

Children and Young People's Social Care Personal Budgets Policy

0-18 Years

June 2018



Oldham
Council

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1. Introduction

1. Background

The Children and Families Act 2014 requires local authorities to offer families personal budgets where an Education Health and Care Plan (EHCP) or social care support plan is in place. A family or young person can request an element of their education, health or social care personal budget as a direct payment. This policy is intended to provide families, young people and professionals with clarity about the resources that are available to meet an individual child or young person's needs and the opportunity to have more control over how that support is provided through their social care personal budget. It is important to note that families do not have to receive their support through a direct payment element of a personal budget, but can have this delivered by a service organised by the Local Authority.

A personal budget is an amount of money identified by the Local Authority (LA) to deliver provision set out in an education, health and care plan (EHCP). This personal budget policy sets out a description of the processes and services that currently lend themselves to the use of a direct payment element of a personal budget. A personal budget is the totality of additional funding attached to the education, health and care plan

Oldham is committed to personalisation, where we ensure that children, young people and families are central to assessment, planning and delivery of services. Through the use of a personal budget, children, young people and their families have more choice and control about the services they receive, they are more personalised around individual children and family's needs and are not fitted around services that are available.

This policy relates specifically to social care personal budgets.

2. Social Care Personal Budget

The social care personal budget is available to a child or young person who are eligible for a short break and or social care support and are assessed as needing additional support at home and/or in the community. The budget can help the child or young person access social activities or provide families and carers with a short break / respite.

Families and young people have a choice as to how any short breaks provision is delivered and this can be provided by an organisation, arranged directly by the Local Authority, rather than through a personal budget if preferred. The different options are explored in more detail within this policy.

A Personal Budget is not all the resources that are available to support a child or young person, but is the 'cashable' amount which can be used flexibly, as a direct payment, by the family or young person to support the social care needs of the child or young person.

Section J of the EHC plan is where detailed information on any Personal Budget that will be used to secure provision in the EHC plan is recorded. It will set out the arrangements in relation to direct payments as required by education, health and social care regulations. The special educational needs and outcomes that are to be met by any direct payment will be specified.

The overall purpose of the Personal budget/direct payment is to increase:

- Choice and control: Increased choice and control is achieved by supporting families as far as they are able to manage their own social care budgets and other income streams (e.g. Disability Living Allowance).
- Flexibility: The intention is that families can vary their support arrangements to suit their children's individual requirements. It can be used for services from both statutory and independent sector providers, mixing and matching what is available from different organisations.
- Social inclusion: Easier for individuals to identify support which enables them to use a wider range of activities in the community and better meet their eligible needs and support plan.

2.1 Who Can Request a Personal Budget

If a child or young person is eligible for an EHC plan and there is an assessed need for a short breaks, they are entitled to request a personal budget. In some circumstances, a child or young person may be offered a personal budget through the short breaks team or social care team without having an EHC plan.

Local authorities **must** consider each request for a personal budget on its individual merits and prepare a direct payment element of a Personal Budget in each case unless this would:

- would have an adverse impact on services provided or arranged by the local authority for other EHC plan holders
- Where the personal budget cannot be split into different elements
- where it should not be an efficient use of the local authority's resources

Where a short break need is identified a social worker or short breaks worker will, after assessing the child and family's needs, decide whether the child's needs can be met through using mainstream services/activities or whether they need to access additional targeted or specialist services. If a family is thought to need targeted or specialist support they could, if they wish apply for a social care direct payment element of a personal budget.

The overarching short breaks eligibility criteria is attached as Appendix One
The detailed short breaks eligibility criteria is attached as Appendix Two

2.1.1 Children/Families who do not have eligible needs

If a child or young person's needs do not meet the eligibility criteria they will not be entitled to short breaks funding. Assistance will be provided to these families to consider their children's needs and how to go about meeting these by providing information, for example, signposting to appropriate services in the community, including suitable mainstream and universal activities. If a family's circumstances change then a child's needs can be reassessed.

2.1.1.1 Safeguarding Considerations

If there are considered to be safeguarding considerations that have the potential to negatively impact on the child or young person, or where there are identified risks based on an assessment of the parent's or carer's ability to effectively manage the budget to the benefit of the child or young person then the option of a personal budget may be deemed to be unsuitable. The Local Authority will work with the family to source the best provider to deliver the short breaks directly, rather than through a personal budget.

2.1.1.2 Looked After Children (Children in Care)

Personal budgets are not available if a child or young person is looked after by the local authority and in residential provision as their needs are being addressed through the placement provided.

If a child is in a foster placement, then a personal budget could be made available to the carer to manage. This would be considered on a case by case basis.

