

# Personal Budgets Policy

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## **Accessibility**

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**Table of Contents**

- 1 Introduction .....1
- 1.1 Scope of policy .....1
- 1.2 Key legislation and guidance (ICB).....2
- 2 What is a personal budget? .....2
- 3 Who is eligible for a personal budget? .....3
- 4 What can be included in a personal budget?.....3
- 4.1 Personal budgets for education .....3
- 4.2 Home to school transport .....4
- 4.3 Personal budgets for health.....4
- 4.4 Personal budgets for social care .....5
- 5 Costing/best value .....5
- 6 How individuals get their money .....6
- 7 When can you ask for a personal budget? .....6
- 8 Managing and using the direct payment element of a personal budget .....7
- 9 Personal budgets and the local offer .....7
- 10 Managing changes in circumstances .....8
- 11 Who would be excluded from holding a personal budget? .....8
- 12 Appeal process .....9
- 13 Ceasing direct payments.....10

## 1 Introduction

A personal budget is an amount of money or resources dedicated to a child, young person or their family/carer in order to deliver the identified outcomes for a child or young person set out in their support plan(s).

Personal budgets work best when they are co-produced with children, their families/carers and all partners.

The application of this policy is part of the work that supports the vision set out in Bracknell Forest Council's SEND Strategy that children and young people with special educational needs and disabilities (SEND) achieve their full potential at all ages and stages of their childhood and into adulthood.

To achieve this vision, families, support services and educational settings in Bracknell Forest have articulated the principles we all agree to adopt when working with, or caring for, children and young people with SEND. These are:

- Be able to reach the right support (people), at the right time and in the right way.
- Have services that work in partnership, actively listening to their views.
- Be able to achieve the best they can in early years, at school, in college and beyond.
- Have opportunities to attend inclusive, good quality education settings with seamless transitions throughout their academic careers.
- Have their health, social care and education needs understood and met.
- Be supported to develop the skills necessary for independence, in learning and everyday life.
- Have support and access to work experience, voluntary and paid work.
- Live in a society where people understand, respect and accommodate differences and promote inclusion.
- Create the conditions that enable parents/carers and young people to share their views, upholding dignity and respect.

This policy should be read in conjunction with the Children's Social Care Strategy which ensures whichever team provides a social work service, it is ambitious, effective, and inclusive and meets the needs of the child with SEND and their family.

### 1.1 Scope of policy

This policy relates specifically to children and young people aged 0-17 with special educational needs and/or disabilities and their families. For young people who have reached 18+ adult social care has a similar practice guide, this can be obtained during the adult assessment.

This policy is however very relevant to children approaching adulthood and transitioning to adult social care. A personal budget is one way to support children's permanency needs, to be able to live with their own families where it is safe to do so and to access local services and schools. Wellbeing, independence and best possible outcomes underpin the aspirations of this policy.

This policy relates to the duties of Bracknell Forest Council and the NHS Frimley Integrated Care Board (ICB).

## 1.2 Key legislation and guidance (ICB)

Primary legislation	The Children & Families Act 2014 The Care Act 2014
Secondary legislation	The Special Educational Needs (Personal Budgets) Regulations 2014
Statutory guidance	Special Educational Needs & Disability Code of Practice: 0 - 25 (January 2015, Department of Education)

Additional sources of information regarding the legal framework, related relevant legislation and guidance:

- The National Health Act 2006
- The Children Act 1989
- The Chronically Sick & Disabled Persons Act 1970
- The Equality Act 2010
- The Mental Capacity Act 2005

## 2 What is a personal budget?

A personal budget is an amount of money or resources dedicated to a child, young person or their family/carer in order to deliver the identified outcomes for a child or young person set out in their support plan(s). The principle behind a personal budget is to co-produce and to ensure that families, children, and young people have the flexibility to be creative in meeting a child's needs in a personalised way.

Families report knowing how much money is available to meet their child's needs has helped them to choose the right provision to best meet the outcomes identified in the child or young person's care plan or education, health and care plan (EHCP).

