



Doncaster Metropolitan Borough Council (DMBC) and Doncaster Clinical Commissioning Group (DCCG) Personal Budget Policy

In respect of Children and Young People aged 0-25 with Special Educational Needs (SEN) and a statutory Education, Health and Care Plan (EHCP) and their Families.

16 January 2015

Contents	Page numbers
1. Background	2-3
2. Key Principles	3
3. Summary Context	4
4. Statutory Process	4-6
5. Eligibility and what could be included in a personal budget & examples: Education, Health, Care	6-10
6. Management Options and Arrangements	10-12
7. Arrangements for Direct Payments	12
8. Monitoring and Review	12-13
9. Managing Changes to Circumstances	13-14
10. Ceasing Direct Payments	14-15
11. Information, Advice, Guidance and Support	15-16
12. Contact details	16
13. Negotiation and Disputes	17
14. Restrictions on Personal Budgets	17-18

15.References	18
16. Appendix 1 - Schedule stating who cannot be in receipt of direct payments	19

1. Background

- 1.1. The following policy relates to the duties of DMBC and Doncaster CCG in relation to the Children and Families Act 2014 (Section 49), the Statutory Guidance and Code of Practice for Special Educational Needs and Disability (SEND) 0-25 years, 2014. The duty came into effect from September 2014 for all new entrants into the process and thereafter to any child or young person at transition from a Statement of SEN or Post 16 Learning Difficulty Assessment to an EHCP and any subsequent reviews. The policy applies to any child or young person with Special Educational Needs (SEN), who has an Education, Health and Care Plan (EHCP) and where a personal budget has been requested, offered and agreed.
- 1.2. DMBC has been an 'early adopter' of social care personal budgets. Where parents have been assessed as needing a short break, the arrangements for these have been increasingly personalised and this often includes the use of direct payments. It will continue to be the case that where there is an assessed need for a short break or other social care need, this will be provided under the Children's Act 1989 and associated regulations and this will usually be within a personal budget and in many cases using direct payments. Some of these packages have been jointly funded by Doncaster CCG via the Continuing Care process. Therefore, it is important to note that children and young people who are in receipt of a personal budget and direct payments through social care and/or health do not have to be in receipt of an EHCP for this provision to continue. However, many children and young people with significant and complex health and/or social care needs may also have Special Educational Needs and it is likely that the new EHC process will bring all elements of assessment and provision together in a more co-ordinated and effective way. There is a separate document "Guide to Children's Personal Budgets" published by DMBC¹ which will remain particularly relevant for cases where there is a social care/short breaks personal budget but no EHCP. It should also be noted that in Doncaster, children do not need to have a social worker to access a social care personal budget.

¹ This guide can be found at <http://www.doncasterchildrenandfamilies.info/disabilitiespersonalisation.htm>

- 1.3. Personal budgets are also available in adult social care, thus 18-25 year olds may continue to have a free-standing adult social care personal budget, but this could be aligned into a wider personal budget IF the young adult has an EHCP.
- 1.4. This is a draft policy which can be viewed as a work in progress. We will move towards a substantive policy by involving parents (via Doncaster Parent Voice (DPV)), schools and other education settings, health providers, commissioners, social care and the Aiming High Business Unit. The views of children and young people will also feed into the policy via the LADDER group (Learning about Disability, Diversity, Equality and Rights).

2. Key principles

- 2.1 Personal budgets should be an integral part of the EHC Plan process in order to empower creative solutions.
- 2.2 All decisions about personal budgets (including direct payments) should be made with the involvement of the family/young person.
- 2.3 Personal budgets should reflect the holistic nature of an EHC Plan, which details agreed outcomes to be achieved across education, health and care.
- 2.4 Personal budgets should allow families and young people to manage agreed elements of the additional and individual support they need.
- 2.5 Personal budgets should be based on clear agreed outcomes.
- 2.6 The process for getting a personal budget should be transparent and challengeable.
- 2.7 Personal budgets should support greater family resilience.
- 2.8 Families and young people should have the opportunity to manage all, some or none of their personal budget - either themselves or with third party support.
- 2.9 Where parents do not want a personal budget, other ways should be identified to offer them choice and control, so that they can exert influence on planning, review and provision effectively and within their capacity.
- 2.10 Effective monitoring and audit arrangements should be established which are not onerous to families and which are not overly bureaucratic.
- 2.11 Personal budgets should be underpinned by strategic commissioning principles that allow for greater choice in the market and support market development, including moving towards pooled budget arrangements.
- 2.12 Information and support should be available to support parents/young people who are interested in taking up and managing a personal budget, including information on sources of independent advice.
- 2.13 Enable more effective transition at key phases of a child/young person's life; and support more effective joint commissioning of services and provision to

