Cannock Chase, East Staffordshire, North Staffordshire, South East Staffordshire and Seisdon Peninsula, Stafford and Surrounds and Stoke-on-Trent Clinical Commissioning Groups

Personal Health Budgets Policy

FINAL APPROVED

Version:	1.0
Ratified by:	Staffordshire and Stoke-on-Trent Clinical Commissioning Groups Governing Body Meeting in Common
Date ratified:	29th October 2020
Name of responsible committee/ individual:	Staffordshire and Stoke-on-Trent Clinical Commissioning Groups Governing Body Meeting in Common
Date reviewed:	
Review date:	01 October 2021
Date of first issue:	December 2020

Version Control

Version	Date	Author	Detail of Change
0.1	September 2020	Natalie Cotton Senior Strategic Lead	Initial draft
0.2	October 2020	Marina Lewis Midlands and Lancashire Commissioning Support Unit	Additions made to reflect operational processes, with guidance from Nola Xuba
0.3	October 2020	Nola Xuba Midlands and Lancashire Commissioning Support Unit	Following sections updated: - PHB Process - Risk - Approvals - Financial Monitoring
0.4	October 2020	Jane Williams Mills & Reeves	Reviewed and amended via track changes.
0.5	October 2020	Natalie Cotton Senior Strategic Lead	Review of Mills & Reeves proposed changes
0.6	October 2020	Marina Lewis and Nola Xuba Midlands and Lancashire Commissioning Support Unit	Responded to operational queries/ comments from Mills & Reeves
0.7	October 2020	Natalie Cotton Senior Strategic Lead	Final draft prepared for Finance and Performance Committee

FINAL APPROVED

Table of Contents

Contents

FINAL APPROVED

FINAL APPROVED

1.0 Introduction

1.1 A personal health budget (PHB) is an amount of money to support a person's health and wellbeing needs, planned and agreed between the person (and someone appointed to act on their behalf) and their local NHS team.

Personal health budgets start from the principle that people who need long-term support from the NHS should be seen as experts in their condition and partners in their care, rather than passive recipients of services. The personal health budgets process recognises people as assets, with skills and talents, rather than merely sets of diagnoses and deficits.

Personal health budgets help people think about their particular health conditions in the broader context of their overall health and wellbeing and consider what support they need to manage their health and tackle the wider determinants of ill health. This includes a focus on community support and inclusion.

1.2 The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (as amended) set out some of the legal duties of CCGs including:

1.2.1 A duty to consider a request for a Personal Health Budget (PHB) for individuals eligible for NHS Continuing Healthcare, Children's Continuing Care, Section 117 After-care and wheelchairs;
1.2.2 A duty to inform people eligible of their right to ask for a PHB;
1.2.3 A duty to provide information, advice and support in relation to PHBs.

1.3 Since April 2014, CCGs have been required to deliver PHBs, including direct payments, to patients receiving NHS Continuing Healthcare (NHS England Business Plan 2013/14 – Putting Patients First). From September 2014, this was extended to include children and families as part of the Special Educational Needs and Disability (SEND) reforms. In 2015 the NHS stated that, from April 2015, all people with long term conditions who could benefit should have the option of a PHB.

1.4 The NHS Mandate 2016/17 re-affirmed the aim that 50-100,000 people should have the benefit of a PHB by 2020. This equates to 1-2% of the local population to be implemented across Staffordshire and Stoke-on-Trent CCGs.

1.5 PHBs form an important element of the next steps in the NHS Five Year Forward View. The aim of delivering more personalised care across England will help to meet the triple aim of improving health and wellbeing, better care and greater value for the public pound. PHBs are a key part of this; improving outcomes whilst also reducing costs and achieving better value for money.

1.6 Personalisation is central to successfully supporting people with long term health conditions to live healthy and fulfilling lives in their community, reducing their demand on acute and other health and social care services. A personal care support plan, and understanding what is important to an individual to support them to improve their quality of life and wellbeing, is a key element of the integrated approach of case management and multi-disciplinary teams.

2.0 Purpose and Scope

2.1 This documents set out the policy of Cannock Chase CCG, East Staffordshire CCG, North Staffordshire CCG, South East Staffordshire and Seisdon Peninsula CCG, Stafford and Surrounds CCG and Stoke-on-Trent CCG ('the CCG') in respect of PHBs and the principles by which the CCG plans to develop its PHB offer as the national roll-out evolves.

