Cornwall’s Policy for Personal Budgets – for children and young people who have an education, health and care plan.

Date April 2015
## Current Document Status

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<tr>
<td>1</td>
<td>Governance and Assurance Committee - NHS Kernow Education, Health and Social Care Directorate Leadership Team - Cornwall Council</td>
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## Comprehensive Impact Assessment Record

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1. Introduction

1.1 Young people and families in Cornwall and all the services that work with them value honesty and clear information. Everyone wants to know what is possible, what they can expect, and to understand how decisions about support for children and young people are made. Cornwall Council and NHS Kernow are committed to working with young people and families and partner organisations to provide clear information that enables true partnership working.

1.2 The Special Educational Needs and Disability Code of Practice July 2014 (in force 1 September 2014) states at 3.38, that partners (education, health and social care) should set out a local policy for personal budgets. This document is that policy for Cornwall. It sets out information about personal budgets for children and young people in Cornwall for whom the local authority maintains an education, health and care (EHC) plan.

1.3 It is recognised by Cornwall Council and NHS Kernow that personal budgets is an aspect of the special educational needs and disability reforms that is developmental, both nationally and locally. Clear arrangements for personal budgets for children and young people for whom the local authority maintains an EHC plan have to be established. These will be built upon further in the future.

1.4 The arrangements for children and young people with EHC plans in Cornwall comply with the Special Educational Needs and Disability Regulations 2014. Cornwall Council and NHS Kernow will also act within the spirit of the special educational needs disability reforms and work with families and young people to provide information about the resources being allocated to meet individual needs.

1.5 In an effort to provide clarity reference is made in this policy to some aspects of personal budgets and direct payments that are not linked to an EHC plan. However it is not the function of this policy to provide comprehensive information about all aspects of personal budgets and direct payments.

2. Legal context of personal budgets and direct payments

2.1 The Children and Families Act 2014 came into force on 1 September 2014. Part 3 relates to children and young people in England with special educational needs or disabilities.

2.2 The Special Educational Needs and Disability Regulations 2014 came into force 1 September 2014. Part 2 section 12 relates to what must be included in an EHC plan.

2.3 From 1 September 2014, the Special Educational Needs (Personal Budgets) Regulations 2014 make provision for personal budgets under Part 3 of the Children and Families Act 2014 for children and young people, for whom the local authority maintains an EHC plan.
2.4 The Special educational needs and disability code of practice: 0 to 25 years, published July 2014, provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014.

2.5 Under section 17 of the Children Act 1989 local authorities are under a duty to offer direct payments for services that the local authority may provide for children and young people under 18 with disabilities or their families.

2.6 Unlike direct payments, personal budgets for adult social care do not currently have a legislative basis though there is a commitment set out in the ‘Putting People First’ concordat to make personal budgets available. In Cornwall since April 2011 all service users when assessed or reviewed have been offered a personal budget.

2.7 The Care Act 2014, in force from April 2015, mandates a personal budget as part of the support and care plan for people over 18 with eligible care and support needs.

2.8 As a result of the National Health Service (Direct Payments) Regulations 2013 from 1 April 2014 everyone in Cornwall receiving NHS Continuing Health Care or Children’s Continuing Care funding has had a right to ask for a personal health budget, including a direct payment. NHS England has set a mandate that from April 2015 Personal Health Budgets, including direct payments, are extended to people who have long-term health needs. A child and young person does not need to have an EHC plan to be able to request a personal health budget. If a child or young person has a personal health budget, then any aspects which relate to their special educational needs and outcomes can be reflected in their EHC plan if they have one.

3. Information to be included in an EHC plan as set out in the Special Educational Needs and Disability Regulations 2014

3.1 The Special Educational Needs and Disability Regulations, specify what an EHC plan must include, Part 2 section 12. This includes that when any special educational provision is to be secured by a direct payment, the special educational needs and outcomes to be met by the direct payment will be recorded in the EHC plan.

3.2 EHC plans issued by Cornwall Council comply with these regulations. If a direct payment secures special educational provision to meet the outcomes in a child or young person’s EHC plan it will be recorded in section J of the EHC plan.