maintain quality, accountability, and transparency alongside increasing choice.

3. Summary Context

- 3.1** This Policy relates to Personal budgets that are an allocation of funding assigned to children and young people, with SEN and their families after an assessment of their needs and an Education, Health and Care Plan (EHCP).
- 3.2** It is important to remember that the allocation of personal budgets is based on the individual case of assessed need. Allocation is not dependant on the type of disability the child has and there is no entitlement on the basis of a label or diagnosis. The family's circumstances are taken into account and if awarded, the plan has to meet the currently unmet needs of the child and family and facilitate specific agreed outcomes. Personal budgets are not an additional source of funding to be added to existing services across education, health and social care.
- 3.3** Families and young people do not have to take up the option of a personal budget, but they have the right to make an informed decision and receive appropriate information, advice, guidance and support (see section 11 below).
- 3.4** A personal budget is not the sum total of all the resources that are available to support a child or young person and Section J (Personal Budgets) of the EHC Plan does not need to list all the costs associated with supporting a child or young person. Rather, this section should provide a detailed explanation of how a personal budget will be used to deliver agreed provision and the needs and outcomes it will meet. It should explain how the money will be used, spent, and managed, including arrangements in relation to any direct payments.

3.5 Personal budgets can include direct payments which allow parents or young people (in this context 16+) to arrange their own support. Personal budgets do not necessarily mean parents and young people have to handle finances themselves. For example, under a personalised plan, the parent or young person may prefer to allow DMBC to pay for a service on their behalf and this would still be within the scope of a personal budget. Parents have control over their child's personal budget up until their child reaches the end of school year 11 (post compulsory school age). At this stage, the control shifts to the young person, as long as they have the mental capacity as defined by the Mental Capacity Act 2005. The young person has a choice at this stage whether or not they would like to elect for their parent/carer to manage their funding.

4. Statutory Process

4.1. The statutory EHC process² begins formally once DMBC has agreed to proceed with an assessment of Special Educational and other Needs. The family will have a named DMBC SEN Officer in addition to an identified Lead Practitioner (LP). The LP and SEN officer will work closely with the family to explain the statutory process, including the option to request a personal budget. They will also work closely to co-ordinate the range of advice and views to enable the co-production of a draft EHCP based upon the evidence presented. Parents and young people can express their initial views on the option of a personal budget, but this is not binding.

4.2. All practitioner reports provided as part of the EHCP process will give a view, where professionally appropriate, on the child or young person's Special Educational Health and Care needs; recommend outcomes to be achieved; and specify appropriate provision and services.

4.3. Parents and eligible young people can request a personal budget in writing, either at the draft EHCP stage, or when an existing EHCP is being reviewed or reassessed.

4.4. At a person-centred meeting between the family and SEN Officer, the parent and child/young person contributions will be a vital part of the co-production of the plan. The meeting will also explore the options for a personal budget and a decision whether a family/young person (post compulsory school age, year 11) wishes to pursue this. The person-centred planning will outline what each party to the plan will contribute, including the community, young person/child and their family. Part of the

² See <http://www.doncasterchildrenandfamilies.info/disabilitiessapdocs.html>

discussion with a parent and young person will be the difference in the allocation of an education element if the parental/young person's choice is mainstream or special provision (as outlined in the Code of Practice 9.112). Parents/young people have increased choice in requesting which aspects of their plan they would like in a personal budget. This can be done via written feedback and/or clear records of minutes as part of the person centred planning meeting.

