**London Borough of Sutton – Special Educational Needs and Disabilities**

**Personal Budgets Policy 2020**

1. **About this policy**
   1. This document explains the approach taken by the London Borough of Sutton (LBS) Council, Cognus Limited, and Sutton Clinical Commissioning Group (CCG) to Personal Budgets across education, health and social care for children and young people aged 0-25 years with Special Education Educational Needs and/or Disabilities (SEND).
   2. This policy relates to the duties[[1]](#footnote-2) of LBS Council in relation to Personal Budgets as outlined within the Children and Families Act[[2]](#footnote-3), 2014 (section 49) and associated legislation.
2. **What is a Personal Budget?**
   1. Personal budgets are designed to give children, young people and their families more control over the services they receive and how they are organised. The budget is an amount of money identified by the Local Authority (or, in the case of a personal health budget, by the NHS) in order to secure the provision, achieve outcomes and deliver aspects of support set out in an Education, Health and Care Plan (EHCP), Short Breaks Plan or in a Care Plan.
   2. There are six key features of a Personal Budget that ensure children and young people experience the best outcomes possible. A child or young person should:
      1. Be central in developing their personalised support plan and agree who is involved
      2. Be able to agree the learning, health and wellbeing outcomes they want to achieve, in dialogue with relevant education, health and social care professionals
      3. Know upfront an indication of how much money they have available for support
      4. Have enough money in the Personal Budget to meet the education, health and wellbeing needs and outcomes agreed in the personalised support plan
      5. Have the option to manage the money as a Direct Payment, a notional budget, a third-party budget or a mix of these approaches (**please see 7.1**)
      6. Be able to use the money to meet their outcomes in ways and at times that make sense to them, as agreed in their personalised support plan
   3. Evidence shows that better outcomes are achieved where:
      1. There is clear information about Personal Budgets, tailored to children and young people’s needs
      2. There is access to independent advice from brokers, voluntary organisations, Direct Payment support services, and peer networks
      3. People know how much money they have to spend on their care before planning and are given control of their Personal Budget
      4. People are given a high degree of flexibility and choice to spend their Personal Budget on services that make sense to them, which may include services not universally available to all children and young people
      5. Support plans cover all areas of the child or young person’s life, including their aspirations, wishes and needs, and adopt a positive approach to managing risk
   4. Personal Budgets are optional for parents/carers and young people, but the Council is under a duty to prepare a budget when requested unless it:

* would have an adverse impact on services provided or arranged by the Local Authority and/or NHS for other Plan holders
* where it would not be an efficient use of the Local Authority and/or NHS’ resources
  1. Personal Budgets should reflect the holistic nature of a Plan and can include funding for special educational, health and social care provision. Any Personal Budget allocated must be clearly aligned to the outcomes identified for the child or young person and deliver provision agreed in the Plan.
  2. The Personal Budget will not replace or replicate existing services and will only be used to create bespoke services where there is an identified need or gap in a child or young person’s Plan.

1. **Requesting a Personal Budget**
   1. Young people who are 16 years and over and parents/carers have a right to request a Personal Budget once LBS Council has completed an EHC Needs Assessment and confirmed that it will prepare an EHC Plan. They may also request a Personal Budget during a review of an existing EHC Plan.
   2. Under section 17 of the Children’s Act 1989[[3]](#footnote-4) and The Breaks for Carers of Disabled Children Regulations 2011[[4]](#footnote-5), Personal Budgets can be made available for those who access short breaks but do not have/require an EHC Plan.
   3. An individual can request a Personal Health Budget if they are eligible for:
      1. Children’s Continuing Care
      2. Adult’s Continuing Healthcare
      3. Their local NHS wheelchair service
      4. After-care services under section 117[[5]](#footnote-6) of the Mental Health Act
2. **Assessment for a Personal Budget**
   1. Separate assessments will take place for education, health and social care. Assessments may take place for one or more elements of education, health and social care. The information below sets out how the Personal Budget assessments work for each of the three elements.
   2. **Education**:

Details of the proposed Personal Budget will be included in section J of the EHC Plan and, where the proposed budget includes direct payments, this section will include the outcomes to be met by the payment.

