Westminster City Council – https://localoffer.westminster.gov.uk

2) Where can I register my child/young person as being disabled?
3) Where can I access the Short Breaks Assessment Guidance?


4) Who can I contact for a short break personal budget?

Front Door: 0207 598 4921 or biboroughhealthnotifications@rbkc.gov.uk

Short Breaks Team RBKC: 0207 598 4921;
FCSChildrenwithDisabilities@rbkc.gov.uk

Disabled Children’s Team RBKC: 0207 598 4921;
FCSChildrenwithDisabilities@rbkc.gov.uk

Short Breaks Team WCC: 0207 641 5100;
DCT@westminster.gov.uk

Disabled Children’s Team WCC: 0207 641 5100;
DCT@westminster.gov.uk

5) Who can I contact about direct payments for short breaks?

Damon Prizeman (Bi-Borough Direct Payments) –
damon.prizeman@rbkc.gov.uk

6) Who can I contact for an SEN personal budget?

As all requests for SEN Personal Budgets are made through either the Education, Health and Care Plan assessment process or subsequent Annual Reviews, requests should be made through your named SEN Case Officer or EHCP Co-ordinator allocated to your child/young person via the statutory assessment meeting (held at week 10-14 of the process) or via the Annual Review meeting
7) Who can I contact for a Continuing Health Care personal budget?

TBC

8) Who can I contact for a travel assistance personal budget?

Holly Newman (Travel Care Coordinator for RBKC and WCC)

Holly.newman@rbkc.gov.uk

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Appendix 1

The number of hours of short breaks allocated to a child and their family and the type of service offered will be explored during the assessment. The recommendation made will be based on the individual needs of the child and their family and will consider the following:

- The level of the child’s disability
- The impact of the child’s disability on being able to care for themselves and keep safe, taking into account the child’s age.
- The impact of the child’s disability on family life, taking account of the child’s age.
- The circumstances of the parents.
- Any additional factors that impact the family including housing, finance, domestic violence, physical or mental health problems, and substance misuse.
- The wishes and views of the child and their family.

Appendix 2

Section 49 Children and Families Act 2014 - Personal budgets and direct payments

(1) A local authority that maintains an EHC plan, or is securing the preparation of an EHC plan, for a child or young person must prepare a personal budget for him or her if asked to do so by the child’s parent or the young person.
(2) The authority prepares a "personal budget" for the child or young person if it identifies an amount as available to secure particular provision that is specified, or proposed to be specified, in the EHC plan, with a view to the child's parent or the young person being involved in securing the provision.

(3) Regulations may make provision about personal budgets, in particular—

(a) about requests for personal budgets;
(b) about the amount of a personal budget;
(c) about the sources of the funds making up a personal budget;
(d) for payments ("direct payments") representing all or part of a personal budget to be made to a child's parent or a young person, or a person of a prescribed description in prescribed circumstances, in order to secure provision to which the budget relates;
(e) about the description of provision to which personal budgets and direct payments may (and may not) relate;
(f) for a personal budget or direct payment to cover the agreed cost of the provision to which the budget or payment relates;
(g) about when, how, to whom and on what conditions direct payments may (and may not) be made;
(h) about when direct payments may be required to be repaid and the recovery of unpaid sums;
(i) about conditions with which a person or body making direct payments must comply before, after or at the time of making a direct payment;
(j) about arrangements for providing information, advice or support in connection with personal budgets and direct payments.

(4) If the regulations include provision authorising direct payments, they must—

(a) require the consent of a child's parent or a young person, or a person of a prescribed description in prescribed circumstances, to be obtained before direct payments are made;
(b) require the authority to stop making direct payments where the required consent is withdrawn.

(5) Special educational provision acquired by means of a direct payment made by a local authority is to be treated as having been secured by the authority in pursuance of its duty under section 42(2), subject to any prescribed conditions or exceptions.

(6) Subsection (7) applies if—
(a) an EHC plan is maintained for a child or young person, and

(b) health care provision specified in the plan is acquired for him or her by means of a payment made by a commissioning body under section 12A(1) of the National Health Service Act 2006 (direct payments for health care).

(7) The health care provision is to be treated as having been arranged by the commissioning body in pursuance of its duty under section 42(3) of this Act, subject to any prescribed conditions or exceptions.