Personal budgets can be made up in the following ways:

- **An organisational arrangement** – no money changes hands. Parents/carers find out how much money is available and with support identify the different ways to spend that money meeting the outcomes of the child's care plan. The services are then arranged on the family's behalf by the local authority, education, or health service.
- **Third party arrangement/ nominees** – a third party organisation, trust or nominated person holds the money and supports parents/carers to decide the best way to spend the funding, they then buy the services chosen on the family's behalf.
- **Direct payment** – parents/carers are given the funds to purchase and manage the services themselves to meet the outcomes identified in the child's care plan.
- **A combination of the above.**

In addition to the funding identified through the assessment process, some parents/carers may want to use some of their own resources to further support the outcomes identified in their child's care plan. This would be for support/services in addition to the funding identified to cover the provision in section F of their child or young person's EHCP.

### 3 Who is eligible for a personal budget?

Eligibility for a personal budget for social care is children and young people assessed as needing support on Level 3 or 4 of the thresholds of the multi-agency needs/risk matrix used by social care. The four levels are:

- Level 1 – Needs are/can be met through engagement with universal services.
- Level 2 – Emerging needs. Requires assessment and/or early intervention.
- Level 3 – Needs are causing concern and will require a targeted response.
- Level 4 – Need is severe. Requires specialist and/or statutory services.

Any eligible child, young person or their family/carer can request a personal budget for aspects of the provision outlined in their education health and care plan (EHCP) if parents/carers or young people wish it.

Eligibility for a personal budget for education will be restricted to children and young people assessed as eligible for an EHCP.

The statutory regulations state:

*“Direct payments may only be made if the person:*

- (a) Appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them.*
- (b) Where the recipient is an individual and is over compulsory school age.*
- (c) 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; (this means the person must have the mental capacity to manage a budget) and*
- (d) Is not a person described in the schedule.” (See part 6 of this policy, to see who this applies to).*

### 4 What can be included in a personal budget?

Exactly what could be included in a personal budget, relating to an individual child or young person, would be outlined in the child’s social care plan or EHCP. It includes full details of need and proposed costings.

To monitor the cost of support, as outlined in the Children and Families Act 2014 and related guidance, we will employ a value for money approach towards all expenditure. This means that we will work flexibly with children, parents/carers and other providers to procure what is requested and agreed by the child and or family.

A personal budget cannot be used if it would destabilise a service provision for others attending it e.g., Larchwood. This would also apply to other areas where it is difficult to disaggregate an individual cost from an overall amount (Code of Practice 9.103 to 9.106).

#### 4.1 Personal budgets for education

Personal budgets are an allocation of funding made for children and young people with SEND and their families, after an assessment of their needs, and will be outlined in an education, health and care plan (EHCP). It will cover aspects of the plan that can be offered as a personal budget. It will not cover the cost of a named educational placement.

Personal budgets should be considered and reviewed at each annual review.

From year 9 (aged 14) onwards until adulthood, transition to adulthood should be a component for consideration, discussion and decision at every annual review. This should include contributions from education, health, children's and adult social care.

At the point of the nomination of the name of the school/college the aspects of a direct payment that could be part of a plan will be outlined, if parents/carers/young people have expressed a wish to have a direct payment.

National funding regulations require components for education to be split into three elements. Elements 1 and 2 are either integral to the school's funding or are spent at the discretion of the school. These two elements, as set out below, would not be available to include in any personal budget.

**Element 1 funding** is the amount the school receives for every pupil who attends the school, normally around £4,500 primary age and £5,500 secondary age. It is also known as core education funding. This is irrespective of any SEND requirement, with the first £4,000 used by the school to fund the building and core staffing requirement.

**Element 2 funding** is the amount of money delegated to a school in order to augment funding for children assessed as having an educational need. This is up to £6,000 per student with recognised SEND need that they can, at their discretion, use to support that student's learning. This £6,000 is a notional amount based on a matrix which assesses how many children a particular school are likely to need to assist. It does not equate to a £6,000 allocation for every child on roll at a school.

#### **Element 3 funding is available for a personal budget.**

Element 3 funding is anything over and above £10,000 per pupil per year and is over and above the combined amount, of elements 1 and 2 that the pupil would need to support their learning. This funding is also known as the 'top up' funding and part of this is eligible for inclusion in a direct payment.

If a parent/carer or young person chooses to use a personal budget to pay for any services or staff in their school or college, they would need to seek permission from the head teacher prior to any other agreement or plans being made. This discussion should occur at the earliest possible opportunity.

Therefore, any discussion about the direct employment of support staff within a school would need to be carefully planned as part of the assessment process and agreement for the personal budget. Part of the discussion with a parent/carer and young person will be the difference in the allocation of an education element if the parent/carer/young person's choice is mainstream or specialist provision (as outlined in the Code of Practice 9.112).

