

Personal Budgets provided through an Education, Health and Care (EHC) Plan Policy and Guidance

1. What is a personal budget?

A personal budget is an amount of money identified by the council to deliver provision set out in an Education, Health and Care (EHC) plan where a parent or young person is involved in securing that provision.

2. Who is entitled to one?

The child's parent or young person has the right to request a personal budget when the council has completed an Education, Health and Care (EHC) needs assessment and agreed it will prepare an Education, Health and Care (EHC) plan, or at a statutory EHC Plan review.

Funding to support a Personal Budget may come from education, social care, health or a combination of these services, provided that they enable the child or young person to achieve the identified outcomes on the child or young person's EHC plan.

3. What are the ways parents and young people can be involved in the delivery of a Personal Budget?

- a) Direct Payments – where individuals receive the cash to contract, purchase and manage services themselves
- b) An arrangement – where the council, school or college holds the funds and commissions the support specified in the plan (these are sometimes called notional budgets)
- c) Third party arrangements – where funds (direct payments) are paid to a third party individual or organisation and managed on behalf of the child's parents or the young person.
- d) A combination of the above.

4. How does the funding for special educational provision in a Personal Budget work?

4.1. Mainstream schools

Schools and academies are funded for a financial year according to a formula using factors set in national regulations and are allocated a 'School Budget Share'. A statement informing schools of their funding for the new financial year is published each year.

Funding is allocated to mainstream schools and academies under three main headings:

Element 1

Core Educational/School place funding (sometimes referred to as the Age Weighted Pupil Unit (AWPU))

Schools get most of their funding based on the total number of pupils in the school. Every pupil in a school attracts an amount of money and this is the core budget for each school. It is used to make general provision for all pupils in the school including pupils with SEN.

This funding is not available as a personal budget.

Element 2

The School's Notional SEN Budget

Within the 'School Budget Share' there is a 'notional' budget for SEN. The amount in this budget is based on a formula which has been agreed between the schools and Kirklees.

It is the responsibility of each school to make sure the 'notional SEN budget' caters sufficiently for the special educational needs of the children and young people in their school. Schools have a duty to identify, assess and make special educational provision for all children with SEN; and the council has a duty to set out what schools are expected to provide from their delegated budget.

A school should use its notional SEN budget to fund up to £6,000 worth of special educational provision for a pupil with SEN (over and above the basic entitlement of all pupils including those with SEN (Element 1)), including those with EHC Plans. Not all pupils with SEN require special educational provision up to the amount of £6,000, it will depend on the individual needs of each pupil.

This funding would not normally be allocated as a personal budget, however a school can choose to release funding from this budget should it so choose.

Element 3

High needs Block - 'Top Up'

If the council decides that special educational provision for a child or young person should be made through an EHC Plan then the council will allocate additional educational funding over and above the funding already delegated to the school for Elements 1 and 2 described above. This is called high needs 'top up' funding.

Top up funding is allocated by the council to enable the school to make the appropriate special educational provision to meet the outcomes identified in the EHC Plan.

'Top up' funding will vary through the year as this money "follows" the child. Kirklees council revises 'top up' funding on a termly basis to take account of children who join or leave schools during the year.

In the majority of cases, the SEN Funding that goes directly to school, college or other educational setting as described above, is sufficient to deliver the special educational provision detailed in Part F of the EHC Plan.

This funding would not normally be allocated as a personal budget, however a school can choose to release funding from this budget should it so choose.

4.2. Special Schools

Special schools are funded on the basis of an agreed number of planned places (base funding) at £10,000 for each agreed planned place commissioned by the local authority. Top up funding is allocated by the council to support the school in meeting the needs of each child within the context of a whole school specialist approach.

'Top up' funding will vary through the year as this money "follows" the child. Kirklees council revises 'top up' funding on a termly basis to take account of children who join or leave schools during the year.

Special schools already have integrated specialist provision which is likely to limit the scope of a personal budget as resources are already fully committed within the school.

The school place funding and/or the top up funding would not normally be allocated as a personal budget, however a school can choose to release funding from this budget should it so choose.

5. So what is the scope for a Personal Budget to fund special educational provision?

High Needs Block funding is a commissioning budget; as well as part of it being made available to provide 'top up' funding to schools (Element 3 described above) it also funds special schools, out-of-area placements, specialist teaching services, speech and language therapy (contracted from local health services and in addition to the service available through health services).

