Operational Policy for NELCCG

Personal Health Budgets in NHS Continuing Healthcare

|  |  |
| --- | --- |
| **Document Title:** | Operational Policy for NELCCG Personal Health Budgets in NHS Continuing Healthcare |
| **Version No:** | V3.0 |
| **Latest version issued:** | 10 December 2019 |
| **Supersedes:** | All previous versions |
| **Name of Author (s):** | Julie Elliott  Continuing Healthcare (CHC) Specialist Nurse |
| **Consultation:** | EQIA Panel |
| **Approved by:** | Care Contracting Committee |
| **Approval date:** | 10 December 2018 |
| **Review date:** | 1 July 2022 |
| **Equality Impact Assessment Date:** | December 2018 |
| **Target Audience:** | Public |
| **Dissemination:** | CCG website, intranet and Global  newsletter |

|  |  |  |
| --- | --- | --- |
| **Version** | **Description of Amendments** | **Date** |
| 1.0 | New policy | 16/11/2018 |
| 2.0 | Minor amendments | 09/12/2019 |
| 3.0 | No legislative changes – review date extended by 6 months | 11/01/2022 |
|  |  |  |
|  |  |  |
|  |  |  |

**The on-line version is the only version that is maintained and valid. If this document has been printed or saved to another location, the reader must check that the version number matches that of the on-line version.**

Contents

[1. INTRODUCTION 4](#_Toc26875366)

[2. SCOPE 4](#_Toc26875367)

[3. OBJECTIVE 4](#_Toc26875368)

[4. IMPACT ANALYSES 5](#_Toc26875369)

[4.1 Equality 5](#_Toc26875370)

[4.2 Bribery Act 2010 5](#_Toc26875371)

[5. ROLE AND RESPONSIBILITIES 6](#_Toc26875372)

[6. CONTEXT 7](#_Toc26875373)

[7. BACKGROUND 8](#_Toc26875374)

[8. SUPPORT PLANNING 9](#_Toc26875375)

[9. GUIDING PRINCIPLES 9](#_Toc26875376)

[10. FIVE PRINCIPLES OF THE MENTAL CAPACITY ACT 2005 11](#_Toc26875377)

[11. HOW WILL IT OPERATE? 13](#_Toc26875378)

[12. WHAT SHOULD A SUPPORT PLAN INCLUDE? 14](#_Toc26875379)

[13. WHAT SHOULD BE CONSIDERED WHEN DRAFTING A SUPPORT PLAN? 15](#_Toc26875380)

[14. OWNERSHIP 16](#_Toc26875381)

[15. APPROVAL CRITERIA 16](#_Toc26875382)

[16. PATIENT CAPACITY AND SIGN OFF 18](#_Toc26875383)

[17. REVIEW AND DUTY OF CARE 18](#_Toc26875384)

[18. GOVERNANCE 19](#_Toc26875385)

[19. APPEALS 19](#_Toc26875386)

[20. REFERENCES 19](#_Toc26875387)

# 1. INTRODUCTION

This Operational policy document sets out North East Lincolnshire Clinical Commissioning Group’s (NELCCG) intentions to ensure that all patients meeting NHS Continuing Healthcare (CHC) eligibility criteria have the opportunity to be offered and/or receive a personal health budget (PHB) in line with national guidance. A key aim of this guidance is to ensure that a consistent and transparent approach is applied to the development and approval of all support plans.

NEL CCG will work in conjunction with its partner organisations to deliver an integrated PHB offer through the NHS Continuing Healthcare service team and dedicated personal health budget staff. An integrated PHB offer will be achieved through a system of support planning for patients who have chosen to develop a PHB in response to meet their health and social outcomes. This document operates within the wider guidance outlined by the Department of Health for co-production and patient centred commissioning and the National Framework for Continuing Healthcare (revised October 2018).

Support planning will assure NEL CCG that the patient has ownership throughout the process. The patient will lead the development of the plan, with assistance from CHC/PHB complex case nurses. If the patient is unable to prepare their own support plan, their contribution should guide the preparation of the support plan as much as possible. Support planning will allow the identification of desired health outcomes and related goals which can be referred to by the patient, family and health and social care professionals to promote improved health and wellbeing.

# 2. SCOPE

This Operational Policy includes all patients assessed as eligible for NHS Continuing Healthcare and meeting the criteria for a PHB.

A personal health budget is an amount of money assigned to an eligible individual to address assessed health and wellbeing needs. The personal health budget is planned and agreed between the individual and their local NHS team.

