Thurrock Council

Personal Budget Policy

This policy relates to Children and Young People aged 0 to 25 years-old with Special Educational Needs and Disabilities (SEND).

Version 7

December 2025

Review Date: December 2026

1. Background:

1.1. The following policy is related to the duties of Thurrock Council in relation to the relevant legislation:

- Section 49 and 51 of the Children and Families Act 2014.
- Special Educational Needs and Disability Code of Practice: 0 to 25 years (2015).
- The Special Educational Needs (Personal Budgets) Regulations 2014 (2014 regulations) (the legal guidance for the law relating to personal budgets)
- The Community Care, Services for Carers and Children's Services (Direct Payments) Regulations 2009 (the 2009 regulations will be replaced by those made under the Care Act 2014); and
- The National Health Service (Direct Payments) Regulations 2013. This document has been written in consultation with Mid and South Essex Integrated Care Board (ICB) and aligns with the Mid & South Essex ICB Personal Health Budget policy
  PHB Implementation Policy - Mid and South Essex Integrated Care System (ics.nhs.uk).

1.2. A Personal Budget is an amount of money identified by the local authority to deliver the provision set out in an Education, Health and Care Plan (EHCP) where the parent or young person is involved in securing that provision that cannot be met by core commissioned services.

1.3. There are two occasions when a personal budget will be considered. The child's parent or the young person has a right to request a Personal Budget when the local authority has completed an education, health and care needs assessment and confirmed that it will prepare an EHCP. The child's parent or the young person may also request a Personal Budget during a statutory review of an existing EHCP.

1.4. Personal Health Budgets are available for children and young people who have been assessed as eligible for continuing care funding. Children and young people who are not eligible for continuing care may be considered for a personal health budget. These will be set out in an Education Health and Care plan as part of the EHCP Personal Budget.

1.5. Personal Budgets should reflect the holistic nature of an EHCP include funding for special educational, health and social care provision. They should be focused to secure the provision agreed in the EHCP and should be designed to secure the outcomes specified in the EHCP. They will cover aspects of the EHCP that can be offered as a personal budget. It will not cover the cost of a named educational placement.

Where the Personal Budget may be a direct payment, the 2014 Regulations state: "Direct Payments may only be made… 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 capacity within the meaning of 2005 Act 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); or

d) is not a person described in the Schedule" – see part 6 of this policy.

1.6. The policy applies to any child or young person with Special Educational Needs and Disability (SEND) who has an EHCP and where a personal budget has been requested and agreed.

1.7. Parents have control of a personal budget up to the end of the academic year in which the child turns 16 and becomes a young person. It is then the young person who has this responsibility, as long as they have mental capacity as defined by the Mental Capacity Act, unless they elect for their parent/carer to manage their funding.

2. Description of services across education, health and social care that currently lend themselves to the use of Personal Budgets:

A Personal Budget can be used to secure the provision and outcomes as set out in the Education, Health and Care plan for services that are not currently available through the current commissioning arrangements, school provision or benefit payments to parents already being received for provision.

A Personal Budget is not to be used for IT equipment or for funding a school place or post 16 institution.

Any health provision would be recommended by a health professional commissioned by the Integrated Care Board.

Provision recommended by a professional (not a private professional commissioned by the family).

Social Care contributions to Personal Budget are assessed by a qualified social worker and agreed by CWD resources panel and/or transitions panel.

Please see link for examples of how PB may be used:

https://www.senexpertsolicitors.co.uk/site/news/personal-budgets-for-education-and-social-care

3. How will the funding will be made available:

Funding for education provision would come from top up funding and be agreed by the SEND department.

Funding for health provision would come from the health budget and be agreed via the Mid and South Essex ICB Continuing Care team
Mseics-bb.mse-send@nhs.net

Funding for Social Care would come from the Social Care budget and be agreed by CWD resources panel and/or Transitions panel.

4. Eligibility criteria:

The following children would be eligible:

- A child/young person 0-25 with an EHCP whose identified needs cannot be met by health, education or Children's/Adults Social Care or Adults Services and recommended provision stated by health, LA, schools or Children's/Adults Social Care.

- A child/young person would have to have an EHCP with provision that has been identified by professionals (not a private professional commissioned by the family) not currently available through the current commissioning arrangements.

If eligible, the personal budget can be taken as a direct payment. The aim of direct payments is to increase an individual's independence and choice by giving them control over the way services they receive are delivered. Parents and young people, whilst choosing how their care, education and health needs are met and by whom, can leave the council/health authority with the responsibility to commission the services. A third party can also be nominated to manage the budget for the parent/young person, in agreement with the local authority. Some people may choose a combination of commissioned services and a personal budget. Personal budget funding would be allocated by a direct payment, with an agreement about the use of this.

5. The decision making process:

A request for a personal budget will be agreed/not agreed by the multi-agency panels for SEND, Social Care and health service where applicable. The parent/young person will be informed of the outcome by an EHCP Coordinator.

Personal budgets will be reviewed in line with the review of an EHCP as per the SEND Code of Practice.

6. Persons excluded from holding a Personal Budget:

The Schedule to the 2014 Regulations states the following: "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 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 Chapter2 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) a person who is subject to a youth rehabilitation order imposed in accordance with paragraph 22(drug testing 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 treatment 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.

7. Appeal process:

7.1 If the local authority refuses a request for a personal budget for the special educational provisions on the grounds set out in the regulations, the Local Authority will set out the reasons for this in writing and will inform the parent or the young person of their right to request a formal review of the decision.

7.2 An appeal can occur under the following circumstances:

- an aspect of provision listed in the EHCP has not been offered in a personal budget, which is wished for by the parent or a young person if old enough and with mental capacity to appeal
- a personal budget has not been offered
- the monies listed are felt not to be sufficient to cover the needs of the young person

7.3 Where an appeal refers to the Special Educational Needs provision to be secured through a personal budget the child's parent or the young person can appeal to the First Tier Tribunal. The process to be followed in these circumstances is set out in the SEND Code of Practice DfE, DoH June 2014.

7.4 Where the parent or young person wishes to appeal a decision in relation to a health element of a personal budget this appeal will be considered by Mid and South Essex ICB. The procedures for the delivery and appeals regarding Continuing Health Care (which will form part of the Personal Budget of the EHCP) are set out in the Southend, Essex and Thurrock Continuing Care Policy for Children and Young People. (See Further Information Section below for website link).

7.5 Due legal process regarding any appeals will be followed as laid out in the Children and Families Act 2014 and the Code of Practice relating to personal budgets for SEND aspects of this legislation.

8 Ceasing Direct Payments:

Direct Payments could cease if:

- the person is in the categories listed in Section 6 of this Policy.
- they are found not to be used for the specific purpose outlined EHCP the child or young person is no longer eligible for continuing care funding.
- the child or young person health needs have changed is no longer eligible for health funding as identified with the EHCP.
- the recipient no longer wishes to use direct payments to provide the provision therefore they will cease as soon as request is received in writing and alternatives arranged
- the use of the 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; and

- there has been no consent from a young person post statutory school age to receive them.

9 Further information:

For information on personal health budgets:

Personal health budgets - Mid and South Essex Integrated Care System (ics.nhs.uk)

For more information on Social Care direct payments:

https://www.thurrock.gov.uk/disabled-children-and-their-families/direct-payments

10 Contact details:

SEN@thurrock.gov.uk