

North Tyneside Clinical Commissioning Group Operational Policy for Personal Health Budget [PHB]

Version 1	Phil Crozier/Karen Rowling – Draft Policy for Personal Health Budgets. Approved Quality & Safety Committee 5 February 2019
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Contents

Section		Page
1.	Introduction	1
2.	Legislation and Guidance	2
3.	Purpose	3
4.	Scope	5
5.	Definitions	5
6.	Consent and Capacity	8
7.	North Tyneside CCG Approach to PHBs	9
8.	Review of Duty of care	10
9.	Supporting individuals in managing Personal Health Budgets	10
10.	Governance	12
11.	Appeals	15
12.	Finance	16
13.	The Process and Responsibilities delivering a Personal Health Budget	17
14.	Performance and Monitoring	17
15.	Integration with the Local Authority	18
16.	Review Date	18
	Appendix 2 – North Tyneside Process Chart	19

1. Introduction

1.1 Personal Health Budgets [PHBs] as part of a wider personalisation agenda, offers a new tool to support self-management and care planning in line with the Government's mandate to place greater emphasis on patients as partners able to identify services that best meet their needs.

1.2 A PHB is an amount of money to support the identified health and well-being needs of an individual, which is planned and agreed between the individual or their representative and North Tyneside Clinical Commissioning Group (NTCCG). A PHB is not necessarily new money, but a different way of spending health funding to give people with long term health conditions and disabilities more choice and control over how their health and well-being needs are met.

1.3 From the 1 October 2014, adults in receipt of NHS Continuing Healthcare [CHC] funding and children/young people under the age of 18 in receipt of Children's Continuing Care either living in the community or considering living in the community, have a right to have a Personal Health Budget.

The Principle NHS policy drivers are as follows:

1.4 This policy outlines the local procedure for achieving the implementation of PHBs by balancing choice, risk, rights and responsibilities. It recognises in the right circumstances, risk can be managed so as to promote a culture of choice and independence that encourages responsible supported decision making.

1.5 The Forward View in Action: Planning for 2015/16 includes the requirement for CCGs to develop plans for major expansion of PHBs to ensure people with Learning Disability and/or Autism are included by 2015/16.

1.6 The NHS Mandate 2016-17 includes a commitment nationally for 50-100,000 people to have a personal health budget or integrated personal health budget by 2020. The CCG will produce a plan with milestones to have in place by 2020.

2. Legislation and Guidance

2.1 The PHB initiative originated from social care and organisations representing disabled people, pressing for the right for autonomy in their lives and for control over the assistance individuals need in order to live independently. The CCG believes in the benefits a PHB offers allowing individuals flexibility, choice and control over how their care fits in with their lives to achieve agreed outcomes.

2.2 There have been a number of guidance documents and legislation published which refer to PHBs.

- On the 1st August 2013, **The National Health Service [Direct Payments] Regulations** came into force across England, enabling the NHS to lawfully offer direct payments for healthcare.
- The CCGs duties are also set out in the **National Health Service Clinical Commissioning Board and Clinical Commissioning Groups [Responsibilities and Standing Rules] [Amendment] [No 3] Regulations 2014** and provides the legal framework.
- In support of the Regulations, **Guidance on Direct payments for Healthcare: Understanding the Regulations** was circulated in March 2014.
- **Guidance on the 'right to have' a Personal Health Budget in Adult NHS Continuing Healthcare and Children's and Young Peoples Continuing Care** published in September 2014.

The following guidance documents and legislation published refer to Personal Health Budget

- **NHS Next Stage Review: High quality care for all [Department of Health 2008]:** outlined plans for Personal Health Budget

- **Care Act 2014** [came into force April 2015]: The care act sets out in one place, the local authorities' duties in relation to assessing people's needs and their eligibility for publicly funded care and support. It is aimed at reshaping the system around prevention and promoting individual wellbeing with personalisation at the heart of the act. <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>
- **Health Act [2009]** allowed selected Primary Care Organisations to pilot direct payments.
- **High quality care for all: The Operating framework for the NHS in England 2009/10** outlined NHS priorities such as better access, reduced inequalities, and partnership working in delivering personalised care and supporting service user contributions to improvement and shaping high quality provision.
- **National Framework for NHS Continuing Healthcare and Funded Nursing Care [2016]**
- **National Framework for Children's and Young Peoples Continuing Care**
- **Human Rights Act [1998]**: Including 'Article 8' Right to respect for private and family life, and 'Article 14' Prohibition of discrimination.
- **The Data Protection Act [2003]**
- **The Carers [Equal Opportunities] Act 2005**: Ensures that carers are able to take up opportunities that people without caring responsibilities often take for granted.
- **The Fraud Act 2006**: This sets out the general offence of fraud and is relevant to investigation of suspected fraudulent activities relating to the provision of PHBs. This necessary to ensure the NHS Constitution principle '*The NHS is committed to providing best value for taxpayers' money and the most effective and sustainable use of finite resources*' is upheld.
- **The Modern Slavery Act 2015**: This sets out offences of exploitation including slavery, servitude and forced or compulsory labour and ensures protection to both patients and carers.
- **The Mental Capacity Act [2005]**: The need to apply the Mental Capacity Act features strongly in self-directed support where there may be concerns about an individual who appears to lack the mental capacity to manage their own money and/or the ability to make decisions about their care.
- **The Equality Act 2010**: Replaced previous anti-discrimination laws with a single act.
- **The Children and Families Act 2014**: Introduced Education, Health and Care Plans for children and young people with special education needs and disabilities from October 2014.
- **NHS England Operating Model for NHS Continuing Healthcare.**

- **The Governments Mandate to NHS England for 2016 -2017**

3. Purpose

3.1 Promoting increased independence and choice through personal care planning and shared decision making

3.1.1 North Tyneside CCG is committed to promoting individual choice where available, while supporting individuals to manage risk positively, proportionately and realistically whilst working in partnership with professionals, making shared decisions and actively co-designing services and support.

