

**Coventry City Council Personal Budgets Policy for Children and Young people with SEND**

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**1. Introduction and Policy Intention**

The purpose of this document is to set out Coventry City Council’s policy in relation Personal SEN Budgets. Coventry is committed to enabling all children and young people to lead independent healthy lives, feel safe and secure and achieve their full potential. For children and young people with special educational needs and disabilities this includes giving them choice and control about the type of support they receive to help them to achieve their outcomes and make some of the choices about how the support is provided.

This policy applies to any child of young person who has an Education, Health and Care Plan (EHCP) where a personal budget has been agreed by the Local Authority.

This Policy has been developed to meet the requirement of the following Legislation:

* The Childrens and Families Act 2014 (section 49)
* The Statutory Guidance and Code of Practice for Special Educational Needs and Disability 0-25 years, 2015 (9.95 – 9.124)
* The Special Educational Needs (Personal Budgets) Regulations 2014

**2. Definition of a Personal Budget**

A Personal Budget is one element of a personalised approach to supporting children and young people with special educational needs or disability (SEND). They should not be seen in isolation but as an integral part of the agreed individual plan, with a clear focus on improving outcomes for children and young people.

In essence a Personal budget is an amount of money identified by the Local authority to deliver provision set out in an Education, Health and Care Plan. It is not all of the money that is spent on your child or young person but is the element that you can have control of. It is the funding that must be used to meet the needs, outcomes and provision outlined in the EHCP.

Where provision that is block funded (e.g. speech and language therapy) or where resources for delivery of a provision has already been agreed or committed, it will not be possible for a Personal Budget to be agreed in respect of that service or therapy. It will be included in the child/young person’s EHCP where it has been identified as being required.

There can be three sources of funding included within a personal budget depending on the complexity of the needs identified in the EHCP of the child or young person:

**A personal SEN budget**:

This is a sum of money made available by a local authority where it’s clear that without this additional top up funding it will not be possible to meet the child’s or young person’s learning support needs. The child or young person’s school will already have been given funding to provide for learning support across the school; only pupils or young people with more complex learning support needs will need a personal SEN budget. The funding the school receives is called the ‘notional SEN budget’. Some schools may choose to offer some funding towards a personal SEN budget; this is a decision for the school to make and is entirely at the Head teacher’s discretion.

**A personal social care budget**:

This is a sum of money that will be made available if it’s clear that a child or young person needs additional and individual support at home or when out and about in the local and wider community.

**A personal health care budget**:

This money from this budget source will be made available where a child or young person has complex, long-term and/or a life-limiting condition/s. A personal health budget may also be made provided to help meet equipment costs or for the provision of other health services. Children, who are supported through ‘Continuing Care’ funding, will be offered a personal health budget.

Children and young people who are not eligible for Continuing Health Care Funding but who have health provision identified within their EHCP funding, may be considered for a personal health budget, where this is supported by the respective Clinical Commissioning Group. See link below for more information:

<http://www.personalhealthbudgets.england.nhs.uk/About/faqs/>

**3 How Can Personal Budgets be made up?**

Personal budgets can be made up in the following ways:

1. **The Notional SEN Budget**: Coventry will inform parents/carers/young people how much money is required to make the provision identified in the EHC plan, and will identify the different ways that support can be provided to meet the outcomes identified in the EHC plan. The support is arranged by The Local Authority on the family’s behalf. These discussions will take place with the link EHCP Coordinator, parents, child/young person, at the point of issuing a draft EHC plan. To find out further details you can speak to your link EHCP Co-ordinator who will arrange to meet with you.
2. **Budget Held by Third a Party**: An organisation or trust holds the money on behalf of the parents/carers/young people and helps them to decide the best way to spend the funding; the third party organisation makes the arrangements for purchase of the provision chosen. Where a third party organisation is engaged there may be a charge made by them for their services.
3. **Direct Payments**: The money is paid direct to the parents/carers or young person. It must be used to buy and manage the provision/services for which the direct payment has been agreed in order to meet the outcomes identified in the EHCP plan For further information on Coventry City Council’s Policy in relation to direct payments see:

<http://www.coventry.gov.uk/downloads/file/13680/direct_payments_policy>

iv. A personal budget can be made up of a combination of any of the above options

**4. Who can request a personal budget and when can it be requested?**

The parents of a child or young person with an EHCP or Care Support Plan can ask for a personal budget or they can leave it to the professionals to arrange services for them, if they prefer.

