

Special Educational Needs and Disability (SEND) – Personal Budget Policy

Status	Version	Date	Next review date
APPROVED	V2.0	June 2025	June 2026

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1 Special Educational Needs and Disability (SEND) – Personal Budget Policy - Policy overview

The policy provides practical guidelines on how personal budgets work in practice.

Policy detail

This Policy aims to ensure that where a child or young person has been awarded an Education Health and Care (EHC) Plan, parents/carers and, at the appropriate time, young people, are provided with clear information and advice to enable them to understand the purpose of personal budgets, their eligibility for a personal budget and to make an informed decision on whether they wish to request and receive resources/provision that are supported via a personal budget.

This policy relates to the duties Hampshire County Council has in relation to the following legislation and Guidance:

Key Legislative and Guidance Sources:

Children and Families Act 2014 – Section 49: This section establishes the right of parents or young people to request a Personal Budget when an EHCP is being prepared or reviewed.

The Special Educational Needs (Personal Budgets) Regulations 2014: These regulations require local authorities to provide information about Personal Budgets during the EHCP process. Specifically:

Regulation 3 mandates that local authorities must provide information, advice, and support about Personal Budgets when an EHCP is being prepared

Regulation 4 allows a parent or young person to request a Personal Budget at any time during the drafting or review of an EHCP

SEND Code of Practice (2015), Section 9.95–9.119: This guidance elaborates on how and when Personal Budgets should be discussed. It states:

“Local authorities must provide information on Personal Budgets as part of the local offer.

When the EHC needs assessment is complete and the authority decides to issue a plan, families should be given information about Personal Budgets and how to request one.”

It also mentions that an indicative budget—an estimate of the funding available—may be shared at the draft plan stage to help families make informed decisions

Matters not covered by the policy

This policy is not designed to provide an exhaustive list of possible provisions or resources that a personal budget could be used for. Any guidance provided does not consider child/young person specific circumstances that may impact upon a person’s eligibility or suitability for a personal budget.

2 What is a personal budget and what is its purpose?

The Children and Families Act 2015 defines a Personal Budget as “The authority prepares a “personal budget” for the child or young person if it identifies an amount as available to secure particular provision that is specified, or proposed to be specified, in the EHC plan, with a view to the child’s parent or the young person being involved in securing the provision”. (Children and Families Act 2014, Section 49 (2))

A Personal Budget may contain elements of Education, Health or social care funding. In this policy we will set out the joint commissioning arrangements for determining the funding available for Personal Budgets and how and to whom these will be available. Personal Budgets should be based on clear and agreed outcomes that are to be set out in the EHC Plan.

Personal Budgets extend choice and control for some parents and young people through personalising services and resources to meet the outcomes agreed. It builds on the personalisation that is an essential part of the assessment and planning process that should be available for all children and young people with Special Educational Needs and Disabilities (SEND) and support and encourage the ability to achieve good

3 . How to request a personal budget

When the EHC Needs Assessment has been completed and the Local Authority has confirmed that it will issue an EHC Plan, information on the Personal Budget process will be made available to the family. If the family do wish to explore this, an indicative Personal Budget (an initial estimate of the amount of money) may be prepared at this stage. Some families may already be accessing a Personal Budget in terms of health and/or care, and this will continue throughout the statutory process and be incorporated, as relevant, in the final EHC Plan

Anyone who has a child, or a young person with an EHC Plan can request a Personal Budget to meet their needs as outlined in the EHC Plan during their annual review. In the following circumstances a request would have to consider the following:

- If the child or young person (below 19 years of age) is in long term foster care the foster parents may access a Personal Budget if there is agreement as part of a Care Plan.
- Where the child or young person (below 19 years of age) has a Child Protection Plan; any use of a Personal Budget would have to be part of the Plan agreed at the Child Protection Conference Meeting. If it was felt that the use of it was not meeting the aims of the Plan and may compromise the safety of the child or young person, it would not be agreed.
- Any vulnerable adult safeguarding issues identified during the assessment. These will be addressed using the Safeguarding of Vulnerable Adults processes.

