



 Coastal West Sussex Clinical Commissioning Group

West Sussex County Council

and

NHS Clinical Commissioning Groups (CCGs)

**(Coastal West Sussex CCG, Horsham and Mid Sussex CCG,
Crawley CCG)**

**Guidance for Personalisation and Personal Budgets
(Including Direct Payments) V 11**

SEND (Special Educational Needs and Disability).

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1. Purpose of this guidance

The purpose of this guidance is to explain the approach taken by West Sussex County Council (WSCC) and the three West Sussex Clinical Commissioning Groups (CCGs) to personalisation and personal budgets (PBs) across education, health and social care. It will also include detailed guidance regarding Direct Payments (DPs).

2. Personalisation

Personalisation is at the heart of the special educational needs and Disability (SEND) reforms 2014, SEND Code of Practice 2014

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND Code of Practice approved by Parliament 29.07.14.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND_Code_of_Practice_approved_by_Parliament_29.07.14.pdf)

It is about putting children and families at the centre of Education Health and Care assessments and planning processes⁽¹⁾. Personalisation means planning for outcomes, which is a different approach from how we used to assess and plan care and support. It means starting with the person and their family and focusing on strengths, preferences and aspirations. This will enable them to identify needs and assets and work in partnership to enable them to make choices about when and how they are supported to achieve the identified outcomes - 'nothing done to me without me'

There are a number of ways in which personalisation is being developed which may include

- Person centred approaches – Putting children and families at the centre of the process
- Personalising the support by working in partnership across education, health and social care.
- Funding mechanisms using Direct Payments (DP) and Personal Budgets (PB's)

1. Children, young people and families can be supported throughout the EHC process by Independent Supporters

3. What is a Personal Budget?

A personal budget is an allocation of money identified to support an eligible person to meet their identified additional needs beyond what can be supported through universal and targeted services.

“A Personal Budget is an amount of money identified by the local authority to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision” SEN and Disability Code of Practice (July 2014).

The money must meet the outcomes specified in the Education Health and Care Plan (EHC plan). In West Sussex we are working towards integrated EHC plans and budgets however at this point in time plans and budgets remain separate. A personal budget can be managed in a number of different ways e.g. by way of a direct payment. When the budgets have been agreed all or part of the personal budget can be made as a direct payment to the young person or family – See section 5.

Children, young people and families who met the eligibility criteria have a choice regarding whether to request a personal budget or not. In most cases particularly in children under the age of 16, parents/carers will manage the budget. In young people post 16 they may choose to manage their own budget if they have capacity.

At this point in time a PB may consist of funding from Education, Health and Care or a combination.

Education ⁽²⁾ – Element 3 ‘top up’ funding.

Health - Continuing Health Care

Social Care

⁽²⁾ A personal budget and in particular a Direct Payment cannot be made in respect of provision which will take place in a school, post 16 institution or early years setting without the written consent of the head teacher, principal or the person occupying an equivalent position.

The options for a personal budget within a specialist school may be more limited than that of a mainstream school as the provision is more integrated.

The Customer will be responsible for ensuring the health and safety of any individual employed to deliver all or part of the agreed provision detailed on page 5 of this Agreement and that they are approved or certified by the Disclosure and Barring Service (DBS).

WSCC and the 3 CCGs will over time look at increasing choice by accessing a wider range of budget areas. Roll out of personal budgets will take place alongside the introduction of EHC plans and from September 2014 children and young people assessed as needing an EHC plan will have a right to request a personal budget.

4. What is the process for determining a Personal Budget?

Existing mechanisms are currently in use to determine how funding will be allocated and these are:

Education

A child/young person may be eligible for a personal budget when they have complex learning difficulties and disabilities within the definitions set out in the Special Educational Needs Code of Practice, 2014, (page 15 section xiv). A personal budget may be provided where a child or young person requires individual tailored support that goes beyond universal and targeted services. See appendix 2

Each individual learner who has SEND will require different levels of support.

Learners with the same type of SEND will not necessarily need the same levels of support or provision. Some learners have rare or complex combinations of needs which do not readily fit into a generic system.

Any personal budget agreed for a learner, is to achieve three main objectives which must all be addressed:

- To support the provision which will be in place in order that the child/young person is enabled to meet their educational outcomes as described in the EHC Plan;
- To contribute to successful inclusion in the chosen school/setting;
- To enable achievable educational progression, including clarity of next-stage development.

A potential budget (known as the “indicative budget”) is shared with the family so that detailed discussions can take place to plan what sort of input will be required to meet the individual outcomes identified in the EHC plan.

See appendix 1.

Children’s NHS Funded Continuing Care

The Framework for Children and Young People’s Continuing Care (DH 2010) provides guidance on how to assess children for eligibility for NHS funded continuing care, and guidance on working together across the agencies to support families. Children’s continuing care support packages in West Sussex are jointly funded with WSCC and the NHS. The commissioning of support is led by either the Child Disability Team or NHS Children’s Continuing Healthcare. A personal health budget is available to eligible families through the existing mechanism set up by the Adult Continuing Healthcare department and supported by “Independent Lives” (the brokerage service used by WSCC). The indicative budget is determined by an adapted version of the “Manchester Tool” that is based on the health domains in the Decision Support Tool (DST) in the DH Framework (DH 2010).

See appendix 2.

Social Care

Child and Family Assessment and Personal budget form.

See appendix 3.

Social Care Direct Payments Agreement form.

See appendix 8

It is acknowledged that some children and young people will already be receiving packages of care which may include direct payments. For those children, an option of a personal budget will be explored as an alternative to their current arrangements to ensure that there is an opportunity for creativity and personalisation.

5. Mechanisms for delivery of a Personal Budget

Personal budgets can be managed in a number of different ways:-

- Direct payments – where individuals receive the cash to contract, purchase and manage services themselves
- An arrangement – whereby the local authority, school or college holds the funds and commissions the support specified in the plan (these are sometimes called notional budgets)
- Third party arrangements – where funds (direct payments) are paid to and managed by an individual or organisation on behalf of the child's parent or the young person
- A combination of the above

5.1 Direct Payments

A Direct Payment is when the local authority provides cash instead of a service and the person then purchases their own support directly (i.e. support required to meet the identified outcomes). Parents or young people will work in partnership with WSCC to agree the provisions to be made within an EHC plan resulting in direct payments to ensure that the recipient acts in the best interests of the child or young person.

A Personal Budget is more than this. You have a Personal Budget when you know how much money you can spend, you know what outcomes you are aiming to achieve, and can decide exactly how and when that money is spent. However you could have a direct payment as part of your Personal Budget.

5.2 There are some things that a personal budget cannot be used for:-

<p>Education</p>	<p>Private School placements or private school institutions</p>
<p>Health</p>	<p>Primary medical services provided by GPs Vaccination or immunisation, including population-wide immunisation programmes Screening National child measurement programme NHS Health Checks Urgent or emergency treatment services, such as unplanned in-patient admissions to hospital or accident and emergency Surgical procedures Specialist nursing care Domiciliary care Specialist Paediatrics Some Specialist Medical Equipment Prescription or dental charges Child development services including therapies and paediatricians</p>
<p>Care</p>	<p>Child Looked After (CLA) In full time placements. Therapies To purchase services directly from the LA (although a mixed package can be arranged, i.e. some services arranged and some Direct Payment) Employment of family members living in the same household, other than on exceptional basis.</p>

Alcohol or tobacco, Gambling, to repay debt, anything illegal or unlawful,

Once it has been agreed that a person can have a direct payment, WSCC will issue a Direct Payments Agreement.

See appendix 4 (Education) and appendix 8(Social Care)

6. Consent and Capacity.

In most cases parents/carers will have responsibility for managing the direct payment to enable them to manage the personal budget.

See appendix 5

7. Transition: When a Child becomes an Adult

Where a child in respect of whom direct payments are being made becomes an adult (on their 18th birthday), WSCC and or CCGs must take reasonable steps to ascertain whether the young person consents to receive direct payments. Direct Payments may not continue if a young adult does not have eligible needs.

Link to adult process - <https://www.connecttosupport.org/s4s/WhereILive/Council>

8. Information, Advice and Support

Key personnel as identified in the EHC plan will have a detailed discussion with the family and young person to explore the option of a personal budget.

9. Independent Support

If a personal budget is agreed, the child, young person and /or family may be supported to identify outcomes and how the indicative budget will be used to meet the agreed outcomes.

The Independent Support Service will

- Ensure families have access to independent information, advice and support.
- Work with individuals and families to promote innovative and creative support planning that gives real choice and control
- Dignity and respect and ensures that they are kept healthy, safe and well and that best value is achieved for public money.
- Encourage and develop informal support and co-ordinate support and resources.
- Promote choice, control and empowerment by doing as much as is needed and no more than necessary.
- Promote choice control and empowerment by working in the spirit of co-production and cooperation.