3.1.2 PHBs offer individuals more choice and control over how money is spent on meeting their health and wellbeing needs. A 'Personalised Care and Support Plan' is at the heart of a PHB developed through a combination of the healthcare professional's clinical knowledge, along with the individuals expertise in their condition and their own ideas on how their needs can best be met.

3.1.3 The support plan helps people to identify their health and wellbeing outcomes and sets out how the budget will be spent to enable them to reach their outcomes and keep them healthy and safe. This not only benefits the individual and their carer/families in terms of their independence, well-being and choice but it also enables each individual to achieve their potential to live their lives fully, manage their health outcomes in ways which best suit them and to identify and manage risks.

3.1.4 Good practice must support choice. The attitude of the health care professional should be to support and encourage the individual's choice as much as possible, and to keep them informed, in a positive way, of issues associated with those choices and how to take reasonable steps to manage them.

3.2 Principles

3.2.1 The Department of Health [2009] sets out the six key principles for PHB' and Personalisation in order to give people control, keep them safe and protect NHS resources.

- **Upholding NHS Principles and values.**

The personalised approach must support the principles and values of the NHS as a comprehensive service, free at the point of use, as set out in the NHS Constitution and should remain consistent with existing NHS policy. There should be clear accountability for the choices made. No one will ever be denied essential treatment as a result of having a personal budget. Having a personal budget does not entitle someone to more [or more expensive] services or to preferential access to NHS services. There should be good and appropriate use of current NHS and Adult Social Care resources.

- **Quality - safety, effectiveness and experience should be central**

The wellbeing of the individual is paramount. Access to a PHB will be dependent on the professionals and the individual agreeing a Personalised Care and Support Plan that is safe and will meet the agreed health and wellbeing outcomes. There should be transparent arrangements for continued clinical/professional oversight,

proportionate to the needs of the individual and the risks associated with the care package.

- **Tackling inequalities and protecting equity**

PHBs and the overall movement to personalise services can be a powerful tool to address inequalities in the health service. A PHB must not exacerbate inequalities or endanger equality. Lack of mental capacity should not be a factor. The decision to set up a PHB for an individual must be based on their needs, irrespective of employed, race, age, gender, disability, sexual orientation, marital or civil partnership status, transgender, religion or beliefs.

- **PHBs are purely voluntary**

No one will ever be forced to have a PHB. PHB holders will be offered the opportunity to manage a PHB with support.

- **Making decisions as close to the individual as possible**

Appropriate support should be available to help all those who might benefit from a more personalised approach; particularly those who may feel less well served by existing services and would benefit from managing their own budget.

- **Partnership**

Personalisation of healthcare bodies embodies co-production. This means individuals working in partnership with their family, carers and professionals to plan develop and procure the services and support that are appropriate for them. North Tyneside CCG, Local Authorities, support services and voluntary organisations are working together to utilise personal budgets so that health and social care work together as effectively as possible.

4. Scope

4.1 This policy applies to all PHB allocation made by or on behalf of North Tyneside CCG.

4.2 The policy must be followed by all staff employed by North Tyneside CCG on a permanent or temporary contract.

4.3 The policy must be followed by any organisation authorised to act on behalf of NTCCG in the delivery of its duties.

5. Definition

5.1 What is a Personal Health Budget?

5.1.1 A PHB is an amount of money to support an individual's identified health and wellbeing needs, planned and agreed between the person and their CCG representative.

5.2 Who is eligible to Apply for a Personal Health Budget?

Examples include but are not limited to:

- The individual should be registered with a North Tyneside GP
- Individuals eligible for NHS Continuing Healthcare or Children's Continuing Care already have a **right to have** a personal budget
- Children with education, health and care plan [EHC] who could benefit from a joint budget from the NHS and social care
- Individuals with a Learning Disability and/or Autism and high support needs [*Winterbourne View – Time for Change*]
- Individuals accessing mental health services
- Individuals with long term conditions
- PHB's will be the default operating model in NHS Continuing Healthcare funded home care by April 2019.
- Individuals who are wheelchair users
- End of Life and Fast Track users

5.3 Who is excluded from receiving a Personal Health Budget?

- Individuals subject to certain criminal justice orders for alcohol or drug misuse may not receive a direct payment, but may be able to use another form of PHB to personalise their care.
- If a person does not have the required capacity to agree to a PHB (and there is no one suitable to do so on their behalf) then they will not be eligible to receive a direct payment.
- In such cases a notional or third party budget would be provided. .

5.3.1 If a person moves CCG's, the commissioning responsibility will be established using the guidance policy, "Who Pays? Establishing the Responsible Commissioner." (Department of Health, 2012).

5.4 What a Personal Health Budget can and cannot be used for

5.4.1 Personal Health Budgets can be spent on:

5.4.2 The aim of a PHB is to offer individuals more choice and control over the way their care and support is arranged. There is no definitive list of activities to illustrate what a PHB can be spent on. The service, activity or item proposed will be clearly linked to the outcomes identified in the 'Personalised Support Plan'.