Parents can ask the Local Authority (i.e. the Council) to prepare a personal budget, so they can see the amount that is being spent on their child or young person.

Local Authorities MUST prepare a budget when requested to do so by a child’s parents or young person during the following statutory processes:

* When a draft EHC Plan is being prepared
* The EHC Plan is being reviewed or reassessed

There are some people to whom a direct payment may NOT be paid. These persons are described in The Special Educational Needs (Personal Budgets) Regulations 2014. Your EHC Plan Coordinator will be able to advise who would be excluded.

**5. What can a personal budget be used for?**

The details of what can be included in a personal budget, for a child or young person will be outlined in their EHCP.

The amount of money identified as a personal budget will be available for discussion when the decision has been made to issue a draft EHCP and will outline both the costs of the provision and the description of the provision in respect of which an identified amount can be made available to the child’s parents or young person to deliver the identified provision. The provision will be costed, within a value for money context (e.g. not costing more than services provided directly). If agreed the following aspects could be included:

**Health** - Children’s Continuing Care funding and funding for those with long term health needs.

**Social Care** - Funding arising from the assessed needs of children in need and individual funding necessary to provide the family of a child with a statutory short break or family support.

**Education** - Parts of or all of the top up funding from the local authority to meet the complex needs of the individual pupil or student in the school or college. This will vary depending on the educational setting to be named in Section I of the EHCP.

In some circumstances and at the discretion of the head teacher/college principal further funding could also be included in the personal budget from all or part of the funding already delegated to the setting (notional SEN budget). It may not be possible to include all or part of these elements because it will be part of the overall provision within each setting.

*Note - Where parents/carers/young people employ staff, before they can work within a school or college setting they MUST obtain the school or college’s permission (usually the Head teacher or Principal) and the school or college’s permission may be subject to the parent or young person agreeing specific arrangements being put in place by the school or college. Where the school or college refuse the admission onto their premises of the employed staff member a personal budget CANNOT be agreed for the delivery of that provision. The cost of any Disclosure and Barring Service (DBS) checks will rest with parent carers or the young person NOT with Health or Local Authority. This additional cost needs to be considered and planned for by the parents during the assessment process and when making decisions about any personal budget.*

**6. What can’t a Personal Budget be used for?**

Any provision that is block funded as it is not possible to separate out the notional sum required to meet the specific provision set out in the EHC Plan without having an adverse impact on the service provision of Local Authority resources or where there is funding that is supporting provision of services to a number of children and young people (e.g. speech and language therapy) Where resources are already committed a personal budget would not normally be offered in respect of the specific provision.

Any personal budget agreed will be costed using a cost-effective value based approach (I.e. not costing more than services delivered directly)

A personal budget CANNOT be used to fund a school or post 16 placement.

**7. Advice and support with personal budgets**

Coventry supports families and young people throughout the Education, Health and Care needs assessment process through a person centred planning approach. A link EHCP Coordinator will be assigned to you from the outset and will regularly communicate with you to keep you updated. He/she will be able to advise you about what funding is available as a personal budget once the assessment information has been gathered and the process is at the point of drafting an EHC plan. Your views really matter. You will be offered a meeting to discuss the draft EHC plan and outcomes from the assessment and will have the opportunity to discuss your preference for a personal budget if you wish to request one.

For impartial advice and guidance you can also contact:

SEND Information and Advice Service on 02476 631040.