Any staff employed in schools/colleges would have to follow that institution's code of conduct.

## **4.2 Home to school transport**

If requested, and the transport criteria, as set out in Bracknell Forest Council's education travel policy for Bracknell Forest children aged five to 16 for 2023 to 2024 are met, an amount per mile (outlined in the education transport operational handbook) could be offered or a personal transport budget agreed. As previously stated, this will also be subject to ensuring not only value for money, but not destabilising current services that would negatively impact on other service users.

The Bracknell Forest SEN transport policy is available here: [Education Travel Policy for Bracknell Forest Children aged 5 to 16 2023/24](#).

School travel advice is available here: [School travel advice](#).

## **4.3 Personal budgets for health**

A Personal health budget can potentially be spent on a broader range of care and support than would be routinely commissioned by the NHS if it is agreed by the ICB as being appropriate to meet an individual's assessed needs. This could include funding for a personal assistant to help with personal care at home, and equipment such as a wheelchair or therapy services where these are



not already commissioned by the NHS. What a personal budget will be spent on must be outlined in their personalised care and support plan and agreed between the person (or their representative/nominee) and the local NHS team and where necessary the ICB.

Frimley ICB's approach to personal health budgets is in line with the personal health budget policy for adult continuing healthcare and children and young people with continuing care policies. More information can be sought by contacting an individual's case manager or through the following link: ['personal health budgets for children, young people and families'](#):

#### 4.4 Personal budgets for social care

Personal budgets can be an allocation of funding made for children and young people with SEND and their families, after an assessment of their needs and will be outlined in a social care plan and/or EHCP.

Since September 2014, children and young people with additional needs in Bracknell Forest, who are eligible for children's social care services (CSC), can request a personal budget to meet their needs.

CSC aspire to offer children and young people with disabilities, and their families, more choice, flexibility and control over the services that they are assessed as needing from CSC, to support with the achievement of their goals. For some families a personal budget may be the best way of doing this.

A social care personal budget can be paid via direct payments from CSC which families can spend on services and support to meet the needs of their child or young person with a disability. It can be used for services from both statutory and independent sector providers, mixing and matching what is available from different organisations.

Direct payments can only be used to fund the identified support needs that have been outlined in a child or young person's support plan. If a family or young person wishes to spend their direct payments on something that is not stipulated in their agreed plan, they must seek and receive prior approval rather than retrospective approval to do so.

A direct payment cannot be spent on anything that is illegal or not related to the child's plan.

The council operates a resource allocation system (often referred to as a 'RAS') and panel to ensure fair access as set out in the strategy. A RAS is a points-based system, based on individual needs and is a way of making fair and equitable allocations of funding to the whole population of children and young people eligible for support from children's social care.

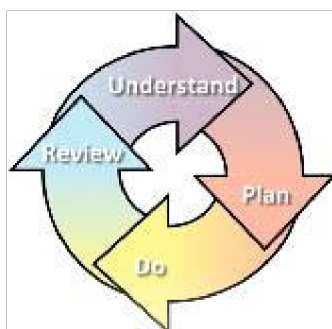
The RAS will initially give an indicative allocation, the personal budget amount is then set and agreed following approval of the support plan. The final amount of the personal budget could be more or less than the indicative allocation.

## 5 Costing/best value

The EHCP/social care plan will be costed, within a value for money context (e.g., not costing more than services provided directly).

For children and young people with a disability in receipt of services from the council the resource allocation system will be used to quantify need and compare costs.

Throughout the child/young person's education journey and statutory assessments, there will be a continuous cycle of 'understand-plan-do-review'.



The resource allocation process will allow co-production of the plan whilst ensuring it meets the value for money aspects.

## 6 How individuals get their money

If an EHCP is in place and a direct payment is agreed, the council has a system in place to administer money and make payments. Usually, direct payments to meet identified social care need are made on a four-weekly basis, and personal budgets to meet education needs are made termly. If the opportunity arose for a pooled budget with health and/or education, this would be considered on a case-by-case basis.

Any agreed costs from health would be paid by an agreed process to fund the plan. The money will be given to parents/carers of the child or to the young person usually on a four-weekly basis. The eventual aim will be for pooled budgets between health and the council.