5.4.3 A PHB may only be spent on services agreed between the individual and their care coordinator in the 'Personalised Support Plan' that will enable them to meet their agreed health and well-being outcomes. Examples may include:

- Delegated health tasks
- Personal assistance to help with activities of daily living and personal care including help with personal hygiene, shopping, cooking
- Equipment, aids and adaptations to assist with day to day tasks
- Activities that help individuals become more active in the community, improving physical and mental health
- Respite breaks

- Complimentary treatments could be considered by the CCG if demonstrated they would meet a PHB holders health and well-being outcomes

5.4.4 Personal Health Budget cannot be used to buy:

- Anything that has not been agreed in the 'Personalised Support Plan'
- Alcohol, tobacco, fund gambling or debt repayment, or anything illegal
- Emergency or urgent care
- Primary medical services much as GP care, diagnostic tests, vaccinations, dental treatment
- Inpatient care
- Food and clothing
- Utility bills [unless supporting complex clinical equipment i.e. Ventilator]
- Funded nursing care
- Social activities outside those identified as needed to maintain health and well-being.

5.4.5 The above is not an exhaustive list. North Tyneside CCG has overall responsibility for ensuring that all intended expenditure is legal as part of the governance arrangement for PHBs. The Personal Care and Support Plan should clearly designate all expenses covered by the Personal Health Budget.

5.4.6 The provision of PHBs by North Tyneside CCG is for the use of individuals to meet their holistic and identified, including health and well-being, The use of such funding, does not at this time extend to the delivery of goods or services that would normally be the responsibility of other bodies [e.g. Local Authority housing services or are covered by existing contracts or mechanisms. e.g. community equipment, District Nursing].

5.5. How a Personal Health Budget can be received and managed

5.5.1 A PHB can be received in three ways or in a combination of these options.

- **Notional Budget [Contracted/Commissioned Services]**
No money changes hands. The individual is advised of the amount of money the CCG would normally spend of a traditional model of care and talks to their health professional or care manager about the different ways to spend the money on meeting their needs. The CCG holds the money on the individual's behalf and procures the services set out in the Personalised Support Plan.

Where the CCG manages an individual's personal budget on their behalf as a notional budget, there is no requirement for the individual to maintain financial records.

- **Third Party Budget**
A third party is an organisation independent from the person and the NHS. They manage the budget and arrange support by purchasing services on the person's behalf. The third party will manage all financial aspects of your PHB and will have responsibility for making sure invoices are paid on your behalf.
- **Direct Payments**

A direct payment is money paid directly to the individual or their representative. A representative will buy and manage the care and services as agreed in the personal care and support plan. Financial records and receipts will need to be kept to show how the individual has spent the budget. There will be scheduled reviews and monitoring by the support worker who will request sight of the information so that they can ensure that the personal health budget is meeting the individual's health and wellbeing needs that have been agreed within the support plan, and the money is being spent according to the plan.

The council will also view the management of the direct payment on behalf of North Tyneside Clinical Commissioning Group. If NTCCG considers the management of the Direct Payments to be inappropriate, or there are any discrepancies within the information provided then the CCG reserve the right to suspend the direct payment. The individual's needs will continue to be met during this time through a notional budget or managed account.

Individuals accepting a direct payment will be asked to enter into a formal agreement and set up a separate bank account. The individual can choose to have a support service provider hold the funds and make payments on their behalf; this is called a 'Managed' Direct Payments Account.

5.5.2 There is a requirement to maintain sufficient records such as receipts, time sheets and bank statements. To be able to demonstrate that any monies provided have been used in accordance with achieving the agreed outcomes in the personalized support plan.

5.5.3 The key principle of a PHB is that the individual knows what their budget is, the treatment or care options and the financial implications of their choices, irrespective of the way the budget is managed.

6. Consent and Capacity:

6.1 In line with the Mental Capacity Act 2005, individuals with a PHB will be empowered to make decisions for themselves wherever possible and where they lack capacity over certain decisions, this will be managed by a flexible approach that places the individual at the heart of the decision making process.

6.2 Where the patient does not have capacity to make a decision, professionals can work with a 'suitable person' or 'representative'. For the sake of this document they shall be referred to as the representative.

6.3 A representative receives a direct payment on behalf of an individual 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 support them in managing the direct payment. 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.

6.4 The representative must be either:

- someone who has been given lasting or enduring power of attorney by the person needing services at some point before they lost mental capacity;

- someone with parental responsibility for a child or a 16-17 year old who lacks capacity;
- someone who has been appointed a deputy for the person needing services by the Court of Protection under section 16 of the Mental Capacity Act 2005; or
- a person appointed to the role by the CCG.
- someone who has capacity can choose a representative

6.5 If the representative is not a close family member, someone living in the same household or a friend involved in their care then the CCG will require them to apply for a Disclosure Barring Service [DBS] check.

6.6 A representative should not be agreed if:

- This person has been or is subject to any safeguarding proceedings in relation to safeguarding adults or children and the outcome of the investigation is still unknown or has been substantiated.
- The CCG/Local Authority or Police, in the context of safeguarding for that individual, has any other significant concerns.
- 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 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.

6.7 If the representative does not meet the essential criteria then the CCG has a right to refuse a direct payment but an alternative PHB management option can be offered.

6.8 Either the individual or their representative can request for the PHB to be paid to a nominee or a third party organisation.

6.9 Patients or their representative **must** be asked to sign a consent form to share information between relevant organisations prior to the commencement of the PHB process.