**8. Decision Making**

Where a personal budget has been requested during the EHC needs assessment process or the statutory review process the request will be presented by your link EHCP Coordinator to a multi-agency panel using the information gathered during the person centred draft plan meeting.

When making a decision to agree or refuse the request the Panel MUST be satisfied that:

* The funding will be used to secure the agreed provision in the EHCP
* The funding will be used to achieve agreed outcomes from within the EHCP
* The person receiving payments on a child/young person’s behalf will act in their best interests
* Any direct payments requested will not have an adverse impact on other services, which the LA/Health provides or arranges for children and young people with an EHC plan
* Securing the proposed agreed provision by direct payment is an efficient use of the Local Authority’s public resources (i.e. it will not cost more that providing the services directly)

Your Link EHCP Coordinator will inform you of the decision. If a direct payment is refused we will set out the reasons for this decision in writing. You have a right to a request a review of this decision. We will consider any further representations made by you and will notify you of the outcome in writing, setting out the reasons for the decision. We will notify you within 15 working days of your request for a review.

**9. How will funding be made available?**

If a personal budget is agreed, each agency will seek to ensure parents or the young person receive the budget as a Notional Budget, Third Party Payment or Direct Payment at the earliest opportunity and are clear about the requirements on them and any support available.

A parent/carer or young person will be expected to sign a Personal Budget / Direct Payment Agreement before payment is made. This will outline how the personal budget can be used and how it should be managed. It will also outline other requirements e.g. any person employed by the child’s parent or young person will be required to have an enhanced Disclosure Barring Service (criminal record) check.

Where a personal budget is agreed Section J of the EHCP will outline the specific provision and outcomes which are to be met by the Personal Budget and how much is available to resource these.

Usually there will be an agreed cycle of payments but for some personal budgets there may be a one-off payment agreed where for e.g. a piece of equipment is detailed as being required within the EHC plan. This would be agreed on a case by case basis.

A review of the personal budget would be made after 3 months and thereafter annually in line with the annual statutory review process of the EHCP. If there were any changes to the Personal Budget Agreement this would be re-presented to the multi-agency panel for a decision.

**10. Monitoring Personal Budgets**

Coventry will work with parents/carers, and young people to ensure any personal budgets or subsequent direct payment are monitored regularly. This is to ensure that any funding is used appropriately and in the best interests of the person is funding provision for. See Appendix 1 for the monitoring process.

**11. Ending Personal Budgets**

Personal Budgets are there to improve choice and control and facilitate a person centred approach to support within an EHC plan. If through the annual review process it is found that the personal budget is not effective in securing the provision and outcomes it was agreed to fund within the EHC plan then it may be stopped. If this happens then we will work with you to secure alternative provision and support to secure progress towards the outcomes.

Parent/carers and young people will be notified of this decision in writing within 15 working days and will have a right to make representations if they do not agree with the decision. The Local Authority will respond to a representation within 15 working days. For further information see appendix 2.

**Appendix 1**

**Monitoring Personal Budgets and Direct Payments**

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| Personal Budget Agreement | To receive a Personal Budget as a cash payment (i.e. a Direct  Payment), the individual must enter into a formal contractual  agreement with Coventry City Council or CCG.  The contractual arrangements between the Council /CCG and the individual must be established in a formal, written Personal Budget Agreement. |
| Bank Account | All individuals receiving personal budgets as cash payments are required to set up a separate bank account for receipt and  maintenance of these funds, unless the Council/CCG agrees to make an exception. |
| Records | Individuals will be required to keep records of how they have spent their Personal Budget and submit these to the Council/CCG or agreed organisation for monitoring as required.  Individuals receiving a high level of cash payments, or who are deemed to present a higher risk, may be subject to enhanced monitoring arrangements.  Records may include bank statements, invoices and receipts, payroll records or any other relevant documents specified by the Council/CCG. |
| Contribution | For those over 18, payments will be made net of any financial contribution the individual is assessed as being required to make towards the cost of support for their assessed, eligible needs if they receive support through Adult Social Care. |
| VAT | Coventry City Council/CCG is unable to recover VAT on goods and services which are purchased via personal budgets. Any goods and services purchased are regarded as being purchased directly by the individual, who is therefore liable for any VAT incurred. This must be factored in when a parent/carer or young person is considering the cost of provision made through a personal budget. |
| Contingency | Any proposed build-up of contingency funds to pay for services or equipment or surplus funds must be agreed with the Council/CCG at the point of the Personal Budget Agreement |