2.2 This documents sets out the CCG's intention to ensure that all patients meeting the criteria for a PHB have the opportunity to be offered and/ or receive one in line with national guidance. A key aim of this policy is to ensure that a consistent and transparent approach is applied to the development and approval of local processes, procedures and services in relation to PHBs.

3.0 Principles

3.1 The Department of Health has advised of six key principles to be applied to PHBs in order to give people control, keep them safe and protect NHS resources.

3.1.1 **Upholding NHS values.** The personalised approach must support the principles of the NHS as a comprehensive service, free at the point of use, as set out in the NHS Constitution. No one will ever be denied essential treatment as a result of having a personal health budget. Having a personal health budget does not entitle someone to more, or to more expensive, services or to preferential access to NHS services. There should be good and appropriate use of NHS resources.

3.1.2 **Quality – safety, effectiveness and experience should be central.** The wellbeing of the individual is paramount. They key to this is ensuring there is in place an agreed support plan that is safe and that will meet agreed

FINAL APPROVED

health and wellbeing outcomes, that outlines risk and mitigation plans, and that includes arrangements for clinical oversight.

3.1.3 **Tackling inequalities and protecting equality.** Local organisations need to take care that implementation does not exacerbate inequalities or endanger equality. The decision to set up a budget for an individual must be based on their needs, irrespective of race, age, gender, disability, sexual orientation or beliefs.

3.1.4 **Personal health budgets are purely voluntary.** No one will ever be forced to take more control than they want.

3.1.5 **Making decisions as close to the individual as possible.** Appropriate support should be available to help all those who might benefit from a more personal approach, particularly those least well served by existing services or access and who might benefit from managing a budget.

3.1.6 **Partnership.** Working in partnership with individuals, family, carers and professionals to plan, develop and procure the services and support that are appropriate for them. It also means CCGs, local authorities and healthcare providers working together to use personal budgets so that health and social care work together as effectively as possible

3.2 NHS England has also identified 5 essential characteristics of a PHB;

The person or representative must:

3.2.1 Be able to choose the health outcomes they want to achieve;
3.2.2 Know how much money they have for their healthcare and support;
3.2.3 Be enabled to create their own care plan, with support if they want it;
3.2.4 Be able to choose how their budget is held and managed;
3.2.5 Be able to spend the money in ways and at times that make sense to them, as agreed in their support plan.

FINAL APPROVED

4.0 Definitions

4.1 Clinical Commissioning Group (CCG) - clinically-led statutory NHS bodies responsible for the planning and commissioning of health care services for their local area.

4.2 Personal Health Budget (PHB) - an amount of money to support the healthcare and wellbeing needs of an individual, which is planned and agreed between the individual, or their representative, and the local CCG.

4.3 NHS Continuing Healthcare (CHC) – a package of care arranged and funded solely by the CCG, for a person aged 18 or over, to meet needs which have arisen as a result of disability, accident or illness.

4.4 Children's Continuing Care (CCC) – a package of care that is individually tailored to meet a child or young person's complex health needs, defined through a robust assessment process, *'arising as a result of a disability, accident or illness that cannot*

be met by existing universal or specialist services alone'. This applies to children and young people aged between 0-17 years who may have one of a combination of the following:

4.4.1 Physical disability
4.4.2 Mental health needs
4.4.3 Learning disability
4.4.4 End of life needs

4.5 Representative - In certain circumstances, including where you are under 16 or are unable to consent to your PHB, someone else may legally consent to and manage your PHB on your behalf. That person is called a 'representative'. Your representative will sign and agree to the terms of this agreement, and any other obligations on them under the regulations.

4.6 Nominee - You or your representative are entitled to appoint a 'nominee' to take on the contractual responsibilities including arranging the services and support detailed in your support plan. The nominee will also become responsible for how the money is spent. Where we agree to it your nominee will sign and agree to comply with the terms of this agreement and any other obligations on them under the regulations.

4.7 Support plan – a plan which identifies the goals that a person has for their health and wellbeing and sets out the services to realise those goals. There is no set menu, allowing the development of personalised and innovative solutions in line with this policy and supporting Direct Payment Agreement (DPA). The support plan is drawn up by a CHC Nurse Assessor in dialogue with the individual or their representative or nominee, family, carers and other clinicians.