(8) "Commissioning body", in relation to any specified health care provision, means a body that is under a duty to arrange health care provision of that kind in respect of the child or young person.

Appendix 3
The Special Educational Needs (Personal Budgets) Regulations 2014 –
Request for a personal budget including direct payments

4. (1) A child’s parent or a young person may make a request to a local authority for a personal budget, including a request for direct payments, at any time during the period in which—
(a) the draft EHC plan is being prepared in accordance with section 38 of the 2014 Act; or
(b) the EHC plan is being reviewed or re-assessed under section 44 of the 2014 Act.

(2) Where a request for direct payments has been made, a local authority must consider that request.

Persons to whom direct payments may be made

5. (1) A local authority may make direct payments, as appropriate, to—
(a) the child’s parent;
(b) the young person; or
(c) a person nominated in writing by the child’s parent or the young person to receive direct payments on their behalf.

(2) Direct payments may only be made to an intended recipient if the person—
(a) appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them;
(b) where the recipient is an individual, is over compulsory school age;
(c) does not lack capacity within the meaning of the 2005 Act to consent to the making of direct payments to them or to secure the agreed provision with any direct payment; and
(d) is not a person described in the Schedule.
(3) Where a nominee has been appointed in accordance with paragraph (1)(c), if the child’s parent or young person notifies the local authority in writing that they wish to withdraw or change their nomination, the local authority must stop making direct payments to the nominee as soon as reasonably practicable and, where applicable, consider whether to make direct payments to the alternative nominee.

Decision to make direct payments

6.—(1) A local authority may only make direct payments where a request has been made for direct payments to be made and the authority is satisfied that—
(a) the recipient will use them to secure the agreed provision in an appropriate way;
(b) where the recipient is the child’s parent or a nominee, that person will act in the best interests of the child or the young person when securing the proposed agreed provision;
(c) the direct payments will not have an adverse impact on other services which the local authority provides or arranges for children and young people with an EHC plan which the authority maintains; and
(d) securing the proposed agreed provision by direct payments is an efficient use of the authority’s resources.

(2) A local authority may only make direct payments in respect of the special educational provision specified in an EHC plan, and may not make direct payments for the purpose of funding a place at a school or post-16 institution.

Decisions not to make direct payments

7. Where a local authority decides not to make direct payments it must—
(a) inform in writing the child’s parent or the young person of—
(i) its decision;
(ii) the reasons for its decision; and
(iii) the right to request a review of the decision;
(b) where requested to do so, review its decision and in carrying out the review consider any representations made by the child’s parent or the young person; and
(c) inform in writing the child’s parent or the young person of the outcome of the review, giving reasons.

Conditions for direct payments

8.—(1) A local authority may not make direct payments unless the requirements set out in paragraphs (2) to (4) have been satisfied.
(2) The local authority must provide written notice to the recipient, specifying the following—
(a) the name of the child or young person in respect of whom direct payments are to be made;
(b) the goods or services which are to be secured by direct payments;
(c) the proposed amount of direct payments;
(d) any conditions on how direct payments may be spent;
(e) the dates for payments into the bank account approved by the local authority.

(3) Upon receipt of a notice under paragraph (2), the recipient must notify the local authority in writing that they agree to—
(a) receive the direct payments;
(b) use the direct payments only to secure the agreed provision;
(c) comply with any conditions specified in the notice under paragraph (2)(d);
(d) notify the local authority of any changes in circumstances which might affect the need for the agreed provision;
(e) use the bank account approved by the local authority solely for the purposes of one or more of the following—
(i) these direct payments;
(ii) direct payments made pursuant to the Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2009(a);
(iii) direct payments made pursuant to the National Health Service (Direct Payment) Regulations 2013(b);
(f) ensure that the bank account approved by the local authority is only accessible by the recipient or any other person approved in writing by the local authority; and
(g) keep a record of money paid in and withdrawn from the bank account approved by the local authority and, on request, or at intervals specified by the local authority, provide the local authority with information or evidence relating to—
(i) the account; and
(ii) the agreed provision.

(4) Where the recipient is a nominee—
(a) the child’s parent or young person must provide written consent to the local authority to direct payments being used to secure the agreed provision; and
(b) the nominee must provide written confirmation to the local authority that he or she is responsible as a principal for all contractual arrangements entered into for the benefit of the child or young person and secured by means of direct payments.