3.3 Only direct payments that relate to the outcomes in an EHC plan will be included in section J of an EHC plan. It will be specified which special educational needs and outcomes will be met by the direct payments.
4. Definition of direct payments

4.1 Direct payments are cash payments made to an individual person or family who have been assessed as having eligible needs for certain services. Direct payments are one way in which people can direct their own support promoting independence, choice and inclusion by purchasing the assistance or services that Cornwall Council or NHS Kernow would otherwise provide.

4.2 Direct payments as a mechanism to provide the support individual people require has developed over time and continues to evolve. It relates to a much wider range of people for health and social care purposes than those covered by Part 3 of Children and Families Act 2014.

4.3 Whilst Cornwall Council or NHS Kernow retain the statutory responsibility to provide services to meet an eligible person’s assessed needs, a person in receipt of a direct payment takes over the day to day responsibility of arranging and providing those services covered by the payment.

4.4 Direct payments are intended to give individuals the maximum degree of choice and control over how their eligible needs are met. Day-to-day control of the money and support package passes to the person, family or third party who must ensure that it is spent on the support required to meet the assessed eligible needs.

4.5 It is possible for arrangements to be made for direct payments to be paid to a third party, either an individual or an organisation. The funds are then managed on behalf of the person or family.

4.6 A person or family does not have to accept direct payments; if they wish, they can choose instead to receive services that are commissioned or arranged directly by Cornwall Council or NHS Kernow. The person or family is still able to exercise choice over how support is delivered. Those eligible for support will not be unfairly influenced about whether or not to accept a direct payment.

4.7 Not all services relating to education, health and social care in Cornwall are available as direct payments. However, for services to which direct payments apply, direct payments should always be considered when deciding how best to meet an eligible person’s needs.

5. Definition of personal budgets

5.1 The Special educational needs and disability code of practice: 0 to 25 years, in its glossary, defines a personal budget 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. The funds can be held directly by the parent or young person, or may be held and managed on their behalf by the local authority, school, college or other organisation or individual and used to commission the support specified in the EHC plan.
5.2 It is also set out, in section 3.38 of the Special educational needs and disability code of practice: 0 to 25 years that the mechanisms of control of funding available to young people and families include:

- direct payments – where individuals receive the cash to contract, purchase and manage services themselves
- notional budgets – whereby the local authority, school or college holds the funds and commissions the support specified in the EHC plan
- third party arrangements – where 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.

5.3 These two references are accepted as key to understanding personal budgets in relation to EHC plans. At some other points the available guidance about personal budgets is less clear, for example the terms personal budget and direct payment are used synonymously. Therefore Cornwall Council and NHS Kernow have together established a shared understanding of what a personal budget is.

5.4 In Cornwall a personal budget is the additional resources required to meet a person’s assessed needs. A personal budget may or may not include direct payments or notional budget information according to: the provision an individual requires; the wishes of an individual or family; and, the flexibility, at the point in time that the personal budget is drawn up, to disaggregate funding that supports provision of services to a number of people.

6. The approach to personal budgets for education, health and care plans in Cornwall

6.1 A personal budget statement sets out the additional resources available to a child or young person that is necessary to make the provision identified in an EHC plan. The personal budget statement is a summary of what is additional to the universal services available to children and young people who do not have an EHC plan.

6.2 According to the nature of an individual’s needs, as identified in the EHC plan, what is included in a personal budget statement may relate to any combination of social care, education or health additional support.

6.3 Young people or families will be offered a personal budget statement
- when a child or young person is undergoing an EHC statutory assessment
• when a statement of special educational need or learning needs assessment is being transferred into an EHC plan
• at an annual review of an EHC plan.

6.4 The format of the personal budget statement is based upon developments undertaken with families during the special educational needs and disability Pathfinder Project prior to the Children and Families Act 2014 coming into force. Ongoing engagement with young people and families will inform the further development of the format of personal budget statements to ensure that the information in them is as accessible as possible.

6.5 Members of the assessment and education provision team of Cornwall Council are responsible for collating personal budget statements. The information in each personal budget statement is provided to the assessment and education provision team by education, health and social care services. When completed a personal budget statement is sent to the family or young person and the educational establishment named in the EHC plan. The personal budget statement is separate from the EHC plan.