All patients newly eligible for NHS Continuing Healthcare from 1st April 2014 were offered and have the right to request a personal health budget as an alternative to a ‘traditional’ care pathway. From 1st October 2014 these individuals have a right to have a personal health budget. The CCG CHC Team record and report the numbers of patients being offered and taking up a PHB as part of the national benchmarking data.

A PHB is 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 wellbeing needs are met.

This Policy outlines the local procedure for achieving and 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.

# 3. OBJECTIVE

This document will act as a guide to support the process of planning, placing emphasis on ownership, co-production, transparency and support as and when required and will complement detailed process documents

This document will promote and offer patient choice and control of services received within Continuing Healthcare with the aim that there is the opportunity for the patient to move away from being a passive recipient of service provision.

*“Personal health budgets are founded on the principle that people can be experts in managing their condition, who with the right information, advice and support can make a good decision that improves their health and wellbeing outcomes” (6)*

# 4. IMPACT ANALYSES

## 4.1 Equality

The CCG is committed to creating an environment where everyone is treated equitably and the potential for discrimination is identified and mitigated.

As a result of preforming the screening analysis, the policy does not appear to have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage. The equality impact assessment can be accessed [here](https://portal.yhcs.org.uk/documents/5665646/17351999/EIA+Personal+Healthcare+Budgets+Policy/3ad66669-1d39-4ddb-85a3-a9c18010a023)

## 4.2 Bribery Act 2010

The relevance of the Bribery Act 2010 must be considered in respect of every policy.

It is considered the Bribery Act 2010 to be relevant to this policy. Under the Bribery Act it is a criminal offence to:

* Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
* Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so
* To bribe a foreign public official. A person will be guilty of this offence if they promise, offer or give a financial or other advantage to a foreign public official, either directly or through a third party, where such an advantage is not legitimately due
* If commercials organisation fail to embed preventative bribery measures. This applies to all commercial organisations which have business in the UK. Unlike corporate manslaughter this does not only apply to the organisation itself; individuals and employees may also be guilty.

These offences can be committed directly or by and through a third person and other related policies and documentation (as detailed on the CCG intranet) when considering whether to offer or accept gifts and hospitality and/or other incentives.

Anyone with concerns or reasonably held suspicions about potentially fraudulent activity or practice should refer to the Local Anti-Fraud and Corruption Policy and contact the Local Counter Fraud Specialist <http://www.northeastlincolnshireccg.nhs.uk/countering-fraud-in-the-nhs>

# 

# 5. ROLE AND RESPONSIBILITIES

|  |  |
| --- | --- |
| **Party** | **Key responsibilities** |
| Health & Social Care staff assessment of clients for consideration of eligibility | |  | | --- | | * Ensure consent is obtained prior to completing the CHC Checklist. If individual is unable to consent follow the Mental capacity Act (2005). * Complete the required documentation, Checklist and co-operate in completing the DST within 28 days of completing the Checklist * Ensure that the Fast Track application is fully completed and forwarded to NHS NEL CHC Hub for authorisation * Forward the relevant documentation to NHS NEL CHC Hub for FNC contributions and responsibility, when placing an individual within a nursing home in North East Lincolnshire for authorisation prior to placement | |
|  |  |
| **Party** | **Key responsibilities** |
| NEL CCG Continuing HealthcareTeam | |  | | --- | | * Receive Fast Track Tools to ensure the standards required are met and that they indicate eligibility for receipt of service * Maintain the continuing healthcare data base ensuring all referrals are recorded and that all correspondence is kept for each individual patient * Appoint a Clinical Commissioning Manager (CCM) to oversee, facilitate the assessment process * Review completed DST to ensure it is completed fully, in accordance with the National Framework, supported by robust clinical evidence and in an appropriate manner and that it has a clearly stated recommendation from the Multi-disciplinary Team who have completed it seeking further clarification as necessary * Ensure appropriate health professionals including a social care practitioner are in attendance at the MDT/DST process. If a social care practitioner is not available to take part this must be recorded in the patient’s notes * Verification of Consent, Checklists, Fast Tracks * Arrange for the DST to be presented to the Continuing Healthcare (CHC) Panel along with any supporting information * Write to the patient or their representative with the outcome and how to appeal * If verification of eligibility is given by the panel for 100% continuing healthcare, arrange the package of care based on the needs of the individual and provide costing’s of the package of care for approval * If the individual is not eligible for NHS CHC but is entitled to NHS FNC arrange for the payments to be made to the care home in a timely manner * Record all panel decisions in individual’s case records (panel minutes) and ensure all communication of panel decisions is undertaken in a timely and professional manner * Ensure patient case management arrangements are in place * Ensure reviews are undertaken in line with national policy and at other times as required * Ensure that the CCG is alerted to issues with Care providers which may compromise quality of care | |
|  |  |
| **Party** | **Key responsibilities** |
| NEL Continuing Healthcare Panel | * Consider all applications for continuing healthcare eligibility in a timely and robust manner and verify recommendation * Consider all patients who no longer meet the eligibility for 100% care packages and verify recommendation * Verify the eligibility of a client/patient for a NHS funded package of care * Review recommendation that an individual is no longer eligible for NHS FNC |
|  |  |
| **Party** | **Key responsibilities** |
| NEL CCG NHS Continuing Healthcare funding, care package procurement | * Ensure that an appropriate selection of packages including PHB, are offered to each client/patient based on their individual care plan * Review all complex packages of care ensuring value for money has been considered * Ensure rationale for selected PHB offer is recorded on system/database and offer letter * Seek assurances that providers are fit and proper organisations to provide care * Ensure that a database of clients and packages is maintained * Ensure all documentation/letters are completed and recorded on database |
|  |  |
| **Party** | **Key responsibilities** |
| NEL CCG Contracts and contract monitoring | * Utilise the NEL CCG Policies for patients being placed within a care home with nursing * Seek assurances in all cases that the providers have CQC accreditation * Monitor the usage of Personal Health Budgets ensuring quality of provision and value for money * Develop contracts with providers that ensure high quality care delivery and value for money. * Quality monitor all contracts. * Annual quality audits undertaken * Ensure all individuals who are offered a PHB are aware this is a signed contract between themselves and the CCG and as such will be subject to review and audit. |