1. The SEND service will provide written notice of the conditions relating to the delivery of any direct payment and the provision associated with the Personal Budget.
2. The Council will aim to develop a joint contractual agreement for the delivery of services provided through an EHC Plan in relation to direct payments. As a primary part of the conditions of a Personal Budget, the child's parent/carer or the young person will be required to confirm their decision and agreement to the provision and services agreed and the requirement to meet the identified outcome listed in the EHC Plan.
3. Where the child's parent or the young person has nominated a person to receive payments on their behalf, the agreement must come from the proposed recipient.
4. The SEND service will seek assurance from the child's parent/carer, young person or nominee that any person employed by the child's parent/carer or young person, but working on early years, school or college premises, will conform to the policies and procedures of that institution and may write such an assurance into the conditions for receipt of the direct payment.
5. Where a direct payment has been agreed, the Council will seek evidence from the child’s parent/carer, the young person directly or the nominated person employed by the child’s parent/carer or by the young person that all relevant safeguarding checks have been conducted and the organisation or individual is safe to work with children and/or vulnerable adults. This will include providing evidence that any professional is fully qualified and registered to deliver any specialist service that requires registration to a professional body in order to practice.

The SEND service will consider each request for a Personal Budget on its own individual merits. If the SEND service is unable to identify a sum of money, or it is unable to offer a Personal Budget, it will inform the child's parent/carer or young person of the reasons for this decision in writing. For example, the Council 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.

Any refusal of a request for a Personal Budget for special educational provision on the grounds set out in regulations (SEND Code of Practice Paragraphs 9.119 to 9.124) will be set out in writing and the parent/carer or young person informed of their right to request a formal review of the decision. The SEND service will consider any subsequent representation made by the child’s parent/carer or the young person and will notify them of the outcome, in writing, setting out the reasons for their decision. Currently, decisions relating to Personal Budgets cannot be heard by a Special Educational Needs and Disability Tribunal.

* 1. **Health**:

A Personal Health Budget (PHB) is the amount of NHS money available to meet an individual’s health and wellbeing needs. PHBs are intended to enable people and families to exercise greater choice and control, ensuring support purchased with NHS resources is a “good fit” with day-to-day life and that the best possible outcomes are achieved. PHBs support the vision of a more personalised, patient-focused NHS and offer opportunities for people and their healthcare professionals to work together, to make shared decisions and actively co-design the services and support they require in a support plan. This combines their health professional’s vital clinical expertise and knowledge with the individual’s expertise in their health condition/s and their ideas for how their needs can be met. Personal wheelchair budgets are another form of PHBs.

The right to a PHB applies to the following:

* Children and young people receiving NHS Continuing Care[[6]](#footnote-7)
* Young people receiving NHS Continuing Healthcare
* Wheelchair users who are referred and meet the eligibility criteria of their local NHS wheelchair service and users who are already registered with the service, will be eligible for a personal wheelchair budget when they require a new wheelchair or specialist buggy, either through a change in clinical needs or the condition of the current chair
* Adults with mental health problems who are receiving after-care[[7]](#footnote-8) services under section 117 of the Mental Health Act

PHBs are not restricted to people in the four identified groups above, thus a Clinical Commissioning Group (CCG) can continue to offer services via a PHB on a voluntary basis. CCGs should work with their Local Authority colleagues to ensure all PHB recipients can continue to access health, social care and education support that is personalised for their needs, regardless of their eligibility for Continuing Care, Continuing Healthcare, a wheelchair, or section 117 after-care.

If a child or young person comes within the scope of the right to have a PHB, then the expectation is that one will be provided. There may be some exceptional circumstances when a CCG considers a PHB to be impracticable or inappropriate way of securing NHS care for an individual (**please see 6.2**).

Any decision not to provide a PHB should always be made on an individual, case-by-case basis. CCGs should not make blanket assumptions that certain individuals will or will not be capable of managing a PHB.

If an individual requests reconsideration of a decision not to provide a PHB, a suggested good practice timeframe would be:

* Acknowledge receipt of the request in writing within 10 working days. This acknowledgement should include details of how the review will be conducted and timeframes for when it should be completed, and;
* Any final decision should be sent in writing within 28 working days of acknowledgement of the original request. There may be instances where a complex situation requires a longer timeframe. In these instances, people should be kept informed of progress

Once the reconsideration is complete, CCGs should inform the child’s family or young person and/or their representative of its decision in writing, setting out the reasons for its decision. If the child’s family or young person and/or their representative is not satisfied they can pursue the matter via the local NHS complaints processes. Even if the individual is turned down for a PHB, the CCG should make every effort to work in partnership with the child’s family or young person and/or their representative to ensure their preferences for care and support are considered. CCGs should ensure individuals have a personalised care plan that clearly set out their needs and wishes.

* 1. **Social Care**:

*0-18*

For children and young people aged 0-18, their eligibility is assessed by the Children with Disabilities (CWD) Team. To determine eligibility for a Personal Budget, the CWD Team will arrange for an assessment to be completed: this will usually be an Early Help assessment, although a Social Work assessment completed in the last year will also suffice if there have been no changes in the family situation since the last assessment. This assessment will highlight the level of need and determine the provision/resource required. The CWD Team will liaise directly with the family to identify what service would best suit their child or young person and the family as a whole[[8]](#footnote-9). Consideration for approval will be through the All Age Disability Resources Panel. Funding decisions will be monitored for reasonableness and consistency.