7. North Tyneside CCG approach to Personal Health Budgets – see Appendix 2

7.1 Our underpinning principles for providing PHBs are:

- Individuals and their carer's will be central to all processes
- Services will be personalised.
- The CCG will work in partnership with the Local Authority, North Tyneside Council to achieve a joined up approach to self-directed support, social care Direct Payments and PHBs.
- The delivery of PHBs will be managed within the agreed budgetary provision affordable to the CCG as part of its annual financial plan.

7.2 The delivery of Personal Health Budgets

7.2.1 The CCG recognises that individuals in receipt of Continuing Healthcare or Children's Continuing Care have a right to have a PHB, but the capacity, resources and

skills to meet all requests is likely to result in the need to prioritise and take a stepped approach to the roll out of PHB.

7.2.2 Examples of where the CCG will not grant a Direct Payment, although other forms of PHBs, such a notional budget, may be available subject to eligibility are:

- Safeguarding concerns being reported / under investigation
- Evidence that an individual has previously been unable to manage a social care Direct payment
- Where the value of the PHB forms part of an existing contract at this time, and to provide a PHB would result in significant double funding, and create financial risk to the CCG or other provider, or set a precedent which could destabilise the service, unless specifically agreed with the organisation.

7.2.3 Following a clinical assessment, an indicative budget will be offered based on a fair and transparent allocation process, with which the individual will begin to develop a person centred Personalised care and Support Plan to meet their health and well-being needs.

7.2.4 This plan must identify a range of agreed outcomes, be person centred, have clear identification of any risk, and demonstrate value for money without compromising achievement of the agreed outcomes. This will then help calculate an agreed final budget.

7.2.5 Individuals, supported by their representatives where appropriate, in close liaison with professionals, will identify their desired outcomes and plan their support within the proposed allocation of money.

8. Review and Duty of Care

8.1 Monitoring and reviewing of support plans will remain a role for the CCG and should be proportionate to needs and risk in the context of our duty of care and statutory responsibilities.

8.2 Reviewing will be at a frequency and intensity which is proportionate to vulnerability, risk, need and value. The first review must take place within 12 weeks of the start of a PHB. Individuals eligible to continuing healthcare should have a face to face review at least once a year in line with the national framework guidelines... Individuals, such as patients with long term conditions not eligible to continuing healthcare and who are in receipt of a PHB whose needs are stable and consistent may not need a face to face review. Frequent reviews will be condition of higher risk PHB requests receiving approval.

8.3 The Personalised Support Plan will be reviewed against the following criteria:

- whether the Personalised Support Plan is meeting the health and well-being outcomes;
- whether the Personalised Support Plan has adequately addressed the health and wellbeing needs;
- whether health and wellbeing needs/circumstances have changed;
- whether risks have increased/decreased/stayed the same;
- whether contingencies have been used;
- cost neutrality or improved value for money; and

- the quality of support and service

8.4 The CCG will report the balance of each PHB to the individual drawing attention to any significant variations or trends. Any irregularities or issues that require further investigation may be referred to the CCGs Counter Fraud Specialist or Internal Auditor who may also undertake reviews and financial audits of PHBs.

9. Supporting Individuals in managing their Personal Health Budget

9.1 At present people requiring assistance to manage their direct payment will be given advice on resources to support them in the community. An additional element of funding within the Direct Payment is provided to fund the support service provider.

9.2 The CCG will ensure that individuals are offered information that is easily accessible, reliable and relevant in a format that can be clearly understood. Advice and guidance will be free from bias to ensure that the individual secures quality support and value from their PHB.

9.3 To support the concept of choice and control, the individual will be supported to access external brokerage as appropriate. This will encourage individuals to consider community / voluntary sector support options and to find other funding streams for equipment, adaptations etc.

9.1 Personal Assistants [PAs]

9.1.1 Any individual wishing to employ a Personal Assistant [PA] must use a Support Service provider to ensure that they are supported in good employment practice. PA's must be DBS [Disclosure and Barring Service] checked excluding family members.

9.1.2 The PHB will include an allowance for Employer's Liability Insurance. The CCG require individuals take out a policy to provide adequate cover and additional employment advice.

Proof of Employer liability insurance will be reviewed by the support worker at any planned reviews and that the policy also includes additional cover for specific health related tasks.

9.1.3 Training for PAs is currently procured from universal provider services and third party organisation's [Support Services] to cover a range of healthcare and statutory interventions. Funding for training for an individual's specific health needs will be provided within the PHB, and, if necessary, facilitated by the Care Manager or Support Service. This is an area for further development.

9.2 Employing Family Members

9.2.1 The NHS Direct Payments regulations states:

"A direct payment can only be used to pay an individual living in the same household, a close family member or a friend if the CCG is satisfied that to secure a service from the person is necessary in order to satisfactorily meet the person receiving care's need for that service; or to promote the welfare of a child for whom direct payments are being made. CCGs will need to make these judgments on a case by case basis."

9.2.2 This is most likely to arise where needs are very complex and the family member is familiar with the tasks and associated risks to manage all aspects of the individual's care needs.

9.2.3 The individual must provide a reason why that person is chosen or preferred to be employed. They will need to consider the impact on the employee i.e. possible loss of the carer's allowance and potential emotional strain.

9.2.4 The individual will need to demonstrate they understand this and look at ways of mitigating this.

9.2.5 Conversely, providers should not assume that when an individual wants to apply for a PHB, which family members who have been undertaking tasks as part of their natural support (e.g. parents with a child) will continue to do so.