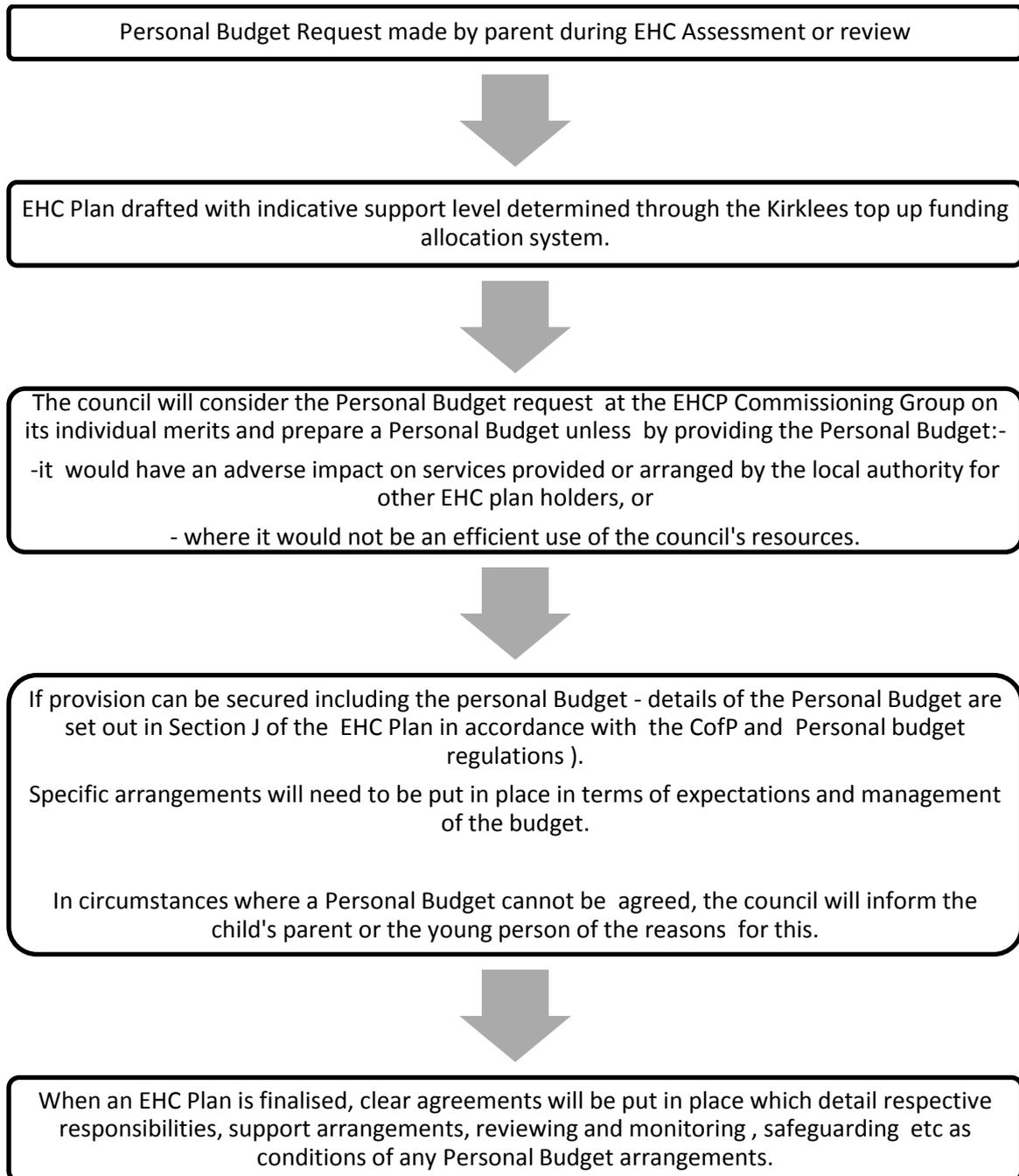
At the current time, it is unlikely that there will be large numbers of personal budgets to fund special educational provision from the High Needs Block as most funding is already committed to schools, colleges and commissioned support. It is only for the few with exceptionally high needs where additional and individual funding will be added on an individual basis to that which is made available to schools.

6. What sort of things can a Personal Budget for special educational provision be used for?

Amongst other things a personal budget agreed through an EHC Plan could include:-

- Adding to existing learning support;
- Something delivered specifically for the individual child or young person and/or to fund specialist input;
- Work experience or work based learning opportunities;
- Add to the technology available to promote a child or young person's individual learning style.

7. What is the process for consideration/confirmation of a Personal Budget provided through an EHC Plan?



8. What if a Personal Budget request through the EHC plan includes Health and Social Care provision as well as special educational provision?

If a Personal Budget is requested through the EHC process and includes elements of health or social care provision, the above process needs to be considered and aligned with processes specific to health and social care. This will be done by the EHCP Commissioning Group which meets once a month (*terms of reference are available on request*).

Health and social care may be asked for/provide a Personal Budget which has not been requested through the EHC process. Dependant on the outcomes, needs and provision this is supporting, this may be reflected in parts G, H1 and H2 of the EHC plan.

Further information on Health and Social Care budgets are available on the Local Offer www.kirkleeslocaloffer.org.uk

9. What are the reasons why a Personal Budget may not be agreed?

A Personal Budget may not be agreed in the following circumstances:-

- a) Provision of a Personal Budget would have an adverse impact on other services which the council provides or arranges for children and young people with an EHC plan.
- b) A Personal Budget does not reflect efficient use of council's resources, for example if;
 - o The provision to be purchased through a Personal Budget costs more than is available through the high needs top up funding (4.1)*;
 - o The provision to be purchased through the Personal Budget duplicates existing services at a universal, targeted or specialist level (representing double funding).

