

**Personal Budgets Policy:
Children and Adults aged 0–25**



Children and Adult Services

Foreword

Choice and control is at the centre of The Children and Families Act 2014, which places greater emphasis on enabling parents and young people to influence the design, delivery and review of their support. The Act introduces Education, Health and Care plans for all children and young people aged 0–25 with Special Educational Needs and Disabilities. Education, Health and Care plans respond to the spectrum of special needs that a young person may have, by outlining support and provision targeted to these specific needs.

The Act also introduces a duty on local authorities to provide the option for parents and young people to access personal budgets. Southwark Council and NHS Southwark Clinical Commissioning Group fulfil this duty by implementing the following policy.

Children and Adult Services

Contents

| | |
|---|-----------|
| 1. Introduction to Education, Health and Care plans and personalisation | 4 |
| 2. Personalisation and personal budgets explained | 4 |
| 3. Using personal budgets | 4 |
| 4. Equality and diversity | 5 |
| 5. Requesting a personal budget | 6 |
| 6. Making an application for a personal budget | |
| A. Applying for a personal budget following an initial EHC needs assessment | 6 |
| B. Applying for a personal budget following a statutory review of an existing EHC Plan, or transfer process from a statement to an EHC Plan | 7 |
| C. Applying for a personal budget from social care | 7 |
| D. Applying for a personal budget from health services | 8 |
| E. Applying for a personal budget from the travel assistance service | 9 |
| 7. Assessing requests for a personal budget | 10 |
| 8. Managing a personal budget | 11 |
| 9. Personal budget agreements | 11 |
| 10. Employing staff | 12 |
| 11. Safe care and travel arrangements | 12 |
| 12. Review of personal budget arrangements | 13 |
| 13. Auditing and monitoring requirements | 13 |
| 14. Misuse and withdrawal of direct payments | 14 |
| 15. Complaints and Appeals | 15 |
| 15b. How appeals are administered | 15 |
| 16. Local Government Ombudsman and Parliamentary and Health Service Ombudsman | 16 |

Children and Adult Services

1. Introduction to Education, Health and Care plans and personalisation

The Children and Families Act 2014 introduced Education, Health and Care (EHC) plans for children and young people aged 0–25 with Special Educational Needs and Disabilities (SEND). The Act aims to promote greater choice and control for individuals and parents of children with disabilities over the type of support and services they receive. This increased choice and control of service provision is called 'personalisation' and is a critical part of the reforms.

2. Personalisation and personal budgets explained

Personalisation places people at the heart of the assessment and discussions about how they would like their services delivered, ensuring they have as much choice and control over the shape of their support as possible. It enables the provision of services tailored for each individual rather than providing a one-size-fits-all package.

The introduction of personal budgets is one element of a personalised approach to improving outcomes for eligible individuals. A personal budget is a sum of money made available to secure provision to meet the needs of the child/young person, in order for them to achieve the outcomes outlined in their EHC plan. Personal budgets should reflect the holistic nature of the plan and can include funding for special educational, health and social care provision.

Young people over the age of 16 and parents of children with disabilities have the right to request a personal budget either when the EHC is written for the first time, or during a statutory transfer.

There are currently five routes for accessing a personal budget. These are explained in the 'Making an application for a personal budget' section (section 6, page 6).

Personal budgets and direct payments are also subject to specific legislation (regulations), the Special Educational Needs (Personal Budgets) Regulations 2014. This includes a list of exceptions regarding who may not receive direct payments.¹

3. Using personal budgets

Southwark Council and NHS Southwark Clinical Commissioning Group (CCG) believe that the majority of children and young people with special educational needs will have their support needs met by universal and specialist services available via the local offer² and/or referred to by a professional. A personal budget need may arise where a child or young person has needs which cannot be met by these services.

