

Wakefield Council

Personal Budgets Policy

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1. **Background**
   1. This policy relates to the duties of Wakefield Metropolitan District Council in relation to personal budgets as outlined within the Care Act 2014 (section 26 and sections 31-33 and in the Care & Support Statutory Guidance at chapter 11), the Children and Families Act, 2014 (section 49) and the Statutory Guidance and Code of Practice for special educational needs and disability 0-25 years, 2014. The entire code of practice can be found at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND_Code_of_Practice_approved_by_Parliament_29.07.14.pdf>

1.2 The Government’s vision for personalisation starts with securing the best outcomes for people. People, not service providers or systems should hold the choice and control about their (or their child’s) care. Personal budgets and direct payments are a powerful way to give people control and flexibility to families to choose and pay for the services they need.

1.3 The Wakefield Together Partnership is committed to person centred care with objectives to achieve this identified in the ‘District Outcomes Framework’ within priorities ‘Caring for our People’ and ‘Ambitious for Our Young People’.

* 1. A Personal Budget is an allocation of funding to meet a person’s (or their child’s) assessed and unmet support needs following an assessment under one or a combination of The Care Act, 2014, The Children and Families Act, 2014 and/or the Statutory Guidance and Code of Practice for Special Educational Needs and Disability 0-25 years, 2014. This could be achieved by either taking the Personal Budget as a Direct Payment (cash budget), the Council commissioning the services for them (managed budget) or a combination of the two. There can also be arrangements whereby the individual does not directly manage their own personal budget, instead it may be managed by a third party (eg using individual service fund, or ISF) with support provided in line with the persons wishes. A Personal Budget puts people in control and gives users a greater choice to enable them to choose services to meet their eligible needs. In certain settings, as defined within the legislation and statutory guidance, the choice of provider can be limited and cash budgets (Direct Payments) may not be available.
  2. The services across education, health and social care that lend themselves to the use of Personal Budgets will change over time and, as such, the information in Appendix 2 regarding these services, will be updated on a regular basis, and at least annually.
  3. A personal budget is for an individual’s social care and support needs, or to meet the support needs of a carer in accordance with the provisions of the Care Act 2014 and supporting regulations and guidance.
  4. A personal health budget is for NHS healthcare and support needs.
  5. A personal budget, linked to an Education, Health and Care (EHC) plan, may include several different funding streams eg social care and support, health, education, plus other funding.
  6. In adults, a personal budget can be pooled with other funding streams this is referred to as an individual budget.

**2. Eligibility for a Personal Budget**

2.1 Children (0-18) and Young People (18-25 years)

A child 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. In general this means that in:

* Education

Learners aged 0-25 years who have an Education, Health and Care Plan and who need High Needs funding to meet their needs in education are eligible. High Needs funding is also called ‘Element 3’.

* Social Care

Children and young people are eligible when they need support beyond these that can be met by available targeted and universal services. This includes unmet needs identified following a holistic assessment of the child and the family. How children are assessed for eligibility is set out in detail as part of the Local Offer information: http://wakefield.mylocaloffer.org/Home. Young people (18 to 25) are assessed in line with the provisions for adults set out below at 2.2.

* Health

A personal health budget is an amount of money to support identified health and wellbeing needs, everyone eligible has a “right to have” a personal health budget. The aim is to give people with long-term conditions and disabilities greater choice and control over the healthcare and support they receive. In Wakefield since October 2014 families of children eligible for Continuing Care (CC) as defined by the National Framework for Children and Young People’s Continuing Care have had a “right to have” a personal health budget. In the case of children this refers to the element of their care package that would normally be provided by the NHS once they become CC eligible and not the elements of their package provided by social care or education. See Appendix one for links to more information on NHS Children’s Continuing Care and Personal Health Budgets.

2.2 Adults

An adult may be eligible for a personal budget if they have needs for ‘care and support’ within the definitions set out in the Care Act, 2014. ‘Care and support’ is the term we use to describe the help some adults need to live as well as possible with any illness or disability they may have. It can include help with things like washing, dressing, eating, or going out to necessary community facilities.

* + 1. An adult may also be eligible for a personal budget if they need support with their role as a carer for an adult with care and support needs in accordance with the provisions of the Care Act 2014 and supporting regulations and guidance.

In general this means that in:

* Social Care

You will be offered a Personal Budget if you meet the National Eligibility Criteria, as defined in The Care and Support (Eligibility Criteria) Regulations 2014 (http://www.legislation.gov.uk/ukdsi/2014/9780111124185 ) and require Community Based Services to meet your assessed unmet needs.

* Health

Personal health budgets are being introduced by the NHS to help people manage their care in a way that suits them. Since October 2014, adults receiving [NHS Continuing Healthcare](http://www.nhs.uk/chq/pages/2392.aspx) have had a right to have a personal health budget.

