



# Derby City Council

## Personal Budgets Policy

### 1. What is Personalisation?

Personalisation is about putting the individual child or young person at the centre and all those involved with them working together to support and enable them to achieve their potential in all areas of life. As equal partners, they and their family are actively involved.

The idea of putting the child at the centre of planning their care and support is not new. What personalisation adds is the active participation of the child and their family in managing their own lives.

It also encourages the family to look at and appreciate the 'wealth' they already have so that resources can be focussed on what is really needed to improve things.

A national organisation called InControl explains what this 'wealth' could include:

### Real Wealth



## **2. What is a Personal Budget?**

A personal budget has been described as the 'vehicle' to enable people to achieve their individual outcomes through a personalised approach. However, this is only one part of the wider support available to families.

For children and young people with Special Educational Needs and Disability (SEND) a personal budget is an amount of money identified by the local authority to deliver all or some of the provision set out in an Education, Health and Care Plan (EHCP).

Personal budgets do not come from a new pot of money so if you already receive a service you won't get both the support you get now and a personal budget.

It is not the total sum of all the resources that are available to support a child or young person and the EHCP (Section J) does not need to list all the costs associated with supporting a child or young person.

The EHCP does need to explain how a personal budget (when requested and agreed) will be used to deliver agreed support, the needs and outcomes it will meet and how the money will be used, spent and managed including arrangements in relation to any Direct Payments.

Personal budgets will not be available for all areas of service provision as the local authority also has to consider the wider impact on families due to economies of scale, or if having to release funding for personal budgets means some services are no longer being provided.

Personal budgets will form part of the assessment process and be based on the support a child or young person needs to meet their outcomes. By having a say in the way this budget is used a young person or a parent/carer of a child can control elements of their support.

There are three different types of personal budget:

- I. **A personal social care budget:** this refers to the budget that will be made available if a child or young person is assessed as needing additional and individual support at home and when out and about in the community. This could be used for services such as community short breaks, activities in the home, personal care for example.

Children and young people who are assessed as requiring support from Derby City Council's Integrated Disabled Children Service are already able to request their personal social care budget as a Direct Payment – that is the money can be used directly by the family to purchase their own support.

For more information, visit -

<https://www.derby.gov.uk/health-and-social-care/disabilities/disabled-children-and-young-people-the-lighthouse/>

- II. **A personal health budget:** this refers to the budget that will be made available should a child or young person have a complex, long-term and/or life limiting condition. It may also be available to help with equipment or other health services. This could be used for equipment or training for family members to be able to give medication/health support, for example.

The underpinning principles of a personal health budget are:

- There is the 'right to ask' for a personal health budget for adults eligible for continuing healthcare and **parents of children receiving continuing care.**
- There is a 'right to have' personal health budgets for those eligible for continuing healthcare, not in nursing or residential care homes.
- Anyone with a long term physical or mental health condition will have the 'right to ask' for a personal health budget where they can benefit.

For more information:

Website - <http://www.southernderbyshireccg.nhs.uk/your-health-services/personal-health-budgets/>

Email - [Sderccg.personalhealthbudgets@nhs.net](mailto:Sderccg.personalhealthbudgets@nhs.net)

Phone - 01332 868756 Or 01332 888186

Address - Personal Health Budgets Team  
Southern Derbyshire CCG  
Cardinal Square  
1<sup>st</sup> Floor East Point  
10 Nottingham Road  
Derby  
DE1 3QT

- III. **A personal SEN budget:** this refers to a sum of money made available by the local authority when it is clear that without this additional (top up) funding it would not be possible to meet the child's or young person's learning support needs.

This could be used for specialist input that the school can't provide or a work based learning opportunity, for example.

*It cannot be used to fund a school place or a post-16 institution.*

The school or college involved will already have funding for learning support for its students and only children and young people with more complex learning support needs are likely to need a personal SEN budget (notional funding)

In some circumstances the head teacher and school may choose to offer some funding towards a personal SEN budget - this will always be the decision of the head teacher.

