

CONTINUING HEALTHCARE PERSONAL HEALTH BUDGET (PHB) POLICY

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SOMERSET CLINICAL COMMISSIONING GROUP
CONTINUING HEALTHCARE PERSONAL HEALTH BUDGET POLICY

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SOMERSET CLINICAL COMMISSIONING GROUP

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VERSION CONTROL

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DOCUMENT CHANGE HISTORY		
Version	Date	Comments
1.0	2009	Pilot PHB policy
1.1	2.2.17	Reviewed by CHC PHB Lead and CHC Commissioning Manager
1.2	10.8.17	Reviewed by PHB Lead, Director, Deputy Director of Quality and Safety and Governance Lead.
1.3	23.11.17	Final amendments following comments from Patient Safety and Quality Assurance Committee. Review with Acting Director of Quality, Safety and Engagement
1.4	03.11.18	Amendments relating to self-employed care workers and directive for all patients to be offered a PHB for care delivered in their own home from April 2019.
1.5	01.02.2019	Ratified by PQSC and final comments back from Director of Quality and Nursing

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SOMERSET CLINICAL COMMISSIONING GROUP
CONFIRMATION OF EQUALITY IMPACT ASSESSMENT FOR
CONTINUING HEALTH PERSONAL HEALTH BUDGET POLICY

MAIN AIM OF THE DOCUMENT

The main aim of this policy is to set out the arrangements under which NHS Somerset Clinical Commissioning Group (CCG) is able to support Continuing Health Care (CHC) eligible individuals to arrange their care delivery using a Personal Health Budget (PHB). The policy sets out how the CCG will meet its responsibilities as detailed in the The Guidance on Direct Payments for Healthcare and the NHS Direct Payments Regulations 2013.

Outcome of the Equality Impact Assessment Process:

Neutral Impact

Actions taken and planned as a result of the equality impact assessment, with details of action plan with timescales / review dates as applicable:

Groups / individuals consulted with as part of the impact assessment:

This policy is underpinned by the National consultation which took place during the PHB pilot in which Somerset CHC team took part between 2009-2012.

SOMERSET CLINICAL COMMISSIONING GROUP

CONTINUING HEALTH CARE PERSONAL HEALTH BUDGET POLICY

1 INTRODUCTION

1.1 From October 2014 people in receipt of NHS CHC funding have a right to request and have a PHB to manage their care needs. A PHB can be defined as an amount of money identified to support a person's identified health and wellbeing needs, planned and agreed between the person and their local NHS team. PHB'S can be arranged for adults over 18 or for a child or young person in receipt of health funding. CCGs have a duty to:

- Arrange for the provision of PHBs
- Publicise and promote PHBs
- Provide information and support for potential budget holders
- Consider requests for PHBs

1.2 This policy sets out the roles and responsibilities for health staff for the implementation of personal health budgets in Somerset. It describes the processes for determining and operating personal health budgets and includes the procedures for this in the relevant appendices. The policy also sets out the arrangements for the management of disputed decisions about personal health budgets. CCG's are required to have a transparent process for making decisions about Direct Payments for PHB's. This policy describes the way in which Somerset CCG will balance the choice of care commissioned by budget holders with the need to ensure that the care commissioned is safe and effective, that budget monies are spent appropriately and the PHB is 'Good Value for Money'. Detailed guidance on individual choice is set out in the CCGs Choice and Equity Policy. This policy includes the following sections:

- Direct Payment
- Informed decisions and managing risk
- Personal Health Budgets Care Pathway
- PHBs and fast track
- Review procedures
- Financial systems for making and reviewing payments
- Management of appeals and complaints
- Joint funding and transferring from a social care budget to a PHB

2 PRINCIPLES

2.1 A personal health budget is an allocation of funding made available to people on the basis of their assessed health needs so that they can choose if they want to, arrange and pay for their own health care provision. If the budget holder is unable to manage the budget themselves a responsible person or a nominated person may do it for them. The key principle is that patient or their representative should determine their health outcomes and

care options and understand the financial implications of their choices. The process of arranging a PHB can be described in 3 stages and is detailed in Appendix 1 and 2. The 3 stages are:

