



East Sussex County Council

Personal Budgets Guidance 2022

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Introduction

The Children and Families Act 2014 introduced significant changes to the Special Educational Needs and Disability (SEND) system for the first time in 30 years. The aim of the reforms was to put children, young people, and their families at the heart of the system. Education, Health and Care (EHC) Plans replaced Statements of SEN and Learning Difficulty Assessments (LDA).

EHC plans are a way of supporting children and young people with special educational needs and disabilities aged 0 - 25 years. The plan may offer a personal budget for aspects of the provision outlined in it, if the young person/their parent wish it and are eligible.

This guide explains the different personal budgets available to support children and young people with special educational needs and disabilities with an EHCP.

What is a Personal Budget?

A personal budget is an allocation of money identified to provide support for the eligible person to meet their identified needs. The personal budget must support the outcomes specified in the EHC plan.

If a family already receives a service, they will not get both the support they get now and a personal budget. However personal budgets are designed to be fairer and more transparent in the way that East Sussex County Council and Health Services fund personalised support and enable choice and control.

There are three types of personal budgets that families may be eligible for if their child or young person has an EHC plan:

- Education
- Social Care

- Health

These budgets may be provided on an individual basis from Education, Social Care or Health. Depending on a child or young person's eligibility, these budgets may also be provided by a combination of the above.

The majority of children and young people with an EHC plan are unlikely to meet eligibility criteria for Social Care or Health services funding but they can request an Education Personal Budget. For Social Care and / or Health funding, the young person must meet the eligibility criteria for that provision.

Parents have control of the management and spend of the agreed personal budget. However, this changes when the young person is 16 as they can manage the budget if they have the capacity to do so. This decision would usually be made by a social worker or mental health worker, in discussion with the family and young person.

If a personal budget is agreed, the young person/ their parent can ask for the following:

- they can receive direct payments so that they can buy services themselves
- they can employ someone to manage the money for them
- they can ask for the local authority, school, or college to manage the money for them
- they can ask for a combination of the above

Social Care personal budgets may include directly provided services that are part of the personal budget, but cannot be taken as a Direct Payment (actual money) e.g. overnight respite stay in a local authority residential unit.

In some instances, children may already have a personal social care or continuing health care budget without an EHC plan.

Eligibility for funding from education, social care and health is described later in this document.

The personal budget is not all of the resources that are available to support a child or young person. It is just the amount that can be used flexibly by the family or young person to support the additional needs of the child or young person.

The Education, Health and Care Plan (EHCP)

The family and child are at the centre of the assessment process. All services will work together to identify the needs of the child or young person with a focus upon outcomes rather than just provision.

The EHC plan is a statutory (legal) document describing a young person's needs, the provision to meet those needs and agreed outcomes.

What is an 'outcome'?

An outcome can be defined as the benefit or difference made to an individual as a result of an intervention. An outcome should be:

- personal and not expressed from a service perspective
- something that those involved have control and influence over
- specific, measurable, achievable, realistic and time bound (SMART)

An outcome does not always have to be formal or accredited.

Outcomes are not a description of the service being provided - for example the provision of 3 hours of speech and language therapy is not an outcome. In this case, the outcome is what it is intended that the speech and language therapy will help the individual to do that they cannot do now and by when this will be achieved. (SEND Code of Practice 9.66)

Outcomes help identify what support will be needed and can include activities

across health, social care and education.

Eligibility for an Education Personal Budget

To be eligible for an Education Personal Budget:

- A child or young person must have an EHC plan that requires High Needs Funding (element 3)
- It must be agreed that the allocation of a personal budget is an effective way of meeting the child or young person's outcomes as identified in their EHC plan
- It should be noted that without exception the local authority and its partners must ensure that public funding is used appropriately and provides value for money

It should also be noted that whilst the local authority might agree that the provision is needed, they may be unable, at that point in time, to release funding that is currently supporting provision of services to a number of other children and young people. High Needs Funding as a personal budget can only be included with the agreement of the school or college.

The final decision to allocate an Education Personal Budget will be made by the managers within the A&P team as part of the EHC plan process or a request following an annual review.