The independent support service for WSCC and the CCGs is currently

“Independent Lives” (www.independentlives.org)

10. Safeguarding.

There is a balance between empowerment and safeguarding, and providing choice whilst managing risk. During the planning process, WSCC and or CCGs will have a detailed discussion with the personal budget holder about potential risks, and how to manage them. This will form part of an on-going dialogue.

When an individual enters into a contractual agreement with any provider a Disclosure Barring and safeguarding (DBS) check will be required.

11. Monitoring and Review

The EHC plan will be reviewed annually to ensure outcomes are being met.

See appendix 7

12. Right to review

It is expected for the most part that front line staff and practitioners will be able to resolve most issues as they arise, however WSCC and the CCGs all have complaints procedures available –please see Useful Links page

Personal Budget Pathway

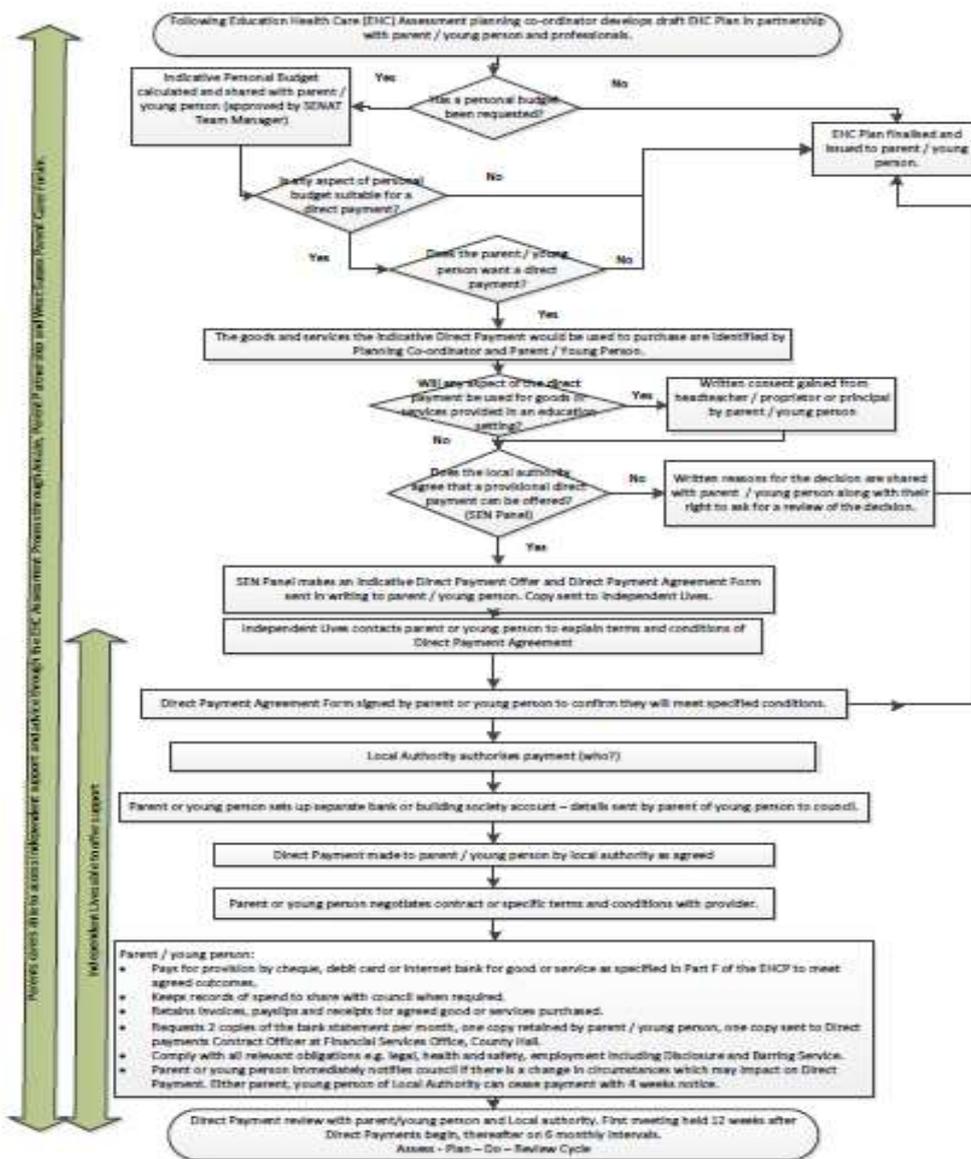


Appendix 1

Education determinants for agreeing a personal budget

In general this means:

Learners aged 0-25 years who have an EHC Plan and who need High Needs funding to meet their needs in education. High Needs funding is also called 'Element 3'.



A personal budget (education element) does not include:

- payment of a place at the school, college, or educational setting; or
- the general provision for children or young people, including those who need 'SEN Support' (SEND Code of Practice 2014).

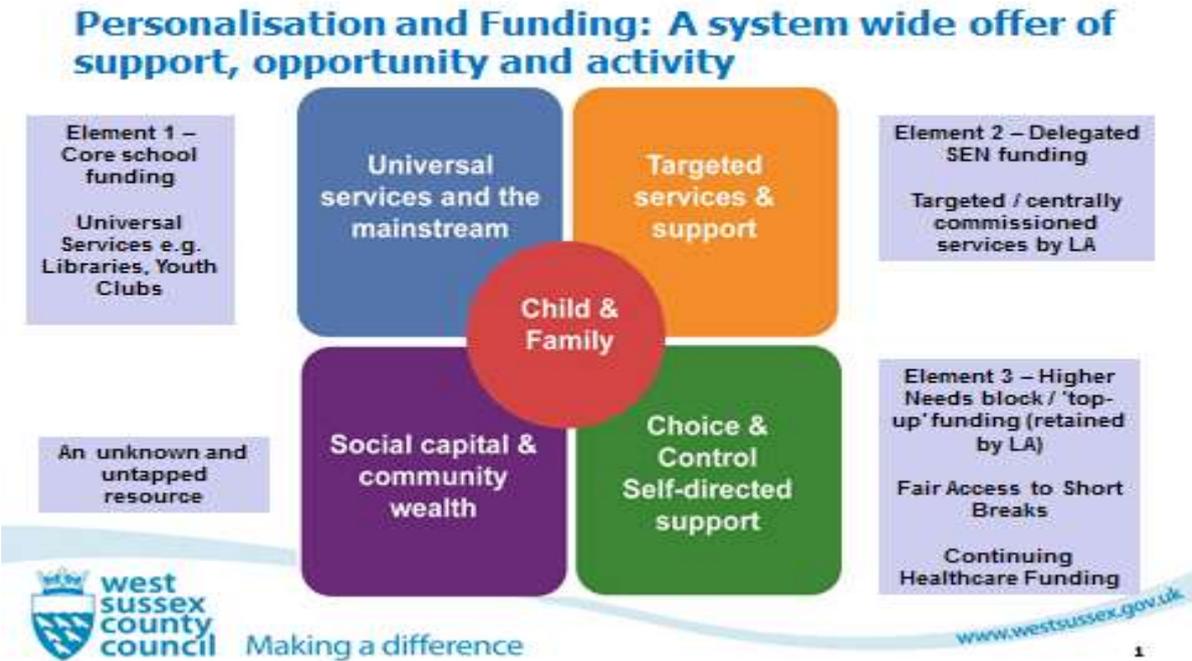
Everything that is included in a personal budget will be outlined for each child / young person in their EHC Plan. The full costed provision funded through the personal budget element will be clearly set out in Section J of the EHC Plan.

Services that are supplied as part of a block contract or are within Universal or Targeted services would not normally be offered as a personal budget because of value for money considerations. This may also apply to some other areas where it is damaging to take out an individual cost from funding that is working well to support several children and young people (Code of Practice 9.106).

The following aspects need to be taken into account where a personal (education) budget is requested:

Mainstream schools and colleges already receive funding to support children and young people as follows:

- Element 1- standard placement funding. (A personal budget cannot be used to purchase the cost of standard placement funding)
- Element 2 – an amount of money delegated to schools and colleges to provide up to £6,000 of extra individual help for lower level needs.
- Element 3 – the amount of money provided by the Local Authority to meet higher level individual needs above Element 2.



In SEND specialist placements (WS SEND schools, WS Special Support Centres) currently there is a commissioned place or formula funding (Element 1 and 2) plus any Element 3 funding the learner needs above that.