- **Stage 1** - Making contact with the relevant patient's to let them know about PHB's; then following a personalised conversation, collaboratively producing the health outcomes plan with the patient, and calculating an indicative budget
- **Step 2** - The patient will be referred to the Support and Brokerage Service, who will work with them to produce the support plan and the detailed budget. The support plan will include the care plan which sets out how the health outcomes will be met and how any risks will be managed
- **Stage 3** - Implementing the support and budget plan. This stage will include ongoing reviews and support as the patient grows in understanding of how they wish to have their care delivered and what they will do themselves or what involvement there will be from their nominee or representative

2.2 Patients have an outcomes based care plan, and are aware of the care options within an allocated budget constraint and of the financial implications of their choices. There are three ways in which a person can receive a personal health budget:

- **Notional Budget:** Patients choose from current commissioned (and/or no cost) services and choose not to have a personal direct payment or third party budget.
- **Third Party Arrangement:** Patients are allocated a budget, held by an intermediary. The intermediary helps the patient choose services within the personal budget based on the agreed healthcare outcomes. The intermediary may also supply support services to the budget holder.
- **Direct Payment:** Patients are given funds directly to purchase and manage services themselves. Within this group patients may have a direct payment to themselves, a representative or nominee, or they may choose to have their budget held by the Support and Brokerage Service as a managed account

2.3 NHS Somerset CCG will ensure a fair and equitable access to PHBs following the principles below

- The individual or their representative must provide informed consent before starting the personal health budget process if not already given in the CHC application process.

- Health professionals will work in partnership with individual patients and their families throughout the process.
- All patients and their families will be provided with information to enable them to participate in the process.
- The CCG will ensure the provision of a brokerage and support service to budget holders to assist them through the process to set up and manage a PHB.
- Where the budget holder uses a registered care agency that is already contracted to the CCG to provide care, this part of their budget will be a notional budget.
- The process for decisions about personal health budgets will be transparent for individual patients/ clients and their families.
- Funding will be aligned to the CHC domiciliary care rates to support equity

3 ELIGIBILITY FOR PERSONAL HEALTH BUDGETS

3.1 In order to be considered for a personal health budget an individual must be in receipt of NHS CHC funding, this may be an adult over 18 or a child or young person in receipt of Continuing Care or Complex Health Needs funding. The level of need identified in the CHC decision support tool informs the resource allocation to determine the indicative budget for the individual. This ensures a consistent approach and fair and equitable access to resources for personal health budget holders.

3.2 Fast track

Individuals who are in the last days and weeks of life and are in receipt of CHC fast track funding may be eligible for PHBs. The regional PHB support team advise that for individuals with a terminal diagnosis it is important that PHBs are considered and offered at an early stage as part of Advanced Care Planning to ensure that budget plans are in place which will meet agreed outcomes before applying for fast track funding. As fast track is to support access to essential care at the end of life when an individual is rapidly deteriorating it is important that these conversations are as early as possible to ensure that there is time to support the necessary processes to implement a PHB.

4 APPLICATION PROCESS

4.1 The Continuing Healthcare Team will offer the opportunity for a personal health budget as part of the development of an agreed outcomes plan, supplying the relevant PHB information.

4.2 All individuals in receipt of Continuing Healthcare in a domiciliary setting may be eligible for a personal health budget, their care manager may offer them the opportunity to apply for a personal health budget at the time that their eligibility is established or at their next care review.

Mental Capacity

4.3 For those individuals who may lack capacity to manage a PHB for themselves the CHC team will ensure that an assessment is carried out to determine if the individual has capacity to manage their own PHB or if the individual will need to appoint a nominee to do this on their behalf. A nominee can support the individual by:

- acting as the principal person for all contracts and agreements with care providers, employees, etc.
- using the direct payment in line with the agreed care plan
- complying with any other requirement that would normally be undertaken by the person receiving care as set out in this guidance such as being open to review, providing financial information.