# 6. CONTEXT

Personal Budgets have been used by social services since 1997 for adults of working age and were extended to older people (2000). From 2003, Local Authorities were required to offer direct payments to everyone using community care services.

The government continues to place an emphasis on the integration of health and social care in the provision of ‘patient centred’ care, with recognition that personal health budgets ‘might be a vehicle to promote better integration’ (1).

To examine personal health budgets within the NHS in more detail, a three year pilot program was initiated in 2009 with a final independent evaluation report released in November 2012 (1). Some of the headlines highlighted within the national evaluation where:

Personal health budgets were associated with an improvement in the care related quality of life and psychological wellbeing for both patients and carers.

Those with the highest level of need found the biggest impact on their quality of life and well-being.

Personal health budgets were most effective against planned outcomes when patients and carers were given clear information and guidance, with choice and control over a selection of services and how these were purchased and provided.

# 7. BACKGROUND

What is NHS Continuing Healthcare?

‘NHS Continuing Healthcare’ means a package of on-going care that is arranged and funded solely by the NHS where the individual has been found to have a ‘primary health need’ as set out in ‘The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (Revised 2018)’. Such care is provided to an individual aged 18 or over, to meet needs that have arisen as a result of disability, accident or illness. The actual services provided as part of the package should be seen in the wider context of best practice and service development for each client group. Eligibility for NHS Continuing Healthcare places no limits on the settings in which the package of support can be offered or on the type of service delivery.

What is Children’s Continuing Care?

The National Framework for Children’s Continuing Care defines a children’s continuing care package as a bespoke package of care that is offered to children or young people under the age of 18 and their families. The individual’s needs are complex, arising from disability, accident or illness and they cannot be met by universal or specialist services. This also includes the provision of continuing care packages for children and young people with challenging behaviour. For the majority of children and young people the continuing care element will be part of a tripartite funding stream along with education and social care; a number of these children and young people will have an Education, Health and Care Plan following implementation of the SEND agenda.

What are Personal Health Budgets?

Personal health budgets are an amount of money to support a person’s identified health and wellbeing needs, planned and agreed between the person and their local NHS team. A personal health budget is not new money, but rather enables people to use funding in different ways, ways that work for them. The NHS vision for personal health budgets is to enable people with long term conditions and disabilities to have greater choice, flexibility and control over the health care and support they receive.

**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 East Lincolnshire GP
* Individuals eligible for NHS Continuing Healthcare or Children’s

Continuing Healthcare 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
* Individuals accessing mental health services
* Individuals with long term conditions
* Individuals who are wheelchair users
* End of life and fast track users

**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 with the legal right to do so on their behalf then they will not be eligible to receive a PHB

If a person moves CCG’s, the commissioning responsibility will be established using the guidance policy “Who Pays? Establishing the Responsible Commissioner” (DoH)

If equipment purchased through a PHB and is no longer required e.g. if it no longer meets assessed needs, or the individual dies, North East Lincolnshire reserves the right to request the item to be returned. However people requiring equipment will follow the referral process e.g. occupational health or physiotherapy and may require equipment to be authorised by the CCG’s equipment panel.

