



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

Guidance for Parents/Carers and Young People

Legal Framework around Personal Budgets

The Children and Families Act 2014 gives a family the right to request a Personal Budget when an EHC plan is being initially prepared or reviewed as part of the statutory annual review process. The law gives the right to request an indicative budget; this is the amount of money needed to meet the child or young person's needs. There are a number of ways in which this budget may be made available:

- a direct payment to the family;
- a payment to a third party to organise on behalf of the family;
- an arrangement where the LA organises support in the way the family chooses; or
- any combination of the above.

Detailed information about Personal Budgets and direct payments are contained in Chapter 9 of the [SEN and Disability Code of Practice 2015](#). The law relating to direct payments and Personal Budgets is set out in the Special Educational Needs (Personal Budgets) Regulations 2014, as amended by the Special Educational Needs (Miscellaneous Amendments) Regulations 2014.

Different Types of Personal Budget

Personal Budget: You can request this if your child has an EHC plan.

SEN Code of Practice: 0 to 25 years – 9.112 states:

“The special educational provision specified in an EHC plan can include provision funded from the school's budget share (or in colleges from their formula funding) and more specialist provision funded wholly or partly from the Local Authority's high needs funding. It is this latter funding that is used for Personal Budgets, although schools and colleges should be encouraged to personalise the support they provide and they can choose to contribute their own funding to a Personal Budget (this will usually be an organised arrangement managed by the setting, but some schools and colleges, including specialist settings, have made innovative arrangements with young people, giving them direct (cash) payments).

High needs funding can also be used to commission services from schools and colleges, including from special schools. In practice, this will mean the funding from the Local Authority's high needs budget for the SEN element of a Personal Budget will vary depending on how services are commissioned locally and what schools and colleges are expected to provide as part of the Local Offer”.

Personal Health Budget: A Personal Health Budget is an amount of money to support the identified healthcare and wellbeing needs of a child/young person. It is planned and agreed between you, on behalf of your child, and the local Integrated Care Board (ICB). Personal Health Budgets give children/young people with complex health conditions and disabilities more choice and control over the money spent on meeting their needs.

If your child has support from Children's Continuing Care (CCC) you may be eligible for a Personal Health Budget. There are exceptional circumstances where a

Personal Health Budget can be awarded if your child does not have support from CCC. In the first instance, contact your CCC key contact for advice. As part of the Education, Health and Care Plan process, however, you may request a Personal Health Budget at the point you are informed that an EHC plan will be prepared or during a statutory review of an existing EHC plan and in this instance, the request would be made to the Integrated Care Board via the SEND Casework Team.

The NHS England Personal Health Budget page can be found here:

[NHS England » Personal health budgets](#)

NHS information:

[What is a personal health budget? - NHS \(www.nhs.uk\)](#)

Children's Continuing Healthcare:

[County Durham and Darlington - Children's Continuing Healthcare \(cddft.nhs.uk\)](#)

Integrated Care Board:

[NHS North East and North Cumbria ICB contact us](#)

Personal Social Care Budget: For a Personal Social Care Budget, there has to be involvement from a Social Worker. You can liaise directly with your child's social worker for advice. If your child does not have a social worker and you would like an assessment of social care, call First Contact on 03000 267 979.

Frequently Asked Questions

1. What is a Personal Budget?

A Personal Budget is money used differently to pay for support specified in an EHC plan for a child, young person or adult (up to 25) with special educational needs and/or disabilities (SEND). Each request for a Personal Budget is considered on an individual basis to reflect the idea that this is highly personalised care. There is no one-size-fits-all as every case will need to be decided on its own merits. Your child's EHC plan is banded a funding level, and a Personal Budget will be additional funding.

2. Who can request a Personal Budget?

- a) Parents/carers of a child or young person with an EHC plan. If a parent/carer makes a request for an adult aged between 18-25, the adult's views and preferences will be considered.
- b) A young person with an EHC plan can independently ask for their own Personal Budget after the end of the school year in which they become 16.