4.4 Where the individual lacks capacity a person may be selected to manage the budget. This will be recorded on the appropriate Best Interest decision form, that this person is a representative. The CCG will take into account if there is a legal representative such as a deputy, person with power of attorney or person with parental responsibility; if there is no legal representative, then a relative or a friend may be a representative or someone appointed to act on their behalf in line with the best interest decision. Where the patient lacks capacity and has no legal representative, family or friends, an independent mental capacity advocate will be contacted to assist in making best interest decisions on behalf of the individual

4.5 The Mental Capacity Act 2005 and Personal Health Budgets guidance DH 2010 set out that a nominated person or representative is expected to act in the best interests of the patient and to consider what they would have wanted if they had capacity. Nominated persons and representatives will be responsible for contractual arrangements secured by a direct payment, including employment contracts (where staff are to be directly employed), and management of the budget including repayment where this may be required. Information explaining these responsibilities will be made available to representatives and nominated persons so that they are informed in making the decision to take on this role. For someone to act as a nominee for a patient with a Direct Payment, the CCG must give consent for that person to act as a nominee

5 DIRECT PAYMENTS

5.1 CCGs are required to carry out the following in respect of direct payments.

- Always consider if a direct payment is appropriate
- Ensure enhanced DBS checks are carried out for nominees.
- That formal consent has been given from a patient/ representative/ nominee to having a direct payment through the PHB Agreement.
- That the CCG has a transparent and consistent decision making process

5.2 For those patient's requesting a PHB in whole or part as a direct payment, the CCG may decline to give a direct payment where it considers:

- That the patient or their nominee may not be able to manage a direct payment
- That the benefit to the patient of having a direct payment does not represent value for money
- That providing services in this way may not provide the same or improved outcomes
- That the direct payment may not be used for agreed purposes

5.3 In deciding if a patient their nominee or their representative is able to manage a direct payment the following should be taken into consideration

- Whether they would be able to make choices about and manage the services they wish to purchase
- Whether they have been able to manage either a health care or social care direct payment in the past and if their circumstances have changed
- Whether they are able to take reasonable steps to prevent fraudulent use of the direct payment or identify a safeguarding risk and if they understand what to do and how to report it if necessary.

5.4 The CCG will consider what support arrangements can be put in place or it may require particular arrangements to be put in place to give assurance when agreeing to a direct payment

6 INFORMED DECISION MAKING AND MANAGING RISK

6.1 Patients, nominees and representatives should be helped to understand risks and make informed decisions. The Support Plan will list risks and document how these risks can be mitigated or managed. The CCG will need to agree to any arrangements for managing potential significant risks. The risks to be considered will include:

- Clinical and health risks for the individual
- Risks associated with different care provider options
- The risks associated with directly employing staff known as Personal Assistants (PAs)
- The risks of purchasing care services from a provider with inadequate or no insurance/indemnity cover
- The risk of a Direct Payment being misspent, going missing, subject to fraud or inaccurate record keeping by or on behalf of the budget holder
- Risks, particularly for patients who lack capacity, around safeguarding, promoting liberty or use of restraint

6.2 Risks will be reviewed by the patient's Case Manager and the PHB Nurse Advisor as part of the regular reviews of a PHB. Individual budget holders can ask the CCG to undertake on their behalf an assessment of the suitability of a provider's insurance and indemnity arrangements. These arrangements will also be reviewed as part of the regular reviews of the PHB.

6.3 Budget holders can arrange care from personal assistance they employ or from domiciliary care providers registered with the Care Quality Commission for personal care. NHS Somerset does not support the use of self-employed care workers by budget holders.

7 SAFEGUARDING, RISK MANAGEMENT & CONFLICTS OF INTEREST

7.1 Budget holders may be vulnerable adults and or children therefore support and contingency plans will be reviewed by case managers to ensure that safeguarding issues have been considered when developing the agreed health and wellbeing plan and final support and budget plan. Where a representative or nominee is appointed or personal assistants employed by the budget holder enhanced DBS checks are recommended. When a safeguarding alert is raised in relation to the care provided to a personal health budget holder, the safeguarding adults or child protection procedure will be instigated as set out in the local multi agency safeguarding adults or child protection policy. People who are acting as nominees or representatives on behalf of a patient are not allowed to be paid for providing this or any other care to the patient unless agreed as exceptional circumstances by the CCG. Exceptional circumstances could be evidenced by there being no other available provider to support care delivery.