# 8. SUPPORT PLANNING

At the heart of a personal health budget is a support plan. This document creates an agreement between the local NHS and the individual that sets out:

* The person’s health and wellbeing needs.
* The amount of money available to meet those needs.
* How this money will be spent.

Prior to support planning the patient must prioritise their needs when identifying outcomes to be met by their personal health budget. Patients may also want to achieve outcomes which address both health and social care needs.

“The care planning process focuses on goal setting and outcomes that people want to achieve, including carers, resulting in an overarching single care plan which is owned by the person. The important aspect of this is that the care planning discussion has taken place with an emphasis on goal setting, equal partnership and negotiation and shared decision making.”

The support planning process will culminate in the production of a support plan which is objective, providing an easy point of reference for both health and social care professionals and budget holders alike. For the budget holder, they can see how they have chosen to meet their identified outcomes and their decision making process. Staff can examine the rationale behind the patient’s choice; examine whether there are any unmet needs and whether any risk is managed to an acceptable level.

NELCCG is committed to promoting individual choice where available, whilst supporting them to manage risk positively, proportionately and realistically. Health professionals should support and encourage the individual’s choice as much as possible, and keep them informed in a positive way, of issues associated with those choices and how to take reasonable steps to manage them.

# 9. GUIDING PRINCIPLES

The key principles which underpin the support planning process are:

* All patients eligible for NHS Continuing Healthcare are offered the option of a personal health budget from 1st April 2014.
* During the NHS Continuing Healthcare assessment process, patients will be provided with information about the personal health budgets offer and how this process would apply should they meet the NHS Continuing Healthcare eligibility criteria.
* All patients eligible for NHS Continuing Healthcare will have their eligibility reviewed in line with the national framework which is normally at 3 months and annually thereafter.
* In addition, patients in receipt of a personal health budget will be subject to a financial review to ensure that allocated funding is used as outlined in the support plan and continues to meet their identified needs. This financial review will align with the NHS Continuing Healthcare eligibility review.
* The support planning process centres on co-production; the formation of an equal partnership between the patient, health and social care professionals.

“*Emphasis on co-production, with real benefits of improved patient choice and control can only be realised if the patient has ownership, acting as an equal partner”*

* No funding is released until an approved support plan is in place.
* The support plan will identify need and associated cost and may be subject to increase or decrease in the level of funding.
* The patient will have access to full and transparent information, advice and services. This can range from understanding of the total allocation assigned to their budget, through to tasks involved in acting as an employer.
* Roles are clearly defined, namely the patient leads discussion, production of outcomes and goals, supported when he/she feels necessary. The health and social care professional(s) will assist in discussion, signposting and suggesting ways to address needs, the examination of unmet needs and ensuring that risk is managed to a level acceptable to both clinicians and to the patient. (2)
* Patient innovation is vital. As an alternative to traditional care packages, personal health budgets afford individuals the opportunity to examine cost effective methods of addressing their needs which would otherwise be unavailable. The national pilot evaluation found that imposing additional restrictions on top of national guidance had a significant negative effect.
* A clear distinction is drawn between putting a person at risk and enabling them to manage risks appropriately.
* A functioning market needs to exist where individuals can directly or with support, purchase services that they need/want. The market may involve providers from the statutory sector, the voluntary sector, social enterprises and the private sector.
* A PHB will not procure/support funding for services already commissioned by NELCCG
* There is no formal entitlement to holiday funding within a PHB, but for those individuals who do not benefit from carers respite, the CCG acknowledges that there may be additional staffing and/or equipment costs to support someone away from their home in an environment which may not be suitably adapted.
* The CCG will consider funding up to 14 days support and appropriate equipment hire to enable a holiday or break to take place. Any additional cost must be approved by the CCG prior to any holiday being booked. The CCG reserves the right to refuse to fund support or equipment over and above that required to meet assessed need. The PHB will not cover PA travel, meals, accommodation or anything not related to the agreed support plan.
* Any other breaks or additional costs the individual/representative/nominated person must ensure they are insured to travel. The PHB cannot be used to pay for these insurances. It is the responsibility of the individual to fund this.
* Funding for travel and mileage-a PHB can cover travel costs in some circumstances such as bus fares but only for activities documented in the support plan

Personal assistants (PAs), any individual wishing to employ a PA must ensure a DBS (disclosure and baring service) check is undertaken excluding family members.

