



## Cumbria SEND Information, Advice and Support Service

Offering impartial information, advice and support to children and young people with special educational needs and or disabilities and their parents & carers.

### Personal Budgets

Section 49 of the Children and Families Act 2014 provides that a local authority that maintains an EHC plan, or is preparing an EHC plan, for a child or young person **must** prepare a personal budget for him or her if asked to do so by the child's parent or the young person.

#### What is a Personal Budget?

A Personal Budget is 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.

Local authorities must have a policy on Personal Budgets which should form part of the Local Offer and include:

- a description of the services across education, health and social care that currently lend themselves to the use of Personal Budgets,
- how that funding will be made available,
- clear and simple statements of eligibility criteria and the decision-making processes.

#### Mechanisms for delivery of a personal budget

There are four ways in which a personal budget can be delivered:

- Direct payments – where individuals receive the cash to contract, purchase and manage services themselves
- An arrangement – whereby the local authority, school or college holds the funds and commissions the support specified in the plan (these are sometimes called notional budgets)
- Third party arrangements – where funds (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.

#### Setting and agreeing the Personal Budget

The child's parent or the young person should be given an indication of the level of funding that is likely to be required to make the provision specified, or proposed to be specified in the EHC plan.

An indicative figure can be identified through a resource allocation or banded funding system but this should only be a starting point and local authorities should be clear that any figure discussed at this stage an indicative amount only. The final allocation of funding budget must be sufficient to secure the agreed provision specified in the EHC plan and must be set out as part of that provision.

The child's parent or the young person should confirm their decision and agreement of the budget. In the event of disagreement regarding the personal budget, the decision cannot be challenged through an appeal to the First Tier Tribunal, however, there are other routes to challenge which are set out in other factsheets.

Local authorities must consider each request for a personal budget on its own individual merits. If a local authority is unable to identify a sum of money they should inform the child's parent or young person of the reasons. For example, the local authority might agree that the provision is needed but may be unable, at that point in time, to disaggregate funding that is currently supporting provision of services to a number of children and young people.

Where a direct payment is proposed for special educational provision, local authorities 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.

Where agreement cannot be reached, with the early years setting, school or college, the local authority must not go ahead with the direct payment. However, they should continue to work with the child's parent or young person and the school, college or early years setting to explore other opportunities for the personalisation of provision in the EHC plan.

### **Scope of personal budgets**

The Personal Budget can include funding from education, health and social care. However, the scope of that budget will vary depending on the needs of the individual, the eligibility criteria for the different components and the mechanism for delivery. It will reflect local circumstances, commissioning arrangements and school preference. The scope of Personal Budgets should increase over time as local joint commissioning arrangements provide greater opportunity for choice and control over local provision.

- **Education – Paragraph 9.112 of the Code of Practice states that** 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. The Code of Practice states that the extent to which Personal Budgets will include local authority's high needs funding will vary depending on how services are commissioned locally and what schools and colleges are expected to provide as part of the Local Offer.

- **Health -** Decisions in relation to the health element (Personal Health Budget) remain the responsibility of the CCG or other health commissioning bodies. Personal Health Budgets for healthcare are not appropriate for all of the aspects of NHS care an individual may require. In principle, other than excluded services a Personal Health Budget could be given to anyone who needs to receive healthcare funded by the NHS where the benefits of having the budget for healthcare outweigh any additional costs associated with having one. Since April 2014, everyone receiving NHS Continuing Healthcare (including children's continuing care) has had the right to ask for a Personal Health Budget, including a direct payment. From October 2014 this group will benefit from 'a right to have' a Personal Health Budget.



• **Social Care** - The Care Act 2014 mandates from April 2015, for the first time in law, a Personal Budget as part of the care and support plan for people over 18 with eligible care and support needs, or where the local authority decides to meet needs. For children and currently for adults, personal budgets are often used by local authorities without any specific statutory requirements. The legislation underpinning social care personal budgets is that for direct payments.



TO April 20