Parents/carers of a child or the young person themselves will be expected to sign a direct payment agreement before any payment is made. This agreement will outline the parameters of use of the payments, how it should be managed and how spend will be accounted for. It will also outline other aspects, such as employment responsibilities and employed people having to have an enhanced Disclosure Barring Service (criminal record) check.

Any equipment would need to meet professional specifications and plans for the maintenance of the equipment would be required. If used in a school or other similar setting, agreement from the setting would need to be given prior to use.

## 7 When can you ask for a personal budget?

A request can be made either during a statutory assessment (at the draft plan stage), or when an EHCP or social care plan is being reviewed/reassessed.

When a statutory assessment of SEND commences, if eligible, the personal budget process will be discussed with the family and young person. They must be asked if this is something they may be interested in pursuing. The benefits and responsibilities around the personal budget will be explained.

If the family are interested in receiving funding partly, or completely, through a direct payment, a resource allocation questionnaire/tool will be completed, and an indicative amount will be given at this stage.

Some families may already be accessing personal budgets in terms of care, and these will continue throughout the statutory process, and be incorporated, as relevant, in the final EHCP if one is issued. Additionally, some families who are not currently accessing a personal budget for care may wish to pursue this.

## 8 Managing and using the direct payment element of a personal budget

Parents/carers will have control of the agreed direct payment, both managing the funds and spending them. From the end of compulsory schooling (Year 11) this will change to the young person whose plan it is, unless assessed as unable to do so under the Mental Capacity Act, or the young person requests that the family manage the funding on their behalf.

A discussion about who will be responsible for the personal budget will occur at the point of transfer. If it is decided that the budget should be placed with the young person, they and their family will be offered support to minimise problems, stress and failure.

A social worker, or assessment officer, would normally make the decision about mental capacity in terms of the specific question concerning the young person's capacity to manage a personal budget at that point in time. The process would only be applied if a personal budget was requested and would be about the management of the personal budget and ability to make decisions about this, in terms of meeting the outcomes and provision set out in the EHCP.

The direct payments team will provide general support and assistance to recipients of personal budgets. If further or specialist support is required by the young person receiving payments, this will be discussed further, and the best placed person or team will deliver this. Usually this would be the lead professional.

Clear information about services and provision available in the area that could be used with a personal budget will be available via the following link: ['local offer'](#).

## 9 Personal budgets and the local offer

The "local offer" site is a web-based resource that allows individuals and families to see what is available to them in their area. It is updated on a regular basis to show what is currently available. This is a main source of information about support and activities that can be included in the plan.

If a parent/carer or young person wishes to use provision not listed in the local offer, they should approach their lead professional/social worker, SENCO, education or relevant health professional. If this provision needs validating to be part of the local offer a process will occur to enable this decision can be made, providing the resource or activity is legal, accredited and/or safe and appropriate.

An advantage of a personal budget is that it could be used in creative and personal ways to deliver the required support, rather than in rigid predefined ways of meeting assessed needs.

Parents/carers/young people who receive direct payments would be expected to keep spend within the amount of their direct payment, although provision could be supplemented by other sources such as disability living allowance, personal finances or a local charity.

Monitoring will be by each agency contributing to the funding for the plan. They will want to ensure that the outcomes and provision in the EHCP/social care plan are being met. The minimum will be a six-monthly review by CSC, with one multi agency review being part of the annual review by all parties.

However, more regular reviews can occur, for instance the family/young person directly contacting a lead worker to say that they wish to have a review if they feel the current arrangement is not meeting their needs.

If it were found that the personal budget was not being used to meet the provision/outcomes outlined in the child's social care plan or EHCP or it was being misspent, the direct payments could be suspended, and health/local authority would investigate the concerns. If the concerns were found to be valid, the option of direct payments would be withdrawn, and consideration given to recovery of funds through legal channels.

If parents/carers/young people wish to combine personal budgets to provide value for money, this can be done as part of community commissioning in agreement with the appropriate health and/or local

authority commissioners. Community commissioning is outlined in the joint commissioning plan on the local offer website.

## 10 Managing changes in circumstances

Any changes in a family's circumstances will be taken into account as part of the regular review of needs and the personal budget/direct payments. There would also be opportunities for the family/young person to say how the arrangements made in their support plan(s) are working for them.

A regular review will also occur as part of the 'understand–plan–do–review' cycle in terms of a child/young person's development. On a formal basis this will occur as part of the annual review but can occur for individual elements more frequently than this. If a significant change in needs occurs, then a review sooner than annually will occur to amend the text in the social care plan or EHCP as well.