**Employing family members**

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 promote the welfare of a child for whom direct payments are being made. The CCG’s will need to make these judgements on a case by case basis”

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 individuals care needs. The individual must provide a reason why that person is chosen or preferred to be employed. They will also need to consider the impact on the employee such as possible loss of carer allowance and potential emotional strain. The individual will need to demonstrate they understand this and look at ways to mitigate this happening.

**It is important to note that once an individual is in receipt of a PHB this is subject to regular review and as such there may be changes to the budget/cost allocated.**

A key recommendation associated with the personal health budget evaluation was: **“Greater clarity is needed regarding what types of services and support people can secure with their personal health budget”.** With this in mind particular attention needs to be paid to the remit of the budget from an early stage, national guidance on exclusions and allowing the patient to lead discussion.

# 10. FIVE PRINCIPLES OF THE MENTAL CAPACITY ACT 2005

In order to complete a support plan the patient firstly has to be eligible and also have the capacity to make their own decisions.

In cases of uncertainty around a patient’s capacity it will be necessary to undertake an assessment in accordance with the Mental Capacity Act, 2005 (3). This will be managed as part of the NHS Continuing Healthcare assessment process and may include the use of an Independent Mental Capacity Advocate (IMCA) service.

The five key principles of the Mental Capacity Act are as follows:

* A person must be assumed to have capacity unless it is established that he/she lacks capacity. Assumptions should not be made that a person lacks capacity merely because they appear to be vulnerable.
* A person is not to be treated as unable to make a decision unless all practicable steps to help him/her do so have been taken without success.
* A person is not to be treated as unable to make a decision merely because he/she makes an unwise decision. Patients will wish to balance their safety with other qualities of life such as independence/family life. This may lead them to make choices about their safety that others may deem to be unwise, but they have the right to make those choices.
* An act or decision made under this Act for or on behalf of a person who lacks capacity must be done, or made, in his/her best interests. Best interest decisions in safeguarding take account of all relevant factors including the views of the patient, their values, lifestyle and beliefs and the views of others involved in their care.
* Before the act is completed, or the decision is made it must be considered whether the purpose for which it is needed can be as effectively achieved in a way that is least restrictive of the person’s rights and freedom of action. Where a person lacks capacity to make a decision, any use of restriction and restraint must be necessary and proportionate and to prevent harm to that person. Safeguarding interventions need to balance the wish to protect the patient from harm with protecting other rights, such as right to family life.

Where an individual is assessed as eligible for NHS Continuing Healthcare and is identified as lacking capacity the NHS Continuing Healthcare complex case nurse will work with the patient’s nominated representative to provide support planning guidance.

The representative must be either:

* Someone who has been legally given lasting or enduring power of attorney by the person at some point before they lost capacity
* Someone with parental responsibility for a child or a 16-17 year old who lacks capacity
* Someone who has been appointed a legal deputy for the person by the Court of Protection under section 16 of the Mental Capacity Act 2005
* A person appointed to the role by the CCG
* Someone who has capacity can choose a representative

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.

A representative should not be agreed if:

* The 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 individual for which they will be paid but also acts or plans to act as a representative for the direct payment.

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.

Even if an individual does not meet the criteria for use of the Independent Mental Capacity Advocacy Service (IMCA) service and regardless of whether or not they lack capacity, they may wish to be supported by an advocate. In addition, any person may choose to have a family member or other person (who should operate independently of NEL Local Authority or NELCCG) to act as an advocate on their behalf. Care must be taken to establish if there is Power of Attorney for Health and Welfare held by anyone acting on behalf of an individual who lacks capacity. Also to be aware of the legal or other implications that might apply because of such Powers having been granted.