There is no expectation that the school will release funding from its own budget but personalisation gives the opportunity for the school to *choose* to do this if it is clear it is the best way to improve outcomes for the child or young person.

Where a direct payment is proposed and any of the priorities delivered are on educational premises, the educational provision must agree.

In all cases the option of a personal budget is based on the support a child or young person needs to meet their individual outcomes.

### **3. Who can ask for a Personal SEN Budget?**

Parents and young people have the right to ask the local authority to prepare a personal budget ***once the authority has completed an EHC assessment and confirmed that it will prepare an EHCP.***

A personal budget may also be requested at an EHCP Statutory Review.

To request a personal SEN budget, please contact:

- The Vulnerable Learners Service at Derby City Council  
Email - [SENDAdmin@derby.gov.uk](mailto:SENDAdmin@derby.gov.uk) Telephone - 01332 642653

or

- Derby SENDIASS Team (Special Educational Needs and Disability Information Advice and Support Service) at Derby City Council  
Email - [SENDIASS@derby.gov.uk](mailto:SENDIASS@derby.gov.uk) Telephone - 01332 641414

#### **Situations where a personal budget cannot be offered:**

- Personal budgets are not available to children or young people in Custody.
- Where the impact on other children and young people would be detrimental.
- Where sums of money are too small against the associated administrative costs and so not effective use of public funds.

### **4. Ways to manage a Personal Budget**

There are four ways in which a personal budget can be managed:

- 1) Direct Payment** - The family can choose to take the personal budget as a direct cash payment and manage it themselves (there is information available on the organisations which can support families with Direct Payments. Note that these organisations have not been through any Derby City Council processes to quality assure).

- 2) **An arrangement** - The family can ask the local authority, School or College to hold the funds and commissions the support specified in the plan (these are sometimes called notional budgets).
- 3) **Third Party Arrangements** - The family can ask a third party service or organisation to manage funds on their behalf.
- 4) **A combination of the above.**

In some circumstances, usually identified through the assessment process, the choice of taking a personal budget as a direct payment may be withheld. As set out in direct payments legislation the reason is likely to be safeguarding concerns and/or issues around consent (in particular around 16 and 17 year olds).

## **5. What is Derby's initial Personal Budget Offer?**

In Derby City Council, we have looked at services that currently lend themselves to personal budgets such as:

- Budgets allocated to Social Care
- Existing direct payment social care budgets (specialist support)
- Community Short Break Direct Payment (targeted support)
- The School formula – for financing Special Educational Needs
- Funding for Education High Needs called Element 3
- From home to school/college transport

...and can work out what a personal budget looks like based on these areas. At the moment we will use current systems to calculate a notional personal budget.

In the future we may decide to develop what is called a Resource Allocation System which will involve asking you some different questions – this approach is used in our Adult services. Responses to these questions will result in a score linked to financial bands for a personal budget.

Additionally, Personal Health Budgets are available (subject to eligibility) from Southern Derbyshire CCG (see page 3 for more information).

## **6. Personal Budgets as a Direct Payment**

We have then looked at the provision which can currently be offered as a 'cashable' personal budget, or direct payment, that you can use to purchase your own support.

These are:

- Social Care Direct Payments (via Derby City Council)
- Community Short Break Direct Payment (via Derby City Council)
- Home to school/college transport Direct Payment (via Derby City Council)
- Personal Health Budget (subject to Southern Derbyshire CCG agreement).

To receive a Direct payments from Derby City Council you will need to:

- Open a separate bank account and provide information on a regular basis so that the Council can check that it is being spent as agreed in the EHCP, and
- Sign an Agreement which details what is expected of you in taking a Direct Payment – the template is attached at Appendix 1.

## **7. How do I get a Derby City Personal SEN Budget?**

The personal budget process is part of the SEND integrated assessment process and the decision to produce an EHCP.

When the decision has been made to produce an EHCP and it is clear, through discussion with professionals and the family, that a personal budget would be appropriate in helping to provide the support needed to achieve outcomes identified in the EHCP then further discussion with you will take place.

If you are still sure that you want a Personal Budget you will be asked to choose your personal budget options and if appropriate, your direct payment options.

***The Local Authority will consider each request for a Personal Budget on its individual merits.***

Cases where the Local Authority is unlikely to provide a personal budget:

- If the Personal Budget would have an adverse impact on services provided or arranged by the Local Authority for other EHCP plan holders, or
- Where it may not be an efficient use of the Local Authority's resources.

To request a Personal (SEN) budget, please speak to:

- Vulnerable Learners Service at Derby City Council  
Email - [SENDAdmin@derby.gov.uk](mailto:SENDAdmin@derby.gov.uk) Telephone - 01332 642653

or

- Derby SENDIASS Team (Special Educational Needs and Disability Information Advice and Support Service) at Derby City Council  
Email - [SENDIASS@derby.gov.uk](mailto:SENDIASS@derby.gov.uk); Telephone - 01332 641414

## **8. Where can I find further information, advice or support?**

- **Derby SENDIASS Team**  
(Special Educational Needs and Disability Information Advice and Support Service) at Derby City Council, The Council House, Corporation Street, Derby DE1 2FS. Email - [SENDIASS@derby.gov.uk](mailto:SENDIASS@derby.gov.uk); Telephone - 01332 641414
- **Derby Vulnerable Learners Service**  
Derby City Council, The Council House, Corporation Street, Derby DE1 2FS.  
Email - [SENDAdmin@derby.gov.uk](mailto:SENDAdmin@derby.gov.uk) Telephone - 01332 642653

- **NHS England**  
<https://www.nhs.uk/NHSEngland/patient-choice/personal-health-budget/Pages/about-phb.aspx>  
<https://www.england.nhs.uk/wp-content/uploads/2017/06/right-to-have-phb-guid.pdf>  
<https://www.england.nhs.uk/personal-health-budgets/>
- **Southern Derbyshire Clinical Commissioning Group**  
<http://www.southernderbyshireccg.nhs.uk/your-health-services/personal-health-budgets/>

Email - [Sderccg.personalhealthbudgets@nhs.net](mailto:Sderccg.personalhealthbudgets@nhs.net)

Phone - 01332 868756 Or 01332 888186

Address - Personal Health Budgets Team  
 Southern Derbyshire CCG  
 Cardinal Square  
 1<sup>st</sup> Floor East Point  
 10 Nottingham Road  
 Derby  
 DE1 3QT

- Umbrella Independent Support Service  
<http://umbrella.uk.net/independent-support/>
- **The Local Offer**  
[www.derby.gov.uk/education-and-learning/special-education-needs-disabilities/](http://www.derby.gov.uk/education-and-learning/special-education-needs-disabilities/)
- **Short Breaks**  
[www.derby.gov.uk/health-and-social-care/disabilities/disabled-children-and-young-people-the-lighthouse/community-breaks/](http://www.derby.gov.uk/health-and-social-care/disabilities/disabled-children-and-young-people-the-lighthouse/community-breaks/)
- **Home to School/College Transport**  
<https://www.derby.gov.uk/education-and-learning/special-education-needs-disabilities/travel/>
- **Dfe Making It Personal Project**  
[https://councilfordisabledchildren.org.uk/sites/default/files/field/attachemnt/incontrol\\_providers\\_aw\\_lr-1.pdf](https://councilfordisabledchildren.org.uk/sites/default/files/field/attachemnt/incontrol_providers_aw_lr-1.pdf)

Last updated May 2018

## **Appendix 1 – What a Personal (SEN) Budget agreement will look like**

### **Agreement between:**

**Derby City Council (“we” / “us”) and [insert name of parent] (“you”) for the provision of a Personal Budget as a Direct Payment**

### **For [insert name of child/young person]**

This Agreement is legally binding on both Derby City Council and [insert name of parent] and states what you must do in agreeing to receive a Direct Payment and what we will do when agreeing to make the payments to you.

You have informed us that you wish to receive a Direct Payment as part of the Personal Budget agreed in your child’s/young person’s Education, Health & Care Plan (EHCP), and we have agreed to give you a Direct Payment subject to the conditions contained within this Agreement. You have agreed that you can manage a Direct Payment without our assistance.

### **We will -**

- Calculate the Direct Payment that [insert name of child] is entitled to based on <insert
- Calculate the Direct Payment based on <insert> then pay <insert schedule basis>
- Pay the Direct Payment directly into your nominated bank account.
- Review the availability and suitability of your Direct Payment, as well as the amount offered and the calculation made according to your individual circumstances but at least once a year.
- Reduce your Direct Payment if you have accrued a surplus or if we have made an overpayment to you.
- Reserve the right to receive and request evidence that the monies paid to you have been used for the specified purpose only, that purpose being <insert>.
- Suspend your Direct Payment, or stop it and terminate this Agreement, and recover payments as necessary (in line with the Council’s debt recovery process if:
  - for whatever reason, you are temporarily unable to arrange <insert support agreed>;
  - you have been using the Direct Payment for items or services other than those agreed in your child’s/young person’s Education, Health & Care Plan;
  - your Direct Payment has been inappropriately used (either intentionally or unintentionally), or you have shown yourself to be incapable or unwilling to manage your Direct Payment correctly;
  - you fail to comply with the review or monitoring process;
  - we suspect that criminal activity has taken place, or
  - we decide that another form of assistance is to be offered.

### **You as the parent receiving the Direct Payment will –**



- Re-apply for a personal budget before the start of each academic year, by contacting [accesstoresources@derby.gov.uk](mailto:accesstoresources@derby.gov.uk)
- Nominate a specified bank account for the Direct Payment to be paid in to on a <insert> basis, and be responsible for ensuring that the payments are received into this account.
- Be responsible for making all the necessary arrangements to ensure that your child receives the support agreed in their EHCP using the Direct Payment.
- Be responsible for ensuring your child's safety and security whilst receiving support funded through the Direct Payment, including ensuring that they are appropriately accompanied as necessary.
- Be responsible for the terms and conditions of any agreement made with any other parties for the purpose of arranging the support agreed in your child's/young person's EHCP.
- Take all reasonable precautions to make sure that all arrangements you make for your child funded by the Direct Payment will be in accordance with all relevant laws designed to ensure that they are safe.
- Ensure that any third parties involved in the provision of the support agreed in your child's/young person's EHCP are appropriate individuals to undertake such activities within the meaning of the Safeguarding Vulnerable Groups Act 2006, including ensuring that Disclosure Barring Service checks have been undertaken where necessary.
- Make sure that your child receives the support as agreed in their EHCP.
- Give written notice to us if your child's needs change on a permanent basis, allowing 20 working days' notice for an interim review to be arranged by us.
- Give written notice to us if your child moves address.
- Give written notice to us if your child is unable to receive the support agreed in their EHCP on a long term basis so that the Direct Payment can be adjusted.
- Make your own alternative arrangements utilising your Direct Payment to overcome any short term issues (such as occasional illness) which affect the provision of the support agreed in your child's/young person's EHCP.
- Give written notice to us, allowing 20 working days' notice, if you no longer wish to receive the Direct Payment and wish to review this as part of the personal budget offer for your child.
- Repay some or all of the Direct Payment monies if:
  - for whatever reason, you are temporarily unable to arrange the support agreed in your child's/young person's EHCP;
  - you have been using the Direct Payment for items or services other than those agreed in your child's/young person's EHCP;
  - your child's level of school attendance falls to an unacceptable level (where this is applicable to your Direct Payment);
  - the Direct Payment has been inappropriately used (either intentionally or unintentionally), or you have shown yourself to be incapable or unwilling to manage your Direct Payment correctly;
  - you fail to comply with the review or monitoring process;
  - we suspect that criminal activity has taken place; or
  - we decide that another form of assistance is to be offered.