3. How A Social Care Direct Payment Element of a Personal Budget is agreed

A young person or their family can request a personal budget to meet their short breaks needs. This can be done through their allocated social worker or short breaks worker if known to them or a referral can be made through the MASH.

Depending on the level of need relating to the individual child/young person and their family, assessments will be undertaken by a social worker or the short breaks team.

3.1 Assessments

3.2 If a social worker is involved with the family's case, a single assessment will be undertaken to understand the holistic needs of the child/young person and their family. If a family do not require a social worker, the short breaks team will undertake a short breaks assessment to better understand the child/young person and family's needs and their eligibility for a short break. Resource Allocation System (RAS)

A resource allocation system (RAS) is a short questionnaire that consists of a number of questions to better understand the needs of the child/young person and their family

in relation to short breaks. It indicates the levels of need relating to a number of domains.

- Stay Safe
- Be Healthy
- Making a Positive Contribution
- Achieve Economic Well-being
- Enjoy and Achieve

A child or young person's needs will be assessed through a social work single assessment, continuing care assessment or short breaks assessment if there is no need for social care involvement. If child or young person is eligible for a short break, the RAS is undertaken with the parent/carers and the young person if appropriate and a score is given in each domain. This score will relate to a band of support and will give an **Indicative** budget. This budget offers a guideline to support decision making in the amount and type of provision to be delivered to support need. The RAS questionnaire is only ever a tool that will calculate an indicative budget but this cannot on its own decide the level of funding.

The RAS is intended to provide guidance as to the level of financial support a family may require; decisions about actual levels of funding required for each service user will be based on the most cost-effective way to meet the unmet eligible needs of that individual taking into account assessed risks and personal circumstances. The RAS does not include any assessment of the family's financial circumstances nor the level of support the child may already have access to. Needs may also change at any point in time for a wide variety of reasons that may trigger a reassessment and result in an increase or decrease in the funding allocated.

Particular care will be taken to ascertain the child's wishes and views about how their needs should be met. Where there is a difference of views between parents and disabled children from aged 15 years the young person's views will be given appropriate consideration. It follows that there may be situations where it would be right for a young person to receive a personal budget whether the parents agree or not. This should always follow a comprehensive assessment of need and risk with the young person and their family.

A copy of the Resource Allocation System RAS is attached Appendix Three

3.3 The Support Plan

Once the RAS has been undertaken and there is an agreement that the young person has eligible needs for a short break, a support plan will be developed. The support plan is a child centred document which provides a good overview of the child/young person, their likes and dislikes and an outline of their needs. The support plan will detail the proposed provision to meet the identified needs of a child/young person. The plan must outline the expected outcomes the short breaks will achieve. This will enable the family and associated workers to measure the success of the short breaks. The support plan will be completed by the family and child/young person with either their allocated social worker or short breaks worker.

The support plan will also support the family in understanding what the direct payment element of the personal budget is to be used for and provides a term time and holiday timetable to better support the planning of provision for their child/young person.

A copy of a blank support plan is attached as Appendix Four

3.4 Decisions and Appeals

3.4.1 The Resource Panel

A final decision about whether the short breaks provision (either centrally commissioned or via a direct payment element of the personal budget) will be made on a case by case basis by the Resource Panel. The Resource Panel is a multi-agency panel consisting of social care, health and education services. The social worker or short breaks worker working with the family and young person will present the individual needs of the child/young person, the RAS, the support plan and the proposed short break provision to meet the identified needs. In addition to these factors a decision will be made as to the suitability of the family managing the personal budget themselves. Parents/carers will be notified as to the outcome of the panel by letter no later than 5 working days after the panel has sat.

If the Council decides that a personal budget is inappropriate, the reasons for this will be clearly recorded and shared sensitively with the family.

Not every family that is eligible will want to take on the responsibility of managing their child's personal budget. In such cases the indicative budget will still be calculated using the Resource Allocation System (RAS) but support will be provided in the form of a Council-managed budget. This will be coordinated by the Council's Client Finance team that will be funded by levying a fee on the indicative budget, which will be deducted at source. This will ensure equity between families who choose personal budgets and those who do not wish to manage their own.

3.4.2 Appeals

All requests for personal budgets where a child or young person is eligible to receive one will be considered. As outlined above, most decisions are made via a panel process and eligibility criteria. When a decision has been made, a letter will be sent to the child's parents/carers as confirmation. The letter will set out the decision made and the reason for the decision being made. If a family or young person is not satisfied with a decision made, they have the right to request reconsideration.

In the first instance a discussion should be held with the young person's social worker or short breaks worker to attempt to resolve any issues.