**On occasion, schools and colleges may choose to contribute their own funding (Notional SEN Budget/Element 2) to a Personal Budget, however, they are not required to do this.*

- c) Where a direct payment is proposed for special education provision, and where the proposed provision is to be delivered on their premises, but agreement cannot be reached with the early years setting, school or college.
- d) The request for a Personal Budget as a Direct Payment has been made by an individual deemed inappropriate to receive a Direct Payment as set out in the Regulations Schedule (relates to direct payments only).

10. What happens if a Personal Budget is not agreed?

If a Personal Budget cannot be agreed, the council will inform the child's parent or the young person of the reasons it is unable to agree / identify a sum of money and work with them to ensure that services are personalised through other means.

Any requests that cannot be fulfilled as a result of existing block contracts or other existing arrangements which means funds cannot be disaggregated will inform joint commissioning arrangements for greater choice and control.

The council will set out their reasons in writing and inform the child's parent or the young person of their right to request a formal review of the decision. The council will consider any subsequent representation made by the child's parent or the young person and notify them of the outcome, in writing, setting out the reasons for their decision.

SEN Tribunal will not consider an appeal against the council's decision not to issue a Personal Budget but will consider disagreements regarding the special educational provision requested, as with any other disagreement about provision to be specified in an EHC plan.

11. When a parent or the young person decides to make alternative arrangements by taking up a place at an independent school or by electively home educating (elective), can a Personal Budget be used to support these arrangements?

The Code of Practice states that:-

- When an EHC plan is maintained for a child or young person the local authority **must** secure the special educational provision specified in the plan. If a local authority names an **independent school** or **independent college** in the plan as special educational provision it **must** also meet the costs of the fees, including any boarding and lodging where relevant (9.131).
- In cases where local authorities and parents agree that **home education** is the right provision for a child or young person with an EHC plan, the plan should make clear that the child/young person will be educated at home. If it does then the local authority **must** arrange the special educational provision set out in the plan, working with the parents (10.31).

But where it is elective:-

- the local authority is relieved of its duty to secure the special educational provision in the EHC plan, including securing a place in a school or college named in the plan, if the child's parent or the young person has made suitable alternative arrangements for special educational provision to be made, say in an **independent school** or **college** or at **home** (9.132).
- Where the child's parent or the young person makes alternative arrangements, the local authority **must** satisfy itself that those arrangements are suitable before it is relieved of its duty to secure the provision. It can conclude that those arrangements are suitable only if there is a realistic possibility of them being funded for a reasonable period of time. If it is satisfied, the authority need not name its nominated school or college in the EHC plan and may specify only the type of provision. This is to avoid the school or other institution having to keep a place free that the child's parent or the young person has no intention of taking up (9.133).
- If the local authority is not satisfied that the alternative arrangements made by the child's parent or the young person are suitable, it could either conclude that the arrangements are not suitable and name another appropriate school or college, or it could choose to assist the child's parent or the young person in making their arrangements suitable, including through a financial contribution. But the local authority would be under no obligation to meet the costs of those arrangements (9.134).

For **elective home education** the Code of Practice states the arrangements that should be made, in sections 10.30 – 10.38.

Kirklees Council is committed to meeting parental choice of provision, and so may choose to assist (9.134) the child's parent or the young person by releasing to an

independent school or to support home education. The contribution will not be in excess of the amount commensurate with the amount of Element 3 funding (see 4.1) the child would get and the specific amount will be decided on an individual basis though consideration of the additional costs of the alternative arrangements. This funding would be released through a personal budget for the SEN provision to support the child in the private setting or elective home education.

The government have stated that a Personal Budget **cannot** be used for:

- the funding of a placement at the school, college, or educational setting; or
- the general provision for children or young people, including those who need SEN Support (which may be delegated by the Local Authority to schools).

Kirklees Council will **not** release funds to pay independent school fees if the council is able to secure a place in an alternative non-fee paying a school or college. It is the choice of the parent young person to make alternative arrangements in a fee paying school, so to do so would not reflect efficient use of council resources (CofP 9.132).

Kirklees Council will **not normally** release the school's £6K contribution to delivering the SEN provision identified in an EHC Plan. This is because this funding contribution is drawn from money that is already delegated out to Kirklees mainstream schools within their school budget (Notional SEN Budget/Element 2 funding (see 4.1) and so couldn't be taken as a personal budget anyway.

12. If a parent or young person is to receive a Direct Payment what do they have to do?

- sign an Agreement with the Local Authority to receive the money;
- open and manage a separate bank account;
- keep records of money spent;
- Be responsible for negotiating terms of any contract with anyone delivering provision which is to be paid for from the Direct Payment;
- Be the employer of any person paid by the Direct Payments to deliver provision;
- Act lawfully and within the terms of the Agreement with the Local Authority.

Please note, any request for a personal budget through an EHC Plan will be considered in relation to the full information within the Children & Families Act 2014, associated regulations (personal budgets)2014 and the SEND Code of Practice 2014.

January 2017.