8 CARE PATHWAY for PERSONAL HEALTH BUDGETS

8.1 The care pathway for PHBs is set out in detail in Appendix 1.

9 AGREED HEALTH OUTCOMES PLAN (AHOP)

9.1 The agreed health outcomes plan will be determined through consideration of the individual's assessed health and wellbeing needs and the health outcomes that they wish to achieve. The CHC PHB Team will co-produce the agreed health outcomes plan with the patient or their nominee or

representative and relevant health care professionals. A written copy of the agreed health and wellbeing outcomes plan will be signed by the patient, their nominated person or representative.

10 BUDGET

Indicative budget

- 10.1 The indicative budget figure will be determined by a budget setting tool and an assessment of current provision. This will ensure a consistent approach and fair and equitable access to resources for personal health budget holders. Indicative budgets will be set to meet day to day care needs and not include one off costs for such things as equipment or respite, these requirements will be agreed as part of ongoing needs assessment process.

Final support and budget plan

The Final Support and Budget Plan will set out:

- The services that the PHB will be used to purchase
- The amount payable under the PHB and how often it will be paid
- The agreed procedure for managing significant potential risk and evidence that the budget holder has made an informed decision and has an understanding of all risk
- The name of the person responsible for the plan
- The case manager responsible for monitoring the patient's health condition and the name of the PHB Nurse Advisor
- The anticipated date of the first review and who is responsible for co-ordinating this
- A contingency plan and any alternative arrangements to be discussed and outlined to inform of the patient's preferences if a change of circumstances occur for whatever reason

- 10.3 The Final Support and Budget Plan may vary from the indicative budget and sets out how the budget holder will use the personal health budget to meet the agreed health outcomes. The budget holder their nominee or their representative must agree that the person's care needs can be met by the services agreed in the Final Support and Budget plan and that the funds agreed for the PHB is sufficient to cover the full cost of the care plan. The Final Support and Budget Plan is sent to the CCG for the attention of PHB Nurse Advisor and for CHC manager to agree before payments commence

- 10.4 When agreeing the Final Support and Budget plan, the PHB Nurse Advisor must be satisfied that the agreed health and wellbeing outcomes of the

patient will be met by the services in the care plan and the amount of money in the PHB will be sufficient to cover the full costs of the services in the care plan. No service should be included in the care plan if the PHB Nurse Advisor believes that the benefits are outweighed by the possible damage to someone's health, where they are unlikely to meet the agreed outcomes, duplicate existing NHS services or where the costs do not represent good value for money. In signing off a Final Support and Budget Plan, the PHB Nurse Advisor will give consideration to the robustness of the plan and in particular to the contingency arrangements

- 10.5 If the CCG decides to refuse a service as part of the care plan, the budget holder may request the CCG to explain why and to reconsider their decision in light of additional information the budget holder provides. If requested an explanation with a clear rationale must be supplied. Where a dispute remains informal resolution will be attempted first and if the issue is still unresolved the CCGs complaints procedure will apply
- 10.6 The Final Support and Budget plan will be signed off by the CCG and when the contract of agreement known as the Budget Holding Agreement is signed by the budget holder and on behalf of the CCG, payment can then start. The indicative budget may be revised following receipt of the final support and budget plan to reflect the proposed pattern of services to be purchased; for this to happen the Final Support and Budget plan will make robust links between health and wellbeing outcomes and care provision
- 10.7 The Final Support and Budget plan will set out when care and personal health budget reviews will be held. There will normally be a review held within the first three months of the commencement of a personal health budget and annually thereafter, in line with the CHC annual review.
- 10.9 Virtual banking will be supported for new budget holders from 2019 via PHB Choices, a PHB specific platform supporting real time access to budget and market place for providers.

11 BROKERAGE AND SUPPORT SERVICES

- 11.1 The CCG has contracted jointly with Somerset County Council to provide a brokerage and support service to budget holders. The PHB Nurse Advisor will make the referral to the brokerage service and will supply a copy of the AHOP and the indicative budget figure along with the referral form
- 11.2 The Brokerage and Support service will provide a wide range of support to the budget holder. This will include advice on the types of care resources available including PA's, care agencies, care providers and relevant health services. The Brokerage and Support service will help the budget holder to produce a written final support and budget plan which will consider the risks to delivery of the care and support plan and the contingency plans for managing these risks.
- 11.3 The service will provide on-going assistance where required, enabling the individual to manage their final support and budget package including the

finances and payments to be made from their personal health budget. The service will help budget holders to comply with the finance and accounting arrangements required by the CCG. A separate bank account will be authorised by the PHB Nurse Advisor and set up by the Brokerage and Support service. The support service will report to the CCG detailing all budget holders and their transactions on a monthly basis. This assists the monitoring of the individual budgets