*18-25*

For young people aged 18-25, their eligibility will be identified using the national minimum eligibility criteria[[9]](#footnote-10) which will examine the young person’s needs, the impact on their wellbeing and outcomes they want to achieve. Following the assessment, an indicative budget will be calculated. Funding will be agreed, where appropriate, by senior officers. Care plans will be reviewed to ensure they are as effective as possible, based on the needs of the individual.

In order to request a Personal Budget, the young person making the request has to understand what a Personal Budget is, what the Personal Budget can be used for and must understand the agreement that they will need to sign.[[10]](#footnote-11) If necessary, a Mental Capacity[[11]](#footnote-12) Assessment will be carried out to decide whether the young person has the capacity to make these decisions.

Where a Personal Budget is to be allocated, it is up to LBS Council to determine the amount, if any, it is reasonably attainable for the person to pay towards securing the provision of the relevant service. The chargeable amount is the maximum possible contribution a person can be asked to make to their Personal Budget. The calculation of the actual amount to be paid begins with a means test which determines the incomes and savings available to make a contribution.[[12]](#footnote-13)

A social care Personal Budget can be delivered in 2 methods:

1. **Direct Payments**: If an individual receives a Personal Budget in the form of Direct Payments, this may be paid in monthly instalments or in a one-off payment. If an individual receives a Direct Payment, they will pay for the agreed services themselves.

2. **Commissioned Services**: If an individual’s Personal Budget is in the form of Commissioned Services, LBS Council will pay for the agreed services on their behalf.

1. **Reviewing Personal Budgets**
   1. It is essential to check at appropriate intervals how the Personal Budget is working and whether the personalised support plan is achieving the agreed outcomes. It is also important that Personal Budget holders know who to contact to discuss changes to their Personal Budget should their needs change. Reviews should be ongoing and embedded in best practice and local processes around delivery support, if there is an ongoing package of support. Reviews that focus on outcomes can be the most effective way of identifying what works well and what does not. Depending on what is agreed at the review, changes can be made to the resources, support or conditions described in the support plan.
   2. Reviews are a crucial part of Personal Budgets and support safeguarding, so they need to be carried out effectively. The primary aim of the review is to strengthen the child or young person’s ability to achieve the outcomes they want in a timely fashion. Where direct payments are provided, all personalised support plans must be formally reviewed as a minimum within three (3) months of the child or young person first receiving the direct payment. Following this, reviews should be held at appropriate intervals, but must occur at least annually.
   3. These reviews should include an appropriate level of financial review to give the relevant organisation confidence that the Personal Budget is being used as agreed and that the level of the Personal Budget remains appropriate to meet the person’s assessed needs. Where a one-off budget is provided, for example for the purchase of an item of equipment, then ongoing or annual reviews may not be appropriate. The relevant organisations must still review any provision to ensure it is appropriate and outcomes are being met, but the timings of these reviews will be on a case-by-case basis.
2. **Types of services, which currently lend themselves to the use of Personal Budgets**
   1. Personal Budgets are appropriate for specific, tailored care and support services, which are:

* not services commissioned as standard for all children and young people; **OR**
* only commissioned for a limited time period
  1. The following types of services are currently not considered for a Personal Budget:

|  |  |  |
| --- | --- | --- |
| **Types of services not appropriate for Personal Budgets** | | |
| **Education** | **Health** | **Social Care** |
| * Any funding delegated directly to schools is not available as a Personal Budget. For example, Element 1 (standard placement funding) or the entire special school placement funding * Funding available in Element 2 or Element 3 without the clear and express permission of a Head Teacher or college Principal if the provision needs to be delivered in their setting * Funding for provision which has not been identified in section F of the Child or Young Person’s EHC plan | * Primary medical services provided by GPs * Acute Hospital Services * Any provision that would destabilise existing services | * Any provision that would destabilise existing services * Structural adaptions via a Disabled Facilities Grant[[13]](#footnote-14) that are reasonable and practicable in line with the grant guidelines to property * Large pieces of equipment, in some cases due to expense and maintenance plans * Any provision provided for a health need under the National Health Service Act 2006 (unless it is merely ancillary or incidental)[[14]](#footnote-15) |