11. HOW WILL IT OPERATE?

****

*Fig1. Stages of the personal health budgets process (9)*

* The Continuing Healthcare complex case nurse will provide guidance to eligible patients to assist with the support planning process.
* The patient’s eligible needs will be assessed by the Multi-disciplinary Team within the CHC process, using the Decision Support Tool (DST). The domain levels specified in the DST will be entered into a budget setting tool. The budget setting tool will assign a recommended number of ‘traditional’ support hours based on the domain levels in the DST. Local benchmark support rates (in effect, the rates at which the CHC Team commission care packages), are applied to the recommended support hours to provide the indicative personal health budget. This provides the person with a guide to how much money they may have available to fund their support plan and will be proportionate to the patient needs (note: this budget may change following review of eligibility).
* This indicative budget is an approximation of the final cost allocation which will be provided to the patient in response to the finalised, approved support plan. It allows a constructive discussion to take place and helps inform the patient of the resources at his/her disposal.
* While patients will be responsible for developing their own support plan, CCGs statutory responsibility for their duty of care remains. In order to continue to fulfil this responsibility the Indicative Budget offered is a reasonable amount within which the patient can plan for their care.
* Guidance can be found in the respective process documents covering the main stages of CHC/PHB’s. This guidance provides information from initial consultation & planning, finalising & submission, and receipt & monitoring.
* If the patient selects non-traditional providers then the following checks are carried out for assurance; respective training and qualifications, Disclosure and Barring Service checks, appropriate level of insurance (third party, public liability and redundancy) and when appropriate checks are completed that the provider is registered with their respective Local Authorities and CCG contract teams.
* The budget holder will need to decide on how to receive and manage payments from the three options available to them with the completion of respective paperwork, i.e. Notional, Direct, and Third Party payments.
* Once the indicative budget is refined to reflect a final budget, alongside clear links to outcomes, it will be submitted for sign off by the NEL CHC Decision Forum.
* The validated support plan will provide a reference for the patient and clinician within the CCG, with expenditure monitored at set intervals. In response to fluctuating health needs both clinician and patient can highlight the requirement for a reassessment and for the review and amendment (if required) of their respective support plan. Alongside any concerns indicating a need for ad-hoc review of needs, the plan will specify timescales at which review and monitoring will take place.
* The personal budget holder will be responsible for maintaining adequate financial records relating to the management of their allocated funding and will be required to submit documents such as bank statements, invoices and receipts so that they can be checked as part of the financial review process

# 12. WHAT SHOULD A SUPPORT PLAN INCLUDE?

Details which are required to be present within a support plan will be considered prior to completion. If the patient wishes to complete the plan independently of any optional support, these guidelines will form part of an initial briefing alongside respective patient information. Should the patient wish to complete in conjunction with other support then the responsibility also lies with this professional to bear guidance in mind.

In Control (A National Charity providing guidance on PHBs) provides a paper which outlines key criteria for inclusion in support plans. These criteria need to be answered and evidenced in the plan for sign off and implementation:

* What is important to me and what is important for me?
* What is working well, that I want to maintain and what is not working well, that I need to change?
* How I will be supported to live my chosen lifestyle and manage my health condition?
* How my personal health budget will be spent?
* How my support, treatment or care will be organised and managed?
* How I will stay in control of my decision-making?
* What I will do to make this happen (Action Planning)?

The support plan provides a structure for addressing the above in turn logically, allowing Health Professionals and budget holders to easily refer to and interpret when required.

Clear links need to be evident between the proposed service provision, the outcomes/goals identified by the budget holder and their specified eligible needs.

Prioritising prevention and early intervention over more reactive service provision can be beneficial in promotion of greater wellbeing and independence, reducing need for on-going support. As such, clear identification of such services can be beneficial in sign off of the support plan.

Clear and concise action planning needs to be present, breaking down the implementation into a series of actions indicating responsibilities and any respective timescales.

Choice of the mechanism of receipt and management of budget, i.e. from the three payment options to be made available.

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

* Redundancy costs (if not already covered by insurance policy) when a service provided by PAs ceases, if the PA is entitled. It is important to note that if insurance costs are included in your care plan a copy is required to be sent to the CCG once obtained to keep on record and if appropriate insurance is not in place the person will be directly responsible to fund any PA’s redundancy from their own private estate.
* Maternity pay if the PA is entitled
* Long term sickness
* Training to support newly employed staff and specialised training from health professionals if required which may include competency sign off from the relevant professional.
* Pensions

# 13. WHAT SHOULD BE CONSIDERED WHEN DRAFTING A SUPPORT PLAN?

The personalisation of healthcare and the move to person centred commissioning means a substantial culture change. We need to balance our commitment to a continued duty of care and the appropriate management of risk, with allowing patients to find innovative ways of managing their condition in a position where their expertise is invaluable.