- 11.4 The service will take account of the Best Interests of the individual and work within the Somerset Safeguarding Vulnerable Adults Policy and reporting Procedure and other relevant policies.
- 11.5 Where the budget holder has a concern about the brokerage and support service they should raise this with the CCG

Employing Personal Assistants

- 11.6 The Brokerage and Support service will ensure that PAs are to be employed either by the budget holder or on their behalf or by an organisation that supplied the PA.
- 11.7 The service may assist the budget holder in recruiting personal assistants. Where a personal health budget holder chooses to employ their own personal assistants, the quality standard for safeguarding adults and children where appropriate will apply to care and support packages. The CCG recommends all personal assistants to have an enhanced disclosure and barring check. Personal health budget holders can access enhanced DBS checks from the Brokerage and Support service. Where personal assistants are employed by budget holder, the CCG require that a payroll system is used to ensure Tax and National Insurance contributions are paid on behalf of the budget holder for Personal Assistants; the Brokerage and Support service will offer a payroll service to PHB holders, which facilitates the payments to personal assistants on behalf of budget holders.
- 11.8 The care plan will consider what tasks PAs will carry out, the competencies required to perform these tasks, any training that is needed and how this will be funded.

12 FINANCIAL ARRANGEMENTS

Receiving direct payments

- 12.1 Any person receiving direct payments (the patient, nominee or representative) must have a separate bank account specifically for the personal health budget. This bank account should only be used for purchasing health and wellbeing care agreed the PHB. The bank account should only be accessible by people agreed by the PHB Nurse Advisor which should normally be limited to the individual in receipt of the PHB or their representative or their nominated person.

- 12.2 When receiving direct payments, the person holding the account should keep a record of the income received and how it is spent. Budget holders will be required to make a submission of evidence of income and expenditure. Evidence will be required in bank statements and receipts. Information will be supplied to budget holders or their representative or nominated person about maintaining account records and the supporting documentation which will be required to be submitted for review
- 12.3 Alternatively, any person receiving a direct payment (the patient, nominee or representative) may elect for their payment to the Support and Brokerage Service as a Managed Account.
- 12.4 There are some restrictions on who may hold a Personal Health Budget account. Those restrictions include: - Undischarged bankrupts, people convicted of fraud, people who lack capacity to manage their own affairs. In all these cases alternative provision can be made by a notional PHB
- 12.5 When requested the budget holder, their representative or nominated person will supply any information requested in writing, signed and dated

Use of PHBs/direct payment funds

- 12.6 A personal health budget may only be used to purchase services which meet outcomes in the agreed health and wellbeing plan, and which are set out in the Final Support and Budget plan. A personal health budget/direct payment cannot be used to purchase alcohol or tobacco, cannot be used for gambling, and cannot be used to repay a debt other than for a service agreed in the care plan. There are also restrictions on using a PHB to pay relatives of a budget holder
- 12.7 A personal health budget/direct payment should not be used to purchase primary medical services provided by GP's such as diagnostic tests, basic medical treatment or vaccinations. The Government does not wish to undermine services provided by GP's as part of the registration based, holistic services they currently provide. The vast majority of GP services are not suitable for inclusion in personal health budgets. However, some, more specialist services, such as counselling services currently organised or managed by GP's may be suitable for inclusion.
- 12.8 A personal health budget must not be used for urgent or emergency treatment services, such as unplanned in-patient admissions or care in hospital as this is duplicating NHS funded services
- 12.9 If someone wishes to purchase additional health care privately, using their own money they may do so, so long as it is additional to their assessed needs and it is a separate episode of care with clearly separate lines of clinical accountability and governance. These services will not be reviewed as part of the PHB review
- 12.10 A direct payment can only be used to pay an individual living in the same household, such as a close family member or a friend if the CCG is

satisfied that to secure a service from that person is due to exceptional circumstances and is necessary in order to satisfactorily meet the budget holders AHOP. The CCG may require evidence from the budget holder that the care need that requires payment to a family member is for more support or care activity than the family member would normally have been willing to deliver and represents good value for money. Judgements are made on a case by case basis.