4.5. Throughout the statutory assessment there will be a cycle of understand-agree-allocate-plan-review. This will run alongside the cycle of assess-plan-do-review, which is on-going for all children and young people with SEN.

4.6. An indicative budget allocation will be discussed as early as possible, with reference to the evidence of assessed need and taking into account the views, wishes and feelings of the child, young person and their family. However, this is only an approximate estimate - there should be no misunderstanding that the family/young person are entitled to the indicative amount, nor can the DMBC or Doncaster CCG insist that the finalised budget does not go over the indicative amount.

4.7. If part of the personal budget would involve parents purchasing or arranging services, such as additional adult support within an education setting, this should be explored with the relevant Head teacher or Principal as soon as possible. These discussions should be part of the person centred planning and staff can only be used in schools/colleges with the permission of the school head teacher or college principal. Any staff working in schools/colleges would have to follow that institution's code of conduct, for instance manners and dress code. A formal request to consider such flexible provision of services will be made by the SEN Officer as part of the statutory consultation process, following the issue of a draft EHCP and before a setting is finally named. If the education setting does not agree to the request, the DMBC cannot include this in the final EHCP and must work with the family to seek other alternatives for inclusion into a personal budget. If extra supportive resources, which are normally supplied by a college/school core budget (termed Elements 1 and 2), are requested as a personal budget, this too must be raised at an early stage. It is likely that this would only be agreed by the school/college in certain exceptional circumstances where a creative solution to provision is required and agreed.

4.8. If parents or the young person wish to request alternative provision or services to those specified in the EHCP, this should be discussed as soon as possible with the LP. DMBC's SEN Officer would need to be informed in order to advise whether adjustments can be made with or without formal reassessment or statutory annual review.

5. Eligibility and What Could Be Included in a Personal Budget?

5.1. There are a number of eligibility thresholds. For example, access to a health personal budget related to Continuing Care will need to relate to the continuing care threshold, and access to a personal budget related to short breaks will need to meet the eligibility criteria set out in DMBC's Short Breaks Statement³ and be based on assessed need. Only those children with an EHCP could have access to an educational personal budget. The Regulations contain a schedule that sets out who cannot be in receipt of a direct payment (Appendix 1).

5.2. The exact aspects of what could be included in a personal budget, relating to an individual child or young person would be outlined in the EHCP. Discussions would need to take place around value for money - statutory guidance 14-1-d. This would also apply to other areas where it is difficult to disaggregate an individual cost from an overall amount (SEND Code of Practice 2014 9.103). It should be noted that the outcomes should be decided first and the plan should seek to meet those outcomes and a personal budget may not be needed to meet the outcomes. All universal, targeted, specialist and community services and provision readily available, funded and provided through the Local Offer must be considered first before requesting or commissioning additional provision.

5.3 Where there are currently block contracts in place for the delivery of services, these would not be available as part of a personal budget. For example, it may not be possible to disaggregate support, or a service already provided by the school (specialist support in a special school) or DMBC (teacher of the Visually Impaired) or Health (Physiotherapist). Best value for the 'public purse' must be a consideration when balancing flexibility and choice for the family. Over time, however, block contracts may end or be changed to allow for more disaggregation and more things to be within scope of a personal budget.

5.4. A personal budget must be in the best interests of the child and family and be targeted to the outcomes and provision set out in the child/young person's individual EHCP Sections E-H. It may be appropriate to combine education, health and care funding, for example to provide a consistent adult support worker across home and school or across school term time and the holidays. If a personal budget is agreed and involves health and or care in addition to education, each agency involved will contribute towards a single budget and parents/ the young person or their nominated partner, will receive one amount. This will not change the need to achieve outcomes across all three areas. For example, a family will not be able to choose to spend

³ <http://www.doncaster.gov.uk/Images/DMBC%20Short%20Breaks%20Statement%202012%20version37-104072.docm>

their entire pooled budget only on educational outcomes if the plan also lists health and care outcomes.

Examples

The following examples are not exhaustive and it is anticipated that the scope of Personal Budgets will increase over time as local joint commissioning arrangements provide greater opportunity for choice and control over local provision.