Link to explanation of school funding on Local Offer website:
<https://westsussex.local-offer.org/>

Element 3 funding may be made available for use as a personal budget. This can only be included with the agreement of the school or college if any of the provision is to be delivered on that institution's premises. It is not always possible for a school or college to release Element 3 funding into a personal budget because it may be part of the existing overall provision. At the discretion of the Headteacher/College Principal a personal budget could also include all/parts of element 2 funding.

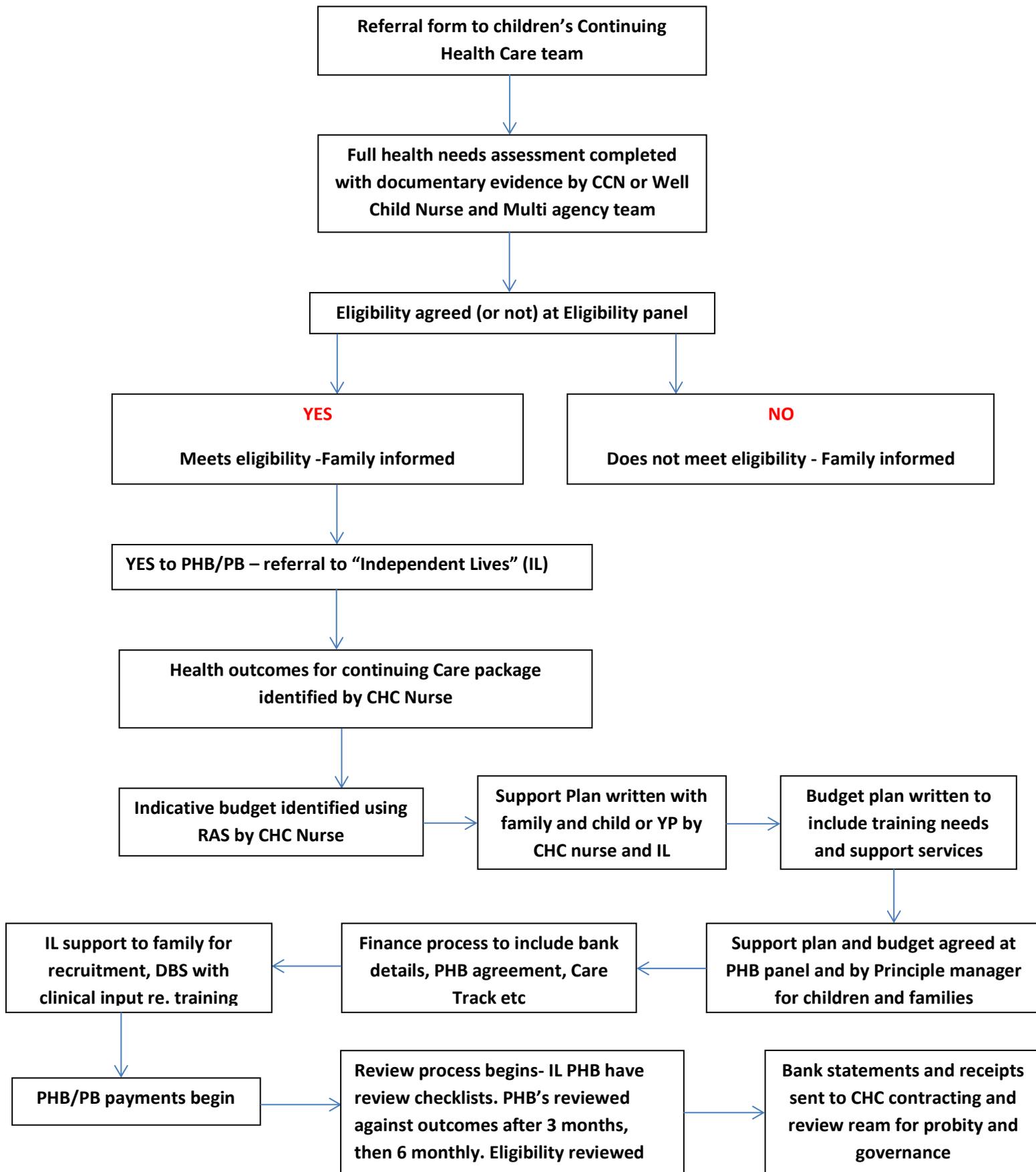
Any staff employed by parents/ young people to work within a school or college would have to have the school or college permission (usually the Headteacher or Principal). Therefore this would need to be carefully planned.

Calculating the Personal Budget Offer (Education):

The personal budget funding offered to support a child/or young person's needs is drawn from the sources of funding outlined in section 3 above.

Appendix 2 - The Continuing Health Care Personal Health Budget process

Example of the “Manchester Tool” based on the health domains in the Decision Support Tool (DST) in the DH Framework



Appendix 3

Personal Budget Form for Family / Carers – Points

Keeping Healthy

1. To undertake personal care – washing, dressing, toilet hygiene, eating & drinking etc.

The outcome I would like to achieve is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support	Exceptional support
Under 7						
Over 7						

2. To take part in physical activities and to be mobile at home and in the community (physical abilities) and/or to be as fit and healthy as I can be (physical health)

The outcome I would like to achieve is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support	Exceptional support
Under 7						
Over 7						

Behaviour and emotions

3. To be able to manage stresses, behaviours and anxieties (emotional health and wellbeing)

The outcome I would like is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support	Exceptional support
All ages						

Communication

4. To be able to tell people what I want and understand what they are saying

The outcome I would like is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support
Under 7					
Over 7					

Relationships

5. To join in with activities in the community with other children my age

The outcome I would like is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support
Under 7					
Over 7					

Relationships

6. To enjoy being with my friends, family and other people

The outcome I would like is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support
Under 7					

Over 7					
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Keeping Safe

7. To be safe at home with immediate family

The outcome I would like is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support
Under 7					
Over 7					

8. To be safe in the community

The outcome I would like is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support
Under 7					
Over 7					

Life skills and decision making

9. To have the skills I need that help me to make choices, and be as confident and independent as I can be.

The outcome I would like for my child is:

To achieve this I need:

Age	No additional support	Small support	Some support	Lots of support	High support
Under 14					

Over 14					
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Everyday family life

A. To have a good family life where there is time for everyone in the family to enjoy life and pursue the things that matter to them

The outcome my family would like is:

To achieve this I/we need:

No additional support	Small support	Some support	Lots of support	High support

Health and wellbeing

B. For the family's physical health to be good and their emotional wellbeing sound

The outcome I/we would like is:

To achieve this I/we need:

No additional support	Small support	Some support	Lots of support	High support

Resources

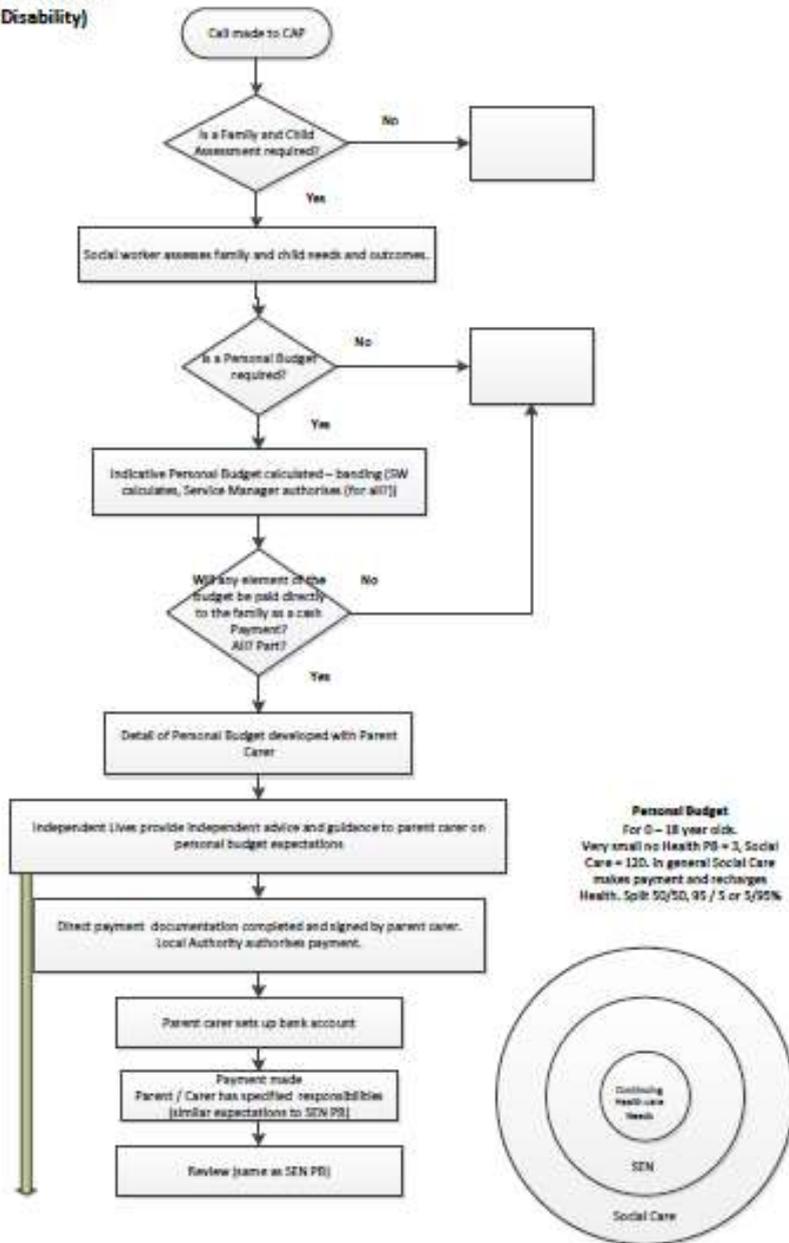
C. To have housing that meets my family's needs and enough money to meet every day needs