4.8 Brokerage support - the practical support offered by organisations to individuals wishing to receive a Direct Payment to assist them to manage their Direct Payments PHB. This support might include advice relating to payroll services, Care Quality Commission (CQC) registration, Disclosure and Barring Service (DBS) checks, insurance etc.

4.9 Mental capacity - Mental capacity means the ability to make and communicate specific decisions at the time they need to be made. To have mental capacity you must understand the decision you need to make and the factors that may influence that process, why you need to make it, and the likely outcome of your decision.

The Mental Capacity Act 2005 applies to everyone involved in the care, treatment and support of people aged 16 and over living in England and Wales who are unable to make all or some decisions. The Mental Capacity Act is designed to protect those vulnerable people who lack capacity.

If the PHB user is assessed to lack capacity to make the decision on how to administer their budget and there is no Lasting Power of Attorney for financial decisions and for health and care decisions, then the CCG has a duty to act in accordance with the individual's best interests in accordance with the Mental Capacity Act.

The CCG will take the decision based on the best interests of the individual taking into consideration the views of the family/carers and any professional involved. The CCG

FINAL APPROVED

will also need to consider whether there is a requirement for additional safeguarding under current mental capacity legislation.

4.10 Notional budget – no money transfers are involved here. The individual knows how much money is available for their assessed needs and decides together with the NHS how to spend that money. The NHS is then responsible for holding the money and arranging the agreed care and support.

4.11 Third party budget – an organisation independent of both the individual and the NHS commissioner is responsible for and holds the money on the individual's behalf. They work in partnership with the person and their family to ensure the care they arrange and pay for with the budget meets the agreed outcomes in the care plan.

4.12 Direct payment – the individual or their representative (budget holder) has the money in a PHB account and takes responsibility for purchasing the agreed care and support. The budget holder must show what the money has been spent on.

4.13 Joint funded packages of care – a package of health and social care whereby the NHS and local social care service both contribute towards the cost of care.

FINAL APPROVED

5.0 PHB Process

5.1 Principle: *the approval process for personal health budget should be as 'light touch' as possible, focussing on whether outcomes and needs will be met rather than what is being purchased. The process should be transparent and auditable and a joint process between the individual and the professional.*

Step 1 – assessment of needs
The nurse will complete a care needs assessment with the individual to identify their health and wellbeing needs, and to find out what care and support they need to meet those needs.

Step 2 – budget allocation
The assessment of care needs is used to calculate an 'indicative budget'. An 'indicative budget' is an estimated amount of money needed to meet individual's health and wellbeing needs.

Step 3 – support planning, care planning and using the budget
The nurse will work with the individual, and those who support them, to decide how best to use the personal health budget to meet the identified health and wellbeing needs and achieve the desired outcomes. This will involve a discussion exploring preferences for how the care might be delivered.

Step 4 – arranging care and support
When the support plan is agreed, the individual will receive their PHB, and the CSU will support them to put in place the services agreed on the support plan..

Step 5 – review
The support plan will be reviewed regularly by a health professional to ensure it is meeting the desired health outcomes. If care needs change or the support is not meeting the identified care needs, a reassessment of care needs will be completed to ensure the support received is working well.

5.2 Capacity and Consent

5.2.1 Where the individual does not have capacity to make a decision, as identified by a Mental Capacity Assessment, professionals can work with a 'representative'.

5.2.2 A representative receives a direct payment on behalf of a service user who lacks capacity. The representative takes on the full legal responsibilities of having the direct payment and of being an employer. They can identify someone else to help them to manage the direct payment money e.g. a family member, friend or direct payment support service. However, the full legal responsibilities of the direct payment including being an employer remain with the 'representative. The representative will be required to sign the direct payment agreement.

5.2.3 A representative can be:

i. A deputy appointed by the Court of Protection to make decisions relevant to healthcare and direct payments.
ii. A nominee of a lasting power of attorney with the power to make the relevant decisions.
iii. A person vested with an enduring power of attorney36 with the power to make the relevant decisions.
iv. The person with parental responsibility, if the patient is a child.
v. The person with parental responsibility if the patient is over 16 and lacks capacity; or
vi. Someone appointed by the CCG to receive and manage direct payments on behalf of a person, other than a child, who lacks capacity.

5.2.4 It is possible for the assessment workers and representative (as listed above) to agree for someone else to act as the nominee if it is in the best interest of the individual.