Education

5.5. All education settings are funded to meet the teaching and learning needs of children and young people on their roll and to ensure their participation in the life of the school, alongside their peers. Their annual budget includes 'notional' additional funding to meet the first £6,000 of additional SEN support (Element 2). This is based upon a funding formula either agreed at national level (mainstream further education) and/or at local level for early years and schools. Education settings can choose to offer elements of funding from their notional SEN funding. Schools are encouraged to use group and individual provision maps to illustrate the provision matched to needs and outcomes available within their setting. Top-up funding from DMBC's high needs block of funding (Element 3) is delegated to education settings for named children above the Element 2 threshold where appropriate and this funding could potentially be accessed as part of a personal budget.

The range of education funding could support:

- Additional adult support beyond the education setting's contribution, to access the differentiated curriculum or meet wider needs. For indicative budgets an average Learning Support/Teaching Assistant rate is used unless evidence of specialism requires otherwise.
- Additional adult support to transition from school to the community or home.
- Access to extracurricular activities to promote inclusion, independence and raise self-esteem.
- Adult support to access work experience or peer coaching.
- Adult support from school, to work with the child at home if they are ill or anxious.
- Provision of specialist equipment and resources.

- More flexible use of transport arrangements with reference to DMBC's Education Transport Policy⁴ and assessed need (for example, parents could arrange transport and be paid an amount per mile).

Health

5.6. From October 2014, if a child or young person is assessed as having Continuing Care needs, their care plan must include the option of a personal budget where this will be of benefit. Continuing Care includes congenital and long term degenerative conditions as well as sudden unexpected health needs. From April 2015 the duty on Doncaster CCG also applies to children and young people with long term health needs.

Health provision could include health care workers to maintain exceptional levels of continuing health care throughout the day and night. It is important to note that if health care workers require additional qualifications, the rate of pay may be higher than that paid for additional adult support in an education setting. The relevant job description and remuneration would be specified by the Health Service professional body. Support as part of a continuing care needs assessment can be provided by a worker or agency sourced by the family but both must be approved by Doncaster CCG as competent to carry out the required support and intervention.

Care

5.7. A social care personal budget can be accessed via a Lead Professional (for example at a school) working in partnership with the family and the Aiming High team, or an assessment officer in the Children with Disabilities team.

5.8. Social care personal budgets within DMBC have mainly involved families receiving direct payments with the aim of employing their own worker to work with their child, or having DMBC pay an agency to provide a worker.

4

<http://www.doncaster.gov.uk/sections/educationandlearning/pupilandparentinformation/educationtransport/index.aspx>

The budget allocations can also be used for residential overnights, fostering placements, equipment and activities (for example entrance fees or payments to a sports club). There are some restrictions on what the money can be spent on – for example anything illegal, gambling or alcohol. The personal budget can only be spent on what has been agreed at the appropriate panel.

5.9. Some confusion appears to have arisen regarding whether people can get a personal budget to go on holiday as a family. In 2010/11 generous ring-fenced funding from the Department of Education did allow DMBC to provide £500 grants to families, which were mainly used by them for holidays. There is now no such funding available, expenditure from personal budgets needs to relate to an unmet social care need. We are not in a position to fund holidays for families simply because they desire them or would enjoy them, it is only where there is a need for a break and this is the most appropriate way to arrange it. A holiday, like any other form of support, would only be funded if agreed at Panel and part of a care/support plan. The funding is more likely to be agreed: if the plan includes the cost of the child's break and his or her primary carers, rather than for the extended family, unless there are exceptional circumstances; if it can be demonstrated that the impact of the child's disability results in costs over and above what would be expected to be incurred where a non-disabled child was going on holiday.

5.10. A personal plan should be unique to each family's circumstances; it gives the child and family the opportunity to use their personal budget on things that matter to them. For example, the young person may wish to use the support to get out into the community, take part in an activity, or join a club. A parent may wish to undertake a course, or find a way to meet new friends, while their child undertakes an activity, or to use that time to enhance their relationship with the disabled child's siblings. Some young people with profound needs may wish to use the funds to support their personal care, for example help with daily tasks such as getting up in the morning and having a bath or shower (although if they qualify for Continuing Care support the CCG may fund this help).

