



Education Personal Budgets, Lincolnshire  
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# Legislation and Background

## **SEND Process for Personal Budget/Direct Payment request**

*Relevant legislation: 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*

See CoP 9.95: Requesting a Personal Budget

## **Background**

- A Personal Budget is an amount of money identified by the local authority to deliver all or part of educational provision set out in Section F of an EHC plan.
- The child's parent or the young person can request a Personal Budget, including a request for Direct Payments (i.e. receive the cash to contract, purchase and manage services themselves).

Personal Budgets are means tested in Social Care but not education.

# Authority duties

A request for a Personal Budget (including Direct Payments) can only occur:

- When the draft EHC plan is being prepared (i.e. the local authority has completed an EHC needs assessment and confirmed that it will issue an EHC plan)

**OR**

- The EHC plan is being reviewed or re-assessed.

Requesting a Personal Budget is optional for the child's parent or young person, but local authorities are under a duty to consider each request on its individual merits and prepare a budget when requested unless the sum is part of a larger amount and disaggregation of the funds for the Personal Budget:

- would have an adverse impact on services provided or arranged by the local authority for other EHC plan holders

**OR**

- where it would not be an efficient use of the local authority's resources

*NB When a child is under the age of 16 a parent is able to advocate on their behalf.*

Personal Budgets must be considered  
when requested

# Parent/carer/young person duties

There are conditions regarding 'Persons to whom Direct Payments may not be made'; this is mainly around persons subject to drug rehabilitation, alcohol treatment and elements of criminal justice.

If a Personal Budget is agreed and the Personal Budget is delivered through a Direct Payment the agreed funds will be received on a pre-paid card or to a separately set up bank account to only be used for the Direct Payment in and out goings and that we will need to verify their identity. There will also be terms and conditions and a Direct Payment agreement put in place and audit checks.

Personal Budgets are hard work

# Approval Process in Lincolnshire

CASEWORKER  PRACTICE SUPERVISOR  TEAM MANAGER

The authority will take into account:

1. Is the provision in Section F?

The provision for which a personal budget may be available must be in Section F or agreed by the authority to be added to Section F if the request has come during Annual Review

2. Does a service already provide this in its universal provision?

3. Are there any conditions which must be met before direct payments may be made?

4. Are there any complicating factors that would make the management of a personal budget a risk?

5. Details of organizations that provide advice and assistance in connection with personal budgets

6. Does the parent/carer/young person understand the responsibilities and audit process and have capacity to agree to the terms and conditions.

Personal Budgets are often a positive solution

# Decision Making and Appeal

- The authority has the right to refuse a personal budget
- If the LA refuses to provide a personal budget they must set out their reasons in writing and parents or the young person can ask for their decision to be reviewed. A request for review can only be made once.

Personal Budgets are not always suitable

# Audit and Review

- The provision will be reviewed in the Annual Review of the child or young person's plan, as provision in a school would be, with the same level of scrutiny and expectation
- All spending is audited and the SEND CW signs this off
- Details of the proposed personal budget should be included in Section J of the EHCP. The content of Section J cannot be appealed to the Special Educational Needs and Disability Tribunal. Therefore, if there is any disagreement with the amount of personal budget/direct payments allocated, this will have to be taken up with the LA.

Personal Budgets are agreed for a very specific provision