¹ <http://www.legislation.gov.uk/ukdsi/2014/9780111114056>

² <http://localoffer.southwark.gov.uk/>

Children and Adult Services

Personal budgets can be used for any element of care and support that allows a person to achieve their agreed support outcomes. The personal budget should be used to maximise the child or young person's health, wellbeing, safety and independence.

The allocated personal budget does not include funding already delegated to a provider as a 'block contract' (e.g. a school or college) or where it is not possible to separate the funding allocated to the setting. Additionally, where the support or service is to be delivered in a school, early years setting or college, the Head Teacher must agree that the arrangement is workable. The monetary value of the service will however be shown in the EHC plan.

The money should be used in a legal, reasonable and efficient manner. Personal budgets may *not* be used for:

- long-term residential care³
- food and drink
- debt repayments or financial investment
- alcohol
- tobacco
- GP services
- planned surgical interventions
- prescriptions
- services provided through vaccination and immunisation programmes
- accommodation costs
- services provided under the NHS health check
- emergency health services
- services provided under the National Child Measurement programme
- NHS dentists and opticians
- gambling
- anything illegal.

4. Equality and diversity

The council and CCG believe that, in giving children, young people and families more control over how their funding is spent, their human rights, in particular their quality of life, their right to a family life and the right to participate in public life will be greatly enhanced. Personalisation will put the needs of the child or young person first by involving them and their families in decisions about their care and education and developing a more holistic and personalised approach to service provision. Personal budgets will also increase equality of access for protected groups under the Equality Act 2010.

³ National government has started to investigate how personal budgets may be used to purchase long-term residential care.

Children and Adult Services

5. Requesting a personal budget

Young people and parents/carers of children have the right to request a personal budget once the local authority has completed an EHC assessment and confirmed that it will prepare an EHC plan. A request can also be made during an EHC plan review. The request can only be considered at these stages unless the child/young person is already in receipt of services through the Children with Disabilities, Transition Team, or NHS Continuing Healthcare, in which case the request can be made at any time.

6. Making an application for a personal budget

Young people and parents/carers of children are asked to carefully read through 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). Application forms can be obtained from the relevant Education, Health or Social Care services.

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.

| Personal budget routes | |
|------------------------|---|
| A. | Applying for a personal budget following an initial EHC plan assessment |
| B. | Applying for a personal budget following a statutory review of the EHC plan or a transfer review of a statement to an EHC plan |
| C. | Applying for a personal budget from social care |
| D. | Applying for a personal budget from health |
| E. | Applying for a personal budget from transport |

More detailed information and guidance on the above routes is available in the remainder of this section –

A: Applying for a personal budget following an initial EHC needs assessment

The council may provide a personal budget if the following conditions are met

- A child or young person has a completed EHC needs assessment.
- It has been confirmed that the local authority will prepare an EHC plan.

How to request

The young person or parent/carer of a child can request a personal budget as part of the EHC assessment process, or in writing following the issue of a draft plan.

Children and Adult Services

Good to know

A personal budget for educational services can only be requested through the EHC assessment process.

The decision to allocate a personal budget as part of the EHC assessment and plan process rests with the local authority. Requests for all or part of a child/young person's provision to be made through a personal budget will be fully considered by the SEN panel. Among other things, the panel will consider whether:

- use of a personal budget enables an outcome/s in the EHC plan to be met
- the head teacher and governing body of the school is supportive of the use of a personal budget to fund all or part of the educational provision
- funds used to support a school place can be set aside to be used as a personal budget.

B: Applying for a personal budget following a statutory review of an existing EHC plan, or transfer process from a statement to an EHC plan

The council may provide a personal budget if the following conditions are met

- A child or young person has an EHC plan, or is in the process of transferring from a statement to an EHC plan
- The existing EHC plan is under statutory review.

How to request

This request should be made during the annual review/transfer meeting and noted within the review report.

Good to know

A personal budget for educational services can only be requested through the EHC assessment process.

Although educational personal budgets are outlined in the EHC plan they will be agreed and monitored via education, health or social care.