5.11. Various methods can be used to calculate an approximate personal budget. DMBC and Doncaster CCG still have work to do in deciding how this is done for education and health provision. In social care the RAS (Resource Allocation System) is the current system used to roughly estimate each person's personal budget, although this is not a statutorily required or nationally standardised document and Local Authorities are free to devise their own. The questions, points scored and financial value of each point will be reviewed from time to time. DMBC is actively considering changing the name of the RAS to try to counter the understandable confusion that leads people to believe that once the RAS has been done the money has been allocated. Options under consideration include Resource Indication System or Resource Indicative Questionnaire.

5.12. The current social care RAS is a booklet of questions that families work through with a DMBC Officer. The system gives an indication of how much money could be made available in a personal budget and what outcomes should be achieved through the use of this money. Where questions are used to calculate a score which is translated into an estimated cash amount, it is important that the plan reflects the needs described. For example, if a question indicates that a child always needs the support of two people in the community and a financial amount is calculated to provide this support, that money cannot be redirected elsewhere to provide, for example, equipment and leave the child without such 2 to 1 support.

6. Management Options and Arrangements

6.1. There are four options for managing a personal budget:

- Parents or the eligible young person receive a Direct Payment
- Parents or the young person request/nominate a 3rd party to receive and manage the personal budget/direct payment on their behalf
- Parents or the young person request that the local authority or an education setting continue to provide all the services and manage the resource allocation
- A combination of any of the above

6.2. Direct payments allow families/young people to take more control of their lives and decide which services they should purchase themselves (provided it is agreed the services purchased will meet outcomes outlined in the EHCP). This provides increased choice about which services to use to meet individual need. Direct payments are only applicable for certain aspects of the EHCP and will entail increased responsibility, for instance parents employing support workers for their child.

6.3. Direct Payments are cash payments made instead of, either fully or partially, services from DMBC, an education provider or Doncaster CCG. Any direct payment must be sufficient to enable the family to purchase services and provision to meet the identified needs and must be spent in accordance with the outcomes and provision specified in the EHCP. If a personal budget is agreed to be delivered by direct payments, each agency will place money into a central location for parents to receive the budget from direct payments. Any agreed costs from Doncaster CCG would be paid by the agreed process to fund the plan. The money will usually be given to parents/young people on a 4 weekly basis.

6.4. They may only be made if the person:

- appears to be capable of managing direct payments without assistance or with available assistance
- is over compulsory school age

- has capacity to consent to direct payments
- is not prevented from managing a budget for example if they are subject to a drug or alcohol treatment programme or a youth rehabilitation order (see Appendix 1.)

6.5. Arrangements for a personal budget must include:

- a written agreement between the parents or the young person and the DMBC setting out certain conditions. This includes how the direct payment must be used, how it will be paid, how it must be managed in a distinct bank account, how it will be monitored through audit of receipts and/or via the Advanced Payment Solutions system, and how it will be reviewed formally at least annually;
- if the provision is for a piece of equipment to be purchased by the family, the agreement will specify the minimum professional specifications, how the equipment will be stored, used and maintained;
- if the provision is within an education setting, there must be a further written agreement between the setting head or principal and the parents/young person setting out, for example, the expectations of conduct; and
- agreement that any unspent money must be returned to or reclaimed by the DMBC or Doncaster CCG by the end of the financial year, unless a roll forward facility has been approved.

6.6. If a child is in public care or has a Child Protection Plan, a decision would need to be made in the best interests of the child or young person by the relevant practitioners involved.

6.7. 3rd party provider: If nominated and mutually agreed, a personal budget can be managed for an individual by another person/organisation. This has to be agreed with the parent or young person, if post school age. Any 3rd party provider must be approved by DMBC or Doncaster CCG service and a process will be set out to confirm this arrangement. The choice to do this can be withdrawn at any point by either writing to ask to stop this or by a nominated advocate doing this for them. If this request occurs DMBC will immediately stop making the payment to the other person/organisation and agree a suitable alternative. This could include options such as using a broker to help them manage the budget, doing it themselves or reverting to the local authority and Doncaster CCG brokerage support.