5.2.5 If the suitable person is not a close family member, someone living in the same household or a friend involved in their care then the CCG will advise them to apply for an enhanced DBS check. Where there is a child less than 18 years living in the household then an enhanced DBS check is mandatory.

5.2.6 A representative should not be agreed if:

i. There are protection of vulnerable adults and safeguarding issues that compromise this role;
ii. There is a conflict of interest, where a situation has the potential to undermine the impartiality of a person because of the possibility of a

FINAL APPROVED

clash between the person's self-interest, professional interest or public interest. For example where a person is providing support to the service user for which they will be paid but also acts or plans to act as a representative for the direct payment. In this situation, the advice would be that the person could not do both; to act in both capacities would effectively be acting as employer (representative) and employee;

iii. The CCG has any other significant concerns;
iv. If the representative does not meet the essential criteria then the CCG has a right to refuse a direct payment but an alternative personal health budget management option can be offered. The final decision must be made by the CCG;
v. Either the individual or their representative can ask for the personal health budget to be paid to a nominee or a third party organisation.

5.3 Eligibility

5.3.1 People eligible for NHS Continuing Healthcare and Children's Continuing Care have had a legal right to a PHB since 01 October 2018. This was later extended to people eligible for Section 117 After-care in mental health and to users of wheelchair services in December 2019, following consultation in 2018.

5.3.2 At present, people eligible for Fast Track funding are offered a PHB if this is an appropriate option. However, it is recognised that direct payment and third party PHB arrangements generally take a few weeks to be set up. Individuals who are already in receipt of a direct payment via a Local Authority who then become eligible for NHS CHC via the Fast Track shall therefore be able to continue to receive payments to at least the same level as before, in line with their assessed needs. The LA will continue to fund and recharge the CCG until the PHB is set up.

5.3.3 To be eligible for a PHB under the terms of this Policy, the individual must be registered with a Cannock Chase, East Staffordshire, North Staffordshire, South East Staffordshire and Seisdon Peninsula, Stafford and Surrounds or Stoke-on-Trent CCG GP.

5.3.4 An application for a PHB will never be refused because someone is at the end of life or any discriminatory basis contrary to the terms of the Equality Act 2010 (https://www.legislation.gov.uk/ukpga/2010/15/contents).

5.4 Options for delivery of a PHB

5.4.1 PHBs can be delivered in 3 ways: as a notional budget, a third party arrangement or a direct payment. Please see section 4 for further information.

5.5 Resource Allocation and Budget Setting

5.5.1 The CCG has a statutory duty to manage its finances appropriately in line with the NHS Act 2006. A resource allocation tool/ protocol is designed to ensure fairness and equity of funding for individuals in receipt of a PHB

FINAL APPROVED

compared to individuals who are in receipt of NHS funding for non PHB funded services e.g. domiciliary care.

5.5.2 PHBs are intended and funded to meet an individual's assessed health and care needs and this will be reflected in the value of the budget determined.

5.5.3 During the assessment process and indicative budget will be established. Once the support planning process has been completed, the final budget will be confirmed.

5.5.4 An individual PHB can only be used to fund services agreed within the 'Personalised Support Plan' that will meet the agreed health and care outcomes identified for the individual.

5.5.5 One of the overarching principles of establishing a PHB is that, whilst it enables the individual to use funds in the most flexible way to achieve the desired health and wellbeing outcomes, it must still represent value for money.

5.5.6 The CCG has a duty to check other income sources including welfare benefits to consider that the PHB is not duplicating alternative funding in place such as any benefits allowance.

5.6 Assessment and Support Planning

5.6.1 Creating a good support plan is at the heart of a successful PHB; it involves active listening, focusing on the outcomes the individual wants to achieve, having a 'good conversation' and approaching the exercise with ambition and open-mindedness.

5.6.2 To ensure the individual's needs are fully met, a personalised support plan will be completed. A support plan is a record of the discussions and agreements between the individual and their NHS healthcare team (and, where appropriate, social care team), outlining the care package required.