If there are fluctuating circumstances, i.e., a child who has different care and health needs dependent upon a health condition, then this will be taken into account as part of the support plan, if mutually agreed. This could either entail the family being able to request a top up amount or there being a contingency that could be reclaimed by the local authority and/or health at the end of the financial year. This will be built into the ongoing discussion between the family/young person and lead professional from the appropriate agency and/or a key worker if there is one for the family/young person.

## 11 Who would be excluded from holding a personal budget?

The regulations (the legal guidance for the law relating to personal budgets) state the following:

*"The following persons may not receive direct payments*

- (a) a person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(a), imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;*
- (b) a person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;*
- (c) a person who is released on licence under Part 2 of the Criminal Justice Act 1991(a), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(b) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour;*
- (d) a person who is 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 or a community punishment and rehabilitation order within the meaning of section 51 of that Act(c).*
- (e) 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(d).*
- (f) 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 which requires the person to submit to treatment pursuant to a drug treatment requirement.*
- (g) subject to a youth rehabilitation order imposed in accordance with paragraph 23 (drug testing requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which includes a drug testing requirement.*

- (h) *subject to a youth rehabilitation order imposed in accordance with paragraph 24(intoxicating substance treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement.”*

Additional circumstances where a personal budget may not be authorised:

- The child is in care. If in long term foster care, the foster carers may access a personal budget if there is agreement of this as part of a care plan.
- The child has a child protection plan. Any use of a personal budget would have to be part of the plan agreed at the multi professional core group meeting. If the use was felt not to meet the aims of the plan, and to compromise the safety of the child/young person, it would not be agreed.
- A person subject to a drug or alcohol treatment programme (as in the regulations). If the person wishes to receive a direct payment and may be covered by this, there will be a discussion between the local authority and person involved to explore their particular circumstances in relation to the regulations.
- If a person has a gambling addiction this also may preclude them from receiving a personal budget.
- The young person has a youth rehabilitation order.

## 12 Appeal process

If the family or young person is not satisfied with either the process or the outcome of the EHCP, there is an appeal process in place to provide a forum for discussion, mediation, and grievance. This is part of the Children and Families Act 2014 Section 3, parts 51 – 60 and covered in the SEN code of practice – Chapter 11.

An appeal of a personal budget can occur under the following circumstances:

- An aspect of provision listed in the EHCP has not been offered in a personal budget, which is wished for by the parent/responsible individual of a young person if old enough and with the mental capacity to appeal.
- A personal budget has not been offered.
- The monies listed are felt not to be sufficient to cover the needs of the young person.
- A person has been deemed by the funding authority or authorities as ineligible to receive a direct payment.

There are other grounds for appeal. These are covered in the act and the code of practice. An appeal must be made in writing to the appropriate commissioner to respond:

**Head of Special Educational Needs (SEN)**

Bracknell Forest Council  
Time Square  
Market Street  
Bracknell  
Berkshire, RG12 1JD  
**Tel:** 01344 352000

or

**Head of Specialist Support for Children’s Social Care**

Bracknell Forest Council  
Time Square  
Market Street  
Bracknell  
Berkshire, RG12 1JD  
**Tel:** 01344 352000

or

**NHS Frimley Integrated Care Board (ICB)**

King Edward VII Hospital

St Leonards Road

Windsor

Berkshire

SL4 3DP

Phone: 01252 335154

Email: frimleyicb,public@nhs.net

If the parent/carer or young person still disagrees with the decision, then any appeals will follow the process laid out in the Children and Families Act 2014 and/or the code of practice relating to the personal budgets for SEND.

## 13 Ceasing direct payments

The local authority may cease payments if:

- The person is in the categories listed in the exclusions section above.
- It is found that the personal budget is not being used for the specific purpose outlined in the EHCP/social care plan and permission for deviation of expenditure was not sought by the family or young person.
- The use of direct payments is having an adverse impact on other services provided by the local authority 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.

In these circumstances, notice of cessation will be given in writing to the family or person receiving the payment by the local authority, along with the rights of appeal and contact details.

If the person or family receiving the payments no longer wishes to use direct payments to provide the provision, they need to inform their lead professional. The lead professional will ask for this to be confirmed in writing for our records. Once this is received, the direct payments will cease, and we will discuss with the person or family how they would like the support to be funded going forward.