6.8. If eligible, the personal budget can be taken as a direct payment, or while still choosing how their care, education and health needs are met and by whom, the service user can leave the **DMBC/Doncaster CCG** with the responsibility to commission the services.

6.9. Some people may choose a **combination of the three options**.

7. Arrangements for Direct Payments

7.1. Parents and/or the young person will be expected to sign a Direct Payment Agreement before the payment is made. This will specify what the payments are to be used for and how these should be managed. It will also outline other aspects, such as any people employed to work with children or vulnerable adults having to have an Enhanced Disclosure and Barring Service (DBS, formerly Criminal Records Bureau (CRB)) check.

7.2. Although there will normally be a set amount of money paid on a four weekly cycle, there may be one-off payments, for instance for specific equipment needs, which could be paid via the direct payment mechanism. A 'value for money' judgement will be made in these circumstances. DMBC or CCG would need to be assured that the equipment would meet a need under the EHCP, and the family will usually need to take on responsibility for the maintenance of the equipment in the home. If the equipment is to be used in a school, agreement of the setting would need to occur.

7.3. The statutory regulations state: Direct payments may only be made to an intended recipient if the person -

(a) appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them;

(b) where the recipient is an individual, is over compulsory school age;

(c) does not lack the mental capacity within the meaning of the Mental Capacity Act 2005 to consent to the making of direct payments to them or to secure the agreed provision with any direct payment; (this means the person must have the mental capacity to manage a budget) and

(d) is not a person described in the Schedule. (See appendix, to say who this applies to.)

8. Monitoring and Review

8.1. Monitoring by each agency would occur to ensure that the outcomes and provision in the EHCP are being met; these reviews would be part of the annual review by all parties. However, more regular reviews can occur as required, for instance the family/young person directly contacting a lead worker to say that they wish to change arrangements because the current ones are not meeting their needs.

8.2. If it were found that the personal budget was not being used to meet the provision/ outcomes outlined in the EHCP it could be withdrawn and Doncaster CCG local authority commission services instead. It would also be possible that money not spent within the framework of the plan would need to be repaid.

8.3. A Personal Budget will be reviewed within the first three months of implementation and at least annually thereafter, as part of the statutory annual review cycle. Within this cycle, the Personal Budget will be discussed during the 'assess-plan-do-review' cycle managed by education settings in partnership with relevant practitioners involved.

8.4. There should be no assumption that because a child has had a Personal Budget in an EHC plan that this will remain in place year upon year. The EHC Panel will want to know what impact the plan has had and what has improved for the child and family as a result of the plan. It may also be that the situation has changed for the better since the original plan, so less support may be needed.

8.5. Parents/young people would be expected to keep within their personal budget, although provision could be supplemented by another source such as personal finances or a local charity. It is important here to make the distinction between the indicative personal budget and the finalised agreed amount. It is the agreed amount, not the indicative original estimate which needs to be adhered to.

8.6. Whilst a Personal Budget is agreed for a period of time, if there are significant fluctuating circumstances not already accounted for within the EHCP, an additional, exceptional, one-off payment may be agreed by either the DMBC or Doncaster CCG Body. If monies are unused for the original planned purpose during that time, there is absolutely no commitment on the part of DMBC or the CCG that any "underspend" can be transferred to spend on other things or carried over to the next period's personal budget.

9. Managing Changes to Circumstances

9.1. If family circumstances change in any way these will be taken into account as part of the regular review of needs and the direct payments. There would also be the possibility of feedback from the family/young person to say how a direct payment was working for them.

9.2. This regular review will also occur as part of the assess-plan-do-review cycle in terms of a child/young person's development. On a formal basis this will occur as part of the annual review, but can occur for individual elements more frequently than this. If a significant change in needs occur, then a review sooner than annually will occur and amendments to the EHCP considered.