5.6.3 The support plan should include:

i. A statement of the individual's health (and, where appropriate, social care) needs;
ii. The health and wellbeing outcomes that they want to achieve;
iii. How they intend to use their budget to do this, with detailed costs;
iv. How any risks will be managed;
v. The name of the healthcare professional responsible for managing the support plan;
vi. Details of the combination of formal and informal support that will meet the assessed needs of the patient and help to achieve their outcomes;
vii. Information that shows that universal services, assistive technology and free community resources have been utilised where appropriate;

FINAL APPROVED

viii. A demonstration that, where applicable, other relevant public funding sources (including local authority provision) have been accessed in conjunction with the personal health budget.
ix. An account of the views and needs of carers.
x. A degree of adaptability and flexibility, so that individuals can revise their plans as they learn what works best for them or as their circumstances change.

5.6.4 The support plan is an evolving document which reflects changing needs, where appropriate.

5.6.5 The support plan must contain details of any proportionate means of mitigating risks, and this should be informed by a discussion of the significant potential risks and their consequences. The CCG must agree with the individual the procedure for managing risk and must include this in the support plan.

5.6.6 Individuals must be asked to sign a consent form to share information between relevant organisations during the PHB process.

FINAL APPROVED

5.7 What can PHBs NOT be used to purchase?

There is no definitive list of activities to illustrate what a personal health budget can be spent on. The service, activity or item proposed should be clearly linked to the outcomes identified in the support plan and show how it will meet the individual's health and wellbeing needs. However, some purchases are prohibited by law and policy.

5.7.1 A PHB may not be used to purchase care, treatment or intervention that is included in the CCG's Excluded and Restricted Procedures Policy via the following links:

https://www.stokeccg.nhs.uk/stoke-governance/policies/commissioning-policies/
https://www.northstaffsccg.nhs.uk/governance/policies/commissioning-policies
https://sesandspccg.nhs.uk/news-and-information/publications/policy-and-procedures/clinical/346-excluded-and-restrict-procedures-policy-2017
https://www.cannockchaseccg.nhs.uk/about-us/policies/clinical/402-excluded-and-restrict-procedures-policy-2017
https://www.staffordsurroundsccg.nhs.uk/our-services2/erp
https://eaststaffsccg.nhs.uk/publications/policies/clinical/procedures-of-low-clinical-value/1477-polcv-policy-v7-1-final-july-2020/file

5.7.2 The following list is not intended to be exhaustive and will be reviewed on a regular basis in line with CCG policy and protocols.

5.7.3 A personal health budget ***cannot*** be spent on:

i. Anything not related to your assessed healthcare needs;
ii. Any services or goods not detailed in your authorised health support plan;
iii. Anything that is illegal ;
iv. Urgent or emergency treatment such as unplanned in-patient admissions to hospital;
v. Primary medical services provided by GPs including diagnostic testing, basic medical treatment or vaccinations;
vi. Employing a **close family member** and/ or someone who lives with you (unless stated otherwise in the agreed support plan);
vii. Household bills, household goods, household repairs and any alterations to a property, clothes or groceries;
viii. Repaying debts;
ix. Anything that places you or others at unacceptable risk;
x. Holidays, flights, accommodation and meals;
xi. Any non-bespoke equipment. The CCG would expect that equipment would continue to be sourced through usual routes (i.e. Community Equipment Stores);
xii. Funding for mileage for Personal Assistants to get to their place of work;
xiii. Transport to and from appointments;
xiv. Alcohol and tobacco;
xv. Gambling;
xvi. Anything that would bring the CCG into disrepute;
xvii. Something which may damage an individual's health;

5.8 Risk

5.8.1 Clinical risk

The CCG is committed to promoting patient choice, whilst providing support to manage risk positively, proportionately and realistically. Supporting people to make informed decisions with an awareness of risks in their daily lives enables them to achieve their full potential and to do the things that most people take for granted.

Patients with mental capacity to make such a decision, who choose voluntarily to live with a level of risk, are entitled to do so. Nurses will document clearly any evidence or decision making that could be considered to pose a risk and provide a rationale in relation to the management and reduction of risk where appropriate. This will be considered as part of the PHB approval process by the CCG. Empowering people to take control of their own health may generate a perception of increased risk and adverse consequences. However there is, in fact, likely to be a reduction in unacceptable risk because patients have been consulted about their choices and actively involved in decision-making and taking ownership of achieving their outcomes.

Risk is also a consideration when the service user is deciding how they want to spend their money to meet their outcomes. Some choices may not be supported by NICE guidance, or be considered less orthodox, causing concern in professionals trained to adhere to evidence-based practice. Depending on the situation and the risk, it may be possible to agree a trial

FINAL APPROVED

period with the service user that includes frequent monitoring to assess whether the risk involved is acceptable.