If a young person is over the age of 19 and receiving support from Adult Social Care, they will access Self Directed Support which is an Adult Social Care equivalent of a Personal Budget; this will be automatic and will not need to be requested.

4 How a decision is made whether to make a Personal Budget or not.

Eligibility:

To request that the local authority prepare a personal budget for a child or young person with an EHC Plan there are certain criteria in place that are outlined below:

- A request will only be considered after the local authority has agreed to issue an EHC Plan
- Any provision that will be delivered in an educational setting can only be provided via personal budget if the headteacher or proprietor of the setting agrees. Meaning in essence that they must approve a personal budget request where the provision will take place in their educational setting.
- Except in exceptional circumstances a personal budget for social care provision will only be agreed for a child or young person that has already undergone an assessment by a social care service.

A request can also be made for a personal budget as part of an annual review.

The assessment process will outline the needs and outcomes identified for the child/young person and detail the provision to meet these. At a planning meeting, the exploration of a Personal Budget and a decision whether a family/young person wishes to pursue this will take place. The person-centred planning will outline which services may contribute to delivering the outcomes including the community, child/young person and their family.

The indicative Personal Budget will be formalised with actual figures agreed by the LA through the County Placement Group Panel to ensure that the cost is not higher than other services provided by the LA or Health. The EHC Plan brings a cycle of assess-agree - allocate - plan and review which will be on-going for all pupils with SEND.

Young people approaching 18 years old, who will require support from Adult Services, would require having their Personal Budget request agreed by the appropriate transition team. As part of the cycle of assess- agree - allocate - plan and review funding may be modified to take account of any change in needs.

The Personal Budget will be outlined at the same time as the naming of the placement.

Local authorities are required to consider each request for a Personal Budget on its individual merits and prepare a notional Personal Budget in each case unless the sum is part of a larger amount and disaggregation of the funds for the Personal Budget:

- would have an adverse impact on services provided or arranged by the

local authority for other EHC plan holders, or

- where it should not be an efficient use of the local authority's resources

In these circumstances, the local authority should inform the child's parent or the young person of the reasons it is unable to identify a sum of money and work with them to ensure that services are personalised through other means.

5 Mechanisms for delivering a personal budget

There are four ways in which the child's parent and/or the young person can be involved in securing provision:

- 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)
- Direct payments – where individuals receive the cash to contract, purchase and manage services themselves
- 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

What a personal budget can be used for

If agreed, the following aspects could be included in a Personal Budget if requested by a parent or young person (over compulsory school age):

Health – Currently those children who are eligible for Children's Continuing Care funding.

Children's Social Care - Most children with Special Educational Needs do not receive support from Social Care, either because they do not meet the criteria or because they choose not to use it. Some children, predominantly with a disability do access support from Social Care and this could be included within a Personal Budget. The Personal Budget would include funding arising from the assessed needs of Children in Need and, for example, individual funding necessary to provide the family of a child with a Short Break or family support, if eligible.

Adult Social Care – The budget would include funding arising from eligible assessed needs in the Community Care Assessment.

Education – This would include parts of, or all of, element 3 funding by the LA. Element 3 is the amount above that which every pupil receives and the initial £6,000 of individual targeted school provision which the school directly provides. At the discretion of the Headteacher/College Principal it could also include all/parts of element 1 or 2 funding. If the pupil is in a specialist college or special school, it will not be possible to include all or part of this element because this will then be part of the overall provision. It could be for an individual piece of provision contained within Section F of an EHC Plan, or for multiple pieces of provision.

Delegated Payments

As mentioned above, there are a few ways that personal budgets can be delegated. This means that the notional budget is paid either to a parent/carer or young person, or to a third party acting as a broker, managing the budget on the child or young person's behalf.

If nominated, and mutually agreed, a Personal Budget can be managed for an individual by another person/organisation via a Direct Payment. This must be agreed with the parent or young person. The choice to do this can be withdrawn at any point by the parent/young person by either writing to ask for it to cease or by nominating an advocate to do this for them. The LA will immediately stop making the payment to the relevant person/organisation and agree a suitable alternative. Options such as using a broker to help manage the budget or reverting to the LA and Health to broker support may also be considered. The approval, for a third party, would only occur with individuals/organisations approved by the LA/ICB for this purpose.