(a) S.I. 2009/1887.
(b) S.I. 2013/1617.

Permission of school etc

9.—(1) A local authority may not make direct payments in respect of any goods or services which are to be used or provided in a school(a) or post-16 institution without the written consent of the head teacher, principal or the person occupying an equivalent position.
(2) A local authority may not make direct payments in respect of any goods or services which are to be used or provided on premises where relevant early years education is provided without the written consent of the provider of the relevant early years education.

The amount of direct payments

10.—(1) The local authority must ensure that the amount of direct payments is sufficient to secure the agreed provision.

(2) The local authority may increase or reduce the amount of direct payments provided that the authority is satisfied that the new amount is sufficient to secure the agreed provision.

(3) The local authority may reduce the amount of direct payments where—

(a) payments remain unused; and

(b) the local authority considers that it is reasonable to offset unused direct payments against the outstanding amount to be paid.

Monitoring and review of direct payments

11.—(1) The local authority must monitor the use of direct payments by the recipient.

(2) The local authority must review the making and use of direct payments—

(a) at least once within the first three months of direct payments being made; and

(b) when conducting a review or a re-assessment of an EHC plan under section 44 of the 2014 Act.

(3) When carrying out a review, a local authority must consider whether—

(a) it should continue to secure the agreed provision by means of direct payments;

(b) the direct payments have been used effectively;

(c) the amount of direct payments continues to be sufficient to secure the agreed provision;

(d) it is still satisfied as to the matters set out in regulation 6; and

(e) the recipient has complied with the conditions set out in regulation 8(3).

(4) A recipient may make a request for the local authority to review the making and use of direct payments and the local authority—

(a) must then consider whether to carry out a review; and

(b) if it decides to carry out a review, must consider the matters set out in paragraph (3).

(5) Following a review the local authority may—

(a) substitute the person receiving direct payments with a nominee, the child’s parent or the young person, as appropriate, where regulation 8 has been complied with in respect of that person;

(b) increase, maintain or reduce the amount of direct payments;

(c) require the recipient to comply with either or both of the following conditions—

(i) the person must not secure a service from a particular person,
(ii) the person must provide such information as the local authority considers necessary;
(d) stop making direct payments.
(a) School is defined in section 4 of the Education Act 1996 c.56 which is applied by section 83(7) of the 2014 Act.

Reducing the amount of direct payments
12.—(1) Where a local authority decides to reduce the amount of direct payments it must provide reasonable notice to the recipient, and must set out in the notice the reasons for its decision.
(2) The local authority must reconsider its decision, where requested to do so by the recipient.
(3) When conducting its reconsideration, the local authority must consider the representations made by the recipient (and where the recipient is a nominee, any representations made by the child’s parent or the young person) and must then provide written reasons to the recipient (and to the child’s parent or young person, where the recipient is a nominee) of its decision following the reconsideration.
(4) A local authority may not be required to undertake more than one reconsideration of a decision made under paragraph (1).
(5) The local authority may reduce direct payments following reasonable notice despite the fact that a request for reconsideration has been made under paragraph (2).

Appendix 4

National Framework for NHS Continuing Healthcare and NHS-funded Nursery Care (October 2018)

296. A Personal Health Budget (PHB) is an amount of money to support the identified healthcare and wellbeing needs of an individual, which is planned and agreed between the individual, or their representative, and the local CCG. Personal Health Budgets are a means by which an individual can be given more choice and control. It is not new money, but a different way of spending health funding to meet the needs of an individual.

297. Individuals who are eligible for NHS Continuing Healthcare have had a right to have a Personal Health Budget since October 2014. Personal Health Budget Standing Rules require CCGs to provide people eligible for NHS Continuing Healthcare with information about Personal Health Budgets to offer them the option of taking them up, and support to do so.

298. Personal health budgets can be provided in three different ways, or in a combination of these ways:

a) a notional budget held by the commissioner;
b) a budget managed on the individual’s behalf by a third party;
c) a cash payment to the individual (a ‘direct payment’).
299. A wide variety of resources are available via the personal health budgets pages of NHS England’s website.

300. CCGs and local authorities are encouraged to work closely together with regard to the personalisation of care and support in order to share expertise and develop arrangements that provide for smooth transfers of care where necessary.