C: Requesting a personal budget from social care

The council, through the children with disabilities or transition teams, may provide a personal budget if the following conditions are met

The child or young person:

- is on the disability register
- has severe or profound disabilities
- is eligible for Disability Living Allowance
- has a special need due to a disability or long term condition.

Children and Adult Services

How to request

The young person or parent/carer of the child can make a request for a personal budget direct to a social worker during their assessment, or at any other time.

Good to know

From age 18 the young person can only be provided with a personal budget if they are eligible for adult social care support (which is determined following an adult social care assessment).

The eligibility criteria for Adult Social Care and Children's Social Care are different, a young person who may have previously been eligible for social care under the children's eligibility criteria may not be eligible under the adult criteria.

To help the young person prepare for adulthood and where it appears that they may be eligible for adult social care support on reaching 18, an adult social care assessment should be completed (usually from age 16 upwards).

If the young person is assessed as eligible for adult social care they may need to make a contribution towards the cost of the support they receive once they turn 18. This will depend on the young person's financial circumstances. To determine how much, if anything, the young person will contribute towards their personal budget, they will need to complete a financial assessment form. The council will look at their financial circumstances, including details of any savings and financial assets. People are only asked to contribute if they have enough money to do so. If the young person chooses not to complete a financial assessment they will be charged the full cost of their care.

For more information about how the council works out contributions for personal budgets, please contact the finance team directly on 0800 358 0228. Alternatively visit the council website 'www.southwark.gov.uk' where the full policy 'Paying for your Care: Assessments and Contributions' is available.

D: Applying for a personal budget from health services

The CCG may provide a personal budget if the following conditions are met

- The provision of a health service through a personal budget is requested as part of an EHC plan, or
- The child or young person is receiving NHS Continuing Healthcare.

How to request

The young person or parent/carer of the child can request a personal budget for health services within an EHC plan in accordance with categories A and B. Where a child or young person is receiving NHS Continuing Healthcare, requests for a personal budget can be made through the Children's Continuing Care Nurse at any time.

Good to know

Personal budgets to meet health needs are only available for services that are not available from universal services provided or paid for by the NHS

Children and Adult Services

The CCG has a commitment to ensuring clinical effectiveness, this means that the CCG will only fund treatments or services where there is evidence that they work and will achieve the agreed outcomes.

E: Applying for a personal budget from the travel assistance service

The local authority travel assistance Service may provide a personal budget if the following conditions are met

- The child or young person is eligible for assistance under the council's current travel assistance policy.
- The child or young person is eligible for travel assistance but the council does not have a vacant place available for his/her travel on an existing transport round, and/or a personal travel assistance budget will cost the council less than current arrangements.

How to request

The young person or parent/carer of the child can request a personal budget via the travel assistance team if the child/young person already receives travel assistance. New requests should be submitted via application form.

How personal budgets for travel assistance might be used

- To arrange personalised travel to suit the family e.g. individual taxi.
- The cost of fuel and wear and tear of a family owned car.
- Payment for other people to accompany the child/young person.
- To purchase travel passes for parents/carers/other person to assist
- To contribute towards shared travel costs with another family.
- Paying for childcare of other children to allow parents/carers to collect the child/young person eligible for travel assistance.

The local authority has a duty to ensure its resources are used efficiently. Personal travel assistance budgets will NOT be granted if the child/young person can be given a seat that is available on an existing transport route.

Good to know

- For families with more than one child/young person eligible for travel assistance, a personal budget will be considered as a package for the family.
- A personal budget from the travel assistance service reflects the total amount of money required to assist the family/carer to get the child or young person to and from their school/educational establishment for all or part of an academic year (September to July) and will be reviewed annually.

7. Assessing requests for a personal budget

The council and CCG will not agree personal budgets that will result in the duplication of services that are already in place.