**3. Funding included within a Personal Budget**

3.1 A holistic assessment will identify where a person (or their child) has needs that cannot be met by the family themselves or by existing universal and targeted services. This will look at the needs of the person needing care and support, and also assess the carer for their eligibility for support, as outlined in the Personal Budget Procedures. The assessment will inform a resource allocation system, which will provide a fair and accurate indicative personal budget. Outcomes will be agreed for all assessed and unmet needs and these will be recorded in a plan. After agreement of the plan, once everything is in place, the personal budget will be released**.**

3.2 Children (0-18) and Young People (18-25 years)

3.2.1 For children, and young people in full time education with an EHC plan, the full costed provision funded through the personal budget element will be clearly set out in Section J of the Education, Health and Care (EHC) Plan. EHC plans replaced the ‘Statement of SEN’ and ‘Learning Difficulty Assessment (LDA)’ in line with the Children and Families Act (2014).

3.2.2 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. 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 9.180).

3.2.3 For children, and young people without an EHC plan, the full costed provision funded through the Personal Budget element will be clearly set out in their care or health plan.

3.3 Adults

3.3.1 For adults an assessment of need will be carried out with a social worker or care coordinator. Once the assessment is complete it will inform the resource allocation system and identify the indicative budget. The care and support plan will then be completed and the Personal Budget will be determined and agreed. A financial assessment will be carried out by the Council, as soon as possible, to determine how much (if anything) a person has to contribute towards their care. The amount of money a person is eligible to receive will be their personal budget minus any financial assessment contribution.

**4. Calculating the Personal Budget Offer**

4.1 The Personal Budget funding offered to support needs is drawn from the sources of funding outlined in section 3 above. Each child, young person or adult is offered a range of funding which relates to their assessed needs and eligibility for a personal budget.

4.2 Education

Each individual learner who has Special Educational Needs and Disabilities (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. Given these facts Wakefield has built its high needs system upon an outcomes based model recognising the individual needs, abilities and aspirations of each learner. Any personal budget assigned to a learner is to achieve two main objectives which must both be addressed:

* Successful inclusion
* Achievable progression, including clarity of next-stage development

Wakefield’s High Needs Banding Funding is set out in the document “Wakefield Education Threshold matrix”.

4.3 Social Care – Children (0-18)

A similar high needs banding system based on similar principles is applied. In social care this is part of the social care assessment framework which is informed by a needs profile. The needs identified within the social care assessment are used to calculate an indicative budget. This is done using a Resource Allocation System (RAS) and supports the council to make fairer funding allocations. There are separate RAS systems for childrens social care and adults social care. Where the indicative budget generated by the RAS appears insufficient to meet the assessed unmet needs, a process to review the actual funding required, and where necessary to increase the personal budget, will be used.

4.4 Social Care – Adults (over 18 years)

For adults, an assessment of need will be carried out with a social worker or care coordinator. Once the assessment is complete it will inform the resource allocation system and identify the indicative budget. A care and support plan (for adults with care and support needs) or support plan (for carers, as defined under the Care Act) will then be completed and the Personal Budget will be determined and agreed. For adults with care and support needs, a financial assessment will be carried out by the Council, as soon as possible, to determine how much (if anything) a person has to contribute towards their care. The amount of money a person is eligible to receive will be their personal budget minus any financial assessment contribution. For carers, there is no financial assessment for the carer themselves, as the Council does not expect carers to make a financial contribution to the package. However, where an individual receives “replacement care” as part of the support plan to the carer, then the person in receipt of this “replacement care” will have a financial assessment. The amount of money a carer is eligible to receive will be their personal budget minus any financial assessment contribution from the individual receiving “replacement care”

4.5 Health

The Wakefield Clinical Commissioning Group considers who would be eligible for a Continuing Care or Continuing Health Care Personal Health budget. More information about this is available from <https://www.wakefieldccg.nhs.uk/wp-content/uploads/2016/03/PHB-Expanded-Offer-FINAL-310316.pdf>

**5.** **Agreeing the Personal Budget offer**

5.1 In order to agree a personal budget, tools are used to support decision making and professional judgement is also used to make sure that the funding offered is right for the level of need. The professional judgements about the budget are made when the assessment phase of the relevant pathway is completed and is shared with the family. A potential (or indicative) budget is shared with the individual or family so that detailed discussions can take place to plan the provision required to meet the individual outcomes identified in the EHC plan (for children), Health plan (for children with health needs), Care and Support plan (for adults and children with care and support needs) or Support Plan (for Carers, under the Care Act).

If these discussions indicate that the potential (or indicative budget) is insufficient to meet the assessed, unmet needs, then local operational processes will be used to review the allocation and to consider whether an increase to the proposed personal budget is necessary.

**6. Managing and using a Personal Budget**

6.1 A person (or suitable representative) would have control of the management and spend of their agreed personal budget. For children, this will be a parent or suitable representative until the end of compulsory schooling (Y11). Adults and young people (at the end of compulsory schooling) would have control of their own personal budget, unless they were unable to do so because they were deemed to lacked capacity to agree to and manage their personal budget under the provisions of the Mental Capacity Act 2005. Some people might request that a family member or other person manage the funding on their behalf. Decisions and discussions about this, will happen as part of the care planning arrangements with individuals.