For more information about [Education, Health & Care Plans](#)

Eligibility for a Children and Young Peoples' Continuing Care Personal Health Budget (PHB)

A continuing care package may be required when a child or young person has needs arising from disability, accident or illness that cannot be met by existing universal or specialist services alone. Continuing care does not cover children and young people with care needs that may be met appropriately through existing universal or specialist health services.

The continuing care process typically comprises three phases.

1. The assessment is led by a children and young people's health assessor nominated by the CCG, who will draw on the advice of other professionals. This phase may include a pre-assessment, to determine whether or not a full assessment is necessary. There are key four areas of evidence that should be considered in the assessment:
 - the preferences of the child or young person and their family;
 - a holistic assessment of the needs of the child or young person and their family;
 - reports and risk assessments from a multidisciplinary team or evidence collated during the EHC plan assessment; and;
 - the Decision Support Tool for children and young people.

The outcome of the assessment is a recommendation from the assessor as to whether or not the child or young person has continuing care needs.

Diagnosis of a particular disease or condition is not in itself a determinant of a need for continuing care. A child or young person may have a rare condition which is difficult to diagnose but will still have support needs. There should be no differentiation based on whether the health need is physical, neurological, or psychological. The continuing care process should

be (and be seen to be) fair, consistent, transparent, culturally sensitive, and non-discriminatory.

2. The second phase, decision-making, involves a multi-agency forum or panel considering the evidence and the assessor's recommendation, to reach a decision as to whether or not the child or young person has a continuing care need.
3. This is followed by the development of a package of care. Commissioners will decide how the continuing care will be provided, what proportion and level of resource is required to deliver it and how much needs to be specially commissioned, again taking into account the recommendation of the assessor on nature of the child or young person's needs. Costed options may need to be separately considered by a funding panel. These options should always be considered after a decision has been made on whether or not there is a continuing care need. The establishment of a continuing care need should not be determined by the existing package of care a child or young person receives, or who provides or pays for it.

If a Personal Budget is considered, families will be offered a choice of 3 ways in which to use this:

1. Notional budget

The budget remains with the Commissioning Care Group who arrange and manage the agreed care and support.

2. 3rd Party Direct Payment

A different organisation or trust, independent of the NHS, (sometimes referred to as brokerage services), holds the budget. The organisation then supports to buy the care and support on behalf of the family.

3. Direct payment for healthcare

Families are given the budget to buy and manage the care and support themselves, as agreed with the Case Manager. This can be supported by a broker service.

The package of care and eligibility will be subject to regular review.

Eligibility for a Social Care Personal Budget

A Personal Budget will be offered to eligible families to strengthen their choice and control in respect of meeting social care eligible outcomes determined by an assessment of need.

Eligibility for a Personal Budget is determined by a Resource Panel. The Panel consists of managers within the Children's Disability and Transitions Service, and includes those responsible for assessment and those responsible for providing services. Presentation of proposed support plans are made following practitioner assessments undertaken with and agreed with families.

A family assessment is agreed where the following criteria are met:

- the child has a severe and enduring learning disability
- they are on level 4 of the [Continuum of Need](#) and
- other services are not appropriate or have not been effective in meeting the assessed need.

Young people between 16-19, with a severe and enduring learning disability, are signposted to the transitions service. Their needs will be assessed according to the Care Act 2014 but if funded support is agreed Personal Budgets are offered in a similar way.

Some services such as those directly provided or commissioned by the council will form part of a support plan to meet eligible and assessed needs but funded directly by the council. The cost of these is referred to as a notional budget but reflected in the support plan. Other services such as the employment of a personal assistant will be funded by a Direct Payment which is cash paid to the family to meet the assessed need and desired outcomes as outlined in a Support plan.

Decisions to assess are usually made within 24 hours. If a decision is made not to assess or, following assessment, it is deemed that a Personal Budget is not necessary to meet the needs (for example because services can be accessed without funded support), support might still be available. This might be for example through signposting or referral to the Early Intervention Service.

Where a personal budget is agreed the cost available to meet the assessed need is guided by a Resource Allocation System which provides a resource indication according to the assessed need in the Practitioner's assessment. Wherever possible the support provided will be the best value services available within this allocation.

Wherever possible the family will have choice regarding the services they receive, when they receive them and by whom, even when the Personal Budget is a notional budget which means that they are directly provided or commissioned.