5.8.2 **Organisational risk**
Authorising PHBs is the statutory responsibility of the CCG. The CCG has an obligation to ensure that:

- health and well-being needs are being met and outcomes achieved
- safeguarding duties are fully met
- PHB expenditure is managed within the overall CCG budgetary allocation for CHC
- that public funds are used appropriately

The CCG is committed to shifting the balance of risk towards a positive approach of supported decision-making for patients.

The CCG will work with the Local Authority as lead agency, should any safeguarding concerns arise in relation to the abuse or neglect of an individual receiving a PHB.

6.0 Approval Process

6.1 Approval Process

6.1.1 Individuals applying for a PHB will have the opportunity to develop their own support plan so as to ensure all needs and preferences are captured, this will or can be supported by the PHB Nurse Assessor if the individual wishes to be supported in undertaking the support plan requirements.
Once the Support plan has been finalised and agreed with the PHB Nurse Assessor it will be submitted to the/CCG for approval.
The CCG will review the support plan against the criteria set out below.
If the CCG is satisfied that the support plan meets the criteria, it will agree the contents and confirm the final amount of the personal health budget. No funding will be released to the person until an approved support plan is in place and is agreed as clinically safe and appropriate.

6.1.2 Where the support plan cannot be approved against any one of the criteria, the plan should be returned to the individual and the PHB nurse assessor, with details of what further development or amendments are needed before the support plan can be re-submitted for approval.

6.1.3 The CCG will not reject any unusual requests in connection with a PHB without examining the proposal on an individual case- by- case basis to establish whether what is proposed may have potential significant benefits for the individual's health and wellbeing.

FINAL APPROVED

If the issue is not likely to be resolved quickly, the CCG will consider whether the support plan can be partially approved to avoid any delay in meeting the patient's needs. If this is not possible, a care package will be commissioned by the CCG for a domiciliary care agency to provide the support required and ensure that the patient's needs are met while their support plan is under discussion. Where necessary the CCG will authorise a temporary support package to meet the assessed eligible health needs while support planning proceeds. This will ensure that the patient's needs are met in line with the CCG's statutory duties but that the patient retains the freedom to plan their own support in the longer term.

6.2 Criteria for approval of support plans

6.2.1 The proposals for meeting the patient's assessed eligible needs, as set out in the support plan, must be:

i. Lawful
ii. Effective
iii. Affordable
iv. Appropriate

6.2.2 **Lawful** – the proposals should be legitimately within the scope of the funds and resources that will be used. The proposals must be lawful and any regulatory requirements relating to the specific measures proposed must be addressed.

In deciding whether the support plan meets with legal requirements, the CCG will consider whether:

i. The support plan will fulfil the CCG's statutory duty to meet the patient's assessed and eligible needs.
ii. The measures proposed in the support plan are lawful.
iii. It can be shown that, in line with the Mental Capacity Act 2005, the support plan makes clear how the individual's wishes have been ascertained and incorporated into the support plan
iv. The patient has been made aware of any legal responsibilities they will incur as a result of measures proposed in the support plan (e.g. relating to employment law, health and safety etc)
v. Any service providers identified in the plan meet applicable regulatory requirements.
vi. The patient and carers have received guidance on any health and safety issues or regulatory requirements in relation to any equipment to be used.

6.2.3 **Effective** – the proposals must meet the patient's assessed eligible needs and support the patient's independence, health and wellbeing. A risk assessment must be carried out and any risks identified that might jeopardise the effectiveness of the plan or threaten the safety or wellbeing of the patient or others must be addressed. The proposals must make effective use of the funds and resources available in accordance with the principle of best value.

For the support plan to be effective, it must show that:

FINAL APPROVED

i. It meets all the assessed eligible needs
ii. The proposed measures will be effective in supporting the patient's independence, health and wellbeing
iii. Where there is an unpaid carer, the carer's needs have been assessed and the proposals take account of their needs, too, through respite allocation
iv. The proposals represent the most effective use of the resources and funds available
v. A risk assessment has been carried out and any risks identified in the plan have been addressed
vi. It includes measures to address outcomes that will help the patient develop their independence or independent living skills and will enhance their health and wellbeing.
vii. It demonstrates due regard for the need to safeguard the patient and their carers.

6.2.4 **Affordable** – All costs must have been identified and it must be clear that the costs can realistically be met within the indicative budget.