12.11 A person's close family members are described in the DH regulations (DH 2010) as:

- The spouse or civil partner of the person receiving care
- Someone who lives with the person as their spouse or civil partner
- Their parent or parent in law
- Their son or daughter
- Their son in law or daughter in law
- Step son or step daughter
- Brother or sister
- Aunt or Uncle
- Grandparent
The spouse or civil partner of any of the above named or someone who lives with them as their civil partner or spouse

13 REVIEWS

13.1 The care needs of the individual will require regular review at least annually or more often dependant on the complexity of their needs. The budget holder, representative or nominated person may also request a review at any time and the case manager must decide whether or not to undertake this review taking into account local circumstance and arrangements. The scope of reviews will include:

- A review of their care needs and care plan to check that agreed outcomes are being achieved
- A review of the operation of the personal health budget, whether any changes are required to its arrangements or moving to a different type of PHB. A review of the financial arrangements agreed for the PHB, checking that the budget is being used as agreed and remains at a level appropriate to meet the persons assessed health needs.

- A check at the first review that the insurance arrangements in place are appropriate and proportionate to the risks involved
- Where delegated tasks are undertaken by Personal Assistants a check that the training needs for PA have been identified and met
- A review of risks and mitigating arrangements

13.2 In some circumstances an individual's needs might change and therefore so might their eligibility for NHS Continuing Healthcare, it is the Clinical Commissioning Group's responsibility to ensure that this is made clear to the individual and their family. Some cases will require more frequent reviews in line with clinical judgements and changing care needs

13.3 Following a review the agreed health outcomes plan may be amended and will then be resubmitted to the PHB Nurse Advisor for agreement.

Financial reviews

13.3 Financial reviews of personal health budgets will be undertaken quarterly. The budget holder will be required to supply bank statements and receipts or invoices for each item of expenditure made from the personal health budget. The review will state how well the budget fits the actual purchasing pattern, assess the adequacy of information supplied by the budget holder and identify if any amendment is required to the personal health budget. The budget holder will have signed a budget holding agreement which sets out their reporting requirements. The ongoing financial reviews will be undertaken by the Finance Team and will consider:

- Whether the direct payment is sufficient to cover the costs of the service provided
- Whether the direct payment has been used appropriately and the budget holder has fulfilled their obligations
- Whether the requirements of the Budget Holder Agreement have been met

13.4 The budget holder, representative or nominee may request that the Personal Health Budget be reviewed at any time and the care manager will decide whether or not to undertake this review using the agreed criteria for a review;

- Change in health needs
- Change in personal circumstances that affect the person's health needs

13.5 Following a review where the agreed support plan has been amended, the PHB Nurse Advisor will review the Final Support and Budget plan to identify

if any amendments need to be made, and this may inform the financial review. Following a financial review the PHB Nurse Advisor and Finance Team may:

- Increase or maintain the PHB of which any increase will be subject to the normal procedure for increase care needs within the Health care budget setting process
- Agree to pay a direct payment to the patient rather than a representative or nominee
- Agree to pay the direct payments to a representative or nominee rather than the patient
- Require additional information be supplied
- Require that a direct payment not be used to purchase a service from a particular individual
- Require a lump sum to be returned to the CCG where there has been an underspend. This may occur when an individual has had a period of care as an inpatient or because their needs have changed and they have required less care. In any event a significant change in spend may prompt a formal review of care needs and the budget required to support.

Adjustments and terminations of direct payments

13.6 If a decision is made to vary or terminate the direct payment, the PHB Nurse Advisor, will give the budget holder, representative or nominee twenty eight days' notice in writing, stating their reasons for their decision and stating the notice period, which will be not less than 28 days. On receiving that notice, the budget holder may request that the decision be reviewed. The budget holder must provide additional information or evidence for the appropriate manager to consider. The manager must then review their decision, and give written notice of the outcome of this second review, stating the reasons for their judgement. The CCG must stop making payments if:

- The budget holder, their representative or nominee has not met the requirements of the budget holding agreement.
- A representative or nominee withdraws their consent to receiving direct payments
- A patient no longer needs care
- Direct payments are no longer a suitable way of delivering care to someone

- The direct payment has been used otherwise than to purchase services agreed in the care plan: this may include the use of funds to deliver care already commissioned through the NHS and the use of funds to support hotel or transport costs if no prior agreement has been given by the CCG.
- The Continuing Healthcare Manager assesses the representative or nominee as no longer suitable to receive direct payments and no-one else has been appointed.
- The nominee has withdrawn consent or the patient has withdrawn consent to the nominee receiving payments
- Fraud, theft or an abuse in connection with the PHB has taken place
- The person has been admitted to an NHS facility (in this instance it will not be possible to provide 28 day notice)
- The person has died

13.7 In the event that a budget holder provides insufficient information for the financial review, an appropriate time frame for supply of evidence will be set for the budget holder or their representative, nominee, with the individual. Where there is a failure to provide sufficient information, (following a request to do so) to give confidence that public monies are being spent appropriately, a letter will be sent explaining that if the information is not produced within 28 days then direct payments will stop

Repayment of direct payments

13.8 Where a PHB is in place, the budget holder, their representative or nominee can be required to repay monies if any of the following has occurred;

- The direct payments have been used other than to purchase a service agreed in the care plan
- Theft, fraud or other offences may have occurred
- The patient has died, leaving part of the direct payment unspent
- The care plan has changed substantially and there are excess funds as a result
- The individual's circumstances have changed substantially, for example as a result of being hospitalised and so they are not using their direct payment to purchase care; or

- A significant proportion of the direct payment has not been used to secure the services specified in the care plan and so money has accumulated

13.9 When reclaiming money from a budget managed by a representative or nominee, the PHB Nurse Advisor will approach the representative or nominee to seek repayment. The PHB Nurse Advisor may also reclaim money from an account held on the budget holder's behalf by the support service. If the CCG is seeking to reclaim money as a result of theft, fraud or another criminal offence, the CCG may seek for that sum to be summarily reclaimed as a civil debt. In these circumstances, legal advice may be sought. This power does not affect any other method of recovery, for example under the Proceeds of Crime Act (2002).

14 MANAGEMENT OF DISPUTES

14.1 Should a dispute arise because the CCG has decided to act on any of the above outcomes, the CCG should respond in writing clearly outlining their reasons for any action or refusal. Decisions about personal health budgets are communicated in writing to individuals, their representative or nominated person and to health professionals.

Informal Resolution Procedure

14.2 Where a personal health budget or support and budget plan has been declined or amended in a way that does not have the agreement of the budget holder, where appropriate resolution will be managed initially by inviting individuals, or their representative or nominated person to resolve the matter through an informal discussion with the CHC Local Resolutions Manager and PHB Nurse Advisor and other appropriate people. Where it is felt that the CCG has already made all reasonable efforts to resolve any disagreement this informal resolution will not be required. Complainants should write to the PHB Nurse Advisor asking for a resolution meeting.

Complaints Procedure

14.3 The CCG's complaints procedure is published on the CCG's website and may be used for any complaint about the operation of this policy. If the complaint is about the withdrawal of eligibility for Continuing Healthcare the appeals resolution process in the CCG's CHC Operational Policy will be followed.

14.4 It is important that any complaint is made as soon as possible after the event has occurred, as the NHS will usually only investigate complaints that are either

- Made within six months of the event; or
- Made within six months of the patient realising that they have something to complain about as long as it is not more than 12 months after the event itself

- 14.5 If an individual wishes to make a complaint about NHS services there is a 2 stage process. The first stage encourages local resolution of the complaint, by a face-to-face meeting between the personal health budget holder and the appropriate healthcare team and/or others as detailed in 14.2. The appropriate healthcare team will attempt to resolve the complaint to the patient's satisfaction, in the majority of cases on an informal basis, as quickly as possible
- 14.6 If the complainant remains unsatisfied with the response from the NHS, they may refer the matter to the Health Service Ombudsman. The Ombudsman will normally expect complainants to have tried to resolve their concerns through the local resolution in the first instance and will require this to have happened prior to any consideration.