3. When and how can a Personal Budget be requested?

You have a right to request a Personal Budget:

- a) When the Local Authority (LA) has completed an EHC needs assessment and confirmed that it will issue an EHC plan.
- b) During a statutory review of an existing EHC plan.

In the first instance you should discuss this with the SENCO and the allocated SEND Caseworker. If it is agreed that the request appears to be appropriate, you will need to complete the Request Form. The SEND Caseworker will be able to send you this, along with prompts to help you.

You will need to source providers, calculate the costs of provision, plan where the proposed provision will take place and draft the budget, based on the outcomes within Section E and provision within Section F of your/your child's EHC plan. You will need to include this information in the Request Form.

When a Personal Budget is requested, any supporting evidence from all professionals actively involved should also be submitted. This might include any historical assessments and/or reports that are relevant or important to the particular request.

Documents to be submitted to SENCasework@durham.gov.uk, copying in the allocated SEND Caseworker:

- Request Form
- Supporting evidence (reports/advice/details about provision etc).

The LA will also seek assurance from you, the young person or nominee that any person employed by you or the young person, but working on early years, school or college premises, will conform to the policies and procedures of that institution and may write such an assurance into the conditions for receipt of the direct payment.

4. What can a Personal Budget be used for?

A Personal Budget can be used to arrange and pay for some of the support agreed in your child's EHC plan.

Your request for a Personal Budget **must** be related to your child's needs, provision and outcomes set out in the EHC plan - it is not a 'wish list' of provision. Most provision can be provided within an educational setting, but there may be exceptional circumstances where it cannot, so a Personal Budget may be appropriate.

5. When will a Personal Budget not be agreed?

A Personal Budget will **not** be agreed if:

- it does not meet your child's needs, provision, aspirations or outcomes outlined in the EHC plan;
- the request is for private therapy, e.g. an independent Occupational Therapy or physiotherapy programme, when it is available through the NHS;
- it does not represent value for money for the LA or where it would not be an efficient use of services;

- the cost of your child's specified special educational provision is part of a larger sum that cannot be separated without having an adverse impact on other services (such as provision within a school).

6. Can I request a Personal Budget if my child is in school (mainstream or special)?

Educational settings must meet a child's, young person's or adult's special educational needs. There may, however, be exceptional cases where they cannot, and in this case a Personal Budget may be considered to support the educational provision already in place.

If your child is in an educational setting, and it is agreed that a Personal Budget is required to meet a need that the setting cannot, the Head Teacher must agree to this, as the Personal Budget funding may be included within the EHC plan's overall funding. Where a direct payment is proposed for special educational provision, LAs **must** secure the agreement of the early years setting, school or college, if any of the provision is to be delivered on that institution's premises.

7. Can I request a Personal Budget for provision during the school holidays?

For requests for education only (i.e. no health and/or social care element), you can only request a Personal Budget for term-time only.

8. Do schools and educational settings receive guidance about Personal Budgets?

Guidance is available to schools and educational settings. Schools and educational settings should refer to this guidance and they can also liaise with the SEND Casework team for further advice.

9. Can I request a Personal Budget if my child is Electively Home Educated (EHE)?

In cases where Section I of the EHC plan names the setting where the child/young person or adult will be educated and you decide to educate at home, the LA is **not** under a duty to make the special educational provision set out in the plan. This also includes agreeing to a Personal Budget, however, you still have the right to request one, but the request would have to meet the criteria set out in this guidance.

If the LA, however, agrees with you that Elective Home Education would be the correct provision/educational setting then the LA will consider a Personal Budget request as part of the provision that is put in place.

10. How are decisions made to agree or decline a Personal Budget request?

When a Personal Budget is requested, senior officers within the LA will consider the request, information and supplementary evidence. They will consider the needs and desired outcomes of the child/young person and how a Personal Budget could help in meeting these. They may have further questions about the request or require further supporting evidence. At this point, other professionals may need to be

consulted. The LA will give a timescale for any further information to be gathered and brought back to them.