9.3. If there are fluctuating circumstances, for instance a child who has different care and health needs dependent upon a health condition, then this will be taken into account in the plan, if mutually agreed. This could either entail the family being able

to request a “top up” amount or there being a contingency that could be reclaimed by the local authority and/or Doncaster CCG at the end of the financial year. This will be built into the on-going discussion, between the family/young person and lead worker from the appropriate agency and/or a key worker if there is one for the family/young person.

10. Ceasing Direct Payments

10.1. Direct payments would cease under the following circumstances:

- At any time the parent or young person can ask, in writing, for themselves or the 3rd party to stop managing a Direct Payment. In this event the DMBC will cease the payment immediately and agree a suitable alternative
- The person in receipt of a Direct Payment is found to be ineligible according to the Regulations
- If the process of monitoring and review concludes that the Personal Budget is not being used to meet the outcomes and/or provision set out in the EHCP, it could be withdrawn and the DMBC or Health Body resume provision of services
- The use of Direct Payments is impacting adversely on the services provided by the LA or Doncaster CCG Body or on the provision for other children with an EHCP
- The person is in the categories listed in section 6.1
- They are found not to be used for the specific purpose outlined in the EHCP
- If the recipient no longer wishes to use direct payments to provide the provision, they will cease as soon as this request is received in writing and alternatives can be arranged
- The use of direct payments is having an adverse impact on other services provided by the local authority or having an impact on the provision for other children and young people with an EHCP
- There has been no consent from a young person post statutory school age to receive them.

10.2. In these circumstances notice in writing will be given by the Local Authority, along with the rights of appeal.

10.3. Where direct payments are withdrawn it may still be possible for a high degree of choice and control via a package managed by DMBC/CCG on the family or young person's behalf.

11. Information, advice, guidance and support

11.1. If help is required in managing a personal budget this could be arranged via the Aiming High Business Unit if the young person is under 18 or the Direct Payment Support Service (within Adult Services) for those between 18 and 25. If assistance was required in managing a personal budget, the personal budget would only be agreed if this support had been secured. This decision would depend on a Mental Capacity Act 2005 assessment or if the parent/young person requested assistance.

11.2. Clear information about services and provision available in the area which could be used with a personal budget will be available via the Local Offer (on the Doncaster Family Information Service (FIS) site), including a list of approved agencies. This will be updated on a regular basis. If a parent or young person wishes to use provision not listed in the Local Offer they should approach the SEND Service Manager for education or care, or the lead commissioner for Doncaster CCG. If this provision would need validating to be part of the Local Offer, a process will occur to enable this decision to be made. DMBC and/or Doncaster CCG will need to be satisfied that any proposed worker or provider does not have any safeguarding concerns associated with them and that a company or voluntary group is properly constituted with appropriate policies, insurances and so on.

12. Contact Details

12.1 Special Educational Needs Service
 Children and Young People's Service
 Doncaster Council
 Civic Office
 Waterdale
 Doncaster DN1 3BU
 Telephone number: 01302 737209 / 737210 / 737211
 Monday to Friday 8:30 am to 5 pm
 Fax number: 01302 737342
 Email: sen@doncaster.gov.uk
 Website: <http://www.doncasterchildrenandfamilies.info/thelocaloffer.html>

12.2 Aiming High Business Unit
 Children and Young People's Services
 Doncaster Metropolitan Borough Council
 Civic Office
 Waterdale
 Doncaster
 DN1 3BU

Telephone number: 01302 862332

Office hours: Monday to Friday 8:30am - 5pm

Email: aiminghighbusinessunit@doncaster.gov.uk

Website: <http://www.doncasterchildrenandfamilies.info/thelocaloffer.html>

13. Negotiation and Disputes

The Local Authority will actively seek to resolve disagreements about the Personal budget, the choice of management of the funding and the use of the personal budget throughout the EHC pathway. Should it not be possible to reach agreement at any stage of EHC pathway then a meeting will be arranged with the relevant service manager to seek to resolve the dispute. If this does not result in resolution of the dispute then the matter may be referred to a senior manager.

Parents and eligible young people can ask for a review of an LA decision and make representations where:

- an aspect of provision in the EHCP has not been offered as a Personal Budget and they would like to have this reconsidered;
- a Personal Budget has not been offered at all;
- it is felt that the Personal Budget is insufficient to meet the identified needs and outcomes.

