

Personal Health Budget Policy

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1. Introduction

- 1.1. Personal Health Budgets (PHB) are a key component of the Government drive for wider personalisation of NHS care to give people greater individual choice and control over how their care is planned and delivered.
- 1.2. The PHB policy sets South Tyneside's Clinical Commissioning Group (ST CCG) offer for who can receive a PHB in line with national legislation and guidance. It describes the criteria under which ST CCG will authorise a PHB through existing NHS funded services, Third Party arrangements or Direct Payments, on an individual basis, by balancing choice, risk, rights, and responsibilities.
- 1.3. Within this context, ST CCG is legally obligated and accountable for meeting statutory duties, for instance in relation to quality, financial resources, equality, health inequalities and public participation.
- 1.4. In making these arrangements, ST CCG has regard to relevant law and guidance, including its duties under the National Health Service Act 2006, the Health and Social Care Act 2012, the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012; and the National Health Service (Direct Payments) Regulations 2013 (as amended) and relevant guidance issued by NHS England.
- 1.5. The ST CCG PHB programme will be delivered within the remit of its commissioning budget. The CCG expenditure has to be affordable within the limits of available resources with an emphasis on the quality of care and positive outcomes for people and their families.
- 1.6. ST CCG's PHB programme is delivered on behalf of ST CCG by the Joint Commissioning team in collaboration with the Local Authorities Self Directed Support Team. This ensures consistency and integration for residents. The duties and functions outlined throughout the document are delivered by South Tyneside's Self-Directed Support Team.

2. Policy Statement

- 2.1. The policy sets out ST CCG offering for those who can receive a personal health budget in line with national legislation and guidance.
 - 2.2. The policy explains the following:
 - ST CCG personal health budget offer.
 - Eligibility and exclusions for a personal health budget.
 - Arrangements for managing personal health budgets.
 - Roles and responsibilities of ST CCG, commissioned services, and service users with regard to the implementation of personal health budgets.
 - The approach to clinical, organisational, and financial risks associated with
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delivering personal health budgets on an individual and organisational level.

3. Legal, Statutory, Mandatory, and Best Practice Requirements

- 3.1. The Government's vision for PHBs is to enable people with long term conditions and/or disabilities to have greater choice, flexibility and control over the health care and support they receive.
- 3.2. The policy has been drawn up in response to the following legislation:
 - The NHS Act 2006 (as amended).
 - The Health Act 2009.
 - The National Health Service (Direct Payments) Regulations 2013 as amended by the National Health Service (Direct Payments) (Amendment) Regulations 2013.
 - Special Educational Needs and Disability Regulations 2014.
 - Special Educational Needs (Personal Budgets) Regulations 2014.
 - Direct Payment for Healthcare: Guiding on Ensuring the Financial Sustainability of Personal Health Budgets.
 - Data Protection Act 2018
 - Mental Capacity Act 2005.
 - Equality Act 2010.
 - The NHS Long Term Plan 2019.
- 3.3. At all times, all users of this policy, ST CCG respective employees, staff on temporary contracts and NHS funded services supporting the delivery of PHBs must comply with all laws, statute, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the user is bound to comply, in relation to this policy.

4. Scope

- 4.1. The scope of this policy includes individuals who have been assessed as eligible for a PHB.
- 4.2. This Policy applies to Governing Body Members, Clinical Leads, Committee Members and all staff and services including those employed on permanent or fixed term contracts, interims, self-employed contractors, working for, or on behalf of NHS South Tyneside CCG.