Where a family chooses to employ a personal assistant through a Direct Payment, they will be responsible for employment activities and costs but will be asked to use a brokerage company which will support them. This forms part of the Councils monitoring of the arrangement e.g. ensuring that they are submitting PAYE returns and are paying tax and National Insurance

deductions. They also undertake DBS checks of employees. The Broker will advise on issues such as insurance and recruitment and these costs will be met within the Personal Budget.

Families who choose this option but require additional assistance can have an account managed by the broker. All children will be included in determining the right support for them. Young people over the age of 16 can manage their Direct Payment if they have capacity.

Using Direct Payments to pay a household member can only be agreed in exceptional circumstances where this is necessary to meet the need and no other form of support is available.

Payment to a personal assistant to care for a child overnight in the PA's home has specific guidance to ensure the safety and welfare of the child.

Families using Direct Payments will be asked to sign a contract detailing the terms and conditions.

Personal Budgets are formally reviewed at least annually by the practitioner and the resource Panel.

Monitoring of direct payments is managed by the Orbis Direct Payments team, Adult Social Care Assessment teams and the ASC Financial Services, the Direct Payment Support team, brokerage services and Children's Services managers and finance administrators. Budgets that have not been spent are reclaimed by the council. Any deviation from the support plan must be agreed by the practitioner who will assess whether this is within the amount agreed within the support plan and meets the assessed need. It must also be safe, legal, within the regulations and policies and in the child's interests.

Expenditure additional to the agreed amount on the support plan requires a change in support plan agreed by resource panel.

Decisions not to assess or not to be offered a Personal Budget can be made the subject of a complaint where informal measures have not proved satisfactory.

Occasionally Direct Payments are offered by both social care and health and/or education. In these instances, efforts are made to co-ordinate these in order to reduce the burden on families of managing different services from different parts of the Council. Families are advised in these circumstances to maintain separate accounts but to use one broker, recommended by all parties.

Social Care and Health needs and provision are included in the child's EHCP. Where a family are not in agreement with the educational element of the EHCP they are also able to challenge the other elements. Informal means of resolving disputes are encouraged regardless of which part of the Council the dispute is in respect of.

How to request a Personal Budget

Education

Once the local authority has confirmed that it will prepare a draft EHC plan, young people/ their parents have a right to request a personal budget.

They may also request a personal budget during a statutory review of an existing EHC Plan.

Contact the Assessment & Planning Team on 01273 336740 or email: sen.caseworkassistants@eastsussex.gov.uk

Social Care

This service can be accessed through SPOA.

Contact SPOA on 01323 464222

Children and Young People's Continuing Care

This team cover the whole of East Sussex and forms the point of access for all referrals concerning children and young people with continuing care needs.

Integrated Continuing Healthcare Team

Hampden Park Health Centre, 1st Floor
12 Brodrick Close, Eastbourne, BN22 9NQ

T: 01323 466120

F: 01323 466149

Email: esxccg.eastsussexchildrenscontinuingcare@nhs.net

If a local authority decides not to agree a Personal Budget

We will:

- Inform the young person/their parent of the decision in writing, including
 - The reason(s) for the decision
 - How to request a review of the decision
- Where requested to do so, review the decision, and consider any representations made by the young person/ their parent; and
- Inform in writing the young person/their parent of the outcome of the review, giving reasons.

Where a parent of young person is not satisfied with a decision regarding a Personal Budget

Where the disagreement relates to the **special educational provision** secured through a personal budget, the young person/their parent can appeal to the First - tier Tribunal (SEN and Disability), as with any disagreement about provision to be specified in an EHC plan.

If the local authority refuses a request for a direct payment for special educational provision on the grounds set out in regulations (SEND Code of Practice 9.119 to 9.124) the local authority must set out their reasons in writing. They must also inform the young person/their parent of their right to request a formal review of the decision.

If the young person/their parent provides subsequent representations, the local authority must consider them. They must also notify the young person/their parent of the outcome, in writing, setting out the reasons for their decision.

If the young person/their parent is not happy with a decision made in relation to the health and/or social care element of a personal budget within an EHC plan, the young person/their parent should refer to the appropriate complaints procedure for the CCG and/or Social Care.