If a young person is over the age of 19 and has been assessed as eligible for Adult Social Care support, they will be allocated a Personal Budget for their Social Care needs. A financial assessment is completed that determines whether the individual will pay a contribution to the cost of their support.

Individuals who find planning or managing money difficult can ask someone they trust to act as their agent. Some people who receive a Direct Payment will become direct employers.

If a Direct Payment is agreed, each agency participating will place money into a central fund which parents or the young people may access. If the person is over 19 and accessing Adult Social Care support this will need to be a separate bank account in the young person's name.

Health funding may be paid via Direct Payments through the LA or from the ICB directly (if appropriate), through a notional budget with providers or through a third-party agency.

Parents and/or the young person will be expected to sign a Direct Payment Contract before the payment is made. This will outline the parameters of use of the payments and how it should be managed. It will also outline other conditions such as any employed people having to have an enhanced Disclosure and Barring Service check and appropriate agreed training in health care tasks.

If a parent/young person wants to use a Direct Payment to pay for support staff in school/College this discussion should occur at an early stage as possible, as the permission of the setting manager, school Headteacher or College Principal would be required. Any staff employed in schools/Colleges would have to follow the institution's code of conduct, for instance in speaking to others, dress code and following policies and practices. Where agreement cannot be reached, with the setting manager, school Headteacher or College Principal, the Direct Payment will not go ahead. However, work will continue 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.

Although there will normally be a set amount of money paid in agreed instalments, there may be one off payments. An example of this is for specific equipment and this could be paid via the Direct Payment mechanism. A value for money judgement will be made in these circumstances. The equipment would need to meet assessed need, professional specifications and clinical recommendations. Maintenance of the equipment may be required by the family and the funding or process for this should be agreed prior to the purchase of equipment. If used in a school, agreement of the setting would need to be secured.

7 Ceasing a delegated payment

The circumstances in which a Direct Payment can be ended are outlined in a Direct Payment agreement, they include:

- Inadequate or illegal arrangements for securing support services in the support plan
- The service user has not kept to the terms and conditions of the agreement
- The Direct Payment is not being spent on the support services outlined in the support plan
- The service user has moved away from Hampshire.

Other circumstances for ending a direct payment include:

- The service user decides they no longer want a direct payment
- The service user is at risk because a Direct Payment cannot meet their need.

If the Direct Payment is ended by the Local Authority, four weeks written notice must be given to the service user informing them that the payment will end. A service user who wants to end their direct payment must give four weeks' notice to the Local Authority to allow alternative arrangements to be made.

Direct Payments could cease if:

- The person is in the categories listed in Appendix B.
- They are found not to be used for the specific purpose outlined in the EHC Plan.
- If the recipient no longer wishes to use Direct Payments to provide the provision, they will cease as soon as this request is received in writing and alternatives can be arranged.
- The use of Direct Payments is having an adverse impact on other services provided by the LA and Health or having an impact on the provision for other children and young people with an EHC Plan.
- There has been no consent from a young person post statutory school age to receive them.
- Any person managing the Direct Payment on behalf of the individual is not working in that person's best interest.
- Where requested monitoring information is not supplied, and monitoring arrangements are not complied with.

In these circumstances notice in writing will be given by the LA, along with the rights of appeal, by the recipient saying they wish to do so. The appeal will be heard by the SEN Service Manager. Note that this is an appeal against a decision regarding a personal budget, made to the Local Authority. The SENDIST tribunal service does not hear appeals regarding Section J (personal budgets) of EHC Plans.

8 The appeals process

If a request for a Personal Budget for special educational provision, Health or Care is refused the reasons for this will be set out in writing and inform the parents or the young person of their right to request a formal review (appeal) of this decision.

Where the disagreement relates to the special educational provision (Section F of an EHC Plan) that a parent or young person's wishes to be secured through a Personal Budget, the child's parent or the young person can appeal Section F of the EHC Plan to the First-tier Tribunal (SEN and Disability).

Decisions in relation to the health element (Personal Health Budget) remain the responsibility of the ICB or other health commissioning bodies and where they decline a request for a Direct Payment; they must set out the reasons in writing and provide the opportunity for a formal review.