5. Definitions

- 5.1. **Co-Ordinator** - A co-ordinator is a person who coordinates services on behalf of an individual in health care, rehabilitation, and social work settings. A co-ordinator is responsible for assessment and regular review of support that have been commissioned on behalf of the individual.
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- 5.2. **Children's Continuing Care** - An equitable, transparent, and timely process for assessing, deciding, and agreeing bespoke continuing support packages for children and young people funded by the NHS whose health needs in this area cannot be met by existing universal and specialist services. Assessment of these needs and the delivery of bespoke packages of care to meet them will take place alongside services to meet other needs, including education and social care funded by the relevant local authority (Department of Health 2010).
 - 5.3. **Continuing Healthcare** - Continuing Healthcare (CHC) services apply to adults over the age of 18 years. It is a complete package of ongoing care arranged and funded solely by the NHS, where it has been assessed that the individual's primary need is a health need. It can be provided in any setting including in a person's own home. Eligibility for CHC means that the NHS funds all the care that is required to meet their assessed health needs and includes elements of social care. In care homes, for CHC funded residents the NHS also makes a contract with the care home and pays the full fees including for the person's accommodation and all their care (Department of Health 2009).
 - 5.4. **Direct Payments** - Payments made to an individual who is eligible for a personal health budget and who agrees to receive and use the money to enable them to make their own arrangements to meet their identified needs.
 - 5.5. **Disclosure and Barring Service (DBS)** - Disclosure and Barring Service helps employers make safer recruitment decisions and prevents unsuitable people from working with vulnerable groups. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
 - 5.6. **Notional Personal Health Budget** - ST CCG manages the personal health budget money on the individuals' behalf and commissions/procures or provides the goods and services set out in the care and support plan.
 - 5.7. **Personal Health Budget (PHB)** - The NHS England definition of a personal health budget is a personal health budget is an amount of money to support the identified healthcare and wellbeing needs of an individual, which is planned and agreed between the individual, or their representative, and their local clinical commissioning group (CCG). It isn't new money but a different way of spending health funding to meet the needs of an individual
 - 5.8. **PHB Offer** - The PHB offer describes who has a 'right to have' a PHB and who has a 'right to ask' for a PHB within NHS ST CCG. PHBs are not means tested. If an individual is included within the 'right to have' group outlined within the CCGs' offer (section 7) and they meet the requirements of this policy, they will be entitled for consideration of a PHB.
 - 5.9. **Safeguarding** - Safeguarding is defined as 'protecting children and adult's right to live in safety, free from abuse and neglect.' (Care Act, 2014).
 - 5.10. **Support Plan** - A Support Plan describes how an individual will use their personal health budget to meet their needs and achieve agreed health outcomes. It is likely to have a wider scope than a traditional health "care plan".
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- 5.11. **Support Service Organisations** - Support Service Organisations can provide a range of services to support the employment of Personal Assistants, including payroll and ensuring that the requirements of employment legislation are met. They can also provide brokerage support with creating the support plan.
- 5.12. **Managed Account** - an organisation commissioned by the CCG manages the personal health budget money by holding it on the individual's behalf and buys or provides the goods and services set out in the care and support plan.

6. Responsibilities

- 6.1. **Lead Manager** - The nominated CHC lead in the Joint Commissioning team is responsible for monitoring the implementation of and updating this Policy.
- 6.2. **All Staff** - All individuals working for, or on behalf of the organisation(s) listed within Scope, including those employed on permanent or fixed term contracts, interims, self-employed contractors, Governing Body Members, Clinical Leads, Locality Leads, and volunteers are responsible for complying with this Policy.
- 6.3. **All Line Managers** - All Line Managers are responsible for ensuring that their teams comply with this Policy.
- 6.4. **Senior Responsible Officer** - The ST CCG Accountable Officer is accountable for this Policy, and for supporting the implementation thereof.