The outcome I/we would like is:

To achieve this I/we need:

No additional support	Small support	Some support	Lots of support

Personal Budget Flow Chart for Social Care (Child Disability)



Appendix 4

**WEST SUSSEX COUNTY COUNCIL
DIRECT PAYMENT AGREEMENT FORM**

This Agreement is made for the benefit of:

..... (referred to as “the Child or Young Person”)

This Agreement is made between:

(1) West Sussex County Council (referred to as “the Council”)

and

(2) _____ (referred to as
“Parent/Carer/Young Person ”)

Whose address is:

.....
.....

The Agreed Goods and Services*

The Agreement

The Agreement is that the Council will make payments to the Parent/Carer/Young Person , who will use the money to pay for the provision detailed in Part F (referred to as “the Agreed Goods and Services”) of the Education Health and Care Plan (EHC Plan).

In entering into this Agreement, the Parent/Carer/Young Person promises to carry out all the responsibilities involved in managing the money. These include:

- a. Complying with all relevant legal obligations.
- b. Making sure that the money is used effectively to provide the agreed provision.
- c. Keeping within the available budget.
- d. Telling the Council of any relevant change of circumstances which would impact on the need for the Agreed Goods and Services.

The Council and the Parent/Carer/Young Person shall keep to the conditions set out in this Agreement.

Receiving Direct Payments

The Parent/Carer/Young Person has confirmed that they are willing to receive Direct Payments and that they are able to manage the Direct Payments on their own or with assistance.

Conditions and Restrictions *(where appropriate)*

The Council is applying the following conditions or restrictions, which it considers reasonable and necessary:

- a.
- b.
- c.

1. Assessment and Education Health and Care Plan

- 1.1 The Council has assessed the education, health and social care needs of the Child or Young Person named in this Agreement and developed a support plan to achieve the identified objectives and outcomes, this is called an Education, Health and Care Plan (EHC Plan).
- 1.2 The EHC Plan may also describe the Social Care Services or Health Services that the Child/Young Person should receive from the Council.
- 1.3 The Parent/Carer/Young Person has told the Council that they would like to arrange some or all of the provision detailed in Part F of the EHC Plan and to receive a direct payment from the Council to buy and manage the provision required.
- 1.4 The management of the Direct Payments can either be carried out by the Parent/Carer/Young Person without assistance or with the assistance (see paragraph 13).
- 1.5 The Council has agreed to give the Parent/Carer/Young Person a sum of money sufficient to secure the full cost of the agreed provision.
- 1.6 This Agreement describes the rules about receiving Direct Payments
- 1.7 This Agreement is made pursuant to the Children and Families Act 2014 and The Special Educational Needs (Personal Budget and Direct Payments) Regulations 2014.

- 1.8 The Parent/Carer/Young Person is required to notify the Council immediately if they **become** unable to manage Direct Payments even with assistance.

2. The Personal Budget

- 2.1 The Child/Young Person has been assessed as eligible for the following:

- Element 3 (Top Up) Special Educational Needs Funding
- Children and Young People's Continuing Care
- Social Care Services

- 2.2 The agreed outcomes to be achieved by the EHC Plan are:

- XXX
- XXX
- XXX
- XXX
- XXX

- 2.3 The annual sum of money to be paid by the Council to the Parent/Carer/Young Person is £xxxxxxx and this will be used to secure the Agreed Goods and Services

- 2.4 The annual sum will be paid to the Parent/Carer/Young Person in advance every 4 weeks or monthly via cheque requisition and payment plan.

- 2.5 The Council will pay the agreed amount of money into the account on the dates below, and will write to the Parent/Carer/Young Person to confirm this. The Council may agree to make different arrangements in some cases.

3 Purchase of Equipment

- 3.1 If the Parent/Carer/Young Person uses the Direct Payment to purchase any equipment, or to purchase a minor adaptation for equipment that is already owned, this will be paid by the Council to the as a one off lump sum. If the Parent/Carer/Young Person uses the Direct Payment to purchase items that exceed the amount of the Direct Payment, they will be responsible for making up the difference out of their own money. The Parent/Carer/Young Person will be liable for all legal and contractual responsibilities and consequences that may arise from such purchase.

- 3.2 Unless otherwise agreed in writing, the Parent/Carer/Young Person is responsible for any insurance, maintenance and servicing of equipment or adaptations purchased with the Direct Payments.

- 3.3 In the event that the equipment is no longer required the Parent/Carer/Young Person will be responsible for the disposal and any consequential costs. The Council may, at its discretion, agree to remove any equipment or minor adaptations free of charge. If the Council chooses to do this, the Council will be free to make use of the equipment as it sees fit and will not be regarded as having bought the equipment from the Parent/Carer/Young Person.

4 Bank Account

- 4.1 The Parent/Carer/Young Person will open a separate bank or building society account to receive the Direct Payments and will provide details of the account to the Council. This account must only be accessible by the Parent/Carer/Young Person.
- 4.2 The Parent/Carer/Young Person will keep the account in credit, and will not allow it to become overdrawn or to be used as security for a loan.
- 4.3 The Parent/Carer/Young Person will not request or accept an overdraft facility on the account.
- 4.4 The Parent/Carer/Young Person will be responsible for any bank charges or other charges applied to the account and the benefits of any interest may be accrued to the account.
- 4.5 The Parent/Carer/Young Person will ask for two copies of the statement of the account to be issued every month. One must be sent (currently) to the Finance Officer attached to the Special Educational Needs and Assessment Team Room 001 County Hall Chichester with

such other documents as may be required (see Section 6 below). Monthly bank statements must be kept for a period of six years.

5 Using the Direct Payments

- 5.1 The Parent/Carer/Young Person will use the Direct Payments to purchase or arrange the Agreed Goods and Services to meet the agreed outcomes in paragraph 2.2 and as described in the EHC Plan and as agreed by the Council, and not for anything else.
- 5.2 The Parent/Carer/Young Person will make all payments by cheque, debit card or internet bank transfer. Payments in cash can only be made in exceptional circumstances and only with the prior written agreement of the Council. Any cash payments will be recorded on a receipt signed by the Parent/Carer/Young Person and the person receiving the money.
- 5.3 If the Parent/Carer/Young Person fails to provide receipts to prove that money has been used for the Agreed Goods and Services, the full amount of the Direct Payment must be repaid to the Council.

6 Keeping records

- 6.1 The Parent/Carer/Young Person will keep clear records of how the Direct Payments have been spent and will allow the Council see those records on a quarterly basis or within 28 days if requested.

- 6.2 The Parent/Carer/Young Person will retain all invoices, payslips (showing staff details, hours worked and payments made, as well as payments which the Parent/Carer/Young Person has made to the Inland Revenue, time sheets, agency invoices and receipts (if appropriate), receipts for one-off payments for Agreed Goods or Services purchased.
- 6.3 Where the Council requires other information about the use of the Direct Payment funds, it will write to the Parent/Carer/ Young Person to say how this should be provided.
- 6.4 Where the Parent/Carer/ Young Person use the money to pay a Personal Assistant/Teaching Assistant, they will keep records to meet their obligations under employment, tax, and National Insurance regulations. If requested by the Council, the Parent/Carer/Young Person will provide copies of such records to confirm that these obligations are met. However, the Council will not require these to be routinely sent in.
- 6.5 Where the Parent/Carer/Young Person engages a domiciliary care agency or other service provider, they will keep invoices or other records of the services purchased.