Children and Adult Services

Social care

All funding arrangements will be considered and agreed by a resource panel and recorded in the EHC plan (except where the child or young person is in receipt of a NHS Continuing Healthcare service and has separate arrangements for approval and recording). A Resource Allocation System (RAS) is used to estimate the funds required to meet the assessed needs. Once this has been agreed a support plan is completed outlining how the indicative budget will be spent to achieve the required outcomes.

The council must be satisfied that the support plan will meet the child/young person's assessed needs before it will confirm the final amount of the personal budget. The support plan will provide the evidence to establish the final cost. Once the support plan is validated, the amount of the personal budget will be confirmed and the money can be used.

Health

NHS Southwark CCG uses a 'ready reckoner' approach. A 'ready reckoner' uses a basic care plan to calculate a budget based on the cost of existing services. Where the costs of existing services are not available the equivalent cost of NHS services is used. This means that the child or young person will receive an amount of money that is no more or less than the cost of traditional services.

Travel

The resource panel's indicative personal budget calculation is dependent on whether the child/young person has regular or specialist needs:

Regular SEND transport, personal travel assistance budget -

- The personal budget is calculated based on a flat rate, using:
 - the lowest rate of current taxi fares and tariffs set by Transport for London (TFL)
 - the distance travelled between home and school (am) and the return journey (pm). This is measured using walkit.com or a similar program, in one of four distance bands.

Specialist SEND transport, personal travel assistance budget –

- The personal budget is tailored to meet high levels of need where the council agree a family is better able to arrange specialist travel provision unique to their child's needs.

The resource panel will only agree a personal travel assistance budget where it is cost effective to do so.

For children and young people who are eligible for a personal travel assistance budget to assist them to attend an educational establishment, a daily amount will be allocated after journey prices to and from home have been estimated. The young person or parent/carer of an eligible child is then able to arrange their own transport. Payments will be made three times a year at the beginning of each school term or

Children and Adult Services

pro rata depending on the time the application is agreed. Budgets can be used flexibly by families when making suitable travel arrangements.

8. Managing a personal budget

There are different options for managing a personal budget.

- **Council or CCG managed** – the young person or parent/carer asks the council to continue organising and paying for the services direct following the development of the EHC plan.
- **Self managed** – the personal budget is paid into a separate bank account belonging to the young person or parent/carer (a direct payment), and they organise the services and the payment of services themselves to meet the outcomes identified in the EHC plan. Spend and accountability will be monitored by the council or CCG.
 - Combination of the above** – the young person or parent/carer may take some of the personal budget self managed to organise and pay for some services themselves, and ask the council or the CCG to manage the rest of the services and payments. This can work well if there are only a couple of areas where the young person or parent/carer would like to directly manage organisation and payment for support.
- Where people choose self-managed budgets they can use a **direct payment support organisation** to help them manage the personal budget and pay for services if they wish. This is independent of the council and a small fee is charged to help manage the personal budget. This fee will be included within the personal budget.

9. Personal budget agreements

The young person or their parents/carers are required to sign a personal budget agreement where self-managed budgets are chosen. This agreement explains what the person managing the budget has to do to comply with council and/or CCG requirements. Young people and their families should read this carefully, as the Council or the CCG may stop making personal budget payments if there is a failure to comply with requirements.

For personal travel assistance budgets, the parent/carer will also be required to sign an agreement confirming that they take responsibility for getting that child/young person to and from their school/educational establishment for the full or remaining part of the academic year (depending on when the application is made).

Children and Adult Services

10. Employing staff

Where the personal budget is used to employ staff directly the young person or their parent will be the employer. This means that they will have to fulfil all the duties of the employer, for example obtaining appropriate employer's liability insurance. The council and the CCG will provide support with this through an employment support agency.

The council and the CCG do not allow family members living at the same address as the child or young person to be employed to support them..