For the support plan to be considered affordable, it must show that:

i. The proposed services fall within the indicative budget or, if the indicative budget is exceeded, a clear and reasoned explanation is provided to justify the additional spend.
ii. Where the indicative budget is exceeded, the plan has been thoroughly checked by commissioners before being sourced, to ensure best value.
iii. The use of universal services, community resources, informal support and assistive technology has been explored.
iv. All relevant sources of funding have been identified and utilised.
v. The proposals represent the most effective use of the resources and funds available.
vi. It meets the assessed, eligible needs in the most cost effective way possible.
vii. Where the support plan requires a budget that is lower than the indicative budget, the lower budget will be approved.
viii. The overall cost is not substantially disproportionate to the potential benefit.

6.2.5 **Appropriate** – the support plan should not detail the purchase of items or services that are inappropriate for the State to fund or that would bring the NHS into disrepute. Each of the services detailed in the support plan must have clear and strong links to a defined health or social care outcome. The following items are deemed to be inappropriate spends:

i. Alcohol
ii. Tobacco
iii. Gambling
iv. Debt repayment

FINAL APPROVED

This list is not exhaustive and approvers should apply a common sense approach when determining whether an item of spend can be deemed appropriate.

Legislation also excludes the following:

i. The purchase of primary medical services provided by GPs, such as diagnostic tests, basic medical treatment or vaccinations.
ii. The purchase of urgent or emergency treatment services, such as unplanned in-person admissions to hospital.
iii. Payment of a close family carer living in the same household except in circumstances when 'it is necessary to meet satisfactorily the person's need for that service, or to promote the welfare of a person who is a child'.
iv. The employment of people in ways which breach national employment laws.

6.2.6 Approval and escalation of decisions

6.2.6.1 The aim is to ensure that decisions are taken as promptly as possible, to minimise any delay in putting the patient's support into place.

6.2.6.2 However, it is recognised that some issues will require decisions to be escalated to a higher level within the organisation.

6.2.6.3 Where support plans meet all the criteria outlined above, the decision to approve the support plan and personal health budget will be taken by CCG.

6.2.6.4 Where any one of the below criteria is not met and the issue is not, or cannot be, resolved by referring the support plan back to the patient concerned, the support plan will be escalated to the CCG, who will be expected to take responsibility for decisions where:

i. The support plan is likely to be ineffective
ii. The legality of activities proposed in the support plan is in question
iii. There are outstanding risks that have not been satisfactorily resolved
iv. The proposals do not represent best value
v. The person may lack capacity and there is cause to doubt that this has been properly addressed in the support plan
vi. There are unmet assessed eligible needs
vii. There are unmet carer's needs.
viii. The support plan or the risk assessment identifies a risk to the CCG
ix. The support plan exceeds the indicative personal health budget above the level that the commissioning team have authority to agree.

FINAL APPROVED

x. It is not possible for the commissioner to resolve the issue, the CCG will take responsibility for all decisions under these criteria.

6.2.6.5 If the support plan exceeds the indicative personal health budget but is evident that this is due to additional needs that have been identified during support planning, this should be reviewed with the patient, and the nurse who completed the support plan to ensure that all eligible needs have been identified and the indicative personal health budget re-calculated if necessary.

6.2.6.6 Any gaps in services revealed through the support planning and approval process should be referred by staff to the commissioning team for future market development.

6.2.7 Escalation of issues involving risk

Examples of the kind of issues that might be escalated

i. Concern that the patient does not have the capacity to consent to decisions regarding the potential risk.
ii. The risks to the patient are such that they cannot be resolved through support planning or safeguarding processes.
iii. The risk could endanger third parties.
iv. There is a risk of political or reputational damage to the CCG
v. There are legal or regulatory issues – including ensuring support plan is compliant
vi. There is reason to suspect actual or potential fraud.
vii. There are risks relating to the availability or suitability of services or facilities.
viii. There are risks relating to wider organisational issues (i.e. not specific to the patient or their support plan), including potential service failure, financial or budgetary risks that cannot be resolved through the normal approval process.

6.2.8 Approval Outcomes

6.2.8.1 When the support plan is approved, the final amount of the personal health budget will be set. The person will be notified and the commissioner will authorise the release of the money according to the delivery method selected to enable the commissioning of the care package agree in the support plan.