10. Governance

10.1 North Tyneside CCG will have strategies and processes in place:-

- For routine reporting on a quarterly basis to assure of overall financial and budgetary management. This will also include data intelligence which can inform market development and management
- For internal governance reporting to the appropriate Executive Group.
- for reporting into the Health and Wellbeing Boards on commissioning intentions for the wider roll out of PHBs.
- for maintaining a risk register for PHB
- for ensuring a risk assessment is completed for each individual in receipt of a PHB
- for undertaking a clinical review conducted in the first quarter and at least annually thereafter or sooner where indicated
- promoting a PHB peer support group and Governance Panel

10.2 The above governance mechanisms will involve representatives from North Tyneside CCG, Providers, individuals [in receipt of a PHB] Representatives/Nominated Persons, the Local Authority and Brokerage Support Services (where on-going support is provided e.g. managed account function).

10.1 Identification of risk

10.1.1 All-risk should not be deemed as negative risk. CCGs should consider risk on a case by case basis.

10.1.2 In PHBs, there is a potential risk to:

- the individual's health and wellbeing – clinical risk
- the individual's safety [including those around them] – safeguarding risk
- those caring for the individual – employment risk
- the individual's budget – financial risk
- the individual's personal information – information governance risk
- the CCG – corporate risk

10.1.2 All high cost packages requested from the PHB holder which might increase risk must be presented to a risk panel.

10.2 Clinical risk

10.2.1 North Tyneside CCG is committed to promote individual choice, while supporting people to manage risk positively, proportionately and realistically whilst maintaining their health and well-being. Individuals should be supported to make fully informed choices about the risks they may be taking facilitating a 'risk enablement' rather than a 'risk adverse approach'. An awareness of risks in the individual's daily lives enables them to achieve their full potential and to do the things that most people take for granted.

10.2.2 Individuals should be supported about the risk they may be taking. A degree of risk can be accommodated within the aim of enhancing the quality of people's lives. Potential risks need to be identified and it is essential that all individuals are fully involved in the risk assessment process.

10.2.3 An individual who has the mental capacity to make a decision, and chooses voluntarily to live with a level of risk, is entitled to do so. The care coordinator is responsible for ensuring the individual is aware of what constitutes risk assessments, knows the correct pathways for reporting them if they arise and is provided with the appropriate contact details.

10.2.4 The CCG will ensure that such risk is fully understood and managed in the context of ensuring that the individual's needs and their best interests are safeguarded. The support plan must contain a completed risk assessment that acknowledges any potential or actual risk, explaining the decisions made and the actions taken to mitigate risks.

10.2.5 Ways of mitigating risk should be explored with the individual and risk management will be appropriate to the individual's needs. Depending on the situation and the risk, it may be possible to agree a trial period with the service user that includes frequent monitoring.

10.2.6 Risks will be mitigated through regular case management and reviews of individual's receiving a PHB.

10.3 Organisational Risk

10.3.1 North Tyneside CCG is responsible for authorising PHBs and has an obligation to ensure that:

- Health and well-being needs are being met
- Safeguarding duties are fully met
- It is fulfilling its duty of care, is compliant with legislative frameworks and broad statutory obligations
- It is fulfilling its responsibility to ensure that public funds are used to enable customers to live independent and full lives – ensuring value for money
- Public funds are used appropriately
- Take into account the need for the NHS organisations to allocate its financial resources in the most cost effective way

- The availability of resources is a legitimate consideration but it must be balanced against the needs of the individual and decisions must be made on a case by case basis taking into account all other relevant considerations.
- North Tyneside CCG's reputation is protected

10.3.2 North Tyneside CCG is committed to shifting the balance of risk towards a positive approach of collaborative decision-making for individuals, the organisation, and its partners.

10.3.4 North Tyneside CCG will work with partner organisations to promote a wider understanding of this approach to risk. It will also seek to secure from partners, a complementary approach to risk which is as light touch as is reasonable.

10.3.5 North Tyneside CCG will work with the Local Authority for any safeguarding concerns arising from any physical, sexual or financial abuse of an individual receiving a PHB. These will be investigated accordingly as per the Safeguarding Policy.

10.3.6 To sign off a PHB request, the designated manager will approve:

- The proposed budget
- The outcomes plan including a plan for contingencies
- The supporting risk assessment
- Effective reporting mechanisms to demonstrate quality and value
- Identify the frequency and format of reviews

10.4 Financial risk

10.4.1 North Tyneside requires PHB implementation to demonstrate value for money and be affordable within the CCGs overall budgetary allocation for this purpose. National pilots have shown that personal budgets need not be more expensive than traditionally commissioned services. These budgets are often less costly, as well as giving greater individual satisfaction. The budget should always be sufficient to meet the outcomes identified in the care plan and allow for planned contingencies.

10.4.2 The financial arrangements and requirements are contained in the agreement between the North Tyneside CCG and individual (or their nominated representative), which will be signed by both parties.

10.4.3 The following costs will normally be paid as part of a PHB Direct Payment:

- The direct cost of providing the service, including support service costs
- Start-up costs such as initial staff training
- Refresher training
- Employers Liability Insurance
- Payroll
- Managed Account (where applicable)
- Funding to cover the contingency plan
- Equipment costs (where equipment specifically forms part of the budget]
- Equipment contingency, for life essential equipment (e.g. hire fee to cover breakdown not covered by insurance or by the organisations community equipment contract)

10.4.4 The initial cost of the Brokerage and Support service assisting a service user to draft their Personalised Support Plan will not be met by the service user's PHB but by the CCG.