Where a Local Authority has decided not to make direct payments it must—

- (a) inform the parent or young person of its decision in writing, giving reasons and informing the person of their right to request a review of its decision;
- (b) where requested, review its decision and in carrying out the review consider any representation made by the parent or young person; and
- (c) notify the parent or young person of the outcome of the review in writing, giving reasons.

There are also disagreement resolution services as set out within the Code of Practice.

The first-tier Tribunal does not hear appeals about Personal Budgets, but will hear appeals about the special educational provision to which a Personal Budget may apply.

14. Restrictions on personal budgets

14.1. The regulations (the legal guidance for the law relating to personal budgets) state the following: Some people cannot receive direct payments (although they could still be involved in personalised planning).

“The following persons may not receive direct payments

- (a) a person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(a), imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;
- (b) a person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;
- (c) a person who is released on licence under Part 2 of the Criminal Justice Act 1991(a), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(b) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour;
- (d) a person who is required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act(c);
- (e) a person who is subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000(d).
- (f) subject to a youth rehabilitation order imposed in accordance with paragraph 22 (drug treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to a drug treatment requirement.
- (g) subject to a youth rehabilitation order imposed in accordance with paragraph 23 (drug testing requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which includes a drug testing requirement.
- (h) subject to a youth rehabilitation order imposed in accordance with paragraph 24 (intoxicating substance treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement.”

14.2. Anyone who has a child with an EHCP, or is post compulsory school age with one, can request a personal budget to meet their needs as outlined in the EHCP. This would be granted (if the budget would meet unmet assessed needs) unless the following circumstances apply:

- The child is in care. If in long term foster care the foster parents may access a personal budget if there is agreement as part of a care plan
- The child has a Child Protection Plan. Any use of a personal budget would have to be part of the plan agreed at the multi professional Core Group meeting. If the use of it was felt not to meet the aims of the plan, and to compromise the safety of the child/young person, it would not be agreed
- A person subject to a drug or alcohol treatment programme (as in the regulations). If the person wishes to receive a direct payment and may be covered by this, there will be a discussion between the local authority and person involved to explore their particular circumstances in relation to the regulations. If a person has a gambling addiction this also may preclude them from receiving a personal budget.

15. References

- The Children and Families Act 2014 (Section/Regulations Clause 49)
- The Special Educational Needs and Disability Code of Practice 0-25 years, 2014 - Chapter 9.103, 9.112, 14-1-d
- The Care and Support (Direct Payments) Regulations 2014
- The Special Educational Needs (Personal Budgets and Direct Payments) Regulations 2014
- The National Health Service (Direct Payments) Regulations 2013
- Direct payment statutory regulations
- The Regulations contain a Schedule that sets out who cannot be in receipt of a Direct Payment (Appendix 1).
- Children's Act 1989
- DMBC, Guide to Children's Personal Budgets.
- Mental Capacity Act 2005
- DMBCs Short Breaks Statement
- Resource Allocation System
- Local offer
- EHCP Sections E-H, J (Personal Budgets)
- DMBC's High Needs Block of funding (Element 3)
- Band D Learning Support or Teaching Assistant (spinal point 14)
- DMBC's Education Transport Policy

16. Appendix 1: Schedule to the Special Educational Needs (Personal Budgets) Regulations 2014

Persons to whom direct payments may not be made

The following persons may not receive direct payments—

(a) a person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;

(b) a person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;

(c) a person who is released on licence under Part 2 of the Criminal Justice Act 1991, Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 subject to a licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour;

(d) a person who is required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act;

(e) a person who is subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000;

(f) a person who is subject to a youth rehabilitation order imposed in accordance with paragraph 22 (drug treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to a drug treatment requirement;

(g) a person who is subject to a youth rehabilitation order imposed in accordance with paragraph 23 (drug testing requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which includes a drug testing requirement;

(h)a person who is subject to a youth rehabilitation order imposed in accordance with paragraph 24 (intoxicating substance treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement.