

CROYDON COUNCIL

0-25 SEND

PERSONAL BUDGET POLICY

REVISED 15th February 2018

1 INTRODUCTION

1.1 This policy relates to the duties of Croydon Council and Croydon Clinical Commissioning Group with regards to provision of Personal Budgets outlined in the Children & Families Act 2014 (Section 49) and the Statutory Guidance and Code of Practice for Special Educational Needs and Disability 0 – 25 years, 2014.

1.2 Education Health and Care Plans (EHCP) have replaced Statements of Special Educational Need and Learning Disability Assessments (139a assessments) from September 2014. No new Statements will be issued after this date. EHC Plans are a new way of supporting children with Special Educational Needs and Disability (SEND) that puts children, young people and families at the centre of the assessment and planning process for their education, health and care needs. Section 9.2 of the Code of Practice states,

‘The purpose of an EHC Plan is to make special educational provision to meet the special educational needs of the child or young person; to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood. To achieve this, local authorities use the information from the assessment to:

- Establish and record the views, interests and aspirations of the parents, child and young person
- Provide a full description of the child or young person’s special educational needs and any health and social care needs
- Establish outcomes across education, health and social care based on the child or young person’s needs and aspirations
- Specify the provision required and how education, health and care services will work together to meet the child or young person’s needs and support the achievement of the agreed outcomes.’

1.3 A Personal Budget is clarified as:
an amount of money identified by the Council or Clinical Commissioning Group (Health) to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision.

Arrangements have been made for children with SEN or disabilities and their parents, or the young person themselves, to be provided with information, advice and support on the take-up and management of Personal Budgets. For children and young people with EHC plans, Personal Budgets can be used to access activities that promote greater independence and learn important life skills.

- 1.4 Personal Budgets are optional for the child's parent or the young person but the Council is under a duty to prepare a budget when requested. Personal Budgets should reflect the holistic nature of an EHC 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 EHC Plan
- 1.5 The Council has a responsibility to provide information about organisations and agencies that may be able to provide advice and assistance to help parents and young people to make informed decisions about Personal Budgets. This information can be sourced through the Council's Local Offer, the Special Educational Needs Information and Advice Service or Independent Advisors (the contact details of these services can be provided by the Council).
- 1.6 The legislation relevant to the provision of a Personal Budget is: Section 49 of the Children and Families Act 2014; the Special Educational Needs (Personal Budgets) Regulations 2014; the Community Care, Services for Carers and Children's Services (Direct Payments) Regulations 2009 (the 2009 regulations will be replaced by those made under the Care Act 2014); and the National Health Service (Direct Payments) Regulations 2013

2 REQUESTING A PERSONAL BUDGET

- 2.1 A Personal Budget is an amount of money identified by the Council / CCG to deliver provision set out in an EHC Plan where the parent or young person is involved in securing that provision (see 'Mechanisms for Delivery of a Personal Budget' below). The child's parent or the young person has a right to request a Personal Budget when the 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 statutory review of an existing EHC Plan. A Personal Budget can contain elements of education, social care and health funding, where appropriate.
- 2.2 'Mechanisms for Delivery of a Personal Budget' -There are 4 ways in which a Personal Budget can be provided:
- Direct payments – where individuals receive payment (directly into their bank) to contract, purchase and manage services themselves
 - An arrangement – whereby the Council, school or college holds the funds and commissions the support specified in the plan (these are sometimes called notional budgets)
 - Third party arrangements – where funds (direct payments) are paid to, and managed by, an individual or organisation on behalf of the child's parent or the young person
 - A combination of the above

- 2.3 The Council has agreed a procedure to help set out how parents will be informed of their entitlement to a Personal Budget as part of the EHC Plan assessment or through the EHC Plan review process to enable them to decide through which mechanism they would like the Personal Budget delivered.