10.4.5 An estimate per PHB will be factored in to the budget to allow for additional elements of spend which may arise (i.e. planned contingencies). It is expected that as North Tyneside CCG gains experience in PHB's, adequately predicting these costs will become easier.

10.4.6 Additional elements may be required to be funded within the PHB such as the following (unplanned contingencies):

- Redundancy costs (if not already covered by the insurance policy) when a service provided by PAs ceases, if the PA is entitled
- Maternity pay, if the PA is entitled
- Long term sickness
- Training to support newly employed staff
- Pensions

10.4.7 North Tyneside CCG will hold the additional elements until required by an actual liability. Should an additional element arise it will be necessary to discuss this with the delegated care coordinator named in the Personal Care and Support Plan.

10.4.8 All new PHBs will be reviewed within the first 12 weeks to ensure that budget estimates are accurate. Revisions to budgets will be agreed with service users based on this monitoring and will help inform the budget setting for future PHBs.

10.4.9 NTCCG has agreed financial management processes and documentation to ensure robust management of individual budgets payments:

- The individual and their care coordinator have to sign their understanding of the outcome to be met by PHB, the funding arrangements and restrictions.
- The individual has to provide evidence of expenditure through bank statements, receipts etc. Financial expenditure records are retained by the service user and made available for inspection by the CCG or their agents (e.g. internal auditors or Counter Fraud Team);
- North Tyneside CCG will regularly review the personal budget expenditure against the agreed outcomes; this will be a holistic assessment including the key worker and finance team and the process will be revised following learning from current practice, errors and omissions.
- Overpayments will be reclaimed if representing more than 5 weeks' payment.
- Records are retained by the individual and made available for inspection by the "Organisation" or their agents (e.g. HMRC)

10.4.10 it is the responsibility of the individual to inform the organisation as soon as they become aware of factors which may affect the costs.

10.4.11 Individuals must be made aware that North Tyneside CCG will not automatically fund increased costs which have not been approved through an individual's reassessment of needs. Other income sources including welfare benefits (e.g. Winter Fuel Allowance, Attendance Allowance, and Mobility Allowances) should also be considered to ensure that the PHB is not duplicating alternative funding.

10.4.12 any requested variation over the initial approved budget will need to be considered in line with the CCG's existing high/exceptional care package costs procedure.

10.4.13 Awareness of the potential for financial fraud will be monitored within the individual's reassessment and reviews. In the event of high risks, the reviews will take place more frequently. Advice and referral will be made to the Counter Fraud Team as required.

11. Appeals

11.1 An individual [or someone of their behalf] who is unhappy with a decision made by the CCG in respect of a PHB may write to the CCG to ask them to review the process by which the decision is made. The appellant should include any additional information they wish the CCG to reconsider.

11.2 North Tyneside CCG will have an 'Appeals Panel' to consider appeals in the following situations; such circumstances may include, but are not limited to:

- A request for a PHB was refused
- The type of PHB requested was not approved or the type of PHB offered is not acceptable to the individual
- The final funding allocation is challenged by the individual
- The decision making process is challenged by the individual

The Appeal panel's role is to:

- Consider whether the CCG has properly followed its own procedures
- Has properly considered the evidence presented
- Has come to a reasonable decision based upon the evidence presented

12. Finance

12.1 In addition to the Financial Governance arrangements the following applies:

12.2 In line with the NHS finance policy, an individual cannot "top up" the cost of care as set out in the Personalised Support Plan from their own resources. For example, a PHB may include an agreed sum for gym membership, based on the local market rate. This sum cannot be added to so that the service user joins a more expensive gym offering facilities which are not required to meet their agreed health outcomes. The individual can purchase additional services which are not identified in the Care Plan but this should take place separately with clear accountability. If there is doubt, advice must be sought before any expenditure is made.

12.3 If equipment purchased through a PHB and is no longer required e.g. if it no longer meets assessed needs, or the service user dies, North Tyneside CCG reserves the right to request the item to be returned.

12.4 Disposables which are provided through an NHS contract (such as continence products) are not funded through a PHB to avoid double funding. However, if the local service is unable to supply to meet particular needs in either an appropriate or cost effective way, a PHB may be considered in the best interest of the patient.

12.5 If an increase in Personal Assistant/s or Service Provider staff/hours of care/cost of care is required, this must be discussed with North Tyneside CCG in advance. No extra resources will be provided although it may be possible to agree rearrangement of existing allocated resources. This should be discussed with the CCG.

12.6 There is no formal entitlement to holiday funding within a PHB, but for those individuals where an agreed Health and Wellbeing Outcome / respite provision is detailed in the support plan and involves use of the budget whilst on holiday (whether in the United Kingdom or abroad) the Budget Holder, Representative or Nominated Person must ensure the Budget Holder and Personal Assistants are insured to travel. The PHB cannot be used to pay for these insurances. It is the responsibility of the Budget Holder to fund this.

12.7 The individual / Budget Holder/ Representative/ Nominated Person is responsible for funding the insurance, travel and accommodation costs of accompanying Personal Assistant/s or Service Provider staff. This is not through their PHB.

12.8 The Budget Holder/ Representative/ Nominated Person must sign a disclaimer confirming that they have been informed, understand and accept the risks involved in receiving care outside of their normal setting.

12.9 Funding for PA Pensions – the Support Service is responsible for helping ensure that good practice is followed in PA employment, including a pension. The CCG funds this within the PA on costs.