15 JOINT FUNDING AND TRANSFERING TO A PHB

- 15.1 Where a patient has, before they became entitled to receive CHC, a direct payment from social care the CCG will seek to provide a seamless change over to a PHB. In some cases the initial phase of this changeover may involve the existing arrangements staying in place but the cost being met by the CCG.
- 15.2 The normal process as set out in this policy will be followed including the budget holder signing the Budget Holder Agreement and where applicable the CCG authorising someone to act as a nominee on behalf of a budget holder.
- 15.3 For some adults they will not be entitled to CHC or a PHB, as they are assessed as not meeting the criteria for having a primary health need. However, if they have some assessed health needs that the CCG should fund they will be joint funded. In these circumstances the CCG will jointly fund by making a contribution to the cost of a direct payment through the Local Authority. Where people are joint funded the Local Authority will be the lead commissioning organisation and take the lead in their care management. The Local Authority will recharge the CCG the agreed amount. Each service retains the responsibility to conduct its own care and financial review.

Somerset- PHB Care Pathway

1. When a person meets the criteria for CHC funding they are informed by letter within 10 -14 days, the letter will include a PHB information leaflet
2. CHC team will contact the person to arrange a home visit which can be arranged jointly with their care manager
3. Home Visit: the CHC assessor will support a personalised conversation to understand what matters to the individual so that this can inform the [Agreed Health Outcomes Plan](#) (AHOP) and the indicative budget. The individual will also provide signed [Consent](#) in order to refer to the support and brokerage service if a PHB is chosen. Referral is securely sent to brokerage service via email.
4. The AHOP will identify achievable health and wellbeing goals and an on-going support plan. The AHOP will be signed by person/representative agreeing to the plans. The AHOP can be further developed for PHB planning purposes and should include details such as who will provide care, risks, training and contingency planning. The indicative budget will be devised following the detailed conversations of what aspects of their care delivery the individual would like to manage under a PHB. This may be all of their care or may be key parts of their care.
5. A [Support and Budget Plan](#) is developed by the brokerage service. Contingency planning is discussed and the start date identified
6. Support and Budget Plan is discussed with CHC Manager for sign off. The legal [Agreement](#) form is sent to the new Budget Holder
7. Budget plan sent to CHC finance department
8. PHB Agreement with planned start date signed by the Budget Holder is returned to CHC team in order for the PHB to commence. PHB Agreement signed by CHC Manager with a copy sent to the budget holder
9. Agree where there is a Social Service direct payment when the last payment should be made and when PHB will start
10. Three month [PHB Review](#) with the Budget Holder by CHC Team and/or Care Manager. Where a budget holder is receiving direct payments from the Local Authority, CHC team will inform the Local Authority the start date of the personal health budget
11. Quarterly financial reviews are made by the CHC Finance Team

12. PHB reviews are then in line with CHC clinical review schedule from panel and then annually

Appendix 2

GLOSSARY

Agreed Health Outcomes Plan (AHOP): A summary of the assessed health needs and outcomes which the patient wishes to achieve written jointly by the case manager and the patient

Budget Holding Agreement: Sets out the responsibilities of being a personal health budget holder and what the individual's personal health budget will be.

Final Support and Budget Plan Sets out how the budget holder will use the personal health budget to meet the health outcomes identified in the Agreed Health Outcomes Plan

Indicative Budget: The amount of the budget indicated for a person with the assessed level of health need. In practice the indicated budget is likely to be expressed as a range of expenditure

Nominated Person: person who acts on behalf of a budget holder and is chosen by that budget holder. The budget holder has mental capacity to make that decision.

Representative: person agreeable to the Continuing Healthcare Manager acting on behalf of a budget holder who does not have mental capacity

Integrated Personal Commissioning (IPC): jointly funded health and social care

Notional Budget: Patients choose from current commissioned (and/or no cost) services.

Third Party Arrangement: Patients are allocated a budget, held by an intermediary. The intermediary helps the patient choose services within the personal budget based on the agreed healthcare outcomes. The intermediary may also supply support services to the budget holder.

Direct Payment: Patients are given funds directly to purchase and manage services themselves. Within this group patients may have a direct payment to themselves, a representative or nominee, or they may choose to have their budget held by a third party such as the Support and Brokerage Service as a managed account

Personal Assistant: Care giver employed by, or for, an individual.