11. Safe care and travel arrangements

A Disclosure and Barring Service (DBS) check must always be obtained for anyone working with children/young people, together with a complete employment history. A DBS check is a police check to confirm that the person has not committed crimes that would bar them from working with children and young people. It is also recommended that relevant carers complete the LSCB e-learning safeguarding course, where applicable.

Where the person employed or the care purchased as part of a personal budget involves a delegated nursing task, there must be an appropriate scheme of training, competencies and on-going oversight of the provision of care. The CCG reserves sole discretion to agree or refuse a personal budget that involves delegated nursing tasks.

The council and CCG expect parents/carers or family members to accompany the child/young person on transport in the majority of cases, however we recognise that for those young people 16+ this may not be necessary (unless their care and support needs suggest otherwise).

When arranging transport it is important to use licensed companies that carry out DBS checks on their drivers. Anyone is entitled to ask the taxi company they plan to use to confirm that DBS checks have been carried out on their drivers. We advise parents/carers to seek confirmation of DBS checks in writing. We also advise that children and young people are only sent in a taxi where confirmation that the driver has been DBS checked has been provided.

If a private individual and/or friend of the family is asked to transport a child or young person, then it is the parent/carer's responsibility to check that they are a suitable person to be responsible for the child or young person.

12. Review of personal budget arrangements

Children and Adult Services

Personal budgets are reviewed at least annually in consultation with parents, young people and schools. The council or CCG has discretion to decide whether it will continue to provide a personal budget for a child/young person.

The review will address whether the agreed outcomes for the personal budget are being met and that any stipulations or requirements made by the council or the CCG have been followed.

Reviews will also note changes in needs and circumstances. The amount of money allocated to a personal budget may change as the result of a review.

There is a strong expectation that when a young person reaches the age of 16 they will be at the centre of creating their own support plan.

13. Auditing and monitoring requirements

The council and CCG have a responsibility to ensure that the personal budgets they agree represent value for money through robust care planning and monitoring.

The council and CCG also have a responsibility to ensure that public money is spent and accounted for appropriately. Personal budgets will be audited (targeted and random) to provide assurance that children/young people are achieving the best possible outcomes within the available resources, and that funds are being used for the purpose intended.

Audits will require access to records of payments/contracts including invoices and bank statements among other things. These checks will provide assurance both to the council and the CCG that the funds are being used effectively in accordance with approved support plans and as set out in the funding agreement. The use of funds for any items not agreed with the council or CCG will be a breach of this policy and guidance.

For travel assistance personal budgets receipts and attendance records must be submitted at the end of each term, so that payments for the following term can be calculated. Any days where the student has not been able to attend their course will be deducted from the next payment.

Personal budgets are not a welfare benefit and do not represent an entitlement to a fixed amount of money. Money that has not been used and has accumulated will be claimed back by the council or CCG.

14. Personal budgets provided in error

Where a child or young person has been assessed as eligible for a personal budget in error, the provision will be withdrawn at the end of the term in which the error was brought to the attention of the child/young person or parent/carer.

Children and Adult Services

14. Misuse and withdrawal of direct payments

It is a requirement that personal budgets are used to meet the eligible assessed needs of the individual, in accordance with any conditions imposed in the personal budget agreement and relevant policy and guidance.

If the council or the CCG suspect that a personal budget is being misused, the following action will be taken.

- a) The council and/or CCG will investigate the incident(s).
- b) Depending on the outcome of this investigation, either:
 - a warning will be given; or
 - direct payments will be stopped and personal budgets administered via a council-managed service with the return of funds to the local authority.

A personal travel assistance budget may be stopped if the child's/young person's attendance is not satisfactory or if the parent/carer can no longer manage to deliver the transport arrangement. The parent/carer should provide 28 days notice if they wish to change the agreement. Any monies paid for days the parent/carer will no longer transport the child/young person will have to be returned to the council before alternative arrangements commence.