1. **Types of Personal Budget available**
   1. There are four ways of managing Personal Budgets:
      1. A **Direct Payment** where individuals receive the money to contract, purchase and manage a service themselves
      2. An **arrangement** (also known as a notional budget) whereby the **LA or learning setting** holds the funds and commissions the support specified in the Plan
      3. A **third-party arrangement** where funds are paid to and managed by an individual organisation on behalf of the young person or parents/carers
      4. A **combination** of the above
   2. If a young person and/or parents/carer take a Personal Budget as Direct Payments, the LBS Council will, as standard, assist in opening a Sutton Prepaid Card account[[15]](#footnote-16). Direct Payments will go directly into this account, and monitoring will take place at 6 monthly/yearly intervals to ensure that the Personal Budget is being used to support the outcomes identified in the child or young person’s EHC Plan. It is not necessary to provide bank statements, but an individual may wish to keep receipts in case there are discrepancies with any transactions.
2. **When will the policy be reviewed?**
   1. This policy will be reviewed at least every year and more often if required.

1. The code of practice relating to these duties can be found at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf> [↑](#footnote-ref-2)
2. The legislation relating to this can be found at: <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted> [↑](#footnote-ref-3)
3. The legislation relating to this can be found at: <http://www.legislation.gov.uk/ukpga/1989/41/section/17> [↑](#footnote-ref-4)
4. The regulations relating to this can be found at: <http://www.legislation.gov.uk/uksi/2011/707/made> [↑](#footnote-ref-5)
5. The legislation relating to this can be found at: <https://www.legislation.gov.uk/ukpga/1983/20/section/117> [↑](#footnote-ref-6)
6. Children and young people eligible for Continuing Care who have a PHB and who transition to adult services should be supported to continue to access their assessed health care needs via a PHB, whether they are found to be eligible for adult Continuing Healthcare or not. Although these young people may cease to have a right to a PHB, CCGs can choose to continue to offer services via a PHB on a voluntary basis. Therefore, transitioning from child to adult services should not be the sole reason for stopping a PHB. [↑](#footnote-ref-7)
7. No Recourse to Public Funds (NRPF) restrictions, for those under section 117 after-care, do not apply. However, once that person’s entitlement to section 117 support ends, or if that patient requires healthcare beyond the section 117 after-care package, then the patient may be subject to charging for NHS care, under those Regulations. [↑](#footnote-ref-8)
8. In the London Borough of Sutton, short breaks seek to meet 5 outcomes which are: independence, complex needs, challenging behaviour, family resilience and social integration – a short break will usually aim to meet one outcome but can serve to meet multiple at once. [↑](#footnote-ref-9)
9. The national minimum eligibility criteria was introduced with the Care Act 2014 and implemented in April 2015. It sets out a threshold for adult care and support needs and carer support needs which all councils must meet. The threshold is based on identifying how a person’s needs affect their ability to achieve relevant outcomes and how these needs impact on their wellbeing. In determining eligibility of needs for an adult, the following must be considered: the adult’s needs must arise form or are related to a physical or mental illness; as a result of the adult’s needs, the adult is unable to achieve two or more of the specified outcomes; as a consequence of being unable to achieve these outcomes, there is or there is likely to be a significant impact on the adult’s wellbeing; an adult’s needs are only eligible when they meet all three of these conditions. [↑](#footnote-ref-10)
10. The legislation relating to this can be found at: <https://docs.google.com/document/d/1QlAdsuGLqkstqMUfd1o7pGQ6mLeQEpJV5j5txD6qURQ/edit> [↑](#footnote-ref-11)
11. The legislation relating to this can be found at: <https://www.legislation.gov.uk/ukpga/2005/9/contents> [↑](#footnote-ref-12)
12. The legislation relating to this can be found at: <http://www.legislation.gov.uk/uksi/2014/2672/made> [↑](#footnote-ref-13)
13. For more information on a Disabled Facilities Grant please see: <https://www.sutton.gov.uk/info/200650/private_sector_housing_and_grants/1230/apply_for_a_housing_grant> [↑](#footnote-ref-14)
14. The legislation relating to this can be found at: <http://www.legislation.gov.uk/ukpga/2014/23/section/22/enacted> [↑](#footnote-ref-15)
15. A young person and/or parents/carer may also wish to open a separate bank account which is only used for these payments and for any other Direct Payments; however, this must be authorised by managers. Within the first 3 months, and thereafter every six months, LBS Council will ask for a short declaration to be completed and to be sent the bank statements and details of expenditure from this account. This is to ensure that the Personal Budget is being used to support the outcomes identified in the child or young person’s EHC Plan. If a young person transitioning to adult services chooses to start receiving their Personal Budget in the form of Direct Payments, it is important that they have their own bank account to receive the funds. If a parent/carer continues to receive the funds, it can cause later issues with the Department for Work and Pensions. [↑](#footnote-ref-16)