

**CHILDREN'S PERSONAL BUDGET POLICY
APPENDIX 1 - GUIDANCE FOR EDUCATION
DIRECT PAYMENTS**

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Nottinghamshire County Council – Children and Families Services

GUIDANCE FOR EDUCATION DIRECT PAYMENTS

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1. Background

Nottinghamshire County Council is committed to providing children, young people and their parents or carers with choice, independence, and control over the way that their education is delivered. A direct payment offered as part of a family's personal budget can empower individuals by providing the opportunity to arrange and manage the services they have been assessed as eligible to receive in their Education Health and Care Plan (EHC Plan). This guidance sets out the Local Authority's approach to applying the Children's Personal Budget Policy as it relates to education direct payments.

2. Introduction

- 2.1. The Children's Personal Budget policy applies to children and young people up to the age of 25 for whom, following a statutory Education, Health and Care assessment, the Local Authority has agreed to issue an EHC Plan or who have an existing EHC Plan.
- 2.2. Direct payments may be requested to fund an entire educational package or, more often, to fund some aspects of provision or resources to complement on-roll provision or Local Authority commissioned educational provision delivered through EOTAS/EOTAC designation. In all circumstances, the Local Authority must ensure that the overall package is balanced and fulfils statutory expectations in respect of functional skills unless professionally evidenced exemptions apply.
- 2.3. Families have the right to request a direct payment as part of their personal budget and the Local Authority must consider all requests.
- 2.4. Home to School/College Travel assistance may be available for a child or young person living in Nottinghamshire if they are assessed as being eligible. Special needs travel assistance eligibility is determined by officers of Nottinghamshire Transport and Travel

Services (TTS), based upon medical advice and other evidence as required. A direct payment may be requested if a young person is eligible for travel assistance.

3. Aims

The aims of this guidance are:

- To give the recipients control over their own life by providing alternatives to provision and services provided by a local council.
- To give flexibility and alternatives to standard service solutions.
- To ensure that families and their children and young people are consulted and encouraged to participate in decisions about their education and transport solutions.
- To ensure there are systems in place for assessing, awarding, processing, and reviewing individual payments.

4. Definition of an Education Direct Payment

- 4.1. An education direct payment may be a financial payment made by Nottinghamshire County Council to secure aspects of provision or services specified or proposed to be specified in the EHC Plan and lend themselves to the use of direct payments.
- 4.2. An education direct payment may be a financial payment made by Nottinghamshire County Council for families to make their own transport arrangements to enable their child or young person to access the education setting specified in their EHC Plan.

5. Eligibility

- 5.1. A parent/carer or young person has a right to request an education direct payment, at any time during the period in which the draft EHC Plan is being prepared or the EHC Plan is being reviewed or re-assessed.
- 5.2. A direct payment for home to school/college travel assistance may be requested following an assessment by TTS. The young person must meet the eligibility criteria for travel assistance and be assessed as having a special transport need. Please refer to the Nottinghamshire Transport policies accessed through the below link.
[Travel assistance for children and young people with special transport needs | Nottinghamshire County Council](#)
- 5.3. If a direct payment is agreed, the County Council can refuse to make direct payments to anyone who:
- appears unable to manage the payments, even with assistance
 - we believe would not use the payments in an appropriate way
 - lacks capacity within the meaning of the Mental Capacity Act 2005
 - is subject to a rehabilitation order or being treated for drug or alcohol abuse.

6. Use of an Education Direct Payment

6.1. An education direct payment can only be used to meet an assessed educational or SEN travel assistance need. Details of the assessed need will be available in a Direct Payment Agreement.

6.2. The direct payment should be focused to secure the provision agreed and the outcomes specified in the EHC Plan.

This could include but is not limited to:

- Additional learning support for the child/young person
- Specialist support, for example speech & language therapy
- Additional assistive technology or other resources to support the child/young person's learning **where such resources would ordinarily be provided by a school or college setting.**
- Support for work experience or a work-based learning opportunity when funding from public resources such as Access to Work **or Element 3 funding** is not applicable.

6.3. Direct payments for education are not available to:

- Children and young people who do not have an EHC Plan
- Purchase a school placement, neither partly nor wholly.
- Purchase services currently commissioned, or capable of being commissioned, by the Local Authority, e.g. via a block contract or an approved framework provider that would have an adverse impact on services provided by the Local Authority for other EHC Plan holders or would not be an efficient use of public resources. Unless awarded for travel assistance.
- Fund resources or activities which should more appropriately be supported through other publicly funded streams including, but not exclusively, Short Breaks and Health budgets.
- Fund provision or resources which would exceed those ordinarily available to a child or young person in a school or college setting. The funding maximum is therefore ordinarily 25 hours a week for children of statutory school age and 16 hours a week for young people post-16 delivered over the 39-week academic year.
- Fund provision or resources for children and young people who are Electively Home Educated.

6.4. Where any provision proposed to be replaced by a direct payment takes place in an educational setting, the consent of the headteacher or equivalent is needed. If they do not consent, the County Council cannot make a direct payment.

6.5. Where a personal education budget is used to fund provision such as GCSEs or A Levels which requires exam registration and invigilation, it is the ordinary expectation that the educational provider rather than the Local Authority is responsible for making the necessary arrangements. If this proves problematic, individual cases will be considered by exception. Costs associated with examination arrangement will be included in the personal education budget unless, by exception, the Local Authority is making direct arrangements.

6.6. **The Local Authority accepts no liability for provision commissioned under an education direct payment.**

7. Equality and Diversity

- 7.1** Disabled children and young people have the same rights to services as other children and young people and are protected from discrimination under the Equality Act 2010.

8. Safeguarding Children and Young People

- 8.1.** Parents/carers have the prime responsibility for their child's health, welfare and safety and must ensure they are meeting appropriate Disclosure and Barring Service (DBS) requirements when making support arrangements utilising a Direct Payment
- 8.2.** Young People over the age of 16 who are living independently of their parents should be provided with assistance to arrange safe support when utilising a Direct Payment.

9. Financial Monitoring and Auditing

- 9.1** If families do not provide receipts upon request, which identifies how the Direct Payment has been used, the Council will reclaim a full year's allocated funds and payments may cease.
- 9.2** If receipts provided do not comply with the individual Direct Payment Agreement, this could be deemed as fraud and may be passed to the Council's Fraud department. Misused funds will be reclaimed by the Council and payments may cease.
- 9.3** All unspent funds at the end of each Direct Payment Agreement period must be repaid to the Council. Direct Payment amounts cannot be carried over from one allocated year to the next.