12.10 Funding for PA Redundancy – PA's who are employees of the individual and are not self-employed, are entitled to redundancy pay as set out in Employment Legislation. Employer's Liability Insurance PA insurance cover includes PA redundancy. This is a mandatory requirement from the CCG to protect the employer and the employee/s.

12.11 Funding for Travel and Mileage – A PHB can cover travel costs such as bus fares to activities which are part of the PHB. When appropriate a PHB can provide a contribution towards the mileage at the NHS Standard rate. However, if the Patient has a Motability Car or higher rate Mobility Allowance the "Organisation" (acting on behalf of the CCG) would not pay the full HMRC/NHS Mileage rate but only at the reduced Mileage rate. The standing costs for running a car should be met from the Mobility Allowance as these costs would need to be met regardless. If the individual is not in receipt of Mobility Allowance at higher rate then the PHB would meet the HMRC/NHS rates. Calculations are based on the average distance between the patient's home and the activity.

13. The process and responsibilities for delivering a Personal Health Budget

13.1 North Tyneside CCG will have a clear process in place for responding to people requesting PHB; assessment and decision making; payment and audit;

13.2 For children, the continuing care process or the Education Health and Care [EHC] planning process will be the primary mechanism for delivering PHBs to children and young people with continuing care needs.

14. Performance and Monitoring

14.1 North Tyneside CCG will work towards ensuring that mechanisms are in place to collect and collate information to provide assurance that individuals outcomes can be measured against overall budget allocation, statutory and locally agreed performance measures including commissioner requirements. The CCG will capture how budgets are being used to monitor the cost.

14.2 Ongoing monitoring and evaluation will be undertaken to include:

- Finance
- Uptake PHBs
- Individuals experience of PHBs
- Improvements in quality of life, (outcomes and benefits)
- Receiving provider reports, to include activity data and a quality report
- Receiving reports relating to the audit of PHB or proactive reviews by the Counter Fraud Team
- Provide details of any serious incidents or concerns (including safeguarding).
- Addressing any requirements from the Quality and Governance Committee and Governing Body

15. Integration with the Local Authority

15.1 The Local Authority is an integral partner in the effective delivery of PHBs as they already possess experience of delivering direct payments in a social care context.

15.2 North Tyneside CCG will work with the Local Authority to integrate processes for individuals managing PHBs where there is an interface with the Local Authority (for example, individuals previously in receipt of Social Care Direct Payment or individuals ceasing eligibility for CHC and returning to Social Care Direct Payment). This will ensure that processes are aligned to minimise the impact on the individual.

15.3 The CCG will work with the Local Authority regarding use of external Brokerage Support Services. This will encourage individuals to consider community / voluntary sector support options and to find other funding streams for equipment, adaptations etc.

15.4 North Tyneside CCG and the Brokerage Support Services will ensure that individuals are offered information that is easily accessible, reliable and relevant in a format that can be clearly understood. Advice and guidance will be free from bias to ensure that individuals secure quality support and value from their PHB.

15.5 North Tyneside CCG will also work with the Local Authority where possible to:

- develop a shared understanding of risk;
- develop other shared approaches, as appropriate;
- Work with service users, user groups and voluntary sector groups, to minimise duplication and maximise opportunities for involvement.

16. Review Date

16.1 This policy and procedure is for one year only and will be reviewed and updated in line with the North Tyneside CCG commissioning intentions to roll out and offer PHBs or earlier at the request of either staff or management side, or in light of any changes to legislation or National Guidance.

Appendix 1



This agreement sets out the terms and conditions of receiving on-going Direct Payments from NHS North Tyneside CCG (NTCCG). Signing this document means that you have agreed to the terms and conditions set out below.

1. Recipient's Details

This agreement is between NHS North Tyneside CCG and....

Name of service user:	
Name of Nominated Person: (If applicable)	

2. Basis of this Agreement

This agreement is made on the basis that;

- You have been assessed as being eligible for NHS Continuing Care, a Personal Support Plan has been completed and a Direct Payment agreed
- North Tyneside CCG will provide Direct Payments each month while this agreement is valid
- You will only use Direct Payments for the purpose described in your Personal Support Plan.
- An appropriate bank account is used for the receipt and on-going management of Direct Payments
- You will keep records of how you spend your Direct Payments and give these to North Tyneside Local Authority when asked to do so

- If NTCCG has determined that at any time you have misused your Direct Payments you will repay any money spent inappropriately
- Any underspend of your Direct Payment will be recovered by NTCCG, at least annually.

3. Receiving Direct Payments

The portion of your Personal Budget which you have chosen to receive as Direct Payments is detailed within your Personal Support Plan.

Direct Payments will be paid into your account on a monthly basis to purchase care for the following month. The amount you receive will vary depending on the number of days in each month.

You must manage your Direct Payments within the bank account into which the payments have been made.

4. Using Direct Payments

You must use your Direct Payments in accordance with your Personal Support Plan. If you need to change your Personal Support Plan you must contact the NHS Continuing Care Team.

Purchasing services from a care agency

If you choose to purchase support from a care agency NTCCG recommends that you use a care provider who is registered with the Care Quality Commission (CQC). CQC inspect the standards provided by agencies nationally. Please ask your practitioner for more information.

Purchasing care from a Professional Person

Sometimes a provider may need to be a registered member of a professional body i.e. a nurse or a physiotherapist. You must not purchase care from someone who is unregistered. The NHS Continuing Care Team will advise you if professional registration is required.

Purchasing this level of care must be discussed and agreed with NTCCG via the NHS Continuing Care Team.