7 What the Parent/Carer/Young Person agrees to do

- 7.1 The Parent/Carer/Young Person will notify the Council immediately of any change of circumstances which may affect the Child or Young Persons eligibility to receive Direct Payments.
- 7.2 The Parent/Carer/Young Person is responsible for negotiating any specific terms and conditions of contract and any terms and conditions of employment with any provider or individual delivering all or part of the Agreed Goods and Services.
- 7.3 The Parent/Carer/Young Person Parent/Carer/Young Person must seek prior written agreement of the head teacher or principal if any of the Agreed Services are to be delivered in school or college.
- 7.4 The Parent/Carer/Young Person will be responsible for ensuring that any healthcare provider or agencies used to provide any Agreed Service are registered with the Care Quality Commission and are qualified to provide the required service and are registered and maintain their professional registration with the relevant professional body.
- 7.5 The Parent/Carer/Young Person will be responsible for ensuring the health and safety of any individual employed to deliver any Agreed Service and that they are approved or certified by the Disclosure and Barring Service (DBS).
- 7.6 The Parent/Carer/Young Person is not permitted to use any money from the Direct Payments outside the United Kingdom.
- 7.7 The Parent/Carer/Young Person will be responsible for ensuring that any individual employed to deliver any of the Agreed Service is lawfully permitted to work in the United Kingdom.
- 7.8 The Parent/Carer/Young Person will comply with all legislation and take full responsibility for meeting all of the legal requirements under employment law, including (but not limited to) minimum wage, redundancy, sickness, pensions, Income Tax and National Insurance within the agreed budget and where appropriate the Parent/Carer/Young Person will register with HM Revenue and Customs as an employer.

- 7.9 The Parent/Carer/Young Person will be expected to pay for relevant employment costs out of the Direct Payments, for example:
- Employer's liability insurance
 - Payroll services (where needed)
 - Health and safety items (equipment)
 - Expenses (where needed)

 - Tax and insurance, holiday pay etc.
 - Additional car insurance (where needed)
 - Recruitment expenses (where needed)
 - Sickness (where needed)
 - Pensions (where needed)
 - Other employment related costs e.g. redundancy payments

(This list is not exhaustive and the Parent/Carer/Young Person's employment advice service will be expected to advice on any further costs)

- 7.10 Where Direct Payments are used to employ an individual, the Parent/Carer/Young Person will be the employer of that individual and the Parent/Carer/Young Person must keep records to meet their obligations under employment, tax, and National Insurance responsibilities. If asked by the Council, the Parent/Carer/Young Person will provide copies of these records.
- 7.11 The Parent/Carer/Young Person will ensure that all employees or prospective employees recruited to deliver any Agreed Service are not discriminated against based on disability, age, gender, race or ethnic origin, religious beliefs or sexual orientation and will comply with all relevant legislation.
- 7.12 The Parent/Carer/Young Person will take out and maintain insurance to cover any employment related claims, public liability, professional indemnity and liability, and where relevant, medical malpractice insurance within the agreed budget.
- 7.13 The Parent/Carer/Young Person will ensure that there are contingency arrangements in place in case the services or support needed by the child or young person is temporarily disrupted within the agreed budget. This will include (but is not limited to) both planned and unplanned absences of an employee due to sickness or annual leave.
- 7.14 The Parent/Carer/Young Person will ensure that the Direct Payments are not used to:
- Employ any partner (married, unmarried or in a civil partnership) or any close relative living in the same house hold as the child or young person or the same household as the Nominee;
 - Pay for anything that is for someone else
 - Pay for household expenses such as food or bills, rent or mortgage payments;
 - Pay for anything illegal; or
 - Gamble or buy lottery tickets, raffle tickets, bingo, alcohol or cigarettes.

8 What the Council agrees to do

- 8.1 The Council will act in the best interests of the Child or Young Person and will work flexibly to meet the agreed outcomes and assessed needs.
- 8.2 The Council will offer the Parent/Carer/Young Person independent support and advice from Independent Lives to help manage the obligations of this Agreement (see paragraph 13).
- 8.3 The Council agrees to make the payments to the Parent/Carer/Young Person as detailed in paragraph 2.4.

- 8.4 The Council continues to have a duty to meet the eligible assessed needs of the Child or Young Person should the arrangements defined in this Agreement breakdown and where difficulties cannot be resolved.

9 Reviews

- 9.1 From time to time, the Parent/Carer/Young Person will meet with the Child's/Young Person's Care Manager/ Senior Planning Coordinator Special Educational Needs and Assessment team (SENAT) and/or a member of the Direct Payments Team to discuss:
- Whether the assessed needs have changed;
 - How the Direct Payment System is working;
 - The quality of the assistance or services that they are receiving;
 - Whether they remain entitled to receive Direct Payments.
- 9.2 The first of these review meetings will take place about 12 weeks after the Direct Payments begin, and then at 6 monthly intervals. Extra meetings can take place if either the Parent/Carer/Young Person or the Senior Planning Coordinator in SENAT/Care Manager has something that needs to be discussed, or if there has been a change to the Agreed Goods and Services or if the Council has a question to do with financial records.
- 9.3 The review of the Direct Payments may be incorporated into the Annual Review of the EHC Plan and there will be consideration of the impact of the Direct Payment on the progress of the Child/Young Person. Annual Reviews are arranged by the School/College/other educational setting.
- 9.4 Following a review the Council may:
- (a) Change the name of the person receiving the Direct Payments
 - (b) Increase, maintain or reduce the amount of the Direct Payments
 - (c) Require the Parent/Carer/Young Person to comply with the following further conditions:
 - that the Agreed Goods and Services may not be secured from a particular provider
 - that the Parent/Carer/Young Person must provide such further information as the Council consider necessary.
 - (d) Suspend or Stop making payments
 - (e) Take any other action the Council considers necessary.

10 Ending, Suspending or Altering the Amount of Direct Payment

- 10.1 The Parent/Carer/ Young Person can choose to end the Direct Payments if this system is no longer their chosen way of receiving support for the Child/Young Person. A decision to end the Direct Payments must be notified to the Council in writing with at least 4 weeks' notice in line with payment plan processes.
- 10.2 The Council will provide the Parent/Carer/Young Person with at least 4 weeks' notice (in line with payment plan processes of any decision to reduce, increase, suspend or stop the Direct Payment.
- 10.3 The Council may stop Direct Payments if:
- it appears that the money has not been used for the Agreed Goods and Services;
 - the terms of this Agreement have not been met;

- the Parent/Carer/Young Person is unable to continue to consent to receiving the Direct Payments;
- the Parent/Carer/Young Person does not manage the Direct Payments (alone or with assistance) to obtain the necessary support;
- The Young Person or Child becomes ineligible to receive Direct Payments.
- The Parent/Carer/Young Person ceases to be a person to whom a Direct Payment can be made
- It appears to the Council that the Agreed Goods and Services can no longer be secured by way of Direct Payments.
- The Child or Young Person begins a 52 week residential placement

10.4 If Direct Payments are stopped for any reason but the Child/Young Person still needs the Agreed Goods and Services, this will be arranged by the Council.

10.5 The Council may suspend or reduce the Direct Payment if:

- A surplus has accrued on account, unless the accrual has been previously agreed with the Council in writing;
- An overpayment has been made;
- The eligible needs of the Child or Young Person have reduced
- The Child/Young Person does not need the assistance for a time – for example, if they are in hospital;
- The Parent/Carer/Young Person fails to comply with the review and monitoring process;
- Criminal activity or deliberate misuse of funds is suspected by the Council

11 Repaying Direct Payment money

11.1 In some circumstances the Parent/Carer/Young Person may be asked to repay some or all of the Direct Payments to the Council.

11.2 The Council will seek repayment of the Direct Payment if:

- the money has not been used for the Agreed Goods and Services;
- there is an accidental overpayment;
- excess money builds up in the account which is more than is needed to pay for assistance to meet the Agreed Goods and Services.
- the money has been used illegally or fraudulently;
- the Parent/Carer/Young Person is found to have provided fraudulently information
- the Parent/Carer/Young Person fails to provide the required documentation or has otherwise failed to follow the terms of this Agreement.

12 Emergencies

12.1 Before starting to receive Direct Payments the Parent/Carer/Young Person will make plans, as far as reasonably possible, to deal with an interruption in the arrangements for their assistance. The Council may need to know that suitable back-up arrangements have been made before agreeing to start the Payments.

12.2 If an arrangement breaks down and the Parent/Carer/Young Person has no other assistance, the Council will arrange a service to meet the need for the time being.

13 Advice and Assistance

- 13.1 Before receiving Direct Payments, the Parent/Carer/Young Person will meet at least once with a Direct Payments Adviser from the Independent Living Association and will take any other advice that may be needed, to make sure that they are aware of all the responsibilities which accompany Direct Payments, and is giving their informed agreement.
- 13.2 The Parent/Carer/Young Person will confirm to the Council the name of the Adviser from the Independent Living Association.

14 Complaints

- 14.1 If the Parent/Carer/Young Person wishes to make a complaint about any action or decision taken by the Council's officers, and the disagreement cannot be sorted out with the Senior Planning Coordinator (SENAT)/ Care Manager, they should contact the Service Manager (SENAT) /Manager at the Children and Young People's Services office where their case is dealt with. The Parent/Carer/Young Person will be advised about the Service's/Department's complaints procedure.
- 14.2 The Parent/Carer/Young Person also has the right to raise any issues about the Council's actions with their County Councillor.

15 Date and Duration of this Agreement

- 15.1 This Agreement may be changed by agreement between the parties, and it may be ended at any time by the Council or by the Parent/Carer/ Young Person (see paragraph 10 above).
- 15.2 The amount of money the Council pays to the Parent/Carer/Young Person may change from time to time to keep up with inflation. It will also change if the EHC Plan is amended.
- 15.3 The Council will write to tell the Parent/Carer/Young Person about any changes in the amount of the Direct Payments. An alteration to the amount of money will not mean that there will be any change to the conditions of the Direct Payments scheme as set out in this Agreement.

16 Law and Jurisdiction

- 16.1 This Agreement is governed by and construed in accordance with the law of England and Wales.

Signed: _____
(Parent/Carer/Young Person):

Print Name: _____

Signed: _____ Service Manager SENAT on behalf of the Council:

Print Name: _____

Dated: _____

Definitions of Terms used in this Agreement

TERM	DEFINITION
Accrual	A substantial amount of money (equivalent of 8 weeks) in the Child or Young Person's personal budget that has not been spent to meet the agreed provision Any planned accrual will be accounted for in this Agreement or separately in writing.
Agreed Goods and Services	Any of the goods and services that form the special educational provision specified in Part F of the EHC Plan (but does not include the placement at a school or post 16 institution or other educational setting)
Agreed Provision	The provision referred to as the Agreed Good and Services to be purchased with Direct Payments as detailed in this Agreement.
Close relative	Spouse, partner, parent, brother, sister, step brother, step sister, son, daughter, grandparent, aunt or uncle.
Direct Payments	Payments made by the Council directly to the Parent/Carer/Young Person, allowing them to arrange the agreed provision detailed in the EHC Plan themselves instead of using services arranged and provided by the Council.
Disclosure and Barring Service (DBS)	The Disclosure and Barring Service replaces the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) to help prevent unsuitable people from working with children and vulnerable adults.
Element 3	funding (top-up funding) above the core education and additional support funding to meet the total cost of provision required by a High Needs student as assessed by the Council
EHC needs assessment (sometimes referred to as a Statutory Assessment)	An assessment of the educational, health care and social care needs of a child or young person carried out by the Council.
Objectives	The long term targets for the Child or Young Person as set out in their EHC plan.
Part F	Part F of the EHC Plan sets out the special educational provision required to meet the needs of the child or young person identified in the Plan
Personal Budget	An amount of money identified by the Council to deliver provision set out in an EHC plan where the Parent/Carer/Young Person is involved in securing that provision.
Social Care Worker	Working in a variety of settings, a social care worker provides assistance to people and their families in need of social care support to live as independently as possible.
SEN	Special Educational Needs
SENAT	Special Educational Needs Assessment Team
Service Provider	A public, independent, or voluntary organisation/agency providing services which can be purchased by the Customer to meet their educational and social care needs.
Young Person	A person over compulsory school age but under 25 (section 83(2) Children and Families Act 2014)

Appendix 5

Consent and Capacity

Direct payments can only be made where appropriate consent has been given by:

- a person aged 16 or over who has the capacity to consent to the making of direct payments to them;
- a person ***nominated*** in writing by the child's parent or the young person to receive direct payments on their behalf
- the ***representative*** of a person aged 16 or over who lacks the relevant capacity to consent;
- the ***representative*** of a child under 16

The direct payment can be received and managed by the person who gives their consent, or that person can identify a nominee to receive and manage it for them.

Where a person lacks the capacity to consent, direct payments can be given to their authorised representative, if they consent to receiving the payment on the person's behalf. In the case of children, direct payments can be received by their parents or those with parental responsibility for that child.

The person receiving direct payments (the individual themselves if direct payments are made to them, or their nominee or representative) will be responsible for ensuring that the money is spent in line with the Direct Payments Agreement

Capacity to Consent

Under the Mental Capacity Act 2005 a person lacks capacity if they are unable to make a decision because of an impairment of, or a disturbance in the functioning of, the mind or brain. Broadly speaking, 'mental capacity' means the ability to make a decision in question at the time it needs to be made. Where there is reasonable belief that a person is unable to make a decision about receiving DP, WSCC and or CCGs will assess the person's capacity to consent.

Ability to Manage Direct Payments

When deciding whether or not someone has the ability to manage direct payments (including a representative or nominee), WSCC Council and or West Sussex CCGs will consider:-

- whether they would be able to make choices about, and manage, the services they wish to purchase
- whether, with support, they would be able to take responsibility for decisions in relation to spending and managing the direct payment
- whether they have been unable to manage either a health care or social care direct payment in the past, and if their circumstances have changed and
- whether they are able to take reasonable steps to prevent fraudulent use of the direct payment or identify a safeguarding risk and if they understand what to do and how to report it if necessary.

If a decision is made that someone is not suitable for direct payments, the person will be informed in writing, stating the reasons for that decision and the decision recorded in line with WSCC procedures and can ask for that decision to be reviewed.

Nominees and Representatives

If a person aged 16 or over who is receiving care has capacity, but does not wish (for whatever reason) to receive direct payments themselves, they may nominate someone else to receive them on their behalf (a nominee). A representative (for a person aged 16 or over who does not have capacity or for a child) may also choose to nominate someone (a nominee) to hold and manage the direct payment on their behalf. The role of the nominee is to carry out all of the responsibilities of someone receiving DP. If any costs would be incurred by such an arrangement, this would need to be agreed by WSCC and/or the relevant CCG.

The nominee is acting on behalf of the young person or their representative. The young person or representative will retain overall responsibility for actions taken by the nominee.

To comply with the safeguarding Vulnerable Groups Act 2006 the usual safeguarding processes and procedures will be followed including DBS certification, checks on Personal Assistants, nominees or representatives.

Representatives for People without Capacity

A representative is someone:-

- Who agrees to act on behalf of someone who is otherwise eligible to receive direct payments but cannot do so because they do not have the capacity to consent to receiving one, or because they are a child;
- Who is responsible for consenting to a direct payment and fulfilling all the responsibilities of someone receiving direct payments (also known as a 'suitable person');
- Who may identify a nominee to receive and manage direct payments on their behalf, subject to the nominee's agreement and the approval of WSCC and or the CCGs.

An appointed representative could be anyone deemed suitable by the WSCC and or CCGs, taking into account previously expressed wishes of the recipient and as far as possible their current wishes and feelings.

A representative can be:-

- A person with parental responsibility, if the recipient is a child;
- The person with parental responsibility if the recipient is over 16 and under 18 and lacks capacity or
- Someone appointed by WSCC and or CCGs to receive and manage DPs on behalf of a child/young person.

Representatives or nominees must act in the child/young person's interests at all times.

Appendix 6 – Monitoring and review

Personal budgets

The personal budget will be monitored on an on-going basis and reviewed annually in line with the EHC Plan review. The EHC Plan review will focus on the child or young person's progress towards achieving the outcomes specified in the EHC Plan and whether the arrangements made in the form of a personal budget continue to meet those outcomes. Personal budgets provided by Social Care are currently reviewed every 6 months.

The direct payment will be reviewed formally within three months of the person receiving a direct payment and when conducting a review or a re-assessment of an EHC Plan. If WSCC and or the CCGs become aware, or are notified, that the person's circumstances or needs have changed, they will consider whether it is appropriate to carry out a review of the EHC plan to ensure the individual's needs are still being met. Similarly, if they become aware, or are notified, that the direct payment has been insufficient to purchase the services agreed in the EHC plan, a review will be carried out as soon as possible.

The direct payment will be reviewed formally within three months of the person receiving a direct payment and when conducting a review or a re-assessment of an EHC Plan. If WSCC and or the CCGs become aware, or are notified, that the person's circumstances or needs have changed, they will consider whether it is appropriate to carry out a review of the EHC plan to ensure the individual's needs are still being met. Similarly, if they become aware, or are notified, that the direct payment has been insufficient to purchase the services agreed in the EHC plan, a review will be carried out as soon as possible.

Purpose of a Review

The review is an opportunity to ensure that the identified outcomes as stated in the EHC Plan are being met.

It is also the mechanism to consider if :-

- the agreed provision should continue to be secured by means of a direct payment;
- the EHC Plan adequately addresses the needs of the person and the progress is being made towards the agreed outcomes are being met;
- the direct payments have been used effectively and appropriately;
- the amount continues to be sufficient to secure the agreed provision.

