

Brighton & Hove City Council

Cabinet Member Decision

Subject: Personal Budgets and Direct Payments Policy for children and young people aged 0-25 with special educational needs and disabilities

Date of Decision: 4 February 2025

Report of: Cabinet Member for Children, Families, Youth Services and for Ending Violence against Women and Girls

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Ward(s) affected: (All Wards)

Key Decision: No

For general release

1. Purpose of the report and policy context

- 1.1 The policy (attached as Appendix 1) fulfils the council's duty to offer personal budgets and direct payments to children and young people with special educational needs and disability (SEND) aged 0-25 years.
- 1.2 A personal budget is the amount of funding made available by the council to meet the needs of a child or young person with SEND and support them in meeting their outcomes.
- 1.3 Direct payments are one way of delivering some, or all, of this agreed funding in which children, young people and their families can direct their own support.
- 1.4 The policy supports the council plan (2023-2027) objectives 2 and 3:
 - A fair and inclusive city – it increases the accessibility for SEND children and young people to services
 - A healthy city where people thrive – giving children and young people a better future by supporting the delivery of the SEND strategy.
- 1.5 The Brighton and Hove Special Educational Needs and Disability (SEND) Strategy 2021-2026 has a vision that states:

'Our children and young people with SEND and adults with learning disability will achieve the very best they can so that they can lead happy, healthy and good lives.'

This personal budget and direct payment policy links specifically with 5 priority areas of the strategy to allow increased choice and control of service provision for families.
- 1.6 This policy sets out how we will fulfil these personal budget duties for social care and education services and explains the process for health personal budgets from NHS Sussex and how to access these.

2. Recommendations

The Cabinet Member for Children, Families, Youth Services and for Ending Violence against Women and Girls is asked to:

- 2.1 Agree that the policy can be ratified and used by all relevant council teams.
- 2.2 Note that our strategic partners for working with families (Amaze and PaCC) have been consulted throughout the policy development. PaCC are facilitating further work with parents and our young people are being consulted about a young person's guide to personal budgets and direct payments.
- 2.3 Note that our staff teams have been introduced to the new policy and have developed working processes within the service teams to deliver to it. Processes have been piloted over the autumn term 2024.

3. Context and background information

- 3.1 Choice and control (or personalisation) is at the centre of all statutory services being able to offer personal budgets to individual children and young people with SEND aged 0-25 years. There are several pieces of legislation that relate to personal budgets and direct payments across health, social care and education that place a duty on the council and health to provide the option for parents and young people to access personal budgets.
- 3.2 The policy is intended to help professionals, parents and young people understand the choices that can be made. This is a complex area of legislation which has developed over time. The policy is split into 2 sections so that personal budgets and direct payments are not misunderstood. We understand that parents and young people have a lot of information to manage, and we are working with parents and young people to develop more easily accessible information to sit alongside the policy. Easy read will also be available. The policy appendices are intended to support understanding and are attached as Appendices 2-4.
- 3.3 Amaze are able to support both parents and young people with navigating the personal budget and direct payment processes. There are also specific services that help parents/carers with direct payments from social care.
- 3.4 The policy covers all aspects of personal budgets for children and young people (0-25) with SEND. This includes:
 - Legislation
 - What they are and how to use them
 - How they can be accessed and allocated
 - What they cannot be used for
 - Eligibility
 - Decision making
 - Case examples
 - Monitoring and review
 - Complaints and appeals
 - Employing staff

- How payments are made
 - When and how they might be discontinued
- 3.5 All service leads from social care, education and transport have been involved in the policy development and have agreed the content and the implementation plan. NHS Sussex has been consulted on all the information on personal health budgets and has agreed the wording.
- 3.6 Adult services (ASC) have been consulted throughout the policy development. ASC are working to an interim direct payments policy and are looking to have a final policy in place. Personal budgets and direct payments in adult services do come under different legislation and are administered differently. The personal budget and direct payment policy for children and young people (0-25) with SEND explains the transition to adulthood process for children with personal budgets becoming adults and also how to access the adult system, if a young person does not have a personal budget as a child. There are no conflicts with the ASC policy. In the future it may be possible to combine this policy with the ASC policy at the review cycle.
- 3.7 It is likely that the accessibility of the policy and discussions with the SEND community will see an increase in requests and demand for personal budgets. This could lead to pressure on budgets.
- 3.8 The short breaks strategy and development of short break services for SEND is pivotal in offering high quality services for most children and young people with SEND. Personal budgets are meant for individual support for the most complex children and young people where it would not be cost effective, or appropriate, to develop a service for that need or where personal care is required.
- 3.9 Sometimes a personal budget will be agreed to be delivered as a direct payment, but the funds remain in the carers bank account and are not spent. There can be a variety of reasons for this. Where funds are not spent and a surplus is accumulated, the policy sets out the process for suspending accounts and reclaiming unspent funds. Any reclaim of unspent funds will go towards offsetting increase in demand. A budget pressure of £500k has been put forward for 2025/26 in anticipation of an increase in demand.