If evidence is identified to support reconsideration, then the social worker or short breaks worker must submit a reconsideration request to the Panel. The resource panel will then consider any additional information, review the assessment and decision to ensure that the process was followed correctly, the assessment was comprehensive and that the decision was fair and supported by evidence. The panel should also

ensure that the package of short breaks agreed is fair and consistent in line with the criteria and thresholds for service provision. Following the reconsideration, the Chair of the panel will write to the complainant, confirming the reconsideration outcome. The letter should provide full explanation for any decision made and should also outline the next stage should the decision remain the same and the family remain dissatisfied.

Consideration should be given as to whether any mediation or dispute resolution process would be helpful in resolving matters, or the matter may enter the formal Oldham Council complaints process at this point.

3.4.3 Reviews and Updates

Any package of short breaks provision will be reviewed every six months to ensure the current package of support is appropriate and meeting identified needs. A package may be reviewed earlier than this if requested by the resource panel, this may be due to the package only being put in place for a limited period of time. The format of the review will depend on the extent of the package in place. All packages will be reviewed at the resource panel every 12 months as a minimum. A review may recommend:

- The provision should continue as it is working well
- The provision can be reduced as needs have changed
- The provision may need to be increased as needs have changed
- The provision can cease as all outcomes have been met and provision is no longer required to meet the identified needs

If the needs of the young person have changed since the last support plan or RAS, an updated RAS and support plan will need to be undertaken and presented at the resource panel.

3.4.4 Changes to the Support Plan

If a child/young person or their parents/carers wish to make changes to their plan and the way their personal budget is used, they must discuss this with their social worker or short breaks worker outlining the reasons for this. If the change is a change of provider, which does not require additional funding, this can be agreed with the social worker/short breaks worker and be presented at the resource panel for information only. If these are significant changes to the support plan, either the change would require additional funding or the provision being requested is not in line with the outcomes stated within the support plan, an initial discussion must be had with the social worker/short breaks worker and a decision must be made at the resource panel before alternative provision is put in place. If this is agreed, the support plan must be updated within one week of the decision being made and before the provision can be put in place.

3.4.5 Advocacy / Independent Advice

Families may also choose to independently seek support from other organisations, in particular where they have specialist needs or require an advocate. Advice will be given to individuals about alternative sources of information, guidance, or advocacy services if required.

Information and advice is available from:
Oldham SEND Information and Advice Service
Chadderton Court
451 Middleton Road
Chadderton
Oldham
OL9 9LB
Telephone: 0161 503 1540

Children's Rights Advocacy and Independent Visitors:

Excel Social Work and Therapeutic Services
Address: Positive Steps,
80 Union St
Oldham
OL1 1DJ
Telephone: 0800 1244 108
Email: oldhamchildrensrights@excelstws.co.uk

4. Managing a Personal Budget

4.1 Who Manages It?

A personal budget can be managed in four different ways:

4.1.1 Direct Payment

The parents/carers of a child or young person (over 16) can choose to be paid their Personal Budget by direct payment. This means they will be responsible for the day to day management of this and ensuring it is spent as agreed in the support plan. They will be responsible for providing evidence of spend to the Local Authority as outlined in the monitoring requirement of this policy.

Before making a direct payment the Local Authority must be satisfied of the following:

- There is a clear plan of how any provision will be secured and managed
- Those receiving the payment on behalf of a child or young person act in the child or young person's best interests when securing any provision
- The recipient is capable of managing a direct payment. (See Mental Capacity Act 2005 via <http://www.legislation.gov.uk/ukpga/2005/9/contents>)
- The recipient is not a person described in the Schedule. (Refer to The Special Educational Needs (Personal Budget) Regulations 2014 <http://www.legislation.gov.uk/ukdsi/2014/9780111114056>)
- There will be no adverse impact on other Local Authority services and resources.
- There is a separate bank account to house the direct payment for each individual child/young person.

- There is a signed contract in place between the parent/carer and the local authority
- The Local Authority has seen a copy of the DBS check for the person who will be delivering the service. Information regarding DBS checks can be found in the Direct payments Toolkit
- The Local Authority is confident that public liability insurance is in place for the employee. Information regarding insurance responsibilities can be found in the Direct Payment Toolkit.
- It is expected that a pre-payment card will be used for each individual budget if this is not managed by a broker
- As the employer parent/carer will be expected to register with HMRC, information to support this is in the Direct Payment Toolkit
- A copy of the Direct Payment Toolkit is attached Appendix Five.