Outcomes of a Review

Following a review WSCC and or the CCGs may in partnership:

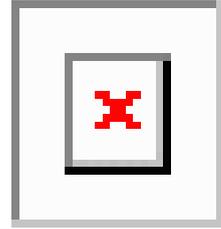
- amend the EHC Plan;
- increase, maintain or reduce the size of the direct payment;
- take any other action considered appropriate. This will usually be to ensure the safe and effective running of the direct payment or EHC Plan or to protect public money if there is a significant risk of abuse.

Appendix 7 – Right to review information leaflet

Appendix 8

WEST SUSSEX SOCIAL CARE DIRECT PAYMENTS AGREEMENT

CYP347 DP Agreement form



West Sussex Direct Payments Agreement

This agreement is between
West Sussex County Council
(referred to as "the Council")
and

(referred to as "Parent/Carer ")

whose address is

and who is acting in the interests of

Name _____

(referred to as "the Child")

The Agreement

The agreement is that the Council will make payments to the Parent/Carer, who will use the money to pay for the services needed by the Child as set out in an agreed Assessment and Support/Care Plan. Both the Council and the Parent/Carer agree that the main purpose of all arrangements made using the Direct Payments Scheme will be to look after the safety and welfare of the Child.

In entering into this agreement, the Parent/Carer promises to carry out all the responsibilities involved in managing the money. These include:

- a. Complying with all relevant legal obligations.
- b. Making sure that the money is used effectively to meet the needs set out in the Assessment.
- c. Keeping within the available budget.

The Council and the parent/carer shall keep to the conditions set out in this agreement.

The Council and the Parent/Carer will agree about the contents of a written Support/Care Plan. This will be based on an assessment of what the Child needs. It will also take into account the situation of anyone who is already providing the Child with support (a Carer).

The Support/Care Plan will describe the services or the amount of assistance that the Child should receive from the Council. The Support/Care Plan may include a description of the help the Parent/Carer needs to manage the Direct Payments, and the cost of any such help.

2. Bank Account

The Parent/Carer will open a separate bank or building society account for the Direct Payments.

The Parent/Carer will ask for two copies of the statement of the account to be issued every month. One will be sent to the Direct Payments Contact Officer at the Financial Services (FS) office at County Hall with other documents as required (see Section 6 below).

The Parent/Carer will make payments from this account by cheque rather than in cash. They will fill in and keep all the cheque stubs.

The Parent/Carer will keep the account in credit, and will not allow it to become overdrawn or used as security for a loan.

3 Payments

The Council will pay the agreed amount of money into the account, and will write to the Parent/Carer to tell them the dates when the payments will be made. This will usually be every four weeks to pay for the next four weeks' care costs, but the Council may make different arrangements in some cases.

4 Additional expenses

The council will provide some additional money that the parent/carer may use to meet certain expenses that may arise in connection with the use of the Direct Payments scheme. These apply particularly where the Parent/Carer uses the Direct Payments to engage personal assistants (PAs).

These additional expenses arise from:

- **Recruiting.** The cost of advertisements and Criminal Records Bureau (CRB) checks.
- **Payroll.** The fees of a Payroll service providing assistance with calculation of wages, deductions, and producing wage slips.

- **Employer's Liability Insurance.** The insurance employers must have to cover them for the protection of employees.

- **Health and safety items.** Where an employee works in the person's home, these are likely to include a fire blanket, first aid kit, and circuit breaker.

- **PAs' expenses.** PAs' out-of-pocket expenses (e.g. for travel) where the Child's agreed Support/Care Plan includes assistance outside the home.

- **Additional Car Insurance.** This is additional cover where the Parent/Carer requires assistance with travel and needs to add a PA to their car insurance, or to reimburse PA for additional insurance to use their own car for business use related to the Parent/Carer's need for assistance with travel.

5 Using the Direct Payments

The Parent/Carer will use the Direct Payments money to meet the needs of the Child described in the assessment as agreed by the Council, and not for anything else.

The Parent/Carer will not use Direct Payments to pay for care or support from a close relative or a partner with whom they live unless the Council has first given its agreement in writing.

The Parent/Carer will normally make all payments by cheque. Payments in cash should only be made in exceptional circumstances. If the Parent/Carer needs to make regular payments in cash, they will first obtain written agreement from the Council.

Any cash payments will be recorded on a receipt signed by the Parent/Carer and the person receiving the money.

6 Keeping records

The Parent/Carer will give the Council information about the use of the money provided through the Direct Payment scheme.

This will normally be by sending a copy of a Statement of the DP account each month to the Financial Services office at County Hall.

Where the Council requires other information about the use of DP funds, it will write to the Parent/Carer to say how this should be provided.

Where the Parent/Carer uses the money to pay a Personal Assistant, they will keep records to meet their obligations under employment, tax, and National Insurance regulations. If requested by the Council, the Parent/Carer will provide copies of such records to confirm that these obligations are met. However, the Council will not require these to be routinely sent in.

Where the Parent/Carer engages a domiciliary care agency or other service provider, they will keep invoices or other records of the services purchased.

7 Reviews

From time to time, the Parent/Carer will meet with the Child's Care Manager and/or a member of the Direct Payments Team to discuss:

- Whether the assessed needs have changed.
- How the Direct Payment system is working.
- The quality of the assistance or services they are receiving.
- Whether they remain entitled to receive Direct Payments.

The first of these review meetings will normally take place about 12 weeks after the Direct Payments begin, and then six monthly. Extra meetings can take place if either the Parent/Carer or the Care

Manager has something that needs to be discussed, or if the Council has a question to do with the financial records.

8 Ending or suspending Direct Payments

The Parent/Carer can choose to end the Direct Payments if this system is no longer their chosen way of receiving support for the Child.

If this happens, a period of notice may be needed before Direct Payments stop, because it may take some time to make other arrangements. If PAs are employed, they may have the right to notice before their job ends. The amount of notice will not go beyond the end of the next four-week period for which a payment is due.

The Council may choose to stop Direct Payments at once:

- if it appears that the money has not been used for the agreed purpose
- if the terms of this Agreement have not been met
- if the Parent/Carer is unable to continue to consent to the Direct Payments
- the Parent/Carer does not manage the Direct Payments (alone or with assistance) to obtain the necessary support
- the Parent/Carer or Child becomes ineligible to receive Direct Payments

If Direct Payments are stopped for any reason but the Child still needs social care services, these will be arranged by the Council.

If the Child does not need the assistance for a time – for example, if they are in hospital – the Council may stop or reduce the payments.

If the Parent/Carer needs to make a redundancy payment to a PA who has been employed by them, the Council may give the Parent/Carer the funds to allow them to make the redundancy payment at the legal minimum level.

9 Emergencies

Before starting to receive Direct Payments the Parent/Carer will make plans, as far as reasonably possible, to deal with an interruption in the arrangements for their assistance. The Council may need to know that suitable back-up arrangements have been made before agreeing to start the Payments.

If a care arrangement breaks down and the Parent/Carer has no other assistance, the Council will arrange a service to meet the need for the time being.

10 Repaying Direct Payment money

The Parent/Carer will repay Direct Payment money to the Council when asked to do so. This will happen if it appears that the money has not been used for the agreed purpose. It may also happen if there is an accidental overpayment, or if excess money builds up in the account which is more than is needed to pay for assistance to meet the assessed needs.

The Parent/Carer will repay to the Council any money that has been provided under the Direct Payments Scheme and for which accounts have not been sent in as set out under Section 6 above.

11 Advice and assistance

Before receiving Direct Payments, the Parent/Carer will meet at least once with a Direct Payments adviser from the Independent Living Association and will take any other advice that may be needed, to make sure that they are aware of all the responsibilities which accompany Direct Payments, and is giving their informed agreement.

12 Complaints

If the parent/carer wishes to make a complaint about any action or decision taken by the Council's officers, and the disagreement cannot be sorted out with the Care Manager, they should contact the Manager

at the Children and Young People's Services office where their case is dealt with. The Parent/Carer will be advised about the Department's complaints procedure.

The Parent/Carer also has the right to raise any issues about the Council's actions with their County Councillor

13 Date and duration of this agreement

This agreement may be changed, and it may be ended at any time by the Council or by the Parent/Carer (see section 9 above).

The amount of money the Council pays to the Parent/Carer will change from time to time to keep up with inflation. It will also change if the Support/Care Plan is altered after a re-assessment of the Child's needs.

The Council will write to tell the Parent/Carer about changes in the amount of the Direct Payments. An alteration to the amount of money will not mean that there will be any change to the conditions of the Direct Payments scheme as set out in this Agreement.