In the event that fraud is suspected (i.e. intentional misuse of public funds), the matter will be reported to the police. This may lead to prosecution and a criminal record. Notice of withdrawal of the personal budget will be given in writing; there is no fixed notice period for stopping a personal budget.

If a young person, or parent/carer of children receiving a personal budget managed by others has concerns about the potential misuse of the personal budget they can request that it be audited.

15. Complaints and appeals

Complaints about the process of setting up, administering and monitoring the personal budgets will be managed under the council and the CCG complaint procedures.

If following assessment it is decided that an individual is not eligible for a personal budget, the individual, or parent/carer of the child will be sent a letter detailing the reasons why. The letter will give the details of how to appeal the decision and the timescale in which the appeal should be received.

The following issues can be dealt with through the Appeals Process:

- Eligibility status
- EHC plan

Children and Adult Services

- The 'final decision' response by the panel following assessment and presentation
- The amount of the indicative budget (for example if it is felt that the resource panel was not provided with all available information when calculating the budget).
- Limitations within the support plan

If the individual, or parent/carer of the child need help to make an appeal an advocacy service (someone who will act on their behalf) will be identified to support them.

15b. How appeals are administered

For personal budgets provided by social care the individual or parent/carer of the child will need to contact the person working with them in relation to the assessment, support, or EHC plan to explain they would like to appeal against a decision and provide the details. The appeal can be made in writing, by phone or by email.

The appeal will be considered in the first instance by the Head of Service and the individual notified in writing within 10 working days of the date of their appeal against a decision. However, if the appeal is of a complex nature and will require further investigation, the Head of Service will agree a plan for how the appeal will be dealt with, including the timescale for responding to the appeal.

There is a further right of appeal to the decision making panel. The panel determines appeals on the basis of any supporting documentation presented, which will be circulated to all members of the panel and the individual informed of the result within three working days of the panel date.

For personal budgets provided by the CCG the appeal will be reviewed in the first instance by the Head of Service with a further right of appeal to the CCG's exceptional funding panel.

Education, Health and Care Plans

A request for a personal budget can be made when the EHC plan is in draft, and before it is finalised. Any dispute relating to the request for a personal budget or its contents should be pursued by way of a complaint or judicial review.

A request can also be made for direct payments. The parent or young person has the right to request a review of the decision not to make direct payments. When asked to carry out a review, an officer of appropriate seniority who has had no prior involvement in the decision will carry out a fresh review of the decision, and any representations made by the parent/young person. The decision following the review, with reasons, must be given in writing.

Children and Adult Services

If a parent or young person is not in agreement with the contents of sections B, F or I of the EHC plan, there is a right to appeal to the Special Educational Needs and Disability tribunal.

Individuals wishing to appeal will need to contact Southwark Information and Advice Service (SIASS details can be found on the Local Offer) who will arrange a review to try to resolve the issue. If this is unsuccessful they will be directed to the Local Authority commissioned mediation service. These stages will need to be completed before an appeal can be registered with the Tribunal service.

The individual may be contacted to discuss a resolution.

Local Government Ombudsman and Parliamentary and Health Service Ombudsman

If individuals are not satisfied with the final outcome of their appeal or complaint they can contact one of two Local Government Ombudsman services to look into the matter. The Local Government Ombudsman is responsible for complaints about councils and the service they provide.

The Parliamentary and Health Service Ombudsman is responsible for complaints about NHS services. Both offer independent, impartial and free services that deal with complaints about public bodies. The Appeals Process does not affect an individual's rights to contact an Ombudsman at any time. However, they will only usually investigate a complaint after the local authority has been given the opportunity to consider it first.

Details about complaining to the Local Government Ombudsman can be found in the leaflet 'How to complain to the Local Government Ombudsman' which is available from any Council office or library.

Details about complaining to the Parliamentary and Health Service Ombudsman can be found on the Ombudsman's website (<http://www.ombudsman.org.uk/>) or by calling the customer helpline on 0345 015 4033.
