



Personal Budgets (PB): Statutory SEND Team Information

A personal budget 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

SEND Caseworker should check assessment and review paperwork carefully to check if there has been a request for a personal budget. If a request is made, the local authority is obliged to consider the request (and an appeal if it is unsuccessful) and must respond formally and both stages.

1. SEND CW presents PB proforma and supporting evidence to Moderation/RSEP Panel; the request should detail which elements of Section F the PB is expected to meet.
2. If the PB is agreed, go to **Step 6**.
3. If the PB is not agreed, a formal response letter must be issued. The letter should explain the reasons why the request has been rejected and provide information on how to appeal the decision, should the parent/carer or young person wish to do so. **This should be sent to the parent/carer or young person within five working days of the panel making its decision.**
4. If the parent or carer wishes to appeal, the SEND CW should add the request back to the next available panel, with any additional information or evidence that the parent or carer, or young person, feels needs to be considered.
5. If the PB is still not agreed, a formal response letter must be issued. The letter should explain the reasons why the request has been rejected. There is no further appeal process and refusing a personal budget cannot be appealed to the SEND Tribunal. **This should be sent to the parent/carer or young person within five working days of the panel making its decision.**
6. If the PB is agreed, and Direct Payments are to be method of payment, a *Personal Budget (Direct Payments) Agreement* and *Personal Budget (Direct Payments) BACS Form* should be prepared by the SEND CW. This can be checked by the SEND Officer / Group Manager before being shared with the recipient, who should then return a signed copy of both forms.
7. The decision may be agreed *in principle*, for example if there are no costs or there needs to be a cost comparison exercise undertaken before funds are released.
8. The Group Manager (or a nominated deputy) should countersign the *Agreement* and *BACS Form* and return to the SEND CW, who should share with the SEND Assurance and Systems Officers.

**Key Information****Who can the LA make Direct Payments to?**

- 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)

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.
- the recipient is over statutory school age (has completed year 11).
- that the recipient has mental capacity as defined in the Mental Capacity Act 2005 to consent to receiving direct payments;
- that it is satisfied that the recipient is not an excluded person as set out in the Schedule of the Personal Budget Regulations.
- that it 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 (third party) arranges the provision.

If parent/carer/YP is requesting a school arranges the provision, the LA must ensure that the Headteacher/Head of School agrees with this (school/setting cannot be made to agree to this against the wishes of the Head teacher). The LA must establish the setting's views by contacting the Headteacher/Head of School directly and receive their approval in writing.

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.