- Repay any overpayment within 14 days of presentation of an invoice from us.
- Understand that if your child/young person is assessed as no longer being eligible the Direct Payment will end.
- Not use monies received as a Direct Payment for any purpose other than what was agreed in your child's/young person's EHCP.
- Maintain clear and accurate records of all spending using the Direct Payment and in particular be able to show how it has been used to meet your child's requirements. You will also be required to keep invoices, payslips and receipts for anything (over £20) that you have purchased with your Direct Payment, although you may find it easier to keep receipts for all expenditure. You must allow us to look at these records if we ask you.
- Keep all relevant paperwork concerning how you have spent your Direct Payment for a period of at least seven years, including retaining all receipts for a period of 6 months, in a condition which can be checked by officers authorised by us to ensure that all monies received have been utilised for the stated purpose
- Understand that you are responsible for any tax liability that arises as a result of receiving a Direct Payment.

You agree not to use the Direct Payment:

- for household expenses, such as food or personal items;
- for non-statutory liabilities, such as tips, bonuses or ex gratia payments;
- for anything that is illegal;
- to buy services from us;
- for an activity or item that exposes any individual to serious risk of harm; or
- for anything else that has not been agreed in your child's/young person's EHCP.

### **Employing Staff**

- If you choose to employ anyone to provide the support agreed in your child's/young person's EHCP, you must have employer's liability insurance before they start work. You must renew this insurance as required, or annually.
- You cannot employ anyone who lives in the same household as you or the child without first having permission from us. This can only be given where exceptional circumstances are shown, and we will give you that permission in writing.
- You must act as a responsible employer and make all your arrangements in line with employment legislation, and ensure that you have sufficient funding to cover your potential employer responsibilities.
- If employing anyone who will have frequent unsupervised contact (more than three times per month) with your child within the relevant definitions of 'regulated activity' given by the Safeguarding Vulnerable Groups Act 2006, you must ensure that the person has undertaken an appropriate Disclosure Barring Service check, and be satisfied that the person does not pose any significant risk of harm to your child.

- We would strongly recommend that you obtain independent advice concerning employment law.

**Monitoring by the Council**

- Periodically we will request permission to look at your bank statements and other records to establish how you are spending your Direct Payment, to ensure that you are using it to meet what was agreed in your child’s/young person’s EHCP within the terms set out in this Agreement.
- We may do this by writing to you to request that you send certain documents to us, or we may contact you to arrange to visit you in your home, or other mutually agreed venue, at a time that is convenient to both parties.

**Complaints**

- You have the right to complain about the operation of this Agreement using our complaints procedure.

**Please return all pages of the Agreement. A full copy will be forwarded to you.**

We understand and agree to the terms of this Agreement:

Signed by the person in receipt of the DIRECT PAYMENT payments: ..... Print Name: .....
Date: .....
Signed on behalf of Derby City Council by: ..... Print Name: .....
Date: .....

**How your information may be used**

We work with partners to provide you with public services. To do this, we may need to share your information. We will do this in a way that protects your privacy.

We are under a duty to protect public funds. We may use any of the information you provide to us for the prevention and detection of fraud. We may also share this

information with other public bodies that are responsible for auditing or administering public funds.

Please let us know when any of your contact details change. You have the right to know what information we hold about you and we try to make sure it is correct.

If you would like any further information or advice, please contact:

Derby SENDIASS Team (Special Educational Needs and Disability Information Advice and Support Service) at Derby City Council, Council House, Corporation Street, Derby, DE1 2FS

Email - [SENDIASS@derby.gov.uk](mailto:SENDIASS@derby.gov.uk); Telephone - 01332 641414