7. Principles and Key Characteristics for the Delivery of Personal Health Budgets

- 7.1. There are a series of national key principles that underpin the delivery of PHBs and personalisation in health which ST CCG will adhere:
- 7.1.1. **Upholding NHS principles and values** - The personalised approach must support the principles and values of the NHS as a comprehensive service which is free at the point of use, as set out in the NHS Constitution. It should remain consistent with existing NHS policy, including the following principles:
- Individuals and their carers should be fully involved in discussions and decisions about their care using easily accessible, reliable, and relevant information in a format that can be clearly understood.
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- There should be clear accountability for the choices made.
 - No one will ever be denied treatment as a result of having a PHB.
 - Having a PHB does not entitle someone to additional or more expensive services, or to preferential access to NHS services.
 - There should be efficient and appropriate use of current NHS resources.
- 7.1.2. **Quality** – safety, effectiveness and experience should be central. The wellbeing of the individual is paramount. Access to a PHB will be dependent on professionals and the individual agreeing a care and support plan that is safe and will meet agreed health and wellbeing outcomes. There should be transparent arrangements for continued clinical oversight, proportionate to the needs of the individual and the risks associated with the support package.
- 7.1.3. **Tackling inequalities and protecting equality** – PHBs and the overall movement to personalise services can be a powerful tool to address inequalities in the health service. A PHB must not exacerbate inequalities or endanger equality. The decision to set up a PHB for an individual must be based on their needs, irrespective of race, age, gender, disability, sexual orientation, marital or civil partnership status, transgender, religion, beliefs or their lack of the requisite mental capacity to make decisions regarding their care.
- 7.1.4. **PHBs are purely voluntary** - No one will ever be forced to take more control than they want.
- 7.1.5. **Making decisions as close to the individual as possible** - Appropriate support should be available to help all those who might benefit from a more personalised approach, particularly those who may feel least well served by existing services / access, and who might benefit from managing their budget.
- 7.1.6. **Partnership** - Personalisation of healthcare embodies co-production. This means individuals working in partnership with their family, carers, and professionals to plan, develop and procure the services and support that are appropriate for them. It also means CCGs, local authorities and healthcare providers working together to utilise PHBs so that health, education, and social care work together as effectively as possible.
- 7.2. In developing PHBs, ST CCG via the Joint Commissioning Team, The Continuing Health Care Lead will ensure that the following national characteristics of a PHB are met. This includes ensuring that for those individuals who are case managed through the Local Authority that there are clear processes in place to ensure compliance to the national guidance. This includes being assured that the:
- 7.3. The individual with a personal health budget (or their nominee or representative) should:
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- Be fully involved in developing their personalised care and support plan and agree who else is involved.
- Be able to agree the health and wellbeing outcomes they want to achieve, together with relevant health, education, and social care professionals.
- Know how much money is available to meet the assessed health and wellbeing outcomes agreed in the personalised care and support plan.
- Have enough money in the budget to meet the assessed health and wellbeing needs and outcomes agreed in the personalised care and support plan.
- Have the option to manage the money as a direct payment, a notional budget, a third-party budget, or a mix of these approaches.
- Be able to use the money to meet their outcomes in ways and at times that make sense to them, as agreed in their personalised care and support plan.

8. ST CCG PHB Offer 2021-22

- 8.1. ST CCG is required to set out and publish its offer for PHBs and review this arrangement on a yearly basis. ST CCG PHB offer reflects NHS England guidance and is outlined below.
- 8.2. The following groups have a legal right to have consideration for a personal health budget from the CCGs.
- Adults who are eligible for NHS Continuing Healthcare (CHC) as defined by the National Framework for Continuing Healthcare and NHS-funded Nursing Care, and the families of children eligible for Continuing Care as defined by the National Framework for Children and Young People's Continuing Care. In the case of children this refers to the element of their support package that would normally be provided by the NHS once they become "continuing care" eligible and not the elements of their package provided by social care or education.
 - All NHS CHC packages delivered in a home care setting, excluding fast track NHS CHC
- 8.3. In 2019/20, the Department of Health and Social Care announced in March 2019 that the right to have a PHB extended to the following groups:
- People eligible for an NHS wheelchair.
 - People who access after-care services under section 117 of the Mental Health Act.
- 8.4. The Joint Commissioning Team and CHC lead on behalf of the CCG are responsible to provide assurance to the CCG that there are processes and procedures in respect to people who are funded through either CHC or S117. At this time, they are not responsible in respect to people who are eligible for an NHS wheelchair.
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- 8.5. In line with the NHS Choice Framework, the following individual cohort have a right to ask for a personal health budget from the CCGs:
- Adults aged 18 and over with learning disability, autism and/or mental health and behaviour that challenges living in a community setting who will benefit from having a PHB.
 - All individuals who are CHC funded.
 - Children and young people (birth to 25) who may not be eligible for Continuing Care but have an Education, Health and Care (EHC) plan and could receive a PHB for the health element of their plan.
 - End of life care services.
 - Care funded jointly by NHS and social care.
 - Those with mental health needs including people who are eligible to Section 117.