**Appendix 2**

**Reasons for Stopping a Personal Budget**

* The person is barred from receiving a Direct Payment
* The personal budget has not been used for the specific purpose for which it was made available as set out in the EHC/CIN/Health Plan
* If the recipient no longer wishes to receive direct payments to secure the provision, they will stop as soon as this request is received in writing and alternatives can be found.
* If during review it is agreed that they are no longer required and needs/outcomes are being met differently
* If there is no longer a health need which requires support by a personal budget
* If the child/young person is no longer eligible for Continuing Care funding
* The use of direct payments is having an adverse effect on other services provided by the Local Authority/CCG or having an impact on the provision for other children and young people with an EHCP
* There has been no consent from a young person post statutory school age to receive them.
* The outcomes in the EHC plan are not being met
* If the recipient fails to notify the Local Authority of any changes in circumstances which might affect the need for the agreed provision
* If the recipient failed to comply with any condition on how the direct payments may be used
* If the recipient refuses to set up and use a bank account used solely for the purposes of direct payments which is accessible only to the recipient or persons approved in writing by the Local Authority\*
* If the recipient fails to keep a record of money paid in and withdrawn from the intervals set out in the Persona Budget/Direct Payment Agreement, to provide the Local Authority with information or evidence relating to the account and the agreed provision

\* *For direct payments made pursuant to The Special Educational Needs (Personal Budgets) Regulations 2014; the Community Care, Services for Carers and Children’s Services (Direct Payment) (England) Regulations 2009; and the National Health Service (Direct Payment Regulations 2013*

**Appendix 3**

**Appendix III**

The following people are ***not*** eligible for a Direct Payment (although a Notional Budget or Third Party budget may still be appropriate in the opinion of the Clinical Commissioning Group):

a) A person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003 (drug rehabilitation requirement), imposed by a community order within the meaning of section 177 of that Act (community orders), or by a suspended sentence of imprisonment within the meaning of section 189 of that Act (suspended sentences of imprisonment);

b) A person who is subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003 (alcohol treatment requirement), imposed by a community order, within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;

c) A person released on licence under Part 2 of the Criminal Justice Act 1991 (early release of prisoners), Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release, licences and recall) or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (life sentences) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour;

d) A person required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 (community rehabilitation orders) or a community punishment and rehabilitation order within the meaning of section 51 of that Act (community punishment and rehabilitation orders);

e) A person subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000 (drug treatment and testing orders));

f) A person subject to a youth rehabilitation order imposed in accordance with paragraph 22 (drug treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 (“the Criminal Justice Act 2008”) which requires the person to submit to treatment pursuant to a drug treatment requirement;

g) A person subject to a youth rehabilitation order imposed in accordance with paragraph 23 of Schedule 1 to the Criminal Justice Act 2008 (drug testing requirement) which includes a drug testing requirement;

h) A person individual subject to a youth rehabilitation order imposed in accordance with paragraph 24 of Schedule 1 to the Criminal Justice Act 2008 (intoxicating substance treatment requirement) which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement;

**Further Supporting Guidance**

Parental Guide to School Funding

[www.councilfordisabledchildren.org.uk/news/january-june-2013/schoolfunding-changes-and-children-with-sen-in-mainstream-schools-a-briefing-forparents](http://www.councilfordisabledchildren.org.uk/news/january-june-2013/schoolfunding-changes-and-children-with-sen-in-mainstream-schools-a-briefing-forparents)