11. Can I request a review of the LA's decision not to agree to a Personal Budget?

If the LA refuses a request for a Personal Budget for special educational provision, you must be informed of the reasons in writing. You have the right to request a formal review of the decision by LA officers - however this is not a legal appeal.

12. Can I appeal to the First Tier Tribunal about the LA not agreeing to a Personal Budget?

This would only be in exceptional circumstances. You would only be able to appeal this if you are appealing the content of Section F of your child's EHC plan, where some of the provision may be related to a Personal Budget.

13. How is a Personal Budget paid?

There are a number of ways in which this budget may be made available:

- a direct payment to the family;
- a payment to a third party to organise on behalf of the family;
- an arrangement where the LA organises support in the way the family chooses; or
- any combination of the above.

14. Who cannot receive a direct payment?

There are regulations about who cannot receive direct payments. Further information can be found in Appendix 1.

15. If a Personal Budget is agreed, what will happen next?

a) You will receive a letter stating a Personal Budget has been agreed. This will outline the provision, associated costs and the date that the Personal Budget has been agreed to. It will usually be awarded for one year – until the first or next statutory annual review. Timescales can, in some cases, vary dependent upon circumstances but the SEND Caseworker will always discuss timescales with you. At the time of the statutory annual review of the EHC plan, you must submit a new request for a Personal Budget for the following year.

b) Information relating to the Personal Budget must be written in Section J of the EHC plan. This will include information on how the budget will be managed, the cost of the Personal Budget, what the budget will be used for, and which outcomes it is linked to.

c) Most Personal Budgets are paid via a Direct Payment. The SEND Caseworker will send the relevant documents to the Direct Payments Team. You will be allocated a Direct Payments officer, and they will go through the legal process with you. You

must sign a written agreement at the outset which clarifies how the Direct Payment is to be spent and which agencies/providers can be used. There is a legal duty for you to retain and submit receipts/invoices and contribute to the Direct Payment Team's periodic reviews and the annual audit. The Direct Payments Team will not release funds until they are satisfied with the evidence that they receive. Any unspent monies will need to be returned to the LA each year.

If it has been agreed to fund the Personal Budget in a different way, this will be explained to you when it is set up.

For further information relating to Direct Payments, please refer to:

www.durham.gov.uk/directpayments

Email:

directpayments@durham.gov.uk

16. Who can offer me further advice about Personal Budgets?

You can seek advice from your child's educational setting, SEND Casework Team, professionals involved and SENDIASS.

Other sources of advice and information are:

IPSEA – Independent Provider of Special Education Advice

IPSEA are a charity in the field of SEND law in England and provide free and independent legal advice and support to families of children and young people with SEND. They also provide training on the SEND legal framework, and influence policy at both a local and national level.

[Personal budgets and direct payments | \(IPSEA\) Independent Provider of Special Education Advice](#)

IPSEA - [\(IPSEA\) Independent Provider of Special Education Advice](#).

Council for Disabled Children

The Council for Disabled Children is part of the National Children's Bureau family. They are the umbrella body for the disabled children's sector with a membership of over 300 voluntary and community organisations and an active network of practitioners that spans education, health and social care. As a membership body they provide a collective voice that champions the rights of children, young people and their families and challenges barriers to inclusion.

[Personal Budgets | Council for Disabled Children](#)

Contact

Contact are a charity for families with disabled children. They support families, bring families together and help families take action for others.

Freephone helpline: 0808 808 3555

helpline@contact.org.uk

www.contact.org.uk

[Personal budgets and direct payments | Contact](#)

SEND Code of Practice: 0 to 25 Years

[SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](#)

[SEND: guide for parents and carers - GOV.UK \(www.gov.uk\)](#)

Please also refer to the 'Useful Tips, Contacts and Links' document, available on the Local Offer: [Personal budgets for children and young people with an Education, Health and Care plan - Durham County Council](#)

17. Where can I find out about The Mental Capacity Act (MCA)?

The Mental Capacity Act (MCA) is designed to protect and empower people who may lack the mental capacity to make their own decisions about their care and treatment. It applies to people aged 16 and over.

[Mental Capacity Act – Social care and support guide](#)