The following links provide further information on mediation and the SEND Tribunal:

<https://www.eastsussex.gov.uk/childrenandfamilies/specialneeds/advicesupport/disagreements/ehc-plans/>

People who can have a direct payment to manage

A local authority may make direct payments, as appropriate, to

- the child's parent;
- the young person; or
- a person nominated in writing by the young person/their parent to receive direct payments on their behalf.

Direct payments may only be made if the person—

- appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them;
- where the recipient is an individual, is over compulsory school age;
- 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 > is not a person described in the SEN Regulations 2014.

For full details of the Regulations, they can be found [here](#)

Using a Personal Budget

A **personal budget** is the final amount agreed to meet the assessed need and outcomes.

A **Direct Payment** is when you (or someone on your behalf) is given the money (identified in a personal budget) to spend on your support.

Not all of a personal budget may be available to be taken as a

Direct Payment. Personal budgets can be managed in a number of different ways:

- **Direct payments**
Individuals receive the cash to contract, purchase and manage services themselves.
- **An arrangement with the local authority, school, or college**
The local authority, school or college holds the funds and either commissions or directly provides the support specified in the plan
- **Third party arrangements**
Funds (direct payments) are paid to and managed by an individual or organisation on behalf of the young person/their parent
- **A combination of the above**

If you are allocated a personal budget, you will be offered support and advice about the best way for you to manage it.

You can find out more about what can be included in a Personal Budget in Sections 9.110 to 9.118 of the [SEND Code of Practice](#).

What a Personal Budget cannot be used for

Education

- Private School placements or private post 16 college institutions.

Health

- Primary medical services provided by GPs;
- Vaccination or immunisation, including population-wide;
- Immunisation programmes;
- Screening;

- National child measurement programme;
- NHS Health Checks;
- Urgent or emergency treatment services, such as:
 - Unplanned in-patient admissions to hospital;
 - Accident and emergency;
 - Surgical procedures;
 - Specialist nursing care;
 - Domiciliary care;
 - Specialist Paediatrics;
 - Some Specialist Medical Equipment;
 - Prescription or dental charges;
 - Child development services including therapies and paediatricians.

Care

- Looked after child (LAC) in full time placements
- Therapies
- To purchase services directly from the LA (although a mixed package can be arranged, i.e. some services directly provided and some through a Direct Payment)
- Employment of family members living in the same household, other than on an exceptional basis.

Other

- Alcohol or tobacco
- gambling
- to repay debt
- anything illegal or unlawful

Thinking about what else is available

Personal budgets are only one part of the approach to personalization. They are most effective when best use can be made of all the other support, activities and opportunities that exist.

Community or informal support

Every family has knowledge of and things to offer their community. This includes all the people family members know and all the skills and knowledge represented by:

- the members of the community
- their assets
- their access to services
- their resilience

Universal and mainstream services

Children and young people access many activities and services in their community, such as:

- swimming pools
- cinemas
- schools

These services are the first place to look for opportunities for children and young people to get involved alongside their peers.

Targeted support

Sometimes there is an identified need that requires targeted support. This allows families to purchase services from their own funds in addition to any Personal Budget. This could for example include:

- access to an after-school club
- summer holiday play-scheme

Specialist services

Specialist services are those services which are:

- additional
- specific
- over and above those universal and targeted services to support the needs of your child

Examples of specialist support could be:

- an overnight break
- specialist short break
- a direct payment
- outreach or family support

There is a lot of information on services available in the Local Offer

www.eastsussex.gov.uk/localoffer

Help with asking for a Personal Budget

East Sussex County Council

Information and advice about the social care assessment process and personal budgets: - Children's Disability Service on 01323 466030.

SEND information, advice, and support service: AMAZE

Amaze SENDIASS can offer you free independent advice on anything to do with special educational

needs and disability (SEND). This includes education, health and social care.

It is for:

- parents and carers of children and young people 0 to 25
- young people 16 to 25

The AMAZE helpline is open Monday to Friday, 9.30am to 2.30pm. Call 01273 772289. [AMAZE website](#)

Help with managing a Personal Budget

The County Council funds support agencies that can assist with the process of becoming an employer. If a Personal Budget is agreed and some or all of it is used to employ personal assistants, you can access one of these. You will be given this information when going through the process of beginning to manage your budget.

There are other agencies and companies that offer similar services and are not commissioned by the local authority.