Risk Management

*“We need to adopt a more risk enabling approach when thinking about personal health budgets. At one extreme there are some things that should not be approved because there is evidence that they are harmful…At the other end of the spectrum there are things that we know are safe but where we do not have the evidence that they will work…Individuals are used to thinking about risk and may have a different opinion of what risk(s) are acceptable to them. We will need to consider appropriate treatment or service on a case by case basis, thinking holistically about the individual and what may or may not work for them.”*

The three governing principles for effective risk management highlighted by the Department of Health (10) are:

* People have the right to live their lives to the full as long as that doesn’t stop others from doing the same.
* Acknowledge that there will always be some risk, and that trying to remove it altogether can outweigh the quality of life benefits for the person.
* Continue existing arrangements for safeguarding people.

If risks are identified following the support planning process which remain unresolved then all efforts must be made to mitigate them to a level acceptable to both the NHS team and the prospective budget holder. Difficult decisions and high cost packages will be escalated to a Risk and Quality Panel which will establish a resolution and authorise funding of these cases.

The Risk and Quality Panel consists of a group of professionals from the CCG, Local Authority and Commissioned services who examine unresolved risks outside of support planning and review. Examples include, budget holder capacity, safeguarding concerns, endangerment of third parties, legal/regulatory issues, misuse of funds, requested service availability, advice and support for unresolved complex cases and high cost packages of care and support.

When a patient has capacity to decide to live with a level of risk, then they are entitled to do so. The distinction between enabling individuals to live with reasonable risk and putting an individual at risk needs to be kept in mind and balanced with NELCCG’s duty of care to its patients.

The Risk and Quality panel is required to bear in mind that the allocation of any resources to support any individual patient may reduce the availability of resources for investments in agreed services for the wider CCG patient population.

North East Lincolnshire is responsible for authorising PHB’s and has an obligation to ensure that:

* Health and wellbeing 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 individuals to live independent lives and 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 considerations.
* North East Lincolnshire CCG’s reputation is protected

North East Lincolnshire 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.

# 14. OWNERSHIP

With the importance of ownership, decisions should centre on agreement of the management of clinical and financial risk to a level acceptable to the budget holder, clinician and CCG. For this to be effective it is important for those patients with capacity to do so, to make an informed choice. It is important that the support plan include a contingency, which can detail actions which would need to be taken if an anticipated risk arises.

# 15. APPROVAL CRITERIA

There are three key considerations which need to be kept in mind throughout the planning process and during the sign off/authorisation of the submitted plan.

* Are the services/support lawful? ie legitimately with the scope of the funds and resources that will be used with any respective regulatory requirement(s) addressed e.g. health and safety, employment law and both common and criminal law.
* Can the plan effectively meet the budget holders identified goals? I.e. supporting independence, health and wellbeing, use of funds and resources in accordance with principle of best value and addressing any identified risks. Clear, strong links with identified outcomes shown in the plan.
* Is the plan affordable, i.e. within specified allocation? ie all costs identified and can be realistically met within budget.
* A PHB may only be spent on services agreed between the individual and the professional detailed in the support plan that will enable them to meet their agreed health and wellbeing outcomes. Examples may include:
* Delegated health tasks
* Personal assistance to help with activities of daily living and personal care including help with personal hygiene, support with meal preparation and food and fluid intake.
* Equipment to support with daily living tasks if required should go through the appropriate referral route for equipment services.
* Activities that help individuals become more active in the community, improving physical/mental health
* Respite or short breaks
* Complimentary treatments could be considered by the CCG if demonstrated they would meet a PHB holders health and wellbeing outcomes

National guidance for exclusions in addition to unlawful services, gambling, debt repayments, tobacco and alcohol or close family member living in the same household is as follows:

* Emergency or unplanned care.
* Medication, prescriptions and other chargeable services.
* Primary care services, e.g. visiting a GP/DN
* Inpatient care
* Food and clothing
* Utility bills
* Rent, mortgage or leases on property
* Funded nursing care

The above is not an exhaustive list. North East Lincolnshire 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.

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 (eg. Local Authority housing services or are coveredc by existing contracts or mechanisms such as community equipment, district nursing).

Should an eligible patient wish to undertake their support planning in conjunction with support from a 3rd Party the member of staff will advise the patient about the approval process but will explain that they remain involved in the approval process.

All requests in relation to delivery of care packages will be given due consideration on a case by case basis.

Individuals accepting a direct payment will be asked to enter into formal agreement and set up a separate bank account. The individual can choose to have a supported service provider to hold the funds and make payments on their behalf.

Following review there may be changes to the actual budget, it is the right of the CCG to regularly review and update the plans of care and budget cost. This may mean either an increase or decrease in the budget offered.

All PHBs must be agreed and signed by the individual or there representative and authorised by the CCG prior to any transfer of funds.

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.

# 16. PATIENT CAPACITY AND SIGN OFF

A support plan will not be agreed if there are serious concerns that it will not meet a patient’s needs or that it may expose anyone to unacceptable risks.

Support plans will require three signatories for sign off:

* Patient sign off.
* Sign off indicating CHC clinical agreement with health outcomes and selection of services.
* Sign off authorising allocation of requested budget amount by the CCG.

Patients are assumed to have capacity to consent and to be able to make their own decisions, unless there is evidence to the contrary.

In the event that under scrutiny the support plan does not meet health outcomes, an unmanaged risk is identified or the plan does not meet financial requirements, then it is returned to the patient without sign off providing reasons why, for further consideration and resubmission once highlighted issues are addressed.

If the support plan submitted for approval exceeds the set indicative budget and on examination evidences that it meets additional, previously unidentified needs then the patient and clinician need to discuss further and if necessary accommodate additional needs through a budget recalculation.

Should a patient feel that a decision is unjustified or made without full consideration of reasoning behind choice, there is a right to appeal using the PHB/CHC appeals process.

Personal health budgets are a voluntary alternative to traditional care pathway, and once a budget is approved and implemented the individual can consider ceasing the budget and returning to a traditional care pathway should issues arise. The patient need not offer justification for their decision, however feedback is welcomed particularly so if it reflects on process or service provision.

Should the patient choose to cease their personal health budget outstanding monies will be reclaimed. The patient may be reassessed to determine both current NHS Continuing Healthcare eligibility and the most appropriate care package to meet their identified health needs. This may mean that the CCG will hold a notional budget on behalf of an individual.

PHB’s are audited by the NELCCG, if it is identified that there has been mismanagement of funds i.e. where money has been spent on none identified needs or equipment without authorisation the individual will be responsible for repaying the cost and will be required to reimburse the CCG of those costs.

# 17. REVIEW AND DUTY OF CARE

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

Reviewing will be at a frequency and intensity which is proportionate to vulnerability, risk, need and value.

The CCG will ensure that any risk is documented 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.

The Personalised support plan will be reviewed against the following criteria:

* Whether the support plan is meeting the health and wellbeing outcomes
* Whether the personalised support plan has adequately addressed health and wellbeing needs
* Whether there have been any change in circumstances
* Whether risks have increased/decreased/stayed the same
* Whether contingency/crisis plans have been used
* Cost neutrality or improved value for money
* Quality of support and services

The CCG will report on the balance of the PHB to the individual drawing attention to any significant variations or trends, irregularities and issues that require further investigation (such as referral to the local counter fraud service). The CCG’s nominated Local Counter Fraud specialist may become involved in financial audit.

# 18. GOVERNANCE

North East Lincolnshire CCG will have strategies and processes in place for routine reporting on a quarterly basis to assure overall financial and budgetary management. This will include data intelligence which can inform market development and management.

For internal governance reporting to the executive group and reporting to health and wellbeing boards on commissioning intentions for the wider roll out of PHBs.

The CCG retains a risk register for PHB’s and ensure a risk assessment is completed for each individual in receipt of a PHB.

The CCG has a responsibility to undertake clinical reviews at a minimum of quarterly and then annually or sooner if indicated.

# 19. APPEALS

Details of appeals processes can be found in the overarching policy for CHC

# 20. REFERENCES

* Evaluation of the personal health budget pilot programme. PSSSRU, November 2012.
* A guide to setting personal health budgets for people who are eligible for NHS Continuing Health Care. DoH, April 2012.
* Mental Capacity Act 2005, www.legislation.gov.uk/ukpga/2005/9/contents
* Personal Health Budgets Guide – Implementing effective care practice, DoH, June 2012
* Personal Health Budgets: Early experiences of budget holders, Fourth Interim Report. PSSRU, October 2011.
* Personal health budgets guide – The future system for personalised health care. Personal health budgets delivery team and the National personal health budgets Provider Development Forum, September 2012.
* Personal Health budgets: A guide for GP’s. Royal College of General Practitioners, January 2013.
* 7 criteria for a good personal health plan. In Control,

www.supportplanning.org/HealthBudgets/health\_budgets.html

* Personal health budgets guide. Integrating personal budgets – early learning. Personal Health Budgets Delivery Team, October 2012.
* Independence, Choice and risk: a guide to best practice in supported decision making. Department of Health, May 2007.
* Personal health budgets guide. How to get good results – key learning from the evaluation. [www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/GetGoodResults](http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/GetGoodResults)
* NELCCG Ethical and Pragmatic Decision Making Policy