



SEN Personal Budgets: SEN Team Information

Contents:

1. Process if a PB approved
2. Duties on LA if it approves DP's
3. Duties on parent/CYP if PB/DP's agreed
4. Process if a PB is not approved

Process when the PB is approved.

- **Parents request personal budget**

PB can only be requested at the following times:

- LA issues a draft plan following an assessment
- LA issues a draft plan following a re-assessment
- at Annual Review stage



- **Completed request form goes to Moderating Panel**

- Case worker sends completed PB request form, EHC plan and any other relevant documents to the Moderating Panel
- In considering a request for a PB, the Local Authority must use a person-centred approach and must ensure the PB will be used in the most effective and efficient way.
- LA must also ensure agreeing a PB will not have an adverse impact on other services provided to other CYP's.
- Panel should only agree a PB for provision specified in Section F and outcomes specified in Section E.
- If it is likely that the Panel will agree to the PB request, SEN Team must prepare an 'indicative budget' for the parent/carer/young person.
(Indicative Budget is an indication of the cost of the provision parent wants to make own arrangements for. It is not binding and is not proof that the LA has agreed to provide a PB)



- **Moderating Panel Approve the PB in principle only.**

- If agreeing to a PB, the LA MUST cover the full cost of the provision which will be provided by a PB. LA cannot make a contribution or pay part of the costs of the agreed provision.
- LA should not inform parent/carer/YP of decision until all the other statutory duties related to PB's are fulfilled.



- **Who can the LA make Direct Payments to.**

LA can make Direct Payments to the following persons only:

- Parent/carer
- Young Person who has completed year 11 statutory education phase.
- A person nominated by either of the above (subject to LA duties to ensure person is suitable)



- **If parent/carer/YP is requesting Direct Payments, either to them or a nominated person.**

Before agreeing to make Direct Payments, the local authority must ensure:

- the recipient is capable of managing direct payments without assistance (or with any available assistance), where relevant;
- is over statutory school age (has completed year 11);
- has mental capacity as defined in the Mental Capacity Act 2015 to consent to receiving direct payments;
- is not an excluded person as set out in the Schedule of the Personal Budget Regulations.
- Is satisfied that the recipient will act in the best interests of the child or young person.
- the direct payments will not have an adverse impact on other services provided for children or young people with an EHC plan;
- the agreement of a direct payment is an efficient use of the LA's resources.
- If a person employed under a PB or Direct Payments is working in a school or other educational setting, the person must conform to the policies and procedures of the institution and must have permission from the headteacher/college principal or early years provider to work within that setting. The LA must make this a condition of agreeing to the PB/Direct Payments.



- **If parent is requesting a school/setting arranges the provision.**



If parent/carer/YP is requesting a school arranges the provision, the LA must ensure that the Head teacher/Head of the setting agrees to this in writing. (school/setting cannot be made to agree to this against the wishes of the Head teacher). SEN Team must establish school/setting views by contacting the Head Teacher directly and if the Head in agreement, they should be asked to confirm the agreement in writing and this should be placed on the CYP's file.



- **If LA is going to agree to provide Direct Payments.**

LA must provide written notice to the recipient of the direct payments, stating the following:

- the name of the child or young person in respect of whom direct payments are to be made;
- the goods or services which are to be secured by direct payments;
- the proposed amount of direct payments;
- any conditions on how direct payments may be spent;
- the dates for payments into the bank account approved by the local authority.



- **Ensure those providing services are suitable.**
- Any persons who will come into contact with children and young people while providing services funded under a PB or Direct Payments, is required to be checked under the Disclosure and Barring Service (DBS) prior to starting work in settings which bring them in contact with children and young people.



- **LA duty to review Direct Payments**
- The local authority must monitor the use of direct payments. A review must take place at least once in the first three months and at every review of the EHC plan or if a re-assessment takes place.



Process to be carried out when the PB is approved in principle but **before informing parent/nominee of decision.**



• **SEN Team have a duty to ensure the following:**

1. the recipient will use the PB to secure the agreed provision in an appropriate way
2. where the recipient is the child's parent or a nominee, that person will act in the best interests of the child or the young person when securing the proposed agreed provision;
3. recipient is over compulsory school age - age 17 minimum
4. recipient appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them;
5. Recipient does not lack capacity within the meaning of the Mental Health 2005 Act to consent to the making of direct payments to them or to secure the agreed provision with any direct payment; and
6. Recipient is not a person described in the Schedule. (see below for details of this)
7. the direct payments will not have an adverse impact on other services which the local authority provides or arranges for children and young people with an EHC plan which the authority maintains; and
8. securing the proposed agreed provision by direct payments is an efficient use of the authority's resources.
9. A local authority may only make direct payments in respect of the special educational provision specified in an EHC plan, and may not make direct payments for the purpose of funding a place at a school or post-16 institution.