4.1.2 Notional Arrangement

The Local Authority will manage the agreed funding and be responsible for Commissioning services to deliver the outcomes of the support plan (this is known as a notional arrangement). Some elements of funding are not suitable to be paid as a direct payment as they affect economies of scale and thus value for money (VfM). The Local Authority has the right to refuse a direct payment and opt for a notional arrangement if it is more appropriate. The Local Authority will notify the family of the reasons why.

4.1.3 Third Party

A family may want to instruct a third party such as a broker to manage the funding and commission services on their behalf. The broker will then be responsible for ensuring the funding is used appropriately to meet the needs identified in the support plan. The broker will also be required to provide evidence of expenditure to the Local Authority as requested. This option still gives the child's parents or young person some control over the choices of care without the responsibility of accounting for the funds. The child's parents or young person must notify the Local Authority in writing if they wish for a third party to act on their behalf or if they would like to change brokers.

4.1.4 Combination

It is possible for a Personal Budget to be managed as a combination of the above. Part may be direct payment, part Local Authority commissioned and part managed by a third party.

4.2 What Can the Personal Budget be spent on?

A personal budget can be spent on a variety of things which support the child/young person and are detailed in the agreed support plan. The idea of a personal budget is to allow funding to be used more imaginatively and give parents, children and young

people the opportunity to access support that would suit their own individual assessed needs. By ensuring families and young people are central to planning and decision making this will create a unique package of care for each individual child/young person as outlined in the support plan.

A personal budget can be used for:

- Assistance to promote social inclusion, including leisure or social activities. For example training for staff; providing additional staff member; volunteer's expenses or equipment to ensure that the child can take part in activities in the community.
- Assistance in promoting independence particularly for young people preparing for adulthood
- Employing personal assistants to provide care services.
- Short Breaks to provide children and young people with SEND with an opportunity to spend time away from their parents, relaxing with friends and having fun
- To provide families with a break from their caring responsibilities, giving parents a chance to unwind rest or spend time with other children.

This list is not exhaustive. Families can if they choose to, top up their child's allocated budget with their own funds to create a support plan with greater flexibility and increased provision

4.3 What a Personal Budget cannot be spent on

Services that the personal budget cannot be spent on include:

- Although a direct payment element of a personal budget enables more flexibility, the allocated hours should be used within the month they are planned as part of the support plan and not banked.
- Services which are offered as part of a block contract would not normally be offered as a direct payment element of a personal budget as it would be difficult to disaggregate individual cost without affecting service provision for other users and efficient running of the service.
- If the family have more than one child with a personal budget, the money is not transferable across children. Each individual child's support plan must be followed using their individual direct payment element of their personal budget and each child must have their own bank account.
- Distinctions should also be made between eligible personal care and short breaks which are for the benefit of the child, and childcare which is principally provided to enable the parents to work and may not be eligible. Funds should not be used simply to subsidise the cost of childcare, but may be used to ensure

the child has equal access to activities with their peers. It is recognised that such distinctions between different categories of activity are not straightforward and therefore such issues need to be negotiated at the support planning stage and clearly agreed and recorded to ensure clarity for all parties.

- Anything that is illegal or is illegal to purchase, or that would endanger the child or young person or any other person;
- Gambling, debt repayment; alcohol, tobacco, clothing or food
- To pay the people who live with the child or young person to provide care for them.
- Usual activity costs to access community leisure provision will not be paid as all families need to pay for their children to access leisure activities. However in some circumstances where the provision is specific to the needs of the child these may be considered on a case by case basis.
- Mileage costs are not paid except in exceptional circumstances that would be considered on a case by case basis.

This list is not exhaustive

5. Audit and Financial Monitoring of Personal Budgets

Oldham Council has a responsibility to ensure that public money is spent and accounted for appropriately and therefore requires a robust and flexible policy of auditing cash payments to provide confidence that children and young people are achieving the best possible outcomes within the available resources, and that funds are being spent appropriately. Oldham Council encourage all families to use a pre-payment card to manage their direct payment element of their personal budget as this makes it easier for families to manage and for Oldham Council to monitor.

A Personal Budget is intended to increase flexibility and it may be necessary to make legitimate changes to the plan e.g. choice of changes in support, extra short-term support or one-off purchases. This flexibility needs to remain within agreed constraints so service users or their representatives must only use their Personal Budget allocation to pay for support which has been approved in Social Care Support Plan.

The Audit team will be in contact with the family 3 months after the budget has been agreed to ensure families understand what information they need to retain and what needs to be submitted and when for financial monitoring. The auditing process is outlined in the contract which families sign before receiving the first personal budget payment.

Evidence required from audit will include:

- Agreed Support Plan.

- Spending Records.
- Bank statements – a separate bank account must be opened in which only the personal budget can be used (one individual bank account is required for each child or young person in a household who receives a direct payment). The LA will require full statements with details/evidence of all activity.
- Receipts for all expenditure.
- Wage slip, Inland Revenue payment details, employee liability insurance, payroll invoices and up-to-date CRB/DBS checks for any employees paid by a personal budget. (A direct payment cannot be paid unless a valid CRB/DBS is in place, evidence of this will be required).
- Agency invoices if paid by a Personal Budget.

Failure to provide the requested information for review within the specified time may result in suspension of a direct payment.

Regular checks will be carried out to ensure funds are being spent appropriately in line with the child's support plan and to ensure the budget is being managed effectively. If there are any problems or evidence of misuse identified, the family's budget management will be checked more often.

If the budget is consistently being used other than as agreed, the decision making panel will be notified and a decision will be made as to whether payments will continue.

Other potential consequences may include insisting that a broker (a person or organisation that will manage the budget on the family's behalf) acts on the service user's behalf or, to arrange a Notional Budget (budget managed by the authority).

In certain circumstances the Council may require the recipient to repay part or all of the funding, including where:

- a. the circumstances of the child or young person have changed in a manner which has an impact on the appropriateness of the agreed provision;
- b. all or part of the direct payments have not been used to secure the agreed provision;
- c. Direct payments have been misspent and spending not in line with the agreed support plan
- d. theft, fraud or another offence may have occurred in connection with the direct payments;
- e. the child or young person has passed away

6. Transitions

A children's personal budget should only be provided to those young people under the age of 18 years old. There are changes around legal status and entitlements that impact on a young person when they reach the age of 18 and these consequently impact on the calculations involved in the Resource Allocation System and the Personal Budgets processes. To continue to qualify for social care provision from the local authority a national set of eligibility criteria must be met by all adults aged 18 and over. An assessment is undertaken to understand the needs of the individual and three conditions must be met for someone to be eligible for care and support as an adult:

a) the needs must arise from or be related to a physical or mental impairment or illness **and**

b) the adult must be unable to achieve two or more outcomes from a specific list e.g. manage and maintain nutrition, make use of necessary services in the community, access and engage in work or training **and**

c) as a consequence of being unable to achieve those outcomes, there is (or is likely to be) a significant impact on the adult's wellbeing. There are 9 areas of wellbeing which are considered e.g. physical and mental health and wellbeing, protection from abuse or neglect, social and economic wellbeing

A young person can become entitled to benefits in their own right from the age of 16 years but many families choose to delay this until the young person is older at age 18 or 19 years depending on the benefit involved and individual circumstances.

Effective person-centred transition planning is essential to help young people and their families prepare for adulthood. Transition to adult care and support comes at a time when a lot of change can take place in a young person's life. It can be changes to the care and support they receive from education, health and care services, and may involve them with new agencies who might provide housing, employment of further education opportunities.

The purpose of carrying out transition assessments is to provide young people and their families with information so they know what to expect in the future and can effectively prepare for adulthood.

Transition assessments should take place at a point when the local authority can be reasonably confident about what the young person's needs for care and support will look like once they turn 18 and/or where there is significant benefit to the young person in carrying out the assessment.

Both the Children and Families Act 2014 and the Care Act 2014 require that planning for the transition to adulthood for young people with special educational needs who have an Education, Health and Care (EHC) Plan should start to take place from year 9, when the young person is aged 14 years old. The transition assessment should be undertaken as part of annual reviews of the EHC Plan and should inform a plan for the transition from children's to adult's care and support.

One further difference from children's to adult's care and support services is that the individual's financial circumstances will be assessed to determine how much (if anything) they can contribute towards the cost of their care and support. There is a national set of financial assessment criteria which must be followed, but some local flexibilities are allowed. These are set out in Oldham Council's Charging Policies.

7. Safeguarding

Oldham Council needs to be satisfied that a person providing care to a child or young person under the age of 18 is a suitable person. In making Direct Payments, the Council will need to be satisfied a "relevant individual" (a person who is or has been

employed to provide care to a child) is not included on a barred list held by the Disclosure and Barring Service (DBS)¹.

It is the Council's strong recommendation that all personal assistants employed to provide care to a child or young person under the age of 18 should have a background check with the DBS². The DBS helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

If the Council receives information that a child may be at risk or harm from a person employed to provide care, personal budgets may be suspended during an investigation into the circumstances and that individual may be referred to LADO and the DBS list.

¹ See this URL for more details: <https://www.gov.uk/disclosure-barring-service-check/overview>