Newcastle City Council: Personal Budgets Policy for Children and Young People with Special Educational Needs and Disabilities (SEND).

# **About this Document**

This document is aimed at young people and parents and carers of children and young people with SEND who want to know more about Personal Budgets. So, when it is referring to “You” it is addressing the parent of a child, or a Young Person themselves. It is a policy, which means this is what Newcastle City Council and the Newcastle and Gateshead Clinical Commissioning Group agree to do to support Personal Budgets for children and young people with SEND.

# **What are Personal Budgets?**

The laws about Personal Budgets were changed by the Children and Families Act 2014 to give all parents of children with SEND and young people who receive an Education Health and Care plan a right to request a Personal Budget for their child’s Education, Social Care and Health needs. The Special Educational Needs and Disability Code of Practice: 0-25 years January 2015 sets out the duties upon the NHS and the council to deliver Personal Budgets and your entitlements to Personal Budgets in paragraphs 9.95-9.124. The SEND code of practice defines a Personal Budget in para 9.95 as:

“A Personal Budget is an amount of money identified by the Local Authority to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision.”

The key elements of Personal Budgets are that:

1. The support is controlled by the individual
2. The level of support is agreed in a way which is fair, open and flexible
3. Any additional help needed to plan specify and find support is provided by people who are as close to the individual as possible
4. The way that Personal Budgets are arranged should be with an approach that puts you in control and organises support solutions that make sense to you

There is no new money to fund Personal Budgets. The amount of money available comes from the budget’s central government and council tax payments supply to be used to provide support to children with SEND. This funding has not increased since the introduction of Personal Budgets.

In Children’s Social Care, Personal Budgets are the main way young people and families receive support and hundreds of families and young people in Newcastle have used them. In Education and Health, they are relatively new and some of the rules about who can get one are different.

# **Who can get a Personal Budget?**

If a child or young person gets an Education, Health and Care Plan they can ask for a Personal Budget statement to be prepared. The Budget can be used to support the child or young person’s education health and care. Some children are entitled to all three sources of funding (education, health and care) some children are just entitled to one, for example just a Personal Budget for education.

# **Personal Budgets in Education**

You can request an Education Personal Budget to be drawn up by the Local Authority if you are aged under 25 in education, have an EHC Plan and have complex needs which require individual funding to support your education.

Through the EHC plan process your child’s educational needs will be assessed. If you request an Education Personal Budget, Newcastle City Council will then work out how much funding per year is required to meet your child’s additional educational needs and how much of this you would be able to access. You will then be told your funding amount and as part of the planning/review process consider what you want to be provided as part of your child’s EHC plan.

How the Personal Budget is spent, has to meet the child’s learning needs as outlined in their EHC Plan. If part of your EHC plan is to use a Personal Budget that is currently part of an education provider or school’s funding the council will need to obtain the approval of the Head Teacher before you can proceed. Often in schools and Colleges funding is combined to support a group of young people so it may not be possible to release all the funding.

In Newcastle some families have used Education Personal Budgets successfully to meet their child’s very specific circumstances. Personal Budgets have been used by families to fund a range of creative support including individual outdoor learning programmes, specialist behavioural support, phased return to school for excluded pupils and a mix of physical and sensory activities alongside single teacher learning. Education professionals at the council and your school can help you to plan.

For more detailed information on Education Personal Budgets please see the information sheet ‘Requesting an Educational Personal Budget’.

# **Personal Budgets in social care (Children’s Social Care)**

Social Care is support to help you be safe, equal and make achievements while giving you a short break outside the school day. Personal Budgets have been going for over 10 years in social care helping disabled children and young people to be more included and giving families more choice and control. Social care Personal Budgets have been welcomed by families in Newcastle as flexible support and the funding has been used creatively to employ people who know and care about the child/young person, to fund entrance fees to develop a child’s hobby and to fund day trips, city breaks and outdoor activity centres.

Social care provides low level support to hundreds of disabled children and young people throughout the city but only those with complex support needs get a Personal Budget. This is worked out through a social care assessment which considers the child’s support needs. A Personal Budget is offered if the assessment shows that community activities and small grants are not enough to ensure the child/young person is safe, equal and achieving or the carers are not able to get the short breaks they need.

Once a budget is offered you are invited to consider with the social worker how you want to use this funding and make a plan which is considered for approval. Once this plan is agreed annual funding is released in instalments. The information, funding and support is included in the EHC plan. For children and young people under the age of 18 what you are entitled to is set out in detail on our webpages at [**https://www.newcastlesupportdirectory.org.uk/kb5/newcastle/fsd/advice.page?id=mmhG-XteVXE**](https://www.newcastlesupportdirectory.org.uk/kb5/newcastle/fsd/advice.page?id=mmhG-XteVXE) and within the document “Children with Disabilities Service Access to Support.”

# **Personal Budgets in Adult Social Care**

For young people over the age of 18 decisions about eligibility for social care are made in accordance with The Care Act 2014 and the accompanying statutory guidance.

A personal budget is an agreed amount of money that is allocated to you personally by the Council (and other funding streams) following an assessment of your care and support needs. It is agreed annually.

# **How to manage your personal budget**

There are different ways to manage your personal budget:

* You can ask us to arrange services for you and deal with the provider/s on your behalf
* It may be possible to organise an **Individual Service Fund** for some services. This is where we pay a provider to support you; and you decide with the provider how they will support you to achieve the outcomes in your plan
* A [**direct payment**](https://www.newcastle.gov.uk/services/care-and-support/adults/planning-your-care-and-support/direct-payments-care-and-support), which is a cash payment into your bank account to buy the support you need. You can also nominate another person or organisation to manage the direct payment for you.
* A combination of these options

What a Care and Support Plan includes:

* the type of support you need
* how this support will be given
* how much money your Council will spend on your care
* how much money you will spend to meet your needs?
* how the personal budget will be managed

You can buy services in the following ways:

* recruit staff as personal assistants to help you work, socialise, get out and about
* short breaks (for carers) or stays in a care home
* take part in education sessions
* attend day centres
* pay towards transport costs
* buy equipment and aids to help you move around your home
* get informal or community support

# **Reviews**

A review will take place:

* to confirm that your needs have been met
* to update your care and support plan, normally annually
* if you think that your care and support needs have changed

The following link provides further information about adult social care in Newcastle and The Care Act (2014):

[**https://www.newcastle.gov.uk/social-care-and-health/care-and-support-adults/getting-support-council**](https://www.newcastle.gov.uk/social-care-and-health/care-and-support-adults/getting-support-council)

# **Personal Health Budgets**

You can get a Personal Health Budget for your child if the existing NHS services do not meet your child’s health needs fully and they have very complex health needs. There are specialist community nurses who assess your child’s health needs if professionals believe they will qualify for this funding. They also assess how much additional funding you will be offered. The system of assessing your child and providing individual funding is called NHS Children’s Continuing Care. If your child qualifies for Children’s Continuing Care you can get a Personal Health Budget providing what you choose to spend it on meets the child’s identified health needs.

Also, children who have an EHC plan can request a Personal Health Budget. Newcastle and Gateshead Clinical Commissioning Groups when considering the request will make a judgement about whether the benefit outweighs the cost. See this link for more details [**http://www.newcastlegatesheadccg.Newcastle and Gateshead Clinical Commissioning Group.uk/your-health/personal-health-budgets/**](http://www.newcastlegatesheadccg.nhs.uk/your-health/personal-health-budgets/)

You can also get a personal health budget if your child is eligible for section 117 aftercare. After-care services under section 117 of the Mental Health Act covers the provision or arrangement of help and support for children, young people and adults who have been detained in hospital under sections 3, 37, 45A, 47 or 48 of the Mental Health Act 1983, when they leave hospital.

If this is applicable for your child a personal health budget may be considered whenever planning is taking place for section 117 mental health after-care needs during an admission to hospital, or at any assessment held to review the person’s section 117 after-care package of support in the community. For more information please see: [**https://www.england.nhs.uk/personal-health-budgets/personal-health-budgets-for-mental-health/**](https://www.england.nhs.uk/personal-health-budgets/personal-health-budgets-for-mental-health/)

# **Combining all your resources to make them work for your child**

Although there are differences in how Education, Health and Social Care decide who can have a budget and how much will be offered if you qualify for a Personal Budget all three agencies follow similar rules which are set out in the Children and Families Act 2014 and the SEND code of practice. The three agencies are obliged to work in a joined up way. Important points from the SEND Code of practice to remember are that:

* The family should know how the funding has been worked out and why
* The funding provided has to be sufficient to meet your child’s needs and the EHC plan will show simply how the money works to support your child.
* Your child and their family are in control of your funding, so your provision is bespoke to your child
* You have choices about how the money of the Personal Budget is handled including being able to employ your own staff (where requested and possible).

# **Choices in Managing the Money**

There are lots of different ways you can choose to manage the money of the Personal Budget:

* A Direct Payment managed by the young person when they are aged 16 plus with mental capacity.
* A Direct Payment managed by the parent/carer
* A Direct Payment managed by a third party (family friend, agent, trust fund, finance company, voluntary sector organisation)
* A support provider can manage the money on your behalf through an Individual Service Fund
* The council can manage the funding through commissioning services on your behalf

# **Direct Payments**

A popular choice for families is to manage the money is through a direct payment. A direct payment is where the money can be paid directly into a separate bank account you or as third party hold so it is easy to access to pay for activities and support that is set out in the EHC plan.

When you have a direct payment, you can employ your own staff called Personal Assistants. The Personal Assistant is the employee of the family or in some circumstances of the disabled young person where they have capacity to be an employer. There is a set of agreements the direct payment user has to sign with the Council or the Newcastle and Gateshead Clinical Commissioning Group to make sure everyone understands the legal responsibilities.

The Council and the Newcastle and Gateshead Clinical Commissioning Group insist that every Personal Assistant who works with children and young people aged under 18 must have an enhanced DBS check and for young people over the age of 18 advise you to ensure that your PA has an enhanced DBS check.

The Council provides advice workers through Disability North to support families to manage their direct payments responsibly.

# **Checking the Personal Budget is working well**

Newcastle City Council and the Newcastle and Gateshead Clinical Commissioning Group will audit and review regularly whether the Personal Budget is working (including how the direct payment is working if there is one in place). Depending on the outcome of the audit / review, changes can be made to the EHC Plan. The aim of the audit / review is to strengthen the child and family’s ability to achieve the outcomes they want. When making a decision to withdraw or reduce a Personal Budget Newcastle City Council and the Newcastle and Gateshead Clinical Commissioning Group wherever possible will consult all relevant parties as well as the family or young person. Any decision to vary the amount of Personal Budget within the review process will flow from a full as possible understanding of your circumstances.

# **Refusal to make a Personal Budget**

Newcastle City Council and the Newcastle and Gateshead Clinical Commissioning may refuse to make a Personal Budget:

* Where to do so would make the child or young person unsafe
* It is reasonable to believe that funding would be misused
* To do so would have an adverse effect on the provision for other young people
* The proposals for the personal budget within the EHC plan are not agreed as providing good outcomes for the child which meet their needs

If the Council or the Newcastle and Gateshead Clinical Commissioning Group have grounds to believe that the direct payment should not be provided or an existing Personal Budget should be withdrawn they have the right to withdraw it and provide support directly to the family instead. On the rare occasions when this happens the Council or Newcastle and Gateshead Clinical Commissioning Group will explain their reasoning.

# **When things go wrong**

The council and Newcastle and Gateshead Clinical Commissioning Group will actively seek to resolve disagreements about the budget, the choice of management of the funding and the use of the Personal Budget. Should it not be possible to reach agreement at any stage then the relevant service manager will be available to seek to resolve the dispute.

# **The Rules and Regulations about Personal Budgets**

This policy follows the laws and statutory guidance about Personal Budgets. The main laws about Personal Budgets are set out below:

* Children and Families Act 2014
* Special Educational Needs and Disability Code of Practice: 0-25 years January 2015, in particular paragraphs 9.95-9.124
* The Care Act, 2014
* The Community Care, services for Carers and Children’s Services (Direct Payments) (England) Regulations 2009
* The National Health Service (Direct Payments) Regulations 2013 (as amended by the National Health Service (Direct Payments) (Amendment) Regulations 2013)
* The Special Educational Needs (Personal Budgets) Regulations 2014 (as amended by the Special Educational Needs (Miscellaneous Amendments) Regulations 2014)
* 2014 No. 1652 Education, England, The Special Educational Needs (Personal Budgets) Regulations” and can be seen in full at:

[**http://www.legislation.gov.uk/uksi/2014/1652/pdfs/uksi\_20141652\_en.pdf**](http://www.legislation.gov.uk/uksi/2014/1652/pdfs/uksi_20141652_en.pdf)

* The full Amendment is named as 2014 No. 2096 Education, England. The Special Educational Needs (Miscellaneous Amendments) Regulations 2014 and can be seen in full at: <http://www.legislation.gov.uk/uksi/2014/2096/pdfs/uksi_20142096_en.pdf>