Before agreeing a PB, SEN Team must also ensure that the person who will receive the PB is **NOT in the following categories as described in the SEND PB Regs 2014 Schedule.**

- a) subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(6), imposed by a community order within the meaning of section 177 of that Act(7) or by a suspended sentence order within the meaning of section 189 of that Act(8);
- b) subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003(9), 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) released on licence under Part 2 of the Criminal Justice Act 1991(10), Chapter 6 of Part 12 of the Criminal Justice Act 2003(11) or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(12) subject to a licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour;
- d) 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) 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) 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.



Once all the above has been checked and SEN team is satisfied that the recipient of the PB is suitable. Next step is to issue a notice to the recipient setting out the following:

- a) the name of the child or young person in respect of whom direct payments are to be made;
- b) the goods/services which are to be secured by direct payments;
- c) the proposed amount of direct payments;
- d) any conditions on how direct payments may be spent;
- e) any other relevant conditions;
- f) details of the type of bank account that the LA will approve for the DP's to be paid into;
- g) directions that the bank account cannot be used for any other purpose (apart from the receipt of DPs from Social Care and/or NHS);
- h) directions that only the recipient and any other person approved in writing by the LA can have access to the bank account;
- i) the dates for payments into the bank account approved by LA;
- j) the direct payments can only to secure the agreed provision;
- k) keep a record of money paid in and withdrawn from the bank account
- l) on request, or at specified intervals, the recipient must provide information or evidence relating to the account; and the agreed provision;
- m) recipient must notify the local authority of any changes in circumstances which might affect the need for the agreed provision.

The written notice should also remind recipient of the following duties:

- responsibility to be aware of any safeguarding issues.
- responsibility to ensure services are safe and of an acceptable quality.



- Responsibility to ensure any services arranged through a personal or direct payment that the person/service provider is appropriately registered and monitored.

n)

What the parent/carer/yp/nominee must do if a PB is agreed.



Parent/carer/young person/nominee general safety and safeguarding duties.

Parent/carer/YP purchasing/arranging provision under a PB/DP have the following duties:

- responsibility to be aware of any safeguarding issues.
- responsibility to ensure services are safe and of an acceptable quality.
- Responsibility to ensure any services arranged through a personal or direct payment that the person/service provider is appropriately registered and monitored.



On receipt of the written notice from the LA, the recipient must confirm in writing that they agree to the following:

- o) to receive the direct payments;
- p) use the direct payments only to secure the agreed provision;
- q) comply with any conditions specified in the notice;
- r) to notify the local authority of any changes in circumstances which might affect the need for the agreed provision;
- s) use the bank account in accordance with the conditions set out in the notice;
- t) will ensure the bank account is only accessible by the recipient or other person approved in writing by the local authority;
- u) agreement to keep a record of money paid in and withdrawn from the other conditions set out in the notice;
- v) the responsibility to be aware of any safeguarding issues.
- w) the responsibility to ensure services are safe and of an acceptable quality.



- x) the responsibility to ensure any services arranged through a personal or direct payment that the person/service provider is appropriately registered and monitored.

In addition to the above if the recipient is a nominee the following must also be agreed in writing before the DP can be agreed:

- a) parent /young person must provide written consent to the LA to direct payments being used to secure the agreed provision; and
- b))the nominee must provide written confirmation to the local authority that s/he is responsible as a principal for all contractual arrangements entered into for the benefit of the child or young person and secured by means of direct payments.

Process when the PB is NOT approved.



- **Parent/carer or Young Person request personal budget.**

PB can only be requested at the following times:

- a draft plan is issued following an assessment
- a draft plan is issued following a re-assessment
 - at Annual Review stage



- **Request goes to Moderating Panel**

- See above for information on what documents need to be submitted to panel with the completed PB request form.



- **Moderating Panel does not agree to a PB**

- Moderating Panel record the reasons why the PB was not agreed.



- Case Worker writes to parent/carer/young person setting out the reasons why the request has been refused and advising of the rights to request that the decision is reviewed. (refusal to issue a PB cannot be appealed to tribunal).
- If parent/carer/young person requests a review, the case should be remitted back to the Moderating Panel.

(a draft standard letter has been created which can be used to advise that a PB request has been refused).