4. Analysis and consideration of alternative options

- 4.1 The council needs to discharge its duty to offer personal budgets and direct payments to children, young people and their families who qualify for such support following assessment. Clear policy and associated working documents is the best way to discharge this requirement.

5. Community engagement and consultation

- 5.1 Amaze and PaCC have been involved in the policy development since the outset. Amaze will be the agency of support for parents, carers and young people with the policy and process.
- 5.2 The policy has been taken to the PaCC communication meeting with parents and parents/carers invited to either coproduce an accessible guide to the process or be consulted on one initiated by us.

- 5.3 Personal budgets and direct payments only affect around 10% of the SEND population nationally. They are meant for very individualised support for complex needs. In Brighton and Hove around 400 children and young people are in receipt of personal budgets across education (including transport), health and social care. This is approximately 13% of the 0-25 SEND population. As the numbers are small, consultation/coproduction is best considered by our strategic partners working with this community.
- 5.4 The approach is to take ideas for coproduction/consultation to the parent and young people's expert groups and take their lead on what needs to be produced and how.

6. Financial implications

- 6.1 Funding for direct payments and personal budgets is provided from both the Council's General Fund and High Needs Block of the Dedicated Schools Grant. A service pressure of £500k has been attributed for this area as part of the corporate budget setting process for 2025/26 in anticipation for increases in demand.

Name of finance officer consulted: Steve Williams
Date consulted: 06/12/24

7. Legal implications

- 7.1 This policy covers all aspects of personal budgets for children and young people (0-25) with SEND ie education, social care, health and transport. Each local authority must have a Special Educational Needs and Disabilities (SEND) Personal Budgets policy in place and published on the Local Offer website.
- 7.2 The Special Educational Needs (Personal Budgets) Regulations 2014 set out the legislative framework for local authorities to follow in offering personal budgets. Personal budgets are offered alongside Education, Health & Care (EHC) Plans, and children and young people assessed as needing an EHC Plan have the option of requesting a personal budget. The proposed SEND Personal Budgets policy sets out the criteria that the local authority will use to determine whether a request for a personal budget can be agreed and in which circumstances this might include a direct payment.

Name of lawyer consulted: Serena Kynaston Date consulted 09/12/2024

8. Equalities implications

- 8.1 An Equality Impact Assessment has been completed and is attached as Appendix 5. All actions have been allocated to the appropriate service leads to be included in service plans and an implementation plan has been put in place.

9. Sustainability implications

- 9.1 There are no substantive sustainability implications of the policy. Some individual travel may be needed for those accessing personal budgets, but any personal transport budgets awarded must cost no more than if the council were to arrange transport. In many cases personal budget provision is delivered in the home which reduces the need to travel. The development of a personal assistant register will offer greater employment opportunities and training to local residents.

10. Health and Wellbeing Implications:

- 10.1 The EIA completed for this policy development indicates how it is intended to adapt education, health and care delivery to support the most individual needs of the most complex needs children in Brighton and Hove. It is designed to promote better health and wellbeing for the most disabled children and young people and reduce health inequalities. NHS Sussex has been consulted throughout its development. It is also possible to pool personal budget allocations from health and care to create the most effective packages of care to deliver the best outcomes.

Other Implications

11. Procurement implications

There are no procurement implications of this policy.

12. Crime & disorder implications:

There are no crime and disorder implications.

13. Conclusion

- 13.1 The council has a statutory duty to offer personal budgets to children and young people with SEND aged 0-25 years. The policy sets out how the council will do this, who can apply and the process.
- 13.2 The policy supports the council plan and the SEND Strategy in enabling greater access to individualised support when this is needed for children and young people with SEND and assists in helping them meeting their outcomes.
- 13.3 The policy clarifies the personal budget pathways for families and staff, ensures equality of access and enables funding to be used efficiently.

Supporting Documentation

14. Appendices

1. Personal Budgets and Direct Payments Policy for children and young people aged 0-25 years with special educational needs and disabilities.
2. Case Studies
3. Personal Budgets Flowchart
4. Personal Budgets Frequently Asked Questions
5. Equality Impact Assessment