

# EHCPs and Personal Budgets

## What is a Personal Budget?

An amount of money identified by a Local Authority to deliver provision set out in an Education, Health and Care plan where the parent or young person is involved in securing specified provision.

## When may a Personal Budget be provided?

When the Local Authority has completed an EHC needs assessment and confirmed it will issue an EHCP, a personal budget or direct payment can be requested by a child's parents or a young person to enable them to secure the particular provision that is specified in the EHCP.

## What is the aim of a Personal Budget?

To secure provision agreed in an EHCP in a holistic, person-centred way which personalises access to education, health and social care provision. It allows the child's parents or young person to use their personal budget to create flexible or specialised learning support. For example: improving access to assisted technology purchases or specialised education or training. It could also be used to fund access to specialised provision such as participation in conductive education. It cannot be used to fund a particular school placement.

## Where can I access information on Personal Budgets?

Within the Local Offer usually available on the Local Authority's website.

## If a Personal Budget is not requested when the EHCP drafted, is it possible to request one at a later stage?

Yes. A Personal Budget may also be requested during an Annual Review of the EHCP. An EHCP must be reviewed every 12 months starting from the date the plan was first made. If the child is under 5, a Local Authority should consider a review every 3-6 months.

## How can a Personal Budget be managed?

There are 4 ways:

1. A direct payment. This means the individual(s) receive the cash to contract, purchase and manage particular services themselves.
2. An arrangement. This means the Local Authority, School or College holds the funds and commissions the support specified in the EHCP. Sometimes this is referred to as a 'notional budget'.
3. A third party arrangement. This means funds are paid to and managed by an individual or organisation on behalf of the child's parent(s) or the young person.
4. A combination of a direct payment, arrangement, or third party arrangement.

## Conditions for a Direct Payment

A Local Authority may only make a direct payment where they are satisfied that:

- The recipient will use them to secure the agreed provision detailed in the EHCP in an appropriate way.
- Where the recipient is the child's parent or a nominee, that person will act in the best interests of the child or young person when securing the proposed agreed provision.
- The direct payments will not have an adverse impact on other services which the Local Authority provides or arranges for children and young people with an EHCP maintained by the Local Authority.
- Securing the proposed, agreed provision by way of a direct payment is an efficient use of the Local Authority's resources. This means that the Local Authority will only agree to make a direct payment for special educational provision where it will not cost more than if the Local Authority were to provide the provision themselves.
- Where a direct payment is proposed for special educational provision, the education institution must agree to the use of a direct payment.

## The Decision-Making Process

Getting agreement from a Local Authority to a Personal Budget is a complex and lengthy process. The process in brief is as follows:

- 1) A Personal Budget is requested whilst the EHCP is drafted or at an Annual Review.
- 2) The Local Authority provides an indication of the level of funding required to secure the provision the Personal Budget will be used for. This is often referred to as the 'indicative budget' stage.

The 'indicative budget' is usually calculated using a Resources Allocation System or 'RAS'.

The amount of money to be paid must be sufficient to provide for the full cost of each of the services specified in the EHCP.

- 3) The indicative budget is discussed and negotiation takes place.
- 4) A final budget must be provided once the funding has been agreed.

Once agreed, the proposed Personal Budget should be included in Section F if it is to be used to secure Special Educational Provision and in Section J.

## Can a Local Authority refuse to prepare a Personal Budget?

Yes, when special education provision is secured by the Local Authority under an arrangement with a third party (such as the NHS), and it would not be possible to work out what proportion of the amount paid is attributable to the child or young person, without having an adverse impact on other services, or if it would not be an efficient use of the Local Authority's resources.

## What issues commonly arise?

Brokering a Personal Budget is complex and sadly can result in disputes. Issues that commonly arise include:

- When a Local Authority refuses to prepare a Personal Budget.
- There are arguments on the amount of the proposed Personal Budget. There is a need to ensure that the Personal Budget is fixed at a level, which is sufficient to meet assessed needs.

## How can Lester Aldridge assist?

At Lester Aldridge we have experience of supporting clients during the brokerage of a Personal Budget. Our aim is to ensure that any budget provided will enable your child, or a young person, to have greater choice, flexibility and control over the education, health and social care provision to be received. We can provide:

- An initial, free consultation to discuss your child or young person's needs, preferred model of support and the best way to achieve your preferred option.
- Representation and advocacy at any meetings to discuss your Personal Budget request to ensure your needs and preferences are clearly articulated to a Local Authority.
- Detailed needs assessments prepared by independent experts to evidence education, health and social care needs, and what a Personal Budget would need to make provision for, to provide a benchmark for negotiation with a Local Authority.
- On-going support at each key stage on the merits of accepting a budget proposal to ensure it is sufficient to meet need.
- Advice with regard to whether a challenge is required if the Local Authority refuses to agree a Personal Budget sufficient to meet need.