6.6 Within a personal budget statement different types of financial information may be included, notional budgets or direct payments, see section 5 Definition of personal budgets.

6.7 Notional budget information may be given for a service commissioned or provided by Cornwall Council or NHS Kernow. A directly provided service can sometimes be the only way that additional support is made available. This is because contractual or funding arrangements can mean that cash sums cannot be released as it would cost more to provide the support in an individualised way and impact on the provision of services for other children and young people. This situation most commonly occurs when a service is supporting a number of children and young people. Young people and families also have the choice to access provision as a directly provided service when the support could also be made available via a direct payment. This is also included as a notional sum. For some types of service or support notional budget information is a nominal financial value whilst for other types of provision it may be possible to state actual financial costs. Also included in a personal budget statement is information about provision that it is not, at the time that the personal budget statement is drawn up, possible to cost.

6.8 Provision made via a direct payment, with and without third party arrangements, is identified. The financial value of the direct payment is stated. It is also indicated in the personal budget statement if any service or support provided or commissioned by Cornwall Council or NHS Kernow could be made available via a direct payment. Direct payments set out in a personal budget that secure special educational provision to meet the outcomes in a child or young person’s EHC plan will also be recorded in section J of the EHC plan.

6.9 If no additional provision is required to meet the objectives set in the EHC plan this is stated.
6.10 A glossary and key notes are included with each personal budget statement.

6.11 At each review of the EHC plan the young person or child’s family will be asked if they wish to have a personal budget statement if they have not had one before, or asked if they would like an updated personal budget statement if they have had one drawn up previously. The personal budget statement reflects the agreed provision at the time the review takes place.

6.12 In order to be responsive to changes in need and circumstances the provision made for a child or young person may change between reviews of an EHC plan. Any adjustments to provision will be discussed with young people or families and documented at the time of any change however the personal budget statement is a summary statement that will only be amended following an EHC plan review.

7. How type and level of support is identified in an EHC plan

7.1 Prior to, and throughout, the EHC assessment process, which may lead to an EHC plan being issued young people, children and their families work with a range of other people to identify the child or young person’s needs, the priority objectives to work towards and the provision needed. The child or young person and their family is at the centre of this ongoing process.

7.2 Each personal budget is based on the clear, agreed outcomes that are set out in the EHC plan.

7.3 In Cornwall a range of tools support decision making about the level of provision required to meet different levels and types of additional need and achieve the agreed outcomes.

7.4 Information about the criteria and decision making in relation to social care and special educational needs is kept up to date on the Cornwall Council website and Cornwall’s Local Offer. Information about criteria and decision making in relation to health is kept up to date on the NHS Kernow website and Cornwall’s Local Offer.

8. Children and young people who are educated at home

8.1 The families of some children and young people who have an EHC plan can choose to electively home educate their child.

8.2 Where the LA and family agree that home education is the right provision for the child or young person with an EHC plan, the EHC plan will reflect that the child or young person will be educated at home and the LA will arrange the SEN provision set out in the EHC plan and the provisions set out in this Policy can be applied.

8.3 Where the EHC plan identifies the name of a school or type of school where the child could be educated but the family decides to educate the
child or young person at home, the LA is no longer under a duty to make the SEN provision set out in the EHC plan. The plan will remain subject to annual review to ensure that the child or young person’s SEN continue to be met.

8.4 For social care and health, a child or young person is entitled to an assessment of need, irrespective of how their education provision is provided.

9. Arrangements in 2015 for personal budgets for children and young people who have an education, health and care plan

9.1 A range of information about personal budgets is available to young people, families and services that work with children and young people. For example: leaflets, information within the Local Offer, discussion with groups directly supporting young people and families, inclusion in SEND conferences and training events.

9.2 Communication about personal budgets is part of the education, health and care assessment process for children and young people for whom a new assessment is taking place. It is also embedded in the process for transfer of a statement of special educational need or a learning needs assessment into an EHC plan.

9.3 A personal budget statement can be requested at the time of an EHC assessment, transfer to an EHC plan or when an EHC plan is reviewed. This will be prepared by Cornwall Council.

9.4 Feedback about the clarity of personal budgets and potential improvements is sought from young people and families.

9.5 Cornwall Council and NHS Kernow will continue to explore the increased availability of additional support via a direct payment through the further development of new approaches to commissioning services.

9.6 The services that currently lend themselves to the use of direct payments are listed below. These services have to relate to objectives within an EHC plan to be itemised section J of an EHC plan.

For health: - Aspects of personal health packages when they relate to a child or young person’s special educational needs and the outcomes in an EHC plan.

For social care: - Direct payments are payments that are paid to the parent or carer of a disabled child, or to a disabled young person up to 18 years of age. Direct payments can offer choice and control for families in how their disabled child’s needs will be met and can provide increased independence for a young person. There is no charge involved in choosing direct payments and entitlement to welfare benefits is not affected. Once an assessment by a social care worker has been undertaken, confirming there is an identified need and that additional social care support is required,
direct payments can be considered as part of the child’s care plan. A direct payment tool is completed with the family to agree the number of hours that are required. Once the direct payment is agreed it can then be used to purchase a service that meets the identified assessed need of disabled children and young people. The Care Plan will be regularly reviewed and this may impact upon the amount of direct payment hours that have been agreed. Cornwall Council’s adult services can only give direct payments to people over 18 with social care needs that are assessed as being substantial or critical, that enable them to live at home in the community.

For education: - Arrangements when highly individualised provision is required that is not already provided by other means will be discussed with young people and families. A pilot for SEN transport will be operating from September 2015.

**10. Ambition for personal budgets**

**10.1** Cornwall Council and NHS Kernow are committed to continued joint working to develop the clarity of understanding, information and processes around personal budgets and direct payments.

**10.2** Cornwall Council and NHS Kernow are committed to maintenance and continued development of joint work with young people and families with the child or young person firmly at the centre of joint planning and decision making.

**10.3** Over time there should be an increase in the provision that can be accessed as a direct payment if young people or families wish to have a direct payment. However changes to the range of provision and availability of direct payments have to be achieved within the current level of resources.

**10.4** The unit costs for all forms of additional provision set out in a personal budget statement are not yet available. This work has started and is ongoing. The number of provisions for which unit costing is available will continue to increase.

**10.5** Cornwall Council and NHS Kernow want to increase clarity, choice and flexibility about types of additional support as this will further empower young people and their families.

**Management**

**Policy management**

The Learning and Achievement Service of Cornwall Council has responsibility for this policy.
Breaches and non-compliance

Complaints about the process of setting up, administering and monitoring a personal budget statement or the payment of direct payments will be handled under the Cornwall Council and/or NHS Kernow statutory complaints process.

If the recipient of a direct payment has a complaint about the services they have independently purchased, they should address this directly with the service provider or employee concerned.

How the impact of the policy will be measured

An Equalities Impact assessment will be used in conjunction with service feedback.

Evaluation and review

The policy will next be reviewed by the SEND Board by the end of October 2015.

Document information

Contacts

If you or your child have an education health and care (EHC) plan, statement of special educational needs (SEN) or learning needs assessment (LNA) in place, or are currently undergoing a statutory assessment of SEN please contact your named casework manager or SENDenquiries@cornwall.gov.uk

Further information

Information for families regarding personal budgets can be found on Cornwall’s Local Offer http://cornwall.childrensservicedirectory.org.uk/kb5/cornwall/fsd/family.page?familychannel=2

Cornwall Special Educational Needs Disability Information and Advice Support Service (SENDIASS) http://www.cornwallsendiass.org.uk/


Special educational needs and disability code of practice: 0 to 25 years

NHS England’s dedicated health budgets website:
http://www.personalhealthbudgets.england.nhs.uk/

Cornwall’s Local Offer

Eligibility Criteria Adult Social Care

**Alternative formats**
If you would like this information in another format please contact:

**Cornwall Council, County Hall, Treyew Road, Truro TR1 3AY**

Telephone: **0300 1234 100**

Email:  enquiries@cornwall.gov.uk

www.cornwall.gov.uk

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