9. Exclusions for Personal Health Budgets

- 9.1. If an individual comes within the scope of the “right to have” a PHB, then the expectation is that one will be provided. However, in certain exceptional circumstances the CCG may choose not to agree to a PHB in line with the NHS England guidance which states:

“There may be some exceptional circumstances when a CCG considers a personal health budget to be an impracticable or inappropriate way of securing NHS care for an individual. This could be due to the specialised clinical care required or because a personal health budget would not represent value for money as any additional benefits to the individual would not outweigh the extra cost to the NHS.”

- 9.2. There are also a series of additional exclusions that the CCG will apply specifically to a PHB held as a direct payment. Examples of reasons for exclusion include.
- Reasonable suspicion of theft, fraud or another offence has been committed.
 - Refusal or inability to manage a PHB.
 - Reasonable suspicion of inappropriate use such as use for: alcohol or tobacco; gambling services, debt, household utilities, food, or petrol otherwise than in respect of services specified in the Support Plan.
 - Circumstances of reasonable suspicion of use for purposes that are illegal or unlawful.
- 9.3. An individual who is excluded from a PHB Direct Payment may also still be able to receive a notional or Third Party PHB.
- 9.4. If an individual and/or his or her representative, who comes within the scope of a ‘right to have’ a PHB requests a PHB and is turned down, the CCGs will set out in writing the reasons why the request has been refused. Once this information has been received, the person and/or his or her representative may appeal the CCG’s decision. The CCG will reconsider this decision.
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10. Management of Personal Health Budgets

10.1. A PHB is based upon a personalised care and support plan. This plan sets out an individual's health and wellbeing needs, the outcomes they wish to achieve, the amount of money available and how it will be spent.

Once the plan and budget has been agreed, the money in a PHB can be managed in three ways, or a combination of these:

10.2. Notional budget:

- The CHC team holds the PHB on behalf of an individual and uses it to secure services based on discussions with the individual as set out in their personalised care and support plan.

10.3. Third party budget:

- An organisation independent of both the individual and the Self-Directed Support team (for example an independent user trust or a voluntary organisation) is responsible for and holds the budget on an individual's behalf. This includes the management of the employees.
- They then work in partnership with the individual and their family to ensure the care they arrange and pay for with the budget meets the agreed outcomes in the care and support plan.
- The third party will monitor the account and check receipts, invoices, and bank statements for the PHB. The third party will work with the CCG to ensure that the money is being spent appropriately.

10.4. Direct payment:

- The PHB money is transferred from the CCG to an individual or his or her representative or nominee, who contracts for the necessary services to deliver the agreed outcomes in the personalised care and support plan.
 - The PHB will be received via a Prepaid Card and an online account will be set up by the Self-Directed Support team.
 - Budget holders must show what the money has been spent on in accordance with achieving the outcomes agreed in their individual support plan.
 - In some instances, the CCG can transfer the direct payments to:
 - A third party who manages the money and payments for the individual who still makes all the decisions about buying the goods and services set out in their care and support plan (this is often referred to as a 'Direct Payment Managed Account')
 - An individual with a pre-loaded payment card administered by the Self Directed-Support Team on behalf of the CCG. The individual can use the card to buy the goods and services set out in their agreed care and support
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plan.

11. Personal Health Budget Agreements

- 11.1. All ST CCG PHB's must be approved by the nominated representatives, identified as the CHC lead within the Joint Commissioning team.
 - 11.2. A Personal Health Budget Agreement forms the contract between the CCG and the individual and stipulates the conditions upon which the payment is made. Different types of agreements will apply to the different management arrangements for PHBs.
 - 11.3. **Notional** – The CHC team nominated representative will commission the care directly from a service provider on behalf of the individual PHB holder using the agreed contracted arrangement in partnership with the Local Authority. The CCG representation will also require a signed care and support plan for each individual that sets out the care to be delivered and the costs. An example notional contract is attached at Appendix 4.
 - 11.4. **Third Party** – The Joint Commissioning Team will contract with the third-party organisation to organise, purchase and be responsible for, an individual's care and support as set out in their Support Plan. In these instances, the NHS Standard Contract will govern the relationship between the Joint Commissioning Team and the third-party organisation managing the health budget. Any exception to using the NHS Standard Contract will be considered on a case by case basis. When the third party purchases the services and products on behalf of the individual as agreed in their care and support plan, the NHS Standard Contract will not be used by the third party with the suppliers of care and support.
 - 11.5. **Direct payments** – Where an individual chooses to manage their PHB as a Direct Payment the individual (or representative or nominee) will need to enter into a legal agreement with the Local Authority (on behalf of the CCG) for the use of the budget and provision of care.
 - 11.6. The Self-Directed Support Team will ensure that robust processes and documentation support the management of a PHB taken as a Direct Payment. In particular they require.
 - A PFS account will be opened for the individual PHB holder and all activity will be managed and monitored through the online portal. .
 - That all PHB records are retained by the service user and made available for inspection by the Self-Directed Support Team or CCG representatives/agents such Local Counter Fraud Service.
 - That any unused funds can be reclaimed by the Self-Directed Support Team
 - That there is a clear process to ensure that unused funds are returned to the CCG.
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12. What can a Personal Health Budget be spent on?

- 12.1. Although a PHB is not new or additional money it can potentially be spent on a broader range of care and support than would be routinely commissioned by the NHS if it is agreed by the CCG as being appropriate to meet an individual's assessed needs. This could include funding for a personal assistant to help with personal care at home.
- 12.2. What a personal budget will be spent on must be outlined in their personalised care and support plan and agreed between the person (or their representative/nominee) and the local NHS team and where necessary the CCG.
- 12.3. There are a number of **exclusions** that are outlined in regulations and include the following.
- Alcohol, tobacco, gambling or debt repayment, household expenses or anything that is illegal.
 - Emergency or urgent care.
 - Primary medical services such as GP care.
 - NHS charges- such as prescriptions or dental charges.
 - Surgical procedure.
- 12.4. A full of exclusions is available in 'Guidance on Direct Payments in Healthcare – Understanding the Regulations March 2014'.
- 12.5. The CHC lead / Joint Commissioning Team may also choose not to agree the funding of certain goods or services, where it has already reached a decision that these will not normally be commissioned for the general population based on available evidence. Any such instances will be considered on an individual basis taking into account the specific circumstances and needs of the individual concerned.
- 12.6. ST CCG remain with the overall responsibility for ensuring that all intended expenditure is lawful as part of the governance arrangement for PHBs.

13. Calculating a Personal Health Budget

- 13.1. The amount that an individual receives in their PHB will depend on the assessment of their health and wellbeing needs and the cost of meeting these needs.
- 13.2. The PHB will be equivalent to the CHC Leads estimate of the reasonable cost of securing the agreed provision of the service, based on present costs of service. This means that the PHB should be sufficient to enable the recipient to lawfully secure a service of a standard that the CCG representative considers is reasonable to meet the assessed needs to which the PHB relates.
- 13.3. When estimating the reasonable cost of securing the support required through a PHB Direct Payment (rather than directly paid for by ST CCG), some associated costs will be included that are necessarily incurred in securing provision, without which the service

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could not be provided or could not lawfully be provided.

- 13.4. The particular costs involved will vary depending on the way in which the service is secured, but when an individual intends to employ someone to deliver their care, such costs might include recruitment costs, staff training, National Insurance, pension, statutory holiday pay, sick pay, maternity pay, employers' liability insurance, public liability insurance and VAT. The individual will need to follow all employment regulations.
- 13.5. ST CCG is not obliged to fund associated costs if, taking into account the individual's assessed need, the total costs exceed the CCG's estimate of the reasonable cost of securing the service and if a service of the requisite standard could in fact be secured more cost-effectively in another way.
- 13.6. In nearly all cases, people cannot add their own money into a PHB, and the budget should meet all the assessed health and wellbeing needs of the individual.
- 13.7. The exceptions to this rule include, service or product that is over and above someone's assessed needs, as agreed in the care and support plan, so that any personal contribution is paying for extras or changes that an individual wants outside of the agreed need.
- 13.8. In all other situations, if an individual wants to access more services than those being provided by the NHS to meet their assessed needs, then they can do so. They would need to organise, and pay for this, and it would be separate to the PHB and any associate agreements for the supply of care and support services.

14. Support Planning

- 14.1. A care and support plan is the document that defines what really matters to the individual and explains how he/she will spend the PHB. The nominated co-ordinator (as defined in the CHC National Framework and S117 CCG guidance), is responsible for ensuring the care and support plan is completed. (App1) in conjunction with the person and their representative.
 - 14.2. Good support planning involves looking holistically at the individual's life to improve their health, safety, independence, and wellbeing. The individual should be supported throughout the support planning process.
 - 14.3. The plan must be effective, affordable, and meet a range of agreed outcomes. This will help to calculate an agreed finalised PHB. The PHB should be enough to cover all the services agreed in the plan. There is recognition that the budget will adjust as the individual's condition changes.
 - 14.4. The care and support plan includes.
 - The agreed health needs of the individual.
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- The desired outcomes of the individual in his/her own words.
- The amount of money available under the PHB.
- What the PHB will be used to purchase.
- How the PHB will be managed and who will managing the PHB.
- Who will be providing each element of support.
- How the plan will meet the agreed outcomes and health needs of the individual.
- Who the individual should contact to discuss any changes in their needs.
- The date of the support plan review.
- Identification of any training needs and how these will be met.
- Identification of any risks and mitigating actions.
- Contingency planning.
- How the individual has been involved in the production of the plan.
- The signed agreement of the individual (or representative/nominee) and the nominated representation in the CHC Team / Joint Commissioning Team .

14.5. The care and support plan should also be compliant with the MCA guidance and DOLs guidance.

15. Support for Managing a Personal Health Budget

15.1. Individuals are encouraged to manage their own support and budgets in order to achieve ownership control and interdependence.

15.2. However, support is available via South Tyneside Self-Directed Support Team or through external organisations such as the insurance provider. The Self-Directed Support team can support with:

- Sharing information on how a budget is managed
- Setting up the budget
- Explaining processes and key information
- Sharing policies and procedures
- Signposting to relevant support organisations and sources of support (i.e. insurance companies)

15.3. Support is available from external sources (such as an insurance company) in relation to:

- Employer advice and information
- Third party managed account and/or payroll services

15.4. The nominated person remains responsible for understanding and managing employment and payroll arrangements and are responsible for exercising their duties under requirements of employment legislation or any other relevant legal frameworks.

15.5. The Self-Directed Support Team support to:

- Work directly for the person making sure they stay in control and live the life they choose. If the person lacks capacity to make a particular decision, a nominated person will need to be sourced to assist with the management of the payment, this may be a third party if no suitable individual could be identified.
- Work with the CHC team (i.e. nurse assessors and/or adult social care workers) to review financial aspects of support packages in line with the agreed schedule.
- Carry out financial reviews including monitoring of direct payments via the online PFS service and liaising with the individual and council to ensure payments are set up and to handle queries relating to payments not received by individuals. This will include alerting the CHC Teams when a PHB is significantly underspent/overspent to trigger assessment that the individual's health needs are still being met

16. Governance

16.1. The implementation and overall commissioning administration of PHBs in ST CCG is coordinated through the Joint Commissioning team, with the management of the Direct Payments being through the Self-Directed Support Team.

17. Risk Management

17.1. Clinical Risk

- 17.1.1. ST CCG is committed to promoting individual choice, while supporting individuals to manage risk positively, proportionately, and realistically.
- 17.1.2. Enabling individuals to exercise choice and control over their lives, and therefore manage their needs and levels of risk themselves, is central to achieving better outcomes for individuals. A degree of risk can be accommodated within the aim of enhancing the quality of people's lives.
- 17.1.3. An individual who has the mental capacity to make a decision and chooses voluntarily to live with a level of risk, is entitled to do so. This will be considered as part of the PHB approval process.
- 17.1.4. The aim will be to support and encourage individual choice as much as possible, and to keep the individual informed, in a positive way, of any issues and risks associated with those choices and how to take reasonable steps to manage them.
- 17.1.5. The CHC team will strive to ensure that risk is understood as fully as possible and managed in the context of ensuring that the individual's needs and their best interests are safeguarded. In practice, this means that, because there are different
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ways to manage a PHB, those individuals deemed not suitable for a direct payment should be offered a budget held by a Third Party, or a Notional Budget.

17.2. Organisational Risk

17.2.1. ST CCG has delegated responsibility for the overall responsibility for authorising PHB's, to the CHC lead and the obligation to ensure that:

- Health and well-being needs are being met
- Safeguarding duties are fully met
- It is fulfilling its duty of care and broad statutory obligations
- It is fulfilling its responsibility to ensure that public funds are used to enable individuals to live independent and full lives – ensuring value for money
- PHB expenditure is managed within the overall CCG budgetary allocation, ensuring the CCG meets their statutory duty to break even on their resource limit
- That public funds are used appropriately
- The CCGs' reputation is protected

17.2.2. The Joint Commissioning team will work with partner organisations to promote a wider understanding of this approach to risk. It will also seek to secure from partners a complementary approach to risk which is as light touch as is reasonable.

17.2.3. The Joint Commissioning Team will work with the Local Authority as lead agency should any safeguarding concerns arise in relation to physical, sexual, financial, or other abuse of an individual receiving a PHB. These will be investigated accordingly.

17.3. Financial risk

17.2.4. ST CCG requires PHB implementation to demonstrate value for money and be affordable within the CCG's overall budgetary allocation for this purpose.

17.2.5. The PHB should always be sufficient to meet the outcomes identified in the care and support plan and allow for planned contingencies.

17.2.6. The financial arrangements and requirements are contained in the agreement between the CCG and the individual PHB holder (or their representative) in the case of PHB Direct Payments; or service providers in the case of Notional PHBs or Third Party PHBs. The agreements will be signed by both parties.

17.2.7. Any requested variation over and above the agreed PHB must be authorised by the CCGs and/or their nominated representative with the CHC team.

- 17.2.8. The Continuing Health Care team will review PHB expenditure and reserve the right to recover funds that are not regularly used to provide for the individual's health and wellbeing needs as described in the PHB Support Plan.
- 17.2.9. If the individual accumulates a surplus of their PHB that exceeds two months value of their agreed annual PHB sum and there is no anticipated expenditure, then the CCG representative reserves the right to contact the individual to review their Care and Support Plan.
- 17.2.10. CCG may decide to recover any surplus funds from the individual, and if so, will write to the individual to inform them of their decision and how the recovery of the surplus will be managed.
- 17.2.11. PHB funds remain the property of the CCG until they are spent in accordance with the individual's Care and Support Plan. If the PHB is ceased for any reason, all unused funds must be repaid to the CCG. The Self-Directed Support Team has access to the funds and will make contact with the representative in a sensitive but timely manner.

18. Integration with South Tyneside Local Authority

- 18.1. The Local Authority Adult Social Care teams are an integral partner in the effective delivery of PHBs. The delivery of PHBs is aligned to process and procedures of South Tyneside Local Authority by adopting an integrated approach to delivery. This ensures a streamlined approach for the individual where there is interface with Local Authority personal budget/direct payment. For example:
- For individuals previously in receipt of a social care direct payment who become eligible for an NHS PHB.
 - Where NHS CHC eligibility ceases for an individual with a PHB and the individual returns to a local authority social care direct payment.
 - A shared understanding of risk.
 - Monitoring and Review
 - PHB care and support plans are to be reviewed within three months of an individual first receiving a direct payment. Following this, reviews should be undertaken at clinically appropriate intervals, but at least annually.
- 18.2. When carrying out the review the CHC team may:
- Re-assess the individual's health needs with them
 - Consult a range of health and social care professionals and others involved in the provision of care for the individual – including their representative and unpaid carer/s
 - Review receipts, bank statements and other information relating to the use of direct payments
 - Consider whether a PHB direct payment has been effectively managed
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- 18.3. If the CHC Team's become aware, or are notified, that the health of the individual has changed significantly, the CHC Teams must consider whether it is appropriate to carry out a review of the care and support plan to ensure the individual's needs are still being met.
- 18.4. If the CHC team become aware or are notified that the Direct Payment has been insufficient to purchase the services agreed in the care and support plan, they will carry out a review within 14 days.
- 18.5. The individual, their representative or nominee may request that the CHC team undertake a review at any time. If this happens, the CHC lead must decide whether or not to undertake this review, taking into account local practices and circumstances.

19. Termination of Personal Health Budgets

- 19.1. Before making a decision to terminate a PHB, wherever possible and appropriate, the CCG or their representative will consult with the individual receiving it to enable misunderstandings to be addressed and enable alternative arrangements to be considered and put in place.
- 19.2. The CCG or their representative will terminate a PHB where:
- An individual with capacity to consent, withdraws their consent to receiving a PHB.
 - An individual who has recovered the capacity to consent, does not consent to their PHB continuing.
 - The money is being spent inappropriately (e.g. to buy something which is not specified in the care and support plan).
 - Where there has been theft, fraud, or abuse of the Direct Payment.
 - If the individual's assessed needs are not being met or the person no longer requires care.
 - The individual has died.
- 19.3. Where a PHB is stopped, the CHC Team will give notice to the individual, their representative or nominee in writing, explaining the reasons behind the decision. The Team will normally give one month's notice that a PHB will be stopped. However, where there has been theft or fraud (or other exceptional circumstances) the PHB payment may be suspended with immediate effect.

20. Appeals

- 20.1. In circumstances where the CCG or the CCG representative (on behalf of the CCG) decide not to provide someone with a PHB, or an element of the planned use of the budget is not approved, or a PHB is reduced or withdrawn; an explanation will be
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given to the individual in writing within 7 working days of a decision being reached.

- 20.2. When an individual wished to appeal a decision, this should be made in writing to the CCG or the CCG representative within not more than four months of the original decision being made (appeals exceeding four months will not be considered). In these instances, the CCG will:
- Acknowledge receipt of the request in writing within 10 working days. This acknowledgement will include details of how the review will be conducted and timeframes for when it should be completed.
 - Any final decision will be sent in writing within 28 working days of acknowledgement of the original request.
- 20.3. There may be instances where a complex situation requires a longer timeframe for reconsideration and response. In these instances, individuals will be kept informed of progress.
- 20.4. If an individual and/or his or her representative is not satisfied they can pursue the matter via the local complaints processes.

21. Complaint Process

- 21.1. ST CCG wish to hear all complaints and comments regarding local services and are committed to investigating all of these thoroughly and as soon as is practicably possible.
- 21.2. Anyone who is receiving, or has received, treatment or services can complain. This includes services provided by independent contractors or providers where the CCG have a contract with the organisation to provide NHS services.
- 21.3. If an individual is unable to complain themselves then someone else, usually a relative or friend, can complain on their behalf.
- 21.4. If a complaint is raised concerning an individual who is deceased, this must be made by a suitable representative, for example their Executors personal representative of their Estate.
- 21.5. It is important that the complaint is made as soon as possible after the event has occurred, complaints will only be investigated if they are made within 12 months after the event itself.
- 21.6. ST CCG complaints procedure is published on the CCG website and may be used for any complaint about the operation of this policy.
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22. Evaluation

- 22.1. Systems and processes are in place to review the effectiveness of PHBs to provide assurance that individual care and support plans are safe and effective in meeting individual needs and outcomes.
- 22.2. The CCG will promote the use of the NHS England annual Personal Health Budgets, Integrated Personal Budgets (joint health and social care budgets) survey questionnaire for local PHB users to participate in.

23. Review of the Policy

- 23.1. The policy will be reviewed yearly, though updates will be made beforehand as and when significant changes to practice are required.

24. Internal and External References

24.1. Internal References

- ST CCG Continuing Healthcare Dispute Resolution Protocol
- ST CCG Safeguarding Policy

24.2. External References

- National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (2018)
- National Framework for Children and Young People's Continuing Care
- The Special Educational Needs and Disability (SEND) Code of Practice 0-25 years (statutory guidance for commissioners)
- Guidance on Direct Payments for Healthcare: Understanding the Regulations and other key documents and guidance which can be accessed from the following link: <https://www.england.nhs.uk/healthbudgets/resources/>

25. Monitoring

This policy will be monitored by annual audit and reported to the Governance Committee who will be responsible for this and for enhancing the policy as a result.

26. Equality Impact Assessment

An Equality Impact Assessment has been completed for this Policy, and no negative impact upon persons with protected characteristics has been identified.