In Adult Services where it is thought that the support plan will expose the service user or other people to unacceptable levels of risk the appropriate process will be followed.

II. There is no right to appeal to the SEN First Tier Tribunal if the parent or young person is not satisfied with the outcome of the Personal Budget process, including the amount of funding identified to be delivered by a Personal Budget.

III. Due legal process regarding any appeals will be followed as laid out in the Children and Families Act 2014 and/or Code of Practice relating to the Personal Budgets for SEN and Disability aspects of this legislation.

9. Appendix A What a Personal Budget can and cannot be used for

What a Personal Budget can be used for

Social Care:

A Personal Budget is the total amount of funding allocated to meet a persons assessed and eligible need for Social Care and can be taken as a Direct Payment, a service provided by Social Care, Or mixture of the two.

Social Care offers a Personal Budget to eligible disabled children and young people to meet their assessed Social Care needs (short breaks, access to the community, personal care, independent training and inclusion). These assessments are either completed by a Social Worker or for young people under 18 through parent's self-assessment when accessing the Short Break Local Offer.

If families choose LA owned or commissioned services as part of their Personal Budget, the cost of this is deducted at source and as such the identified cost is not released in cash terms.

- Providing assistance with personal care
- Contracting with an agency, or someone who is self-employed, to provide care services
- Buying equipment agreed by Social Care
- Assistance to purchase Short Breaks
- Assistance with essential domestic care tasks, which are essential to meet the assessed needs of the child and is evidenced in your overall care/support plan
- Assistance to access facilities to promote social inclusion, including leisure or social activities.

Education:

- Additional courses and work experience - if the child/young person's EHC Plan contains outcomes that can be met through additional vocational courses or through supported work experience/training.

Health:

- Purchase Continuing Care support

What Direct Payment Cannot be used for

Social Care:

- To buy permanent residential care
- To purchase any overnight Short Break outside of the child's home without the permission of Social Care. Any agreements will be recorded within the child's/young person's care plan.
- To purchase any residential care for longer than 28 consecutive days or 120 nights in a 12-month period
- To buy services owned by the LA or any other LA
- To buy health-related services or equipment that should be provided by the NHS
- To make major adaptations to the home that would come under the Disabled Facilities Grant
- To use Direct Payments to employ a partner or a close relative who lives in the same household unless Social Care services are satisfied that someone's needs could not be met any other way.

Education:

- Fees for early years places, independent and specialist independent schools and colleges
- Funding for additional adult support (Teaching Assistants) where the funds have been delegated to schools for all or part of the allocation
- Funding for commissioned places in special schools or specialist provision.

Health:

- To buy therapy
- To buy universal health services i.e., GP or Paediatrician

A note about “Sundries” and “Resources”

As part of a personal budget an allocation may be made for a fund to cover sundries and resources. For example, if someone is receiving tuition via personal budget being paid as a direct payment, money may be allocated for textbooks and stationary.

It is important to note that sundries and resources, regardless of which of these terms is used within a personal budget, refers to educational resources, such as those mentioned above.

This is not a fund to cover refreshments or purchases not directly linked to the provision detailed within the personal budget/Section J of a child/young person's EHC Plan.

10 Appendix 2: Who is Excluded from Holding a Direct Payment?

Statutory guidance states the following people will be excluded from receiving a direct payment:

- A person who is subject to a drug rehabilitation requirement.
- A person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003.
- A person who is released on licence under Part 2 of the Criminal Justice Act 1991 subject to a licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour.
- A person who is required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order.
- A person who is subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000.
- A person who is subject to a youth rehabilitation order imposed which requires the person to submit to treatment pursuant to a drug treatment requirement.
- A person who is subject to a youth rehabilitation order imposed which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement.

Appendix A - Document Control

Document Ownership

Governance	Owner	Process
SEN Service	Claire Campling – SEN Service	

Version Control

Version	Date of Change	Changed by	Brief Description
V1.0	05/10/2023	SEN Service	Initial version of policy document
V2.0	12/06/2025	SEN Service	Updated Version of Policy