

## **Lewisham Council Personal Budgets Policy Statement**

### **1. Introduction**

- 1.1. Section 49(1) Children and Families Act 2014 states that “a local authority that maintains an Education, Health and Care Plan, or is securing the preparation of an EHC plan, for a child or young person must prepare a personal budget for him or her if asked to do so by the child’s parent or the young person.”
- 1.2. This policy statement outlines how the Children and Families Act 2014 and Personal Budgets regulations are implemented by the London Borough of Lewisham Council and by the Lewisham Clinical Commissioning Group (CCG).

### **2. Definition**

- 2.1. A Personal Budget is an amount of money identified by the local authority or health partners to deliver provision set out in an Education, Health and Care (EHC) Plan where the parent/carer or young person is involved in securing that provision.
- 2.2. A personal budget is a sum of funding available for children and young people where it is clear that they need additional provision above that available to most children and young people through local services. An EHC personal budget is not the total amount of money that is available to support a child.
- 2.3. A Personal Budget could be used to enable parents/carers to exercise choice and control over the support their child is receiving.

### **3. Personalisation**

- 3.1. Personalisation is one of the key elements of the special educational needs and disability (SEND) reforms that came into force on 1st September 2014. Personalisation means that the child or young person with SEND is recognised as an individual with their own preferences, needs, strengths and aspirations.
- 3.2. During the EHC process, personalised outcomes, which recognise the child or young person’s needs and aspirations, will be agreed. Support can be tailored to reflect the child or young person’s personalised outcomes.

### **4. Requesting a Personal Budget**

- 4.1. The child’s parent or the young person has a right to request a Personal Budget when the local authority has completed an EHC needs assessment and confirmed that it will prepare an EHC Plan. They may also request a Personal Budget during a statutory review of an existing EHC Plan. This request must be made to the EHC Lead Officer.
- 4.2. In drafting the outcomes sheet in Section E of an EHC Plan, the EHC Lead Officer will record personalised outcomes which are agreed to reflect the strengths, needs and aspirations of the child or young person.

- 4.3. Strategies and provisions will be detailed to indicate how the personalised outcomes outlined within Section E of the EHC Plan will be achieved. If the parent/carer requests a Personal Budget, the Lead Officer will explore ways in which these strategies and provisions could be delivered through a Personal Budget – the type of provision which may be delivered through a Personal Budget is detailed in section 9 of this document.
- 4.4. Details of a proposed Personal Budget should be included in section J of the draft EHC Plan. This may include specific or general provision which is to be secured as part of the EHC Plan and the outcomes which these elements of the Personal Budget are intended to meet. Where the proposed Personal Budget includes direct payments for special educational provision, Section J must include the special educational needs and outcomes to be met by the payment.

## 5. Refusing a Request for Personal Budgets

- 5.1. Lewisham Council will consider each request for a Personal Budget on its individual merits. The local authority will prepare a Personal Budget in each case unless the sum is part of a larger amount and disaggregation of money 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.
- 5.2. If the local authority refuses a request for a direct payment for special educational provision, the local authority will set out its reasons in writing and inform the child's parent or the young person of their right to request a review. The local authority will consider subsequent representation made by the child's parent or the young person and notify them of the outcome of their decision in writing. #

## 6. Mechanism for Delivery of Personal Budgets

- 6.1. There are four ways in which the child's parent and/or the young person can be involved in securing provision through a Personal Budget:
1. **Direct payments:** individuals receive the cash to contract, purchase and manage services themselves. They have to show what the money has been spent on but buy and manage the services themselves. For example they may use the payments to employ staff directly, or purchase support from different providers.
  2. **An arrangement (or notional budget):** whereby the local authority, school or college holds the funds and arranges the support specified in the plan. Parents/carers or young people are told how much money is available and can discuss different ways to spend it to meet the needs of the child or young person.
  3. **Third party arrangements (managed account):** where funds are paid to and managed by an individual or organisation on behalf of the child's parent or the young person.
  4. A combination of the above

## **7. Direct Payments**

- 7.1. Direct payments are payments made directly to a child's parent, the young person or their nominee to allow them to arrange provision themselves. Direct payments will be set at a level that will secure the provision specified in the EHC Plan.
- 7.2. Direct payments will only be made if the parent/carer or young person appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them, and:
  - Is a person over compulsory school age.
  - Has the capacity to consent to managing direct payments.
- 7.3. Lewisham Council will provide a Direct Payments Agreement which gives notice of the conditions for receipt of any direct payment to parents/carers or the young person before any payment can be made, this must be signed by the recipient of direct payments.
- 7.4. A local authority must not make a payment for the purposes of funding a school place or post-16 institution.
- 7.5. Where a parent/carer or young person does not use the direct payment for the purposes agreed they may be required to repay money and/or have their direct payments suspended. If the local authority has decided to suspend direct payments it will inform the parent/carer or young person of its decision, giving reasons and informing them of their right to request a review.
- 7.6. Direct payments for EHC Personal Budgets are delivered and overseen by Lewisham Council's Short Breaks Service.
- 7.7. Complaints in relation to decisions not to make direct payments should be made in writing to the Short Breaks Team Manager, 32 Rushey Green, Catford, SE6 4JF or by emailing [shortbreaks@lewisham.gov.uk](mailto:shortbreaks@lewisham.gov.uk). This may be brought to the attention of the Social Work Team Manager. If no resolution can be reached, the appeals process can be found in section 11 of this document.

## **8. Brokerage**

- 8.1. Lewisham Council does not commission a specific external brokerage service, however parents/carers may request information in relation to external services. Parents/carers or young people who wish to use a brokerage service should procure such a service themselves.
- 8.2. Parents/carers or young people who opt for an external brokerage service should ensure that the Personal Budget is sufficient in order to meet any costs associated with brokerage and meet the outcomes and provision as set out within the EHC Plan.
- 8.3. If Targeted Short Breaks is identified in Section J of an EHC Plan, the Short Breaks Co-ordinators will work in cooperation with the families and the child or young person

to identify and broker the required support needed to meet the child's or young person's additional needs to access mainstream short break activities.

- 8.4. The Short Breaks Co-ordinators will also be responsible for working with the service providers in so far as it is reasonably possible to encourage them to improve accessibility for all disabled children and young people

## 9. Scope of Personal Budgets

- 9.1. **Top-up funding in mainstream schools:** if the child or young person is attending a mainstream school, the first £6000 of the provision within the EHC Plan is met by the school. This amount is not available for a Personal Budget unless the school agrees. The remainder of the cost of education provision within an EHC Plan will be met by a top-up amount agreed at the SEND Panel. This top-up amount may be within the scope of a Personal Budget if the education setting agrees and if it would represent an efficient use of resources.
- 9.2. **Top-up funding in special schools or specialist resource provision:** special schools and specialist resource provision receive a top-up for every child or young person on roll and hence top-up funding is used to provide additional specialist facilities which form the institution's targeted offer. If the child or young person is attending a special school, a Personal Budget for the education element of the EHC Plan will not routinely be available. In exceptional circumstances, some funding may be available if the child or young person requires additional specialist support above the setting's targeted offer if the education setting agrees and if this is an efficient use of resources.
- 9.3. **Home to school transport:** if a child or young person is assessed by their SEN Case Worker or MAPP Coordinator as requiring travel assistance to facilitate their attendance at school, the parent/carer may request to receive a direct payment by way of travel assistance. This amount will be based on the distance from home to school and the type of services required for ensuring the child or young person is able to travel to and from school. This direct payment may be included as part of a Personal Budget in Section J of the EHC Plan if this is an efficient use of resources.
- 9.4. **Social care services for children and young people aged 0-18:** in order to receive a social care assessment by the Children with Disabilities Social Work Team, the child or young person must be:
- under the age of 18
  - living permanently within the London Borough of Lewisham
  - diagnosed as having a disability.

Following the assessment, the allocated social worker will identify the necessary services to support the child or young person, and if applicable the family. The social worker may determine that no support is necessary. The social worker will draft a care plan to outline any necessary provision, this may be delivered through the Specialist Short Breaks Service. Specialist Short Breaks may be included as part of a Personal Budget in Section J of the EHC Plan if this is intended to meet the identified outcomes.

5

More details about Specialist Short Breaks can be found on the Lewisham Council website: [www.lewisham.gov.uk/myservices/socialcare/children/Children-with-disabilities/short-breaks/Types-of-short-breaks/Specialist-short-breaks](http://www.lewisham.gov.uk/myservices/socialcare/children/Children-with-disabilities/short-breaks/Types-of-short-breaks/Specialist-short-breaks)

- 9.5. **Social care services for young adults aged 18-25:** young adults who are receiving support through an EHC Plan may be able to access a service through Adult Social Care. Any necessary service from Adult Social Care may be included as part of a Personal Budget if it is intended to meet the outcomes as identified within the EHC Plan.

More information about Adult Social Care can be found on the Lewisham Council website: [www.lewisham.gov.uk/myservices/socialcare/adult](http://www.lewisham.gov.uk/myservices/socialcare/adult)

- 9.6. **Targeted Short Breaks:** if the child or young person is not eligible for Specialist Short Breaks, they may be referred to access a service through Targeted Short Breaks. This may be recorded as part of a Personal Budget if it is intended to meet the outcomes as identified within the EHC Plan. In order to receive a service through Targeted Short Breaks, the child or young person must be:

- under the age of 18
- living permanently within the London Borough of Lewisham
- diagnosed as having a disability
- in receipt of the higher rate care component of Disability Living Allowance.

More information about the Targeted Short Breaks Service can be found on the Lewisham Council website:

[www.lewisham.gov.uk/myservices/socialcare/children/Children-with-disabilities/short-breaks/Types-of-short-breaks/Pages/Targeted-short-breaks](http://www.lewisham.gov.uk/myservices/socialcare/children/Children-with-disabilities/short-breaks/Types-of-short-breaks/Pages/Targeted-short-breaks)

- 9.7. **Equipment:** In exceptional circumstances, specialist equipment may be included as part of a Personal Budget and recorded in Section J of an EHC Plan. Equipment will only be offered as part of a Personal Budget if the child or young person is unable to access the necessary equipment through targeted and universal services provided by the local authority or the NHS. Equipment will only be offered as part of a Personal Budget if this would be an efficient use of resources, if the funds can be disaggregated without a detrimental effect on other service users and if the recipient is able to purchase the equipment independently.
- 9.8. **Continuing Healthcare:** A child or young person may require a continuing care package if their complex and often long term health care needs cannot be met by universal, targeted or specialist services. However, the diagnosis of a particular disease or condition is not in itself a determinant of a need for continuing care. If a child or young person is eligible for fully funded NHS Continuing care you can receive a personal budget, which will be provided to the child or young person as a notional budget. This means that we will tell the child or young person & their family the amount of money that your agreed care package costs. The child or young person & their family will be supported to participate in the development of your care package. This will allow children & young people and their families to be fully involved in the care they receive, whilst also ensuring that needs are met competently and safely by trained and vetted professionals.
- 9.9. More information about Personal Budgets can be found the Lewisham Local Offer website: <http://www.lewishamlocaloffer.org.uk/>

## **10. Monitoring and Reviews**

- 10.1. The EHC Plan will be reviewed annually (twice each year for children under statutory school age). At that review, which will consider outcomes and whether the provision in place is continuing to meet a child or young person's needs, the arrangements for Personal Budgets will be reviewed.
- 10.2. For children who are using a Personal Budget for Continuing Health Care, the health element will be reviewed 3 months after it is first put into place and thereafter at least yearly unless a significant change occurs.
- 10.3. Children assessed in need of social care support will have their needs reviewed every 6 months.
- 10.4. Wherever possible the Council and CCG will complete reviews of all aspects of Personal Budgets at the same time.
- 10.5. The needs of the child or young person may change throughout the year or a parent/carer may feel that provision needs to be changed in order to best meet the agreed outcomes. The allocated SEN Case Worker, Health professionals or Social Worker will be able to support parents/carers or the young person to make changes to the agreed provision throughout the year. The changing needs and outcomes for children and young people are recognised through the annual review process for education, and through regular health and social care reviews.
- 10.6. The Short Breaks Service will monitor and review how direct payments are spent:
  - during quarterly monitoring
  - through ad hoc spot checks.
- 10.7. Recipients of direct payments are required to submit to evidence to the Short Breaks Service for quarterly monitoring. This will include evidence of invoices and receipts.
- 10.8. If evidence for monitoring is not submitted when required, the Short Breaks Service may temporarily suspend the use of the direct payments until appropriate evidence is received. During this time, the parent/carer or young person will be able to access necessary services as identified in the child or young person's care or support plan through the Short Breaks Service; the parent/carer will not be able to access any money directly.

## **11. Appeals**

- 11.1. Parents/carers who wish to appeal decisions made in relation to Personal Budgets are able to follow the EHC appeals process. More details about advice, support and the appeals process can be found on Lewisham Council's website: [www.lewisham.gov.uk/myservices/education/special-educational-needs/Pages/Advice-and-Support](http://www.lewisham.gov.uk/myservices/education/special-educational-needs/Pages/Advice-and-Support)
- 11.2. If you are unable to resolve a disagreement you can access the independent disagreement resolution service (020 7837 2900). Use of the disagreement services is voluntary and has to be with the agreement of all parties. It can support the parent/care or young person if they disagree about any aspect of special educational needs, health and social care provision during the EHC process.

- 11.3. Mediation can be accessed if the local authority decides:
- not to carry out an EHC needs assessment
  - not to draw up an EHC plan
  - after they receive a final EHC plan or amended plan
  - following a decision not to amend an EHC plan
  - a decision to cease to maintain an ECH plan.
- 11.4. The mediation arrangements are specifically linked to decisions about EHC needs assessment and EHC plans (more details can be found by contacting the independent disagreement resolution service on 020 7837 2900).
- 11.5. Where the disagreement relates to the special educational provision to be secured through a Personal Budget the child's parent or the young person can appeal to the First-tier Tribunal (SEN and Disability), as with any other disagreement about provision to be specified in an EHC plan.
- 11.6. Parents and young people who wish to make an appeal to tribunal may do so only after they have contacted the independent mediation service and discussed whether mediation might be a suitable way of resolving the disagreement. The parent/carer or young person's right to appeal is not affected by entering into mediation.
- 11.7. Where the parent/carer or young person decides not to go to mediation after contacting the mediation service, the service will issue a certificate within three working days of the parent/carer or young person confirming that they are not entering into mediation.
- 11.8. The certificate will enable the parent/young person to lodge their appeal with the Tribunal within two months of the original decision being sent by Lewisham Council or within one month of receiving the certificate from the mediation service, whichever is later.
- 11.9. Decisions in relation to the health element (Personal Health Budget) remain the responsibility of the CCG. The CCG must set out the reasons in writing and provide the opportunity for a formal review should they refuse a request for direct payments.

## **12. Information, advice and support**

- 12.1. For independent advice, information and support, parents/carers or young people can contact the Special Education Needs and Disability Information, Advice and Support Service (SENDIAS) or the Independent Supporter at Contact a Family. The services work in partnership and can be contacted in writing or via telephone:
- Lewisham's Special Education Needs and Disability Information, Advice and Support Service, Leamore Central Community Hub, Bonfield Road, SE13 5EU Telephone: 0203 319 2163, E-Mail: [Lewisham@Kids.org.uk](mailto:Lewisham@Kids.org.uk)
  - Independent Supporter, Contact a Family Lewisham, Leamore Central Community Hub, Bonfield Road, SE13 5EU Telephone: 020 8297 8056, mobile: 0790304444.
- 12.2. Independent information on Personal Budgets is available in various places, for example through Kids ([www.kids.org.uk/personal-budgets](http://www.kids.org.uk/personal-budgets)) and Contact a Family

([www.cafamily.org.uk/know-your-rights/disabled-childrens-services/personal-budgets-and-direct-payments/](http://www.cafamily.org.uk/know-your-rights/disabled-childrens-services/personal-budgets-and-direct-payments/))