3 SETTING AND AGREEING THE PERSONAL BUDGET

- 3.1 If the parent or young person expresses an interest in receiving a Personal Budget, they will be given an indication of the level of funding that is likely to be required to make the provision proposed to be specified in the EHC plan. An indicative figure for the amount of funding available will be identified by the relevant agency. This is likely to require further a further meeting with the relevant agency once the Personal Budget objectives have been identified and the service/costs related to this have been explored and clearly identified. The Council or CCG will advise parents and young people that any potential Personal Budget request discussed at this stage is exploratory. The final allocation of funding budget will be sufficient to secure the agreed provision specified in the EHC plan and will be set out as part of that provision.
- 3.2 Social Care provision that is delivered through the EHC Plan will need to be linked to the outcomes identified in Sections H1 or H2 of the Plan. Any resource allocated through a Personal Budget will be determined by the Children with Disabilities Resource Panel or Child in Need Service follow the completion of a 'Child in Need' assessment completed under the 1989 Children Act, taking into account the Council's duty to provide services under the Chronically Sick and Disabled Persons Act 1970. This may include for example support to provide 'short breaks' for the child or young person; assistance within the family home; access to play or other social and leisure activities in the community and other family support services. Eligibility for these services is set out in the 'Guide to the Delivery of Social Care Services to Children and Young People with a Disability or Special educational Needs' The Council will develop a Resource Allocation System to inform the allocation of funding for social care services.
- 3.3 Education provision that is delivered through the EHC Plan will need to be linked to the outcomes identified in Section F of the Plan. Any resource allocated through a Personal Budget will only be available through the funding provided directly by the Local Authority. Therefore, any funding delegated directly to schools is not available as a Personal Budget. For example, Element 1 (standard placement funding or the current level of £4,000 in a mainstream maintained school) cannot be used for a Personal Budget. Similarly, the entire special school placement funding is not available as part of a Personal Budget. However, with the clear and express permission of a Head Teacher or college Principal of a maintained provision, some or all of the funding available in Element 2 (an amount of money up to £6,000) can be included in a Personal Budget if the outcome criteria are met. Funding from Element 3 may be made available for use as a Personal Budget but can only be included with the agreement of the school or college if all parties agree a Personal Budget is appropriate

to meet the identified outcomes. However, any provision or service identified through a Personal Budget that is required to be delivered on nursery/school or college premises can only do so with the express permission of the Head Teacher or Principal.

3.4 For health provision that is delivered through the EHC Plan, the funding will the funding may be available if the child is eligible for continuing health care support following a Continuing Health Care assessment completed by a Health Care Assessor. This will be confirmed by the Senior Commissioning Manager, Children's Services, Croydon Clinical Commissioning Group. Since April 2014, every parent of a child receiving NHS Continuing Healthcare has had the right to ask for a Personal Health Budget, including a direct payment. From October 2014, parents have 'a right to have' a Personal Health Budget. A Direct Payments for health requires the agreement of a Care Plan between the CCG and the parent or young person.

3.5 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. The Council will provide written notice of the conditions relating to the delivery of any direct payment and the provision associated with the Personal Budget. This will be a separate document to the EHC Plan and can be produced by any of the 3 services that may be delivering part of the Personal Budget (and can do this alongside the draft EHC plan).

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. A primary part of the conditions of a Personal Budget, the child's parent 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. 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. The Council will seek assurance from the child's parent, young person or nominee that any person employed by the child's parent 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.

3.6 Where a direct payment has been agreed, the Council will seek evidence from the child's parent, the young person directly or the nominated person employed by the child's parent 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.

3.6 The Council will consider each request for a personal budget on its own individual merits. If the Council is unable to identify a sum of money, or it is unable to offer a Personal Budget, it will inform the child's parent 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 to a request for a direct payment 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 or young person informed of their right to request a formal review of the decision. The Council will consider any subsequent representation made by the child's parent 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.