6.2 A personal budget is not the same as a direct payment. A direct payment is

one of several ways that a personal budget can be managed. The following options to manage a Personal Budget or a combination of the options set out below can be available:

* A direct payment managed by the person (16 plus with mental capacity)
* A direct payment managed by the parent/carer
* A direct payment managed by a third party (family friend, agent, trust fund, finance company, voluntary sector organisation)
* The personal budget is held and managed by the council
* The personal budget is provided by the council to a service provider to hold as an Individual Service Fund on behalf of the person (e.g. school, health or social care provider)

1. **Monitoring and Review**

7.1 The personal budget is initially reviewed by the allocated worker/care manager within the first 3 months to ensure that it is meeting the needs/outcomes of the service user. It will then be reviewed after 6 months, and then on a 6 monthly or annual basis thereafter. The service user can contact their allocated worker/care manager should any of their needs change at any period.

7.2 The personal budget should only be used for any expenditure that meets the outcomes identified in the agreed support plan as long as the expenditure is effective, lawful and affordable. The appropriate use of personal budgets will be monitored on the same timescale as outlined in section 7.1.

* 1. Service users will be obliged to repay unspent money in accordance with the terms of agreement and that the Council reserves the right to recover monies by way of legal proceedings.
  2. The Council will consult with all relevant parties, as well as the family or young person, before making a decision to withdraw or reduce a personal budget.

1. **Negotiation and Disputes**

The council will actively seek to resolve disagreements about the budget, the choice of management of the funding and the use of the personal budget throughout the relevant pathways, as outlined in the Personal Budget Procedures. Should it not be possible to reach agreement at any stage of a pathway then the relevant service manager will be involved to seek to resolve the dispute.

If this does not result in resolution of the dispute then the matter should be referred to the Complaints and Representations Team. They can be contacted by phone: 01924 302840, fax: 01977 727077 or by post at Wakefield One, PO Box 700, Burton Street, Wakefield, WF1 2EB alternatively complaints, comments and compliments can be emailed to [socialcarecomplaints@wakefield.gov.uk](mailto:socialcarecomplaints@wakefield.gov.uk).

**Appendix 1: Key Documents**

Care Act 2014 <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted/data.htm>

Care and Support Statutory Guidance

<https://www.gov.uk/guidance/care-and-support-statutory-guidance>

Statutory Guidance and Code of Practice for special educational needs and disability 0-25 years,2014. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342440/SEND_Code_of_Practice_approved_by_Parliament_29.07.14.pdf>

The Special Educational Needs (Personal Budgets) Regulations

<http://www.legislation.gov.uk/uksi/2014/1652/pdfs/uksi_20141652_en.pdf>

The Special Educational Needs (Miscellaneous Amendments) Regulations 2014

<http://www.legislation.gov.uk/uksi/2014/2096/pdfs/uksi_20142096_en.pdf>

NHS England guidance on direct payments

<http://www.personalhealthbudgets.england.nhs.uk/_library/Resources/Personalhealthbudgets/2014/Guidance_on_Direct_Payments_for_Healthcare_Understanding_the_Regulations_March_2014.pdf>

NHS Children’s Continuing Care guidance

<http://www.nhs.uk/CarersDirect/guide/practicalsupport/Documents/National-framework-for-continuing-care-england.pdf>

NHS England informaiton about Personal Health Budgets:

<http://www.nhs.uk/choiceintheNHS/Yourchoices/personal-health-budgets/Pages/about-personal-health-budgets.aspx>

Local Offer information:

<http://wakefield.mylocaloffer.org/Home>

**Appendix 2 – Personal Budget Inclusions and Exclusions**

**Updated: 12-07-2016**

**Children**

**1.1 Education (aged up to 25 years in full time education)**

Mainstream schools and colleges 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 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.

Element 1 and 2 is **not** available as a Personal Budget.

Element 3 funding may be made available for use as a Personal Budget, for interventions to meet an individual’s needs (in agreement with the education provider). This can only be included with the agreement of the school or college. 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. 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 Head Teacher or Principal).Therefore this would need to be carefully planned.

In Children’s Services, a cash budget (Direct Payments) must not, and will not, be made for the purpose of funding a school place or post 16 institution (Code of Practice 9.119)

**1.2 Care (aged up to 18 years)**

When universal and targeted services cannot support the family sufficiently to meet the child’s needs, a holistic assessment will be carried out at the family’s request to identify unmet needs.

The personal budget would include funding needed to provide any non-residential support to meet the assessed additional unmet needs identified within that assessment.

The personal budget may also include individual funding necessary to provide the family of a disabled child with a short break or family support that is not provide in a residential respite unit.

1. **Adults**

A cash budget (direct payment) currently cannot be provided in adults’ social care for residential accommodation provision, nor can they be provided for those in Prison.

All other adult social care support identified, can be taken as a personal budget.

1. **Health**

In principle, the amount of money that would have normally been spent on NHS services as part of a child or young person’s Continuing Care package (except those services excluded as outlined in regulations) could be available to use as a personal health budget. Any agreed budget must be of a sufficient amount to ensure the health and wellbeing outcomes required for a child or young person can be realistically met.