6.2.8.2 If the support plan cannot be approved, it will be returned to the patient and the nurse who completed the support plan with an explanation of why it cannot be approved. Wherever possible, the person or their nurse will also be offered guidance or support on alternative means of meeting the assessed eligible need.

6.2.8.3 **Partial Approval:** If only one element of a support plan cannot be approved, the CCG will approve the support plan with that specific exception, which will then be explored separately with the person

FINAL APPROVED

and their nurse. In the interim, the personal health budget will be set at a level to meet the approved part of the plan.

6.2.8.4 **Variations to the support plan or personal health budget**: The CCG may agree to vary the support plan or the personal health budget if there is a change in circumstances. In the case of significant changes, this will take place following a review of the patient's needs. In the case of minor changes, the CCG may agree to a variation without a review being required. The CCG may also agree to add to or amend a support plan and / or personal health budget that has previously been partially approved, once agreement has been reached on any outstanding elements. A variation may also be made following the outcome of an appeal. Irrespective of whether the change involved is major or minor, the support plan must be looked at as a whole to assess the full effect of the change and identify any changes in need.

6.2.9 **Support plan review**

6.2.9.1 The support plan will be reviewed after three months and then at least annually. The patient must agree to the review and understand that part of that process may include a reassessment of their needs.

7.0 Complaints

7.1 Where a patient is unhappy with the CCG's final decision on approval of their support plan or personal health budget, they have the right to make representations through the NHS complaints procedure, details of which will be provided at the time.

7.2 Review and Monitoring of the PHB

7.2.1 PHB monies are public funds, therefore CCGs have a duty to ensure the money is used appropriately and in a manner which is open to scrutiny from bodies such as the Public Health Service Ombudsman or the Audit Commission.

7.2.2 The personal health budget will be monitored in line with the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care, as a minimum at 3 and 12 month intervals from commencement, both in terms of finance management and to ensure that the package is safe and appropriate to meet assessed needs. Individuals in receipt of a direct payment will need to submit bank statements etc. as part of the review.

7.2.3 These reviews will consider:

i. Whether eligibility should be reconsidered through reassessment for NHS Continuing Healthcare.
ii. the health condition of the person and whether their health needs are being safely and appropriately met

FINAL APPROVED

iii. how the direct payment is being used and whether it is sufficient and appropriate in line with this policy and the Direct Payment Agreement
iv. whether the support plan is achieving the agreed outcomes
v. whether risk is being appropriately managed
vi. indemnity cover/registration of providers
vii. insurance cover and whether this remains appropriate.

7.2.4 If the individual's circumstances change, for example they go into hospital or move into residential care, they or someone on their behalf should inform the CCG within 48 hours of admission.

7.3 Financial Monitoring

7.3.1 Any payment made as a Direct Payment for healthcare will be subject to regular audit and monitoring by the CCG. When receiving direct payments, the account holder should keep a record of both the money received and how it is used and will be responsible for retaining bank statements and receipts for auditing purposes.

7.3.2 Audits will be undertaken six to eight weeks from the initial payment date and then quarterly for the first year, and then at 6 monthly intervals thereafter.

7.4 Ceasing Direct Payments

7.4.1 In accordance with the NHS (Direct Payments) Regulations 2013, the CCG shall stop making payments where the patient no longer wishes to receive them. The CCG may consider terminating the direct payment if they are satisfied that it is appropriate to do so; where for example:

i. There are identified legal or safeguarding concerns
ii. The person is assessed as no longer needing ongoing healthcare beyond that available as universal primary and secondary care services;
iii. PHB direct payments are no longer an appropriate way of providing someone with care and support;
iv. The CCG no longer considers a representative is suitable to receive the PHB direct payment *or* where a representative withdraws their consent to receive the PHB direct payment *or* the person withdraws their consent for a representative to receive the PHB direct payment on their behalf;
v. The PHB direct payment is used to purchase goods or services other than those agreed and outlined in the authorised health support plan;
vi. Fraud, theft or an abuse in connection with the PHB direct payment has taken place;
vii. The person is no longer registered with a GP in the CCG area;

viii. The person recovers their capacity to consent and subsequently withdraws their consent to receive PHB direct payments;

FINAL APPROVED

ix. Where a person's representative withdraws their consent to receive PHB direct payments and no other representative is appointed or available; or
x. Where the service user has died.

8.0 Review

This policy will be amended from time to time as law and practice require.

FINAL APPROVED