- 3.7 In direct relation to appeals to the Special Educational Need and Disability Tribunal, the SEND Code Of Practice 2014 in section 11.45 stipulates that *"The Tribunal does not hear appeals about Personal Budgets, but will hear appeals about the special educational provision to which a Personal Budget may apply"*. Therefore, this means that a decision whether to provide a personal budget cannot be heard through the appeals process. The Special Educational Needs and Disability Tribunal can only hear appeals relating to the *"description of a child or young person's SEN specified in an EHC Plan, the special educational provision specified, the school or other institute or type of school or other institution (such as mainstream school/college) specified in the Plan or that no school or other institution is specified"*. However, the Council will endeavour to resolve any disagreement relating to the content of the EHC Plan, or enter into formal mediation (if appropriate).
- 3.8 Decisions in relation to the health element (Personal Health Budget) remain the responsibility of Croydon Clinical Commissioning Group and where it declines a request for a direct payment; it will also set out the reasons in writing and provide the opportunity for a formal review.

4 **TRANSITION AND PERSONAL BUDGETS**

- 4.1 Where a transition (Child Needs) assessment (completed under duties set out in the Care Act 2014) identifies needs that are likely to be eligible when the young person becomes an adult, the Council will consider providing an indicative Personal Budget so that the young person can have an idea of how much their care and support will cost when they transfer to adult services. This is particularly relevant if the young person with an EHC plan is already receiving a Personal Budget - under the Care Act 2014, any adult with eligible needs will have a care and support plan which must include a Personal Budget. Young people with EHC plans may consider the transition to adult services a good opportunity to start exercising their right to start receiving their Personal Budget as a direct payment as set out in the Personal Budget Guidance for the Care Act 2014. Care services in place when a young person turns 18 will continue until the services identified through a Care Assessment have been put in place.

5 INFORMATION AND ADVICE

- 5.1 The Council provides information on Personal Budgets as part of the Local Offer. This policy is also published on the Council's Local Offer website. The information includes a description of the services across education, health and social care that currently lend themselves to the use of Personal Budgets, and the relevant eligibility criteria.
- 5.2 The Local Offer also provides information on what support is available to help parents and young people manage a Direct Payment or Personal Budget. This includes Croydon SEND Information and Advice Services which offers independent support to help those going through the process of developing an EHC Plan including the option of a Personal Budget. Croydon Direct Payment Support Service can also provide help with Personal Budgets including employing a Personal Assistant. Information can additionally be gained from Disability Rights UK and Skills for Care who provide a useful tool kit for employing a Personal Assistant

6 PERSONAL BUDGETS AND COMMISSIONING

- 6.1 It is recognised that future commissioning arrangements across health, education and social care need to be developed to support greater choice and control for children, young people and parents as the market is developed and funding streams are freed from existing contractual arrangements which currently reduce the scope for the provision of Personal Budgets. This will be supported by closer co-operation between education, health and social care and the development of clear and simple statements of eligibility.
- 6.2 Joint commissioning arrangements will be informed by the annual Joint Strategic Needs Analysis which will analyse the health needs of the population of disabled children and young people to inform and guide commissioning of health, wellbeing and social care services within the Croydon area. Future joint commissioning plans will include arrangements for agreeing and delivering Personal Budgets and will seek to align funding streams for inclusion in Personal Budgets and consider the development of a single integrated fund from which a single Personal Budget, covering all three areas of additional and individual support, can be made available.
- 6.3 The Council and Croydon CCG have agreed a set of strategic priorities based on person centered assessments, client directed support and personalisation of services which will inform commissioning arrangements for therapies and special school nursing. Phase One of the commissioning approach 2014 - 2016 includes a commitment to forward planning for the implementation of personal budgets including personal health budgets. Phase 2 (2015 – 2017) will progress this approach to implement the commissioning of services to meet family outcomes personalised to their needs.

7 POLICY REVIEW

- 7.1 This policy was reviewed in February 2018 and will be reviewed annually. The review will include and involve parents and voluntary sector providers.