Signed: *(Parent/Carer)*

Care Manager, for the Council

Date

Useful Links

1.Independent Lives . <http://www.independentlives.org/>

Includes PB process chart and links to Support Plans, Direct Payments Customer Handbook. (Education) SEN Direct Payment Legal Agreement form process map for Education PBs and parent/young person guidance leaflet will be found on the Local Offer website <https://westsussex.local-offer.org/>

WSCC adult process -

<https://www.connecttosupport.org/s4s/WhereILive/Council>

SEND Code of Practice

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND_Code_of_Practice_approved_by_Parliament_29.07.14.pdf

Regulations re Education SEN Personal Budgets:

They are named as “2014 No. 1652 Education, England, The Special Educational Needs (Personal Budgets) Regulations” and can be seen in full at:

http://www.legislation.gov.uk/ukxi/2014/1652/pdfs/ukxi_20141652_en.pdf

In Control - <http://in-control.org.uk>

Complaints

WSCC Education/ Social care

http://www.westsussex.gov.uk/your_council/get_in_touch/comments_compliments_and/our_complaints_procedures.aspx

Continuing Health Care

Heather.mooney@nhs.net TEL: 01903 708609

WSCC Local offer - <https://westsussex.local-offer.org/>

Frequently Asked Questions (FAQ's)

Many people ask similar questions when they are finding out about Individual Budgets. We have written some frequently asked questions – many of these answers are drawn from an organisation which supports Individual Budgets nationally called In Control and our own experiences in West Sussex.

Q1. My child has an EHC Plan, do I have to have a personal budget?

A1. No, you do not have to have a personal budget. Support to achieve outcomes can be provided directly by the local authority/CCG (as has traditionally happened in the past).

Q2. When can I make a request for a personal budget?

A2. You can have discussions with people supporting you and your family at any time however the formal request for a personal budget can only be made at the point when an EHC Plan is first written, when a statement is transferred to an EHC Plan or at an annual review of an EHC Plan.

Q3. My child currently has an SEN statement, does this mean I will have an EHC Plan and personal budget by September 2014?

A3. The transfer process from SEN statements to EHC Plans will start from September 2014; however it is not possible for all children to have a new EHC Plan by then. The government has given local areas until April 2018 to complete the transfer for all children and young people. The right to request a personal budget will begin when an EHC Plan is drawn up and cannot be made whilst a child still has an SEN statement.

Q4. If I request a personal budget, does the local authority have to agree to this?

A4. If the request is within the scope of the current personal budget local offer and policy then it will be agreed. If the request is to use

the personal budget via a direct payment, this will only be agreed if it is clear that:

- a) The direct payments will be used in an appropriate way and in the best interests of the child, young person or adult
- b) The intended recipient is not excluded from receiving a direct payment
- c) Making the direct payment will not adversely impact upon services provided to other children.
- d) It is an efficient use of local authority resources
- e) There is agreement from the Head teacher or Principal if the direct payment is to be used to pay for support within school or college

If the local authority/CCG does not agree to a direct payment, this will be explained in writing including details of how to challenge the decision.

Q5. I am unhappy with some of the services provided to my child; however they seem to be outside of the scope of the current personal budget policy (e.g. speech and language therapy or physiotherapy). I would like to receive a personal budget so I can buy my own support for these services, is this possible?

A5. Currently these services are provided through a block contract and it may not be possible to remove the individual funding for your child from the overall amount. Every request will be dealt with individually but it is likely that it would not be agreed at this time. As the personal budget local offer grows over the next three years, this may be something which will become available as an option.

Q6. I am not clear about what the current personal budget options are and what is within the scope of this policy. Can you clarify?

A6: From September 2014, the personal budget options are:

- a) Social care assessed (specialist) short breaks
- b) Continuing care and Continuing Healthcare
- c) SEN

The Code of Practice says that local authorities must consider each request for a personal budget on its own individual merits, however requests made outside of the areas above are unlikely to be agreed. The reason for this is that disaggregating funding would affect the delivery of services to a number of children and young people

Q7. How much will the personal budget be?

A7. This will vary for each child, young person or adult as the amount is based on individual outcomes and needs. The Code of Practice is clear that the personal budget amount must be sufficient to secure the agreed provision specific in the EHC Plan.

Q8. If I choose to receive the money myself through a direct payment, will this be taxed or affect any benefits?

A8. No, direct payments are not classed as income so they are not taxed and will not affect the level of any benefits received. If direct payments are used to employ a person then there is the responsibility to have Employer's Liability Insurance and to pay tax and national insurance for the employee.

Q9. Once there is a plan for how the personal budget will be used, can this be changed at a later point?

A9. Yes, arrangements can be changed. This would usually be discussed at an annual review of the EHC Plan.

Q10. If my child had a personal budget from more than one service (e.g. social care and health), could all of the money be paid into one account and used together?

A10. Yes, the money can be paid into one account. If the money is to be pooled together, the EHC Plan would need to provide detail on how it will contribute to all necessary outcomes in the plan.

DRAFT

Glossary of Terms

Indicative budget/allowance/allocation

An indicative budget gives a rough idea of the level of funding that will be allocated to an individual, in their personal budget, to meet their eligible needs.

It is based on what it would cost to **meet** their needs, as determined by the Resource Allocation System (RAS). The indicative budget allows individuals to create a support plan that will deliver the outcomes to best meet their identified assessed needs.

The indicative budget is used only as a guide. A final personal budget amount may be set higher or lower than this amount, depending on how a support plan shows the person's needs can be met.

Outcomes

Outcomes are the results, changes or benefits a person wants to achieve through their social care and support. They are the goals a person wants to reach to meet their needs.

One of the aims of self-directed support is to enable people to achieve the outcomes they set during the support planning process.

Person centred planning

Person centred planning is an approach to support which puts the individual at the centre of planning for their lives. There is an emphasis on the individual's choice and control and listening to what is important to them, both now and in the future.

Under self-directed support, person centred planning and support is central to the assessment and delivery process.

Personal assistant

A personal assistant is a person employed to provide someone with social care and support in a way that is right for them.

They can be employed directly by the individual or they can be arranged through an agency.

Personal budget

A personal budget is money that is available to someone who needs support. The money comes from their local authority social services and is allocated to the individual to spend on help and support to meet their assessed eligible needs and agreed outcomes.

Individuals can choose to take their personal budget as a direct payment, let councils commission the goods and services they choose or a combination of both.

Personal health budget

A personal health budget is similar to a personal budget but applicable within health care.

Patients with a personal health budget are able to take control over the way in which the budget available to them is spent. They can choose the support services they want in a way that is most appropriate to them.

Personalisation

Personalisation is a Government led national policy to ensure everyone who uses support should have the choice and control to shape their own lives and the services they receive.

The system puts the individual at the centre of the process and allows them to choose the service providers they use and the

manner in which they receive support. The aim is to make services more personal and tailored to individuals needs.

Resource Allocation System (RAS)

The Resource Allocation System calculates how much money an individual is likely to need from adult social care for their social care and support needs.

The system has clear and rational guidelines to ensure funding is fair and transparent. It is based on points awarded to answers to a self-assessment questionnaire (SAQ) that aims to identify an individual's support needs.

Review

A review refers to the re-assessment of people's needs and circumstances. Reviews are carried out regularly to ensure that a person's arranged support continues to meet their assessed needs and desired outcomes, as set out in their support plan.

Safeguarding

Safeguarding is a process of ensuring that vulnerable people are protected from being abused, neglected or exploited.

Support plan

A support plan is a document highlighting how an individual will spend their personal budget to best meet their support needs and get achieve their identified outcomes.

They are created by the individual to get the life they want and may be written, videoed, or include pictures and sounds. There are people specialised in planning who can help produce a plan and family, friends or support workers can also help. The local authority will need to agree the plan before the individual receives the support money.

EHC Plan or Education Health and Care Plan - the single plan which will set out how the health, care and learning outcomes of the child or young person with SEND are going to be supported. This may include the use of a personal budget (or budgets) if it is agreed that the child or young person has support needs which cannot be met through mainstream services or targeted support.

Indicative personal SEN budget - an allocation of funding made prior to the drawing up of the EHC Plan. It is called an indicative allocation or personal budget as it is an estimate of the funding available set against the level of support the child or young person needs, it will only become a full personal SEN budget when the EHC Plan is finalised and agreed.

Direct payments – as with a personal budget for social care or a personal health budget, it will be possible for the family/parents to ask to have the personal SEN budget as a direct payment. In so doing, the parents will be responsible for the management and use of the money in the same way as they are if they choose to manage a personal social care budget or a personal health budget.

Universal Services- services that are available to anyone without the need for any referral from professionals and includes things like leisure and cultural services, libraries, transport, mainstream schools and access to a General Practitioner.

Targeted Services- are generally support, provision or services for groups of children who may have additional needs but have not been individually referred to a specialist service.