Employing a Personal Assistant

If you intend on employing a Personal Assistant advice on becoming an employer is available to help you to understand what your responsibilities are and support you through the process of becoming an employer. It is strongly recommended that you utilise this support.

If you have chosen to become an employer using Direct Payments you must;

- Adhere to national regulations governing employment
- Use the funding provided to purchase an Employers Liability Insurance policy
- Use the funding provided to purchase a Payroll service
- Pay any tax and national insurance
- Adhere to national pension regulations.

It is recommended that you conduct a criminal records check for your employees; NTCCG will fund this and support you with the process. Please ask your practitioner for more information.

5. Direct Payments Restrictions

The following is a list of goods and services which you cannot purchase with Direct Payments:

- Primary care medical services, provided by GPs, such as diagnostic tests, basic medical treatments or vaccinations.
- Urgent or emergency treatment services.
- Long term residential care
- Nursing care or medicines
- Alcohol and tobacco products such as wine, beer, cigarettes or cigars
- Gambling such as horse racing, bingo or lottery
- Participating in or promoting illegal activities
- Equipment that would otherwise be provided by the NHS
- As a substitute for a Disabled Facilities Grant
- To benefit anyone other than the person with assessed eligible needs
- Payment to a parent, spouse, civil partner, or other specified family members living in the same household, unless agreed by NTCCG as necessary.

6. Record Keeping

During the period you are receiving Direct Payments you must keep records to show how you use them. These records will be, in part, your evidence that you have spent your Direct Payments in accordance with your Personal Support Plan. You will be required to provide these records as and when your Health Budget is reviewed by a NHS Continuing Care practitioner.

Records should typically consist of:

- Bank Statements
- Receipts
- Invoices
- Payslips / Timesheets

If you are employing a Personal Assistant you will be asked to show that your employers' liability insurance policy is up to date. You may also be asked to show evidence that you are paying tax and national insurance.

All information shared with us is covered by NTLA & NTCCG confidentially policies and procedures.

Failure to produce valid records as described above within 4 weeks of a request from NTLA will mean you have breached this agreement. In this instance NTCCG reserves the right to suspend Direct Payments pending an investigation. If satisfactory records are not produced

NTCCG reserves the right to require reimbursement from you of Direct Payments which have been paid.

7. Required Changes

On-going reviews will be arranged by a person nominated by the NHS Continuing Care Team based on your particular circumstances and needs. These reviews will help look at what has been achieved using the Direct Payments and assess whether any changes need to be made.

The NHS Continuing Care Team may increase or decrease the amount of the direct payment as a result of a review of the Support Plan.

The Direct Payment should be sufficient to meet your assessed needs. If you consider that there has been a change in needs and as a result you do not think that the level of direct payment is sufficient then you should contact the NHS Continuing Care Team in order to request a review.

You are not permitted to contribute towards the cost of your care as set out in the Support Plan. If you wish to purchase additional care privately then this must take place separately with clear accountability.

If at any point your circumstances change and this requires amendments to your Personal Support Plan and or the amount of Direct Payments you receive you must contact the North Tyneside NHS Continuing Care Team.

8. Suspending or Stopping Direct Payments

Direct Payments maybe suspended or stopped by NTCCG in the following circumstances;

- You decide you no longer wish to receive Direct Payments.
- You fail to produce records as detailed in section 6 of this agreement.
- Your eligible needs are met by an alternative method for a period greater than 28 days, e.g. a hospital or residential stay.
- Direct Payments are not used in accordance with the Personal Support Plan.
- The services you have purchased with Direct Payments are deemed inadequate or inconsistent; in this instance NTCCG will arrange appropriate services.
- NTCCG has determined you are unable to manage and use Direct Payments appropriately and have refused support offered to continue to use Direct Payments.
- You lose the mental capacity to consent to or manage with appropriate support, Direct Payments.

If NTCCG determines that Direct Payments have been misused; NTCCG will require repayment of the misspent funds.

In the event of the death of the service user or other reason for termination of this agreement, a personal representative must ensure that the direct payment bank account is closed and the balance returned to NTCCG.

If a satisfactory resolution allowing Direct Payments to continue is not achieved NTCCG reserves the right to terminate this agreement. NTCCG will re-claim any monies not spent as agreed within your Support Plan.

NTCCG retains the right to suspend Direct Payments with immediate effect if there is any evidence of misuse or fraud.

If money has accumulated in the Direct Payment bank account then taking into consideration the need for contingency and any anticipated expenditure, NTCCG may reduce subsequent direct payments in order to reduce the surplus.

9. Nominated Person

A Parent or Guardian of a service user who has consented to receive Direct Payments may, if they choose, decide to nominate someone they know to assist them with the management of their Direct Payments. If this person agrees to provide the service user with support they are known as a Nominated Person.

A Nominated Person may provide anything from very basic light touch support, or may actually receive the Direct Payments on behalf of the service user.

If a Nominated Person is providing assistance they must sign this agreement with the service user.

10. Complaints procedure

Information about NTCCG's complaint procedure can be provided on request.

1. Signature – Parent or guardian of Service User

Name of Parent or Guardian of service user:
I understand that in signing this agreement I consent to adhere to the conditions set out in NTLA/NTCCG – Direct Payment Agreement.
Signature:

2. Signature – Nominated Person (If applicable)

Name of Authorised Person:
I understand that in signing this agreement I consent to adhere to the conditions set out in the Direct Payment Agreement.

Official

Signature:

3. Signature – Practitioner

Name and Signature of Practitioner or Commissioner:

Start Date for this Agreement: