Personal Health Budgets:

Ethos, Practice & Guidance Policy

# Document Control

|  |  |
| --- | --- |
| **Document Control Information**  | **Details**  |
| Policy Name | Personal Health Budgets: Ethos, Practice & Guidance Policy |
| Policy Number | TBC |
| Version | 0.18 |
| Status | Draft ICB Policy |
| Author / Lead | Lead for Personalised Care – Mid and South Essex |
| Responsible Executive Director | Director of Strategy and Partnerships |
| Responsible Committee | Quality and Patient Safety CommitteeFinance and Performance Committee  |
| Date Ratified by Responsible Committee | 8 March 2022 |
| Date Approved by Board/Effective Date | 1 July 2022 |
| Next Review Date | TBC |
| Target Audience | Health Professionals and members of the Public |
| Stakeholders engaged in development of Policy (internal and external)  | MSE CCGs Patient Safety & Quality Committees meeting in common. |
| Impact Assessments Undertaken *(Delete if non-applicable)* | Equality and Health Inequalities Impact Assessment |

# Version History

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 0.1 | 30/12/2021 | Matt Gillam  | Copied PHB Policy from South East Essex ICBs, the most recently reviewed in all MSE ICBs into MSE Template  |
| 0.2 | 30/12/2021 | Stevie Attree, Personalised Care lead – MSE | Copied PHB Policy from South East Essex ICBs, the most recently reviewed in all MSE ICBs into MSE Template  |
| 0.3 – 0.8 | 30/12/2021 | Stevie Attree, Personalised Care lead – MSE | Adaptations to section titles and content to align with the NHSE implementation framework  |
| 0.9 | 04/02/2022 | Stevie Attree Personalised Care lead – MSE | Insertion of Appendix B documents  |
| 0.10-0.11 | 18/02/2022 | Stevie Attree Personalised Care lead – MSE | Adaptations to Sections including Third Party Budget and additional documents to appendix b  |
| 0.12 | 21/02/2022 | Stevie Attree Personalised Care lead – MSE | Adaptations to Section 5.10 Monitoring and Reviews EIA amends |
| 0.13 | 08/03/2022 | Stevie Attree Personalised Care lead – MSE | Adaptations to 5.6.12, 5.8.4, 5.9.1-2 following discussion at PSQiC on 08/03/2022 |
| 0.14 | 08/03/2022 | Stevie Attree Personalised Care lead – MSE | Amendments to Section 9 and Section 10  |
| 0.15 | 10/04/2022 | Viv Barnes – Director of Governance and Performance | Policy Format amends |
| 0.16 | 11/05/2022 | Stevie Attree - Personalised Care lead – MSE | Amendments to section numbers for cross references  |
| 0.17 | 27/07/2022 | Stevie Attree - Personalised Care lead –  | Final formatting  |
| 0.18 | 29/07/2022 | Author, Governance and Communications representatives  | Accessibility review |

# Contents

[1. Introduction 5](#_Toc103172013)

[2. Policy Statement 5](#_Toc103172014)

[3. Scope 5](#_Toc103172015)

[4. Definitions 6](#_Toc103172016)

[5. Roles and Responsibilities 7](#_Toc103172017)

[5.1. Integrated Care Board 7](#_Toc103172018)

[5.2. Quality & Patient Safety Committee 7](#_Toc103172019)

[5.3. Finance and Performance Committee 8](#_Toc103172020)

[6. Policy Detail 8](#_Toc103172021)

[6.1. History 8](#_Toc103172022)

[6.2. Principles, Standards and Characteristics 9](#_Toc103172023)

[6.3. The NHS Constitution and ‘Top Ups’ 12](#_Toc103172024)

[6.4. How We Offer Personal Health Budgets 13](#_Toc103172025)

[6.5. Making contact and providing clear information 14](#_Toc103172026)

[6.6. Understanding Health and Wellbeing Needs 17](#_Toc103172027)

[6.7. Working out the amount of money available for a PHB 19](#_Toc103172028)

[6.9. Organising Care and Support 23](#_Toc103172029)

[6.10. Monitoring, Audit and Reviewing 29](#_Toc103172030)

[6.11. Ending a PHB 34](#_Toc103172031)

[7. Staff Training 34](#_Toc103172032)

[8. Arrangements For Review 35](#_Toc103172033)

[9. Associated Policies, Guidance And Documents 35](#_Toc103172034)

[10. References 35](#_Toc103172035)

[11. Impact Assessment 35](#_Toc103172036)

[Appendix A - Equality Impact Assessment 37](#_Toc103172037)

[Appendix B – PHB Implementation Process 39](#_Toc103172038)

[Appendix C – PSCP Quality & Safety and Risk Checklist 40](#_Toc103172039)

[PERSONALISED CARE TOOLS AND RESOURCES 42](#_Toc103172040)

## Introduction

The NHS Long Term Plan says that Personalised Care will be ‘business as usual’ in health and care systems by March 2024 and the [Comprehensive Model of Personal Care](https://www.england.nhs.uk/personalisedcare/) is the way that this will happen

The Comprehensive Model of Personalised Care represents a new relationship between people and professionals to have conversations about ‘what matters to people and optimises their strengths and needs.

A Personal Health Budget (PHB) is one of the six components of the [Comprehensive Model of Personal Care](https://www.england.nhs.uk/personalisedcare/)[[1]](#footnote-1).

A Personal Health Budget (PHB) is an amount of money to support someone’s health and wellbeing needs, which is planned and agreed between the person or their representative and the Integrated Care Board (ICB).

PHBs are an opportunity to consider spending existing health funding in a different way to meet a person’s needs and outcomes giving people more choice, flexibility and control of their healthcare.

PHBs do not stand alone as an NHS service but are a tool that can be used by NHS services to meet the agreed health and wellbeing needs of people as part of co-produced personalised care & support planning.

## Policy Statement

The purpose of this document is to outline how Personal Health Budgets (PHBs) are delivered by NHS services across mid & south Essex where the Integrated Care Board has the legal responsibility for commissioning health care services.

The policy is open for all ages and outlines a consistent, safe and effective process to be applied in partnership with people to provide a person-centred service that improves quality of life and provides value for money.

Services adopting PHBs are encouraged to develop local standard operating procedures or pathway maps reflective of the stages described in section 6.4. How we offer personal health budgets.

## Scope

This policy applies to all ICB Employees and Board members (collectively referred to as staff) and where appropriate to all NHS services implementing Personal Health Budgets.

## Definitions

* **Personal Health Budget -** A personal health budget is an amount of money to support health and wellbeing needs, which is planned and agreed between the patient, or their representative, and the local NHS team. It is not new money, but it may mean spending existing allocated health money differently.
* **BACS** - Banks Automated Clearing System
* **Case Manager -** A case manager is a person who coordinates services on behalf of an individual in health care, rehabilitation and social work settings. A case manager is responsible for assessment and regular review of care packages that have been commissioned on behalf of the service user.
* **NHS Continuing Healthcare (CHC) -** NHS Continuing Healthcare services apply to people aged 18 years and over and is the process that identifies a complete package of ongoing care arranged and funded by the NHS, where it has been assessed that the person’s primary need is a health need. (Department of Health 2009).
* **Children’s Continuing Care -** An equitable, transparent and timely process for assessing, deciding and agreeing bespoke continuing care 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).
* **Disclosure and Barring Service (DBS) –** The Disclosure and Barring Service helps employers make safer recruitment decisions & prevents unsuitable people from working with vulnerable groups.
* **Direct Payments (DB)** - Payments made to a person who is eligible for a personal health budget and who agrees to receive and use the money to enable them to make and evidence their own arrangements to meet their identified needs and outcomes.
* **EHCP -** Education, Health and Care Plan.
* **ICB**- Integrated Care Board.
* **LD** - Learning disability.
* **LTC** - Long Term Condition.
* **MCA** - Mental Capacity Act 2005.
* **Notional Personal Health Budget** - The ICB organisation 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.
* **PA** – Personal Assistant.
* **Personalised Care and Support Plan (PCSP)** - A PCSP 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”. It may be referred to as a support plan.
* **PHB Offer** - The PHB offer describes who has a ‘right to have’ a PHB and who has a ‘right to ask’ for a PHB. PHBs are not means tested. If an individual is included within the ‘right to have’ group outlined within the ICB’s offer (section 5) and they meet the requirements of this policy, they will be entitled to a PHB.
* **Safeguarding** - Safeguarding is defined as ‘protecting children and adult’s right to live in safety, free from abuse and neglect.’ (Care Act, 2014)
* **SDM** - Shared Decision Making.
* **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.
* **Third Party Budget -** A Third Party organisation commissioned by the ICB to manage the personal health budget money by holding it on the individual’s behalf and buying or providing the goods and services set out in the care and support plan.

## Roles and Responsibilities

### ICB Board

* + 1. The ICB Board has overall responsibility for ensuring that the organisation has a robust system in place for the management of Personal Health Budgets and for ratification of this policy.

### Quality & Patient Safety Committee

* + 1. The policy will be submitted for comment and sponsorship by the Quality & Patient Safety Committee.
		2. The Committee will ensure that due process has been followed and that actions have been taken in accordance with this policy, relevant legislation, and guidance.
		3. The committee will receive regular updates on PHB business.

### Finance and Performance Committee

* + 1. The policy will be submitted for noting by the Finance and Performance Committee.
		2. The Committee will ensure that due process has been followed for the financial management of PHBs and that actions have been taken in accordance with this policy, relevant legislation, and guidance.
		3. The committee will receive regular updates on PHB business.
	1. **Chief Executive**
		1. The Chief Executive Officer of the ICB has overall accountability for implementing this policy.
	2. **Director of Strategy & Partnerships**
		1. The Chief Executive Officer has delegated operational responsibility for implementation of this policy to Director of Strategy & Partnerships.
	3. **Policy Authors**
		1. Policy authors are responsible for reviewing and updating the policies within their remit on an annual basis or should legislation, guidance, organisational change or other circumstances necessitate an earlier review.
	4. **Line Managers**

Line Managers are responsible for supporting staff to undertake training in personalised care and to apply the policy in practice.

### All members of ICB staff

* + 1. All members of staff are individually responsible for:
		- Familiarising themselves with the content of this policy and associated procedures and following these when adopting Personal Health Budgets in delivery.
		- Identifying and reporting Personal Health Budgets, within their remit, in accordance with the policy to meet the ICB deliverables for Personalised Care
		- Completing their mandatory training and attending personalised care training and development events relevant to their role.

## Policy Detail

### History

* + 1. Personal Health Budgets are part of a drive to increase choice, control, and appropriate personalised care for individuals. This drive within the NHS stems from decades of campaigning by disability rights campaigners. The first Personal Health Budgets in England were offered as part of a pilot running from 2009-2012. Since then, the Personalised Care agenda has continued to grow. (figure 1).
		2. Figure1 provides an overview of the development of PHBs to date

**Figure 1. NHS PHB Development Timeline**

* + 1. This policy, as mentioned in section 2.0 the Policy Statement provides the guidance how the ICB will implement personal health budgets in mid and south Essex drawing upon the National Principles and Implementation Framework.

### Principles, Standards and Characteristics

* + 1. **Principles**
		2. There are a series of local and national values and principles that underpin the delivery of high-quality personalised care and PHBs in health. These include:
* Commitment to increasing choice and achieving personalisation.
* Commitment to offering opportunities for health care professionals and service users to work in partnership, making shared decisions and actively co-designing services and support. The introduction of PHBs is one way of doing this.
* Adopting PHBs to give individuals more choice and control over how money is spent on meeting their health and wellbeing needs. A care and support plan is at the heart of a PHB that is developed through a combination of the healthcare professional’s vital clinical expertise and knowledge, along with the person’s expertise in their condition and their own ideas for how their needs can best be met.
* Commitment to promoting service user choice - where available, whilst supporting them to manage risk positively, proportionately, and realistically. Good practice must support choice. The attitude of the health care professional should be to support and encourage service user’s choice as much as possible, and to keep the service user informed, in a positive way, of issues associated with those choices and how to take reasonable steps to manage them.
* Improving experience for patients and professionals by fostering a culture that is open to adopting personalised care.
	+ 1. The six key principles for PHBs and personalisation in health are:
* **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:
	+ - Service users 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.
		- There should be clear accountability for the choices made.
		- No one will ever be denied treatment because they have 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.
* **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 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 care package. All care packages will be required to have a timely review with their allocated advisor, initial reviews being completed within a twelve-week timeframe and annually thereafter.
* **Tackling inequalities and protecting equality**. PHBs and the overall movement to personalise services could be a powerful tool to address inequalities in the health service. A PHB must not exacerbate inequalities or endanger equality. Lack of mental capacity should not be a factor. The decision to set up a PHB for an individual must be based on their needs, irrespective of race, age, gender, disability, sexual orientation, marital or civil partnership status, transgender, religion, or beliefs.
* **PHBs are voluntary**. No one will ever be forced to take more control than they want.
* **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.
* **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 ICBs, local authorities and healthcare providers working together to utilise PHBs so that health and social care work together as effectively as possible.
	+ 1. **Standards for self-directed health support**
		2. The spirit and implementation and of this policy will also adhere to the seven outcomes within the standards for self-directed health support. These seven outcomes are:
* **Outcome 1** - **Improved health and emotional well-being**: To stay healthy and recover quickly from illness.
* **Outcome 2** **- Improved quality of life**: To have the best possible quality of life, including life with other family members supported in a caring role.
* **Outcome 3** - **Making a positive contribution**: To participate as an active citizen, increasing independence where possible.
* **Outcome 4** - **Choice and control**: To ensure citizens can exercise the right to choose and make decisions about how they wish to receive care.
* **Outcome 5** - **Freedom from discrimination, harassment, and victimisation**: To live free from discrimination, harassment, and victimisation.
* **Outcome 6** - **Economic well-being**: To achieve economic well-being and have access to work and / or benefits as appropriate.
* **Outcome 7** - **Personal dignity**: To feel that you retain personal dignity and receive respect from others.
	+ 1. **Key features of personal health budgets**

The ICB will ensure the following characteristics of a PHB are met including personalised care and support planning (PCSP). PCSP is an essential part of making personal health budgets work well. A personalised care and support plan helps people to identify their health and wellbeing goals, together with their local NHS team, and sets out how the budget will be spent to enable them to reach their goals and keep healthy and safe.

* + 1. The individual with a personal health budget (or their representative) should:
* Be central in developing their personalised care and support plan and agree who is involved.
* Be able to agree the health and wellbeing outcomes\* they want to achieve, together with relevant health, education and social care professionals.
* Get an upfront indication of how much money they have available for healthcare and support.
* Have enough money in the budget to meet the 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.

\*And learning outcomes for children and young people with education, health and care plans.

### The NHS Constitution and ‘Top Ups’

* + 1. The NHS Constitution states that NHS services are free at the point of delivery, unless there is explicit legislation in place requiring charging (e.g. as for prescription or dentistry charges). Access to NHS services is not based on financial affordability.
		2. An individual’s PHB must be sufficient to meet the assessed health needs identified and agreed in the personalised care plan without requiring any contribution from the individual. Individuals cannot financially top-up a personal health budget. If an individual chooses, they may ‘opt out’ of NHS care and fund the care privately.

### Exceptions to this rule

* + 1. The only exception to this rule is when a patient is entitled to an NHS funded wheelchair; they may request a notional budget with contribution to upgrade to a higher specification of chair or for additional extras.

### Delivery of Personal Health Budgets pathway

* + 1. PHB pathways are designed to work as part of a service to achieve the right outcomes for the people who are supported by the local NHS teams working with them. This means that there may be variations in PHB pathways across different services. However, in line with best practice and guidance from NHS England, all PHB pathways will have key elements in common. This is outlined in section 6.6.

### How We Offer Personal Health Budgets

* + 1. This section outlines the key stages and actions involved in delivering PHBs in mid and south Essex.
		2. Other activities may need to accompany these stages, dependant on the service offering the PHB.
		3. This section will cover the core elements of implementing a PHB.
		4. The six stages to implement a PHB are:
1. Making contact and providing clear information.
2. Understanding health and wellbeing needs.
3. Working out the amount of money available for a PHB.
4. Personalised Care and Support Planning.
5. Organising care and support.
6. Monitoring Review and measuring impact.
	* 1. **Appendix B** illustrates the six stages of the PHB implementation process.
		2. The processes outlined in this policy will be updated as learning is gained from the experiences of individuals and their families, and the understanding of NHS teams further develops through the continual implementation of PHBs. The aim must always be that the least restrictive approaches are adopted and that patients are given maximum choice, flexibility, and control.

Services adopting PHBs are encouraged to develop standard operating procedures or pathway maps that reflect the stages on the implementation framework.

### Making contact and providing clear information

* + 1. **Eligibility**
		2. Some groups of people have a legal “right to have a PHB” which is recognised nationally.
		3. In addition to this, other groups of people may be eligible for a PHB, which has been set locally by the ICB that buys services for the area and the NHS Organisation offering the health service. The table below outlines eligibility in mid and south Essex.

Other than those outlined in Table 1, no other individuals currently have a right to have a PHB in mid and south Essex or nationally. The ICB is committed to developing further PHB offers and implementing personalised care and will update this document and the ICB website with information on eligibility. The ICB does offer the right to ask, where there is a clearly articulated Health need, which may be currently being met via another health-funded route.

* + 1. This table demonstrates primarily when people can exercise a legal right to have a PHB and examples of a right to ask for a PHB.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **People**  | **Legal Right to Have** | **Right to Ask** |
| 1 | Adults eligible for NHS Continuing Healthcare funding. | Checkmark |  |
| 2 | Children eligible for NHS Continuing Care funding. | Checkmark |  |
| 3 | People eligible an NHS funded wheelchair, (for long term use). | Checkmark |  |
| 4 | People eligible for section 117 after care of the Mental Health Act 1983  | Checkmark |  |
| 5 | People with long term conditions |  |  |
| 6 | People accessing services that offer a PHB within the care pathway |  | Checkmark |

* + 1. For eligible persons there is a duty on ICBs/organisations/services offering the PHBs to:
* Consider any request for a PHB.
* Inform individuals of their right to have a PHB (established in October 2014 and December 2018).
* Provide information, advice, and support in relation to PHBs.
	+ 1. **What happens if an individual request’s a PHB, but isn’t eligible for support from a service that offers PHBs?**
		2. If the ICB/ NHS provider receives a request for a PHB from an individual who does not meet the eligibility for support from a service that offers a PHB, then appropriate support should be put in place within the commissioned provision available. Where the individual is deemed to be eligible for the support offered by an ICB commissioned service, if appropriate, the possibility of a direct health payment should be considered, but only if there are funds available that can be accessed from the “block commissioned contract” or specific funds set aside that have been approved to be used for this purpose.
		3. This section does not provide an exhaustive list of eligibility as it is expected that PHBs may be adopted in care pathways beyond where there is a legal right to have. This is an ambition of transforming services adopting the Comprehensive Model of Personalised Care. If unsure, individuals, their representative or nominee should seek advice from the professionals within their services or send a general enquiry about PHBs to the contact address found at section 6.5.15.
		4. **Providing Information to people about personal health budgets**

NHS services offering PHBs must provide clear information about the PHBs they are offering, this information will include who is eligible, how to request a PHB if you are eligible and how PHBs work. Individuals and their representatives will be able to speak to someone from the service offering the PHBs, if they have any questions or need to know more.

* + 1. Individuals who have a legal “right to have” a PHB will be informed about their “right to have” a PHB either when they become eligible for support from the service and during the discussion about how their health and wellbeing needs could be met, or at their next review of their health needs and outcomes.
		2. NHS services must also provide:
* Guidance or support on producing a personalised care and support plan.
* Information, advice, and guidance on managing a PHB and the legal responsibilities for individuals who choose to employ people as part of their PHB.
* Guidance on record keeping requirements.
* Details of the responsibilities PHB holders will have.
	+ 1. People should be made aware of what a Personal Health Budget can and cannot be used for.
		2. A PHB may only be spent on the services agreed between the service user and the ICB in the care and support plan that will enable the service user to meet their agreed health and wellbeing outcomes. All agreements are confirmed and authorised within the support plan and are reviewed through the auditing process for compliance.
		3. A PHB cannot be used for the following items and further information is available in section 6.13:
* Alcohol, tobacco, gambling.
* Debt repayment (other than for a service specified in the support plan).
* Core GP services.
* Planned surgical interventions.
* NHS prescriptions/medications.
* Services provided through vaccination or immunisation programmes.
* Any service provided under the NHS Health Check Programme.
* NHS dentist and opticians.
* Emergency or acute hospital services, such as unplanned admission to hospital.
* Primary medical services provided by GPs, such as diagnostic tests, basic medical treatment, or vaccinations.
* To pay a close family carer living in the same household unless agreed by the ICB as an exception.
* The employment of people in ways, which breach national employment regulations.
* Anything not identified within the personalised care and support plan.
	+ 1. This section does not provide an exhaustive list and if unsure, individuals, their representative or nominee should seek advice from the professionals within their services or from their named “Case Manager” before any expenses are incurred, more information about the role of the “Case Manager” can be found in section 6.6. Understanding Health and Wellbeing Needs.
		2. For general enquiries about Personal Health Budgets in mid and south Essex contact mse.personalisedcare@nhs.net. When making contact please refrain from including detailed personal information.

### Understanding Health and Wellbeing Needs

* + 1. **Named Case Manager**
		2. Individuals should be provided with a named “Case Manager” who they may contact through their PHB journey. This should be a health professional working with the local NHS team supporting the individual.
		3. The “Case Manager” should be someone who has/can have regular contact with the individual, and their representative if they have one. Generally, this would be expected to be an existing practitioner, already involved with the person requesting a PHB. The Case manager is responsible for:
* Ensuring individuals who request a PHB or are eligible for a PHB, receive the appropriate information about their rights to a PHB, how PHBs work, and how to ask for one.
* Act as point of contact for queries regarding the progression of the PHB.
* Facilitating the assessment of the health needs of the individual as part of the PHB care and support plan.
* Ensuring that the individual is supported to develop a PHB care and support plan that meets their health and wellbeing needs.
* Undertaking or arranging for the monitoring and review of the care plan and health of the person.
* Liaising between the individual (or their representative or nominee) and the ICB as the primary point of contact.
	+ 1. **Understanding what matters to people**
		2. Professionals supporting people through a PHB journey should be competent in their clinical field and should have confidence conducting shared decision-making conversations and personalised care & support planning.
		3. Shared decision making is a key component of personalised care. It a process by which people are supported to understand their options including benefit, risk and alternatives to consider when making decisions about their care.
		4. Shared decision-making conversations should be recorded that they have occurred, and the outcome of these conversation can result in a high quality Personalised Care and Support Plan, for more information on personalised care & support planning refer to section 6.8.
		5. NHS Services and provider organisations should adopt the following Snomed code to record that share decision making conversation have taken place:
* 815691000000107 | Shared decision making (procedure)
	+ 1. Professionals can access free, short e-learning modules on shared decision making through the Personalised Care Institute at <https://www.personalisedcareinstitute.org.uk/>. Links to the courses can be accessed on the MSE healthcare academy platform.

* + 1. **Understanding an individual’s needs**
		2. Health needs relate to those the local NHS team and service is supporting an individual with.
		3. Before a PHB can be put in place, a person’s health and wellbeing needs must first be assessed, so that there is clear understanding of how the NHS can support them. This should be part of the usual process and discussion of eligibility for the NHS service offering the PHB. This also applies where assessments are conducted jointly between health and social care or as part of education, health and care planning processes.
		4. This process should be carried out jointly with individuals and/or their family members; and professionals with the relevant knowledge and experience to assess their needs and support them.
		5. In the case of Education, Health and Care Plans (EHCP), PHBs must relate to the agreed and specified provision within an EHCP as clinically appropriate and agreed within the local mechanism, as would be expected with any care plan.
		6. **Preparing to have a personal health budget**
		7. A personal health budget may not be right for everyone and may not always be the best way to receive care and support.
		8. A personal health budget helps people manage their care and support in a way that suits them
		9. Personal health budgets can be spent on any care and services that are set out in the agreed Personalised Care & Support Plan.
		10. The personalised care and support plan and the planning process, explained in detail in Section 6.8, is the key component to a successful personal health budget experience.
		11. It is important that everyone understands their role and responsibilities that they can expect when adopting personal health budgets to make the choices that are right for them.
		12. NHS Services are expected to provide information about the expectations of holding and managing personal health budgets.
		13. NHS services are expected to provide information on the services, care and support that is available to people.
		14. A personal health budget is intended to pay for the planned and agreed aspects of a person’s care, this may not include all care and excludes emergency care, GP appointments, medical tests, seeing a consultant or medication.
		15. **Mapping Services**
		16. NHS service are expected to provide to people the services and opportunities to use as resources that can be applied to meet outcomes within their personalised care and support plan.
		17. Mapping of services is also required to be able to produce a statement of resources should Integrated Personal Health Budgets as part of Integrated Commissioning, be required.
		18. Mapping services to produce a statement of resources is an aid to care and support planning.
		19. An example of a mapping service template to support services and activity mapping, indicative budget setting and personalised care and support planning is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=138997797>.

### Working out the amount of money available for a PHB

* + 1. **Identifying an indicative budget**
		2. Identifying an indicative budget is the process of understanding how much money is available for an individual’s PHB.
		3. After an individual’s health and wellbeing needs have been identified, an indicative budget is set based on how much it would cost the NHS to meet their identified health and wellbeing needs using the commissioned services available.
		4. An example of a tool to support indicative budget setting for people requiring a S117 aftercare package is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=138999045>
		5. Examples of local excel tools that can be adapted by services to support indicative budget setting and a CHC budget setting calculator are available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=138999173&done=DOCCreated1&fid=36456080>
		6. When calculating the budget, all costs should be included.
		7. The method used to identify a budget may differ depending on the NHS service but the ethos behind indicative budget setting will be the same.
		8. An indicative personal health budget is an amount of money identified at an early stage in the process to inform care and support planning. It is a prediction – a best guess – of the cost of care and support sufficient to meet the person’s assessed health needs and achieve the outcomes in the care and support plan.
		9. Information on the roles and responsibility required of people, professionals and organisations for each of the three options to manage a PHB is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=138999333>
		10. All individuals accessing a PHB must be informed of their indicative budget before they begin care and support planning.
		11. PHBs must be affordable within the ICB’s overall budgetary allocation and must be able to demonstrate value for money. An individual’s budget must be sufficient to meet both the outcomes identified in the care plan and to allow for planned contingencies and would be expected to be developed from existing already-committed resources.
		12. The indicative budget is a guide – it should not be used as a limit, a fixed allocation or an entitlement therefore it is essential to prepare people with information about what their PHB options, roles and responsibilities in a way that is understandable for them.
		13. The NHS easy read guide to Personal Health Budgets can be found at: <https://www.england.nhs.uk/wp-content/uploads/2021/02/PHB-easy-read-final-version-3.pdf>
		14. **Providing information about the options for managing a personal health budget**
		15. The most appropriate way to manage a PHB should be discussed and agreed with individuals, their representative or nominee as part of the care planning process. It is important that individuals are aware of and fully understand the contractual and legal responsibilities and financial implications of their choices. Individuals with the capacity to understand and manage their PHB themselves within the contracted terms can choose to manage their budgets in one of the three ways outlined below, or a mix of them.
		16. For individuals without the capacity to understand and manage their PHB within the contracted terms themselves, a best interest assessment should be undertaken, and a decision made about the most appropriate management of their budget. This may be a Third-Party budget, or a budget managed by their representative or nominee on their behalf.
		17. People should be provided with information about each of the options for managing a PHB.
		18. PHBs can be received and managed in one of the following ways or a combination of them:
* **Notional budget** – where an individual is informed of the amount of funding available to them and decides how the budget is used (by input into the care plan) but the ICB continues to commission services, manage contracts, and make purchases etc. Notional budgets could be an option for individuals who want more choice and control over their healthcare but who do not feel able or willing to manage a budget.
* **Third party budget** – A different organisation, legally independent of both the individual and the NHS, holds the money for the individual and arranges and pays for all the services on behalf of the individual in accordance with the care plan. The third party will arrange to recruit and employ a team of PAs and manage all employment responsibilities making the care package bespoke to the individual’s needs.
* **Direct payments** - Direct payments for people with capacity – where the individual receives the funding that is available to them and they purchase the services and support they want in accordance with the agreed care plan (with or without assistance). An individual can choose to receive and manage the payment themselves or decide for it to be received and managed by a person of their choosing (a nominee). If the individual chooses a nominee, that nominee becomes responsible for managing the funds and services and accounting for expenditure.
* **Direct payments for people who lack capacity** – where the individual lacks capacity, an ‘authorised representative’ receives the funding that is available to the individual as a direct payment.
	+ 1. **Implementing PHBs for those in receipt of a social care personal budget or Direct Payments who become eligible for NHS Continuing Healthcare**.
		2. In most cases, if an adult is currently in receipt of a Local Authority funded Direct Payment or personal budget and becomes eligible for CHC funding, the ICB will honour the direct payment until a PHB, or directly commissioned care can be arranged to ensure consistency and continuity of care.
		3. The ICB will not guarantee an automatic transfer of Personal Budget to Personal Health Budget, and it should be expected that there will be a different outcome/budget allocation to the local authority funded personal budgets. Changes to the employment status of any paid Personal Assistants (PAs) or carers may also be required depending on the tasks and role they will undertake under the PHB funding. There must be assurance that any self-employed PAs can evidence that they would be deemed as self-employed according to Her Majesty’s Revenue and Customs (HMRC).
		4. **Third Party Budgets**
		5. This section provides important information regarding Third Party Budgets.
		6. The third party budget option for managing a PHB means that the money agreed in the personalised care and support plan is paid to an organisation that holds the money on behalf of the person.
		7. Third Party Budget organisations are **contractually and financially** responsible for the care and support and if personal assistants are indicated will be the employer of personal assistants engaged to support the person.
		8. Third Party Budget organisations and providers are responsible for the training and competency of employees providing care and support and that healthcare tasks are delegated where appropriate.
		9. A dedicated bank account is required to opt for a third party budget.
		10. Funds for care and support should be transferred in advance as third party organisations are responsible for care and finances included in the PHB personalised care and support plan.
		11. Third party budget organisations are required to be CQC registered in accordance with Section 10 of the Health and Social Care Act.
		12. Section 6.11.36 provides an example of a Third-Party budget contract.

**Personalised Care and Support Planning**

* + 1. Everyone who has a PHB will go through a personalise care & support planning process, the outcome of which is a holistic person-centred care and support plan (PCSP).
		2. Good care planning looks holistically at the individual’s life to improve their health, safety, independence, and wellbeing.
		3. Care and support plans are an essential requirement of implementing a PHB. PHB funds cannot be transferred to an individual before an approved care and support plan is in place and has been authorised by the ICB. Any payments which may be made to an individual or their representative before an approved care and support plan is in place should not be treated or labelled as a PHB.
		4. There are five key criteria that personalised care and support planning and records must include:
* **Person Centered Care -** People are central in developing and agreeing their personalised care and support plan including deciding who is involved in the process.
* **What Matters -** People have proactive, personalised conversations which focus on what matters to them, paying attention to their needs & wider health wellbeing.
* **Outcomes -** People agree the health and wellbeing outcomes they want to achieve, in partnership with the relevant professionals.
* **Shareable Plan -** Each person has a sharable personalised care and support plan which records what matters to them, their outcomes and how they will be achieved.
* **Review** - People can formally and informally review their care plan.
	+ 1. A PHB care and support plan is developed jointly by the individual, their representative or nominee and the individual’s named health professional or case manager and may also include involvement from professionals in social care or education services. In some cases, a separate care and support planner will be provided by the ICB to assemble the support plan.
		2. The process should be driven by assessed needs and the individual’s choices and the care and support plan should clearly show how a PHB will be used to achieve the individual’s identified health and wellbeing outcomes.
		3. The components of a care plan can vary depending on the pathways and individuals, but the following components should be evident:
* The health needs of the individual and the desired outcomes.
* Timescales and clear goals that allow outcomes to be recognised when they are reached.
* The amount of money available under the PHB.
* What the PHB will be used to purchase.
* How the PHB will be managed.
* Who will be managing the budget.
* How each element of support will be sourced or provided.
* How the plan will meet the agreed outcomes and clinical needs.
* Who is responsible for monitoring the health condition of the person.
* Who the person should contact to discuss any changes in their needs.
* The anticipated date of the first review, including review of the outcomes.
* How the individual has been involved in the production of the plan.
* How any training needs will be met.
* Identifying any risks, consequences, and mitigating actions.
* Contingency planning.
	+ 1. A local Personalised Care and Support Planning Implementation tool is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=138999749>
		2. PCSP template examples are available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=139002565&done=DOCNewVersion>

### Organising Care and Support

* + 1. Approving PHB Personalised care and support plans
		2. All PHB PCSPs will need to be reviewed and considered for approval. This should be determined by the approval process agreed for services, supported by professionals with the appropriate knowledge of the health and wellbeing needs of people accessing support from the NHS team offering the PHB however oversight of Personalised Care and Support Plans for PHBs should be overseen by the ICB.
		3. Decision making panels may be established and include professionals from the ICB with the appropriate knowledge of the health and wellbeing needs of people accessing support from the team offering the PHB.
		4. Assurance of and oversight of personalised care and support plans for PHBs should be overseen by the ICB.
		5. PCSPs should be approved in line with the criteria. This checklist is available as a document in **Appendix C**.
		6. **Risk management**
		7. The ICB is committed to promoting choice, whilst supporting individuals to manage risk and make informed decisions. It is therefore essential that individuals are fully involved with the personalised care and support planning, approval and review processes to understand any potential risks and steps that can be taken to mitigate those risks.
		8. The organisation requires that the multi-disciplinary teams clearly document any evidence of decision-making and rationale in relation to the management and reduction of risk where appropriate or necessary. This will be considered as part of the budget and direct payment approval process by the ICB.
		9. Professionals acting as case mangers or in services delivering personal health budgets within their offer may conduct a conflict of interest declaration when submitting personalised care and support plan as part of the approval process.
		10. A conflict-of-interest declaration is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=139003301>. This can be included with the PCSP
		11. An individual who has the mental capacity to decide and chooses voluntarily to live with a level of risk, is entitled to do so. Any evidence of decision making and rationale in relation to the management and reduction of risk will be documented where appropriate or necessary.
		12. **Managing Financial Risk**
		13. Effective accounting and financial monitoring arrangements will mitigate the risk of fraud, these arrangements are set out in section 6.12 Monitoring, Audit and Review.
		14. The ICB, particularly in relation to non CHC PHBs will need to identify a source of funds with which to resource PHBs. This may involve rebasing, or re-negotiating existing contracts to release funding.
		15. The ICB will identify any longer-term financial risks associated with PHBs, in order that the CCG may make suitable provision, for example in respect of redundancy costs, arising in relation to the termination of employment of a Personal Assistant when a PHB ends, or needs change and this will be captured through the PHB monitoring and review process and reported through organisation assurance process.
		16. **Who cannot receive a direct payment?**
		17. In accordance with the Schedule to NHS (Direct Payments) Regulations 2013, there are some people to whom the duty to make direct payments does not apply. This includes those:
* Subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003 (drug rehabilitation requirement), imposed by a community order within the meaning of section 177 (community orders) of that Act, or by a suspended sentence of imprisonment within the meaning of section 189 of that Act (suspended sentences of imprisonment) .
* Subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003 (alcohol treatment requirement), imposed by a community order, within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act.
* Released on licence under Part 2 of the Criminal Justice Act 1991 (early release of prisoners), Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release on licence) or Chapter 2 of the Crime (Sentences) Act 1997 (life sentences) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour.
* Required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 (community rehabilitation orders) or a community punishment and rehabilitation order within the meaning of section 51 of that Act (community punishment and rehabilitation orders).
* Subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000 (drug treatment and testing orders).
* Required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995 (probation orders) or subject to a drug treatment and testing order within the meaning of section 234B of that Act (drug treatment and testing order).
* Released on licence under section 22 (release on licence of persons serving determinate sentences) or section 26 of the Prisons (Scotland) Act 1989 release on licence of persons sentenced to imprisonment for life, etc.) 34 or under section 1 (release of short-term, long term and life prisoners) or section 1AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (release of certain sexual offenders) and subject to a condition that they submit to treatment for their drug or alcohol dependency.
	+ 1. If the individual is subject to certain criminal justice orders for alcohol or drug misuse, then they will not receive a direct payment. However, they might be able to use another form of PHB to personalise their care and alternatives should be considered.
		2. **Deciding not to offer a direct payment**
		3. In addition to section 6.11.17. above, an ICB may decide to refuse to make a direct payment if it believes it would be inappropriate to do so, for example:
* If there is significant doubt around an individual’s or their representative’s ability to manage a direct payment.
* If there is a high likelihood of a direct payment being abused.
* If the benefit to the particular individual of having a direct payment does not represent good value for money.
* if it considers that providing services in this way will not provide the same or improved outcomes.
	+ 1. Such a view may be formed from information gained from anyone known to be involved with the individual, including health professionals, social care professionals, the individual’s family and close friends, and carers for the individual.
		2. In all cases where a direct payment is refused, the eligible person and or their representative or nominee will be informed in writing of the refusal and the grounds by which the request is declined. The individual or their representative may request a review of this decision, in which case, the process set out at in the Appeals section 6.11.37 should be followed
		3. If a direct payment is refused, other options to personalise the package of care for the individual will be explored and facilitated as much as is possible, and other forms of PHB, such as a notional budget or third-party budget, should be considered.
		4. **Deciding not to approve a PHB care and support plan or parts of a PHB care and support plan**.
		5. If a decision is made not to approve an individual’s support plan, then the ICB/ NHS organisation providing the PHB must provide in writing to the individual:
* The reasons for which the whole or parts of the support plan has not been approved.
* Actions the individual might need to take or further information that is required from the individual in order to progress their application for a PHB.
* A named professional that the individual may contact for more information.
* How individuals and/ or their representatives/ nominees may appeal the decision.
	+ 1. **Understanding and agreeing to the terms and conditions of having a PHB, as outlined by the NHS.**
		2. Individuals must be fully aware of the responsibilities that come with having a PHB. It is best practice to provide individuals with the details of their responsibilities as early as possible in their PHB journey. This can be achieved by providing a copy of the PHB Agreement for reference, when an individual request’s a PHB, or by providing details of said responsibilities in an information leaflet (electronic or hard copy).
		3. In addition, for individuals who choose to manage their PHB as a Direct Health Payment, after their PHB care and support plan has been approved, they must be issued a contract called a PHB Agreement to read, sign and return to the organisation providing the PHB funds.
		4. PHB funds should not be transferred to an individual unless a copy of the PHB Agreement signed by the individual, their representative or nominee has been received by the organisation issuing the PHB.
		5. **The PHB agreement**
		6. The PHB agreement must cover:
* The responsibilities of the individual receiving the PHB and/or the representative or nominee.
* What the PHB cannot be spent on.
* The start date of their PHB.
* The review date of their PHB.
* How often they must submit documents and records for monitoring
* Which documents they should keep as proof of how they have spent their PHB.
* When and how to inform their local NHS team about changes to their health and wellbeing needs; changes to how they would like to use their PHB, changes to the management of their PHB.
* Who to contact if there is a problem.
* If relevant, the PHB end date.
	+ 1. An example of a PHB agreement template is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/view?objectId=139002853>.
		2. If an individual chooses to have their PHB managed by a Third-Party organisation, then the PHB agreement should be issued to their chosen Third-Party organisation.
		3. In the event that the ICB or the organisation funding the PHB has directly commissioned a Third-Party organisation, then the contract put in place under the commissioning arrangement stands.
		4. A separate contract should be in place between individuals and the third party organisation
		5. An example of a third party contract template is available at:<https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=139003589&done=DOCCreated1&fid=36456080>
		6. **Appeals**
		7. This section outlines what actions individuals, their representative or nominee can take if they disagree with a decision the ICB has made.
		8. Where the ICB decides that the whole or part of a PHB cannot be granted, or the management option chosen by an individual is declined, or a PHB that is already in place must be stopped or reclaimed, eligible individuals, their representative or nominee can request that the ICB reconsiders the decision. The Individual and/ or their representative, or nominee may provide, or be asked to submit additional information to support the deliberation.
		9. The ICB must reconsider its decision in a timely manner; in line with complaints processes, upon such a request being made and will provide a written explanation regarding the outcome of the decision but is not required to undertake more than one re-consideration in any six-month period following the initial decision.
		10. Should an individual not agree with the reviewed decision subsequently made by the ICB, they may place a complaint to the ICB. The ICB will then place this with the appropriate person to decide regarding a request for reconsideration of a refusal to provide a PHB. The decision will be reviewed in line with the ICB’s commissioning principles and will be considered on individual basis.
		11. Following the review, the ICB must inform the individual or their representatives in writing of the decision and state the reasons for the decision. The ICB may not be required to undertake more than one review of their first decision in any six-month period.
		12. **Request for review of a decision**
		13. Where the ICB decide that a direct payment would be inappropriate, the patient or representative may require the ICB to reconsider the decision, by submitting additional information to support the deliberation. The ICB must reconsider its decision in a timely manner upon such a request being made but is not required to undertake more than one re-consideration in any six-month period following the initial decision.
		14. Should an individual not agree with the decision and place a complaint to the ICB. They will then place this with the appropriate person to decide regarding a request for reconsideration of a refusal to provide a direct payment. The decision will be reviewed in line with the ICB’s commissioning principles and will be considered on individual basis.

### Monitoring, Audit and Reviewing

* + 1. Reviews are carried out in the spirit of ensuring that people’s health and wellbeing needs are being met in a personalised, safe and supportive way; that they are happy to continue with their PHB being managed as previously chosen and that their PHB funds are being used in the best way to support their needs.
		2. PHBs should be reviewed three months after the PHB start date then annually or in line with the reviewing schedule of the service offering the PHB if more appropriate.
		3. There are two aspects to the monitoring of a PHB:
* The health and wellbeing needs of the individual and how well the provisions in place are meeting said needs.
* The financial management of the PHB, and whether the PHB is being managed in line with the PHB agreement and National Health Service (Direct Payments) Regulations 2013.
	+ 1. Reviews can be triggered by the:
* PHB holder, their representative or nominee, if they believe there has been a significant change in health and wellbeing needs.
* Or if there are concerns regarding how the PHB funds are being utilised.
	+ 1. In addition, there should be regular checks of individuals PHB spend. Individuals should be asked to submit bank statements evidencing spend on a regular basis. Financial reviews should be carried out from a position of trust. If a misspend is identified within a budget, the ICB will contact the PHB holder and/or their representative or nominee to discuss the misspend, in serious cases consideration will be given to a referral to statutory organisations such as the police and the NHS counter fraud team to investigate.
		2. The findings of reviews must be documented, any changes required to meet the health and wellbeing needs of the individual or to ensure the governance is in place to appropriately manage the PHB funds should be actioned at the time of the review. Outcomes of the review should be shared with the PHB holder, their representative or nominee.
		3. PHB payments are paid to meet assessed health and wellbeing needs of an individual, they do not represent an entitlement to a fixed amount of money, where individuals’ needs change this will be reflected in the value of their PHB.
		4. It is the responsibility of the individual (or their representative) to inform the ICB as soon as they become aware of factors which may affect the cost of their PHB. The ICB will not automatically fund increased costs which have not been pre-approved through the care plan or financial review process.
		5. Where evidence and reviews indicate that in an 8 week timeframe, people’s outcomes are being met but the cost of care is less than the budget, a revision and recuperation of funds will be required.
		6. NHS services adopting personal health budgets within their care pathway must report data on PHBs to the ICB to meet the National reporting expectations and for financial reconciliation.
		7. As a minimum, NHS services providing PHBs must collect activity and finance data on no less than a quarterly basis, this frequency may be subject to local agreement for example monthly.
		8. The purpose of intelligence reporting is to provide assurance of the delivery of personalised care in line with the long term plan ambitions.
		9. Data is required to capture PHB activity measures.
		10. The PHB activity measures are:
* Population served by the PHB
* Total Number of people with an open Personal Health Budget on the first day of the Quarter
* Personal Health Budgets Started in Quarter
* Personal Health Budgets Ended in Quarter
* Total Number delivered as a Direct Payment
* Total Number delivered as a Third Party Budget
* Total Number delivered as a Notional Budget
* Total number of PHB reviews resulting in a change in PCSP
	+ 1. The PHB finance measures are:
* Total value of open Personal Health Budgets on the first day of the Quarter
* Total value of indicative budgets set in the quarter
* Total value of Personal Health Budgets agreed started in the Quarter
* Total value of Personal Health Budgets Ended in Quarter
* Total value delivered as a Direct Payment
* Total value delivered as a Third Party Budget
* Total value delivered as a Notional Budget
* Following PHB reviews, total amount to be returned from underspend of budget
	+ 1. A PHB activity and reporting template is available at: <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=139003941&done=DOCCreated1&fid=36456080> .
		2. The completed reporting templates should be submitted to mse.personalisedcare@nhs.net for assurance reporting purposes.
		3. This section does not provide an exhaustive list of reporting expectations.
		4. Outcomes should be captured and measured through tools such as Patient Reported Outcomes Measures, Edinburgh & Warwick Wellbeing Scale or Quality of Life indicators and reporting this is essential to monitor the quality of personalised care and support plans and PHBs.
		5. It is expected that outcomes reporting is embedded within practice to demonstrate that PHBs are applied consistently, safely and delivering effective processes providing a person-centred service that improves quality of life and provides value for money.
		6. A directory of suggested measures that can be applied in monitoring and measuring for impact is available at[:](https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=139004229) <https://future.nhs.uk/MidandSouthEssexEqualities/viewdocument?docid=139004229> .

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

* + 1. A PHB may only be spent on the services agreed between the service user and the ICB in the personalised care and support plan that will enable the service user to meet their agreed health and wellbeing outcomes. All agreements are confirmed and authorised within the support plan and are reviewed through the auditing process for compliance.
		2. A PHB cannot be used for the following items:
* Alcohol, tobacco, gambling.
* Debt repayment (other than for a service specified in the support plan).
* Core GP services.
* Planned surgical interventions.
* NHS prescriptions/medications.
* Services provided through vaccination or immunisation programmes.
* Any service provided under the NHS Health Check Programme.
* NHS dentist and opticians.
* Emergency or acute hospital services, such as unplanned admission to hospital.
* Primary medical services provided by GPs, such as diagnostic tests, basic medical treatment, or vaccinations.
* To pay a close family carer living in the same household unless agreed by the ICB as an exception.
* The employment of people in ways, which breach national employment regulations.
* Anything not identified within the personalised care and support plan.
	+ 1. **Employing people, commissioning services, buying equipment**
		2. A PHB cannot be used for support or care provided by an individual living in the same household, a close family member or a friend of the budget holder without the prior agreement of the ICB. Agreement from the ICB may be obtained if they consider it necessary to meet the individual’s needs or to promote the welfare of a child with a PHB.
		3. The ICB will make these judgements on a case-by-case basis, the ICB will consider:
* The benefits that the individual with the PHB and the proposed individual of the same household may already be in receipt or.
* The care that should naturally be expected from that of a family member/individual living in the same household.
	+ 1. For individuals that are using a direct payment to employ personal assistants it is a requirement to have a contract of employment in place, including terms and conditions related to potential redundancy, liability insurance and training and development requirements.
		2. **Proposed Providers**
		3. If activity in the care plan is considered a regulated activity for example personal care, provider organisations outlined in the personalised care and support plan must be registered with a relevant regulatory body, where one exists (e.g., Care Quality Commission, Health Professions Council, Nursing and Midwifery Council).
		4. **Employing staff funded by PHB**
		5. Any staff employed by the PHB holder:
* Must be appropriately trained.
* Have ongoing competency checks of any healthcare tasks they are employed to undertake.
* Have relevant certification (including dates of training undertaken) including annual updates as appropriate.
* Have an enhanced Disclosure and Barring Service (DBS) check.
	+ 1. Any increases in the working hours of staff that will result in an increase of the overall budget must be agreed by the ICB before staff hours are increased. The ICB will not be liable for any money owed to staff who have worked hours that have not been previously approved as part of an individual’s support plan
		2. **Use of community services**
		3. PHBs should not be used to purchase services that the ICB already commissions, including community health services and equipment. Any exception to this would need to be considered by the ICB on a case-by-case basis
		4. During the care and support planning process the individual (or their representative) will be informed of existing NHS services.
		5. **Equipment, resources, and disposables**
		6. If equipment purchased through a PHB is no longer required, if it no longer meets assessed needs or the patient dies, the organisation reserves the right to request that the item is returned.
		7. Disposables which are provided through an NHS contract (such as continence products) are not funded through a PHB in order to avoid double funding. However, if the local service is unable to meet particular needs then a PHB may be considered in the best interest of the patient in-line with care and support planning.
		8. **Holidays**
		9. There is no formal entitlement to holiday funding within a PHB, but for those individuals where an agreed health and wellbeing outcome is respite provision it must be ensured that the PHB holder, representative or nominated person are insured to travel (whether in the UK or abroad). The PHB cannot be used to pay for any form of travel insurance; it is the responsibility of the PHB holder to fund this.
		10. If an increase in personal assistants or service provider staff/hours is required, this must be discussed with the ICB in advance. The patient/PHB holder is responsible for funding the insurance, travel, and accommodation costs of accompanying personal assistants or service provider staff, beyond that outlined within the agreed plan.
		11. In the case of children and young people, the local authority has a responsibility to provide short breaks. Local authority rules and regulations regarding travel insurance will apply. The PHB cannot be used to fund the insurance, travel, and accommodation costs of accompanying personal assistants or service provider staff.

### Ending a PHB

* + 1. As part of the PHB, the individual must agree to periodical review, which may result following a change of need or circumstances which would impact on the current agreed care plan. Section 6.12 provides all information regarding Monitoring, Audit and Review of PHBs.
		2. Where outcomes of goals are not being achieved, the ICB reserves the right to reconsider the value of continuing to provide a PHB. The person in receipt of the PHB should receive written notification, where the ICB is considering removing a PHB.
		3. If parts of the PHB are not spent, due to a change of need, the money cannot be used to fund any additional aspect of care unless agreed within the care plan; any surplus or unspent funds will be returned to the ICB. See Section 6.11.6 Managing Risk.
		4. **Stopping or Reclaiming Payments**
		5. Individuals can opt out of a direct payment or third party PHB at any time and to have their needs reassessed for a notional budget. Individuals should discuss this with their identified responsible clinician and give formal notification of their intention to change their PHB to a notional one.
		6. Individuals will be required to give 8 weeks’ notice to allow time for directly commissioned and self-directed support to be wound down unless there is a crisis which prevents such notice.
		7. The ICB reserves the right to stop direct payments where money is being spent inappropriately, where there may have been theft or fraud, or if the individual’s assessed needs are not being met. A notional PHB will then be put in place to ensure that there is no gap in the individual’s health and wellbeing needs being met.
		8. Before direct payments are ceased, the ICB will give notice to the individual or their representative in writing and where appropriate verbally. There is no fixed notice period for stopping direct payments. The time taken before stopping direct payments will depend on any contractual obligations the direct payment user may have entered into and the urgency of the reason for which the direct payment is being stopped.
		9. **Clearing outstanding invoices**
		10. Any outstanding payments for care/ services that were previously agreed as part of the PHB will need to be cleared, payments should be made from the PHB funds that covered the funding period the services were delivered in. Outstanding payments include staff pay and redundancy pay where applicable.
		11. If there are no funds remaining in the PHB for the funding period the services/ care was provided in, due to fraud or misuse of funds, then the ICB must consider all options, including clearing all the invoices with ICB funds, clearing only the invoices for services/ care that had been previously approved in the support plan. In addition, in serious cases consideration will be given to a referral to statutory organisations such as the police and the NHS counter fraud team to investigate.

## Staff Training

* 1. Where there is a need for staff training, the ICB will work with the individual to ensure that reasonable and appropriate training can be accessed; this may be through existing training opportunities, or can be personalised, where necessary.

## Arrangements For Review

* 1. This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.
	2. If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance And Documents

#### Associated Policies:

* [All Age Continuing Care Policy](https://www.midandsouthessex.ics.nhs.uk/publications/all-age-continuing-care/#839cd99c)
* [Compliments, Concerns and Complaints Policy](https://www.midandsouthessex.ics.nhs.uk/publications/062-compliments-concerns-and-complaints-policy-v1-0/#839cd99c)
* [Conflicts of Interest Policy](https://www.midandsouthessex.ics.nhs.uk/publications/icb018-conflicts-of-interest-policy/#839cd99c)
* [Mental Capacity Act 2005 and Deprivation of Liberty Policy](https://www.midandsouthessex.ics.nhs.uk/publications/073-mental-capacity-act-2005-and-deprivation-of-liberty-policy-v1-0/#839cd99c)
* [Risk Management Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=3#839cd99c)

## References

* The NHS Act 2006 (as amended).
* The Health and Care Act 2012.
* 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 2003.
* Mental Capacity Act 2005.
* Mental Health Act (1983)

## Impact Assessment

The EIA has identified no equality issues with this policy.

Personal Health budgets are a ‘right to have’ for some restricted groups, as established within this policy. In addition to this, the ICB’s have the right to consider any reasonable request, where there is an identified health need currently being met by the ICB or services commissioned by the ICB. In some cases, where it is impossible to separate out an individual budget, the ICB may choose not to agree to a PHB but will be required to set out a clear rational for this decision. Consequently, there may be situations where it is extremely difficult to apply this offer with complete equity.

The EIA has been included as **Appendix A.**

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:** Personal Health Budgets: Ethos, Practice & Guidance Policy **Version number (if relevant):**  | **Directorate/Service**: Personalised Care |
| **Assessor’s Name and Job Title:** S Mayo  | **Date:** February2022 |

|  |
| --- |
| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff*  |
| The purpose of this document is to outline how Personal Health Budgets (PHBs) are delivered by NHS services across mid & south Essex where the Integrated Care Board has the legal responsibility for commissioning health care services.The policy is open for all ages and outlines a consistent, safe and effective process to be applied in partnership with people to provide a person-centred service that improves quality of life and provides value for money. |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| This policy is intended to be applied across all age and protected groups where commissioning planning and implementation intends to apply it however Personal Health budgets are a ‘right to have’ for some restricted groups, as established within this policy. In addition to this, the ICB’s have the right to consider any reasonable request, where there is an identified health need currently being met by the ICB or services commissioned by the ICB. In some cases, where it is impossible to separate out an individual budget, the ICB may choose not to agree to a PHB but will be required to set out a clear rationale for this decision. Consequently, there may be situations where it is extremely difficult to apply this offer with complete equity. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?*  |
| This policy is expected to be applicable universally where appropriate |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| ProtectedGroup | Positiveoutcome | Negativeoutcome | Neutraloutcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | X |   |
| Disability(Physical and Mental/Learning) |  |  | X |   |
| Religion or belief |  |  | X |  |
| Sex (Gender) |  |  | X |  |
| Sexual Orientation |  |  | X |  |
| Transgender/Gender Reassignment |  |  | X |  |
| Race and ethnicity |  |  | X |  |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | X |  |
| Marriage or Civil Partnership |  |  | X |  |

|  |
| --- |
| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| Section 6.12 of the policy addresses monitoring and review processes at organisational and individual level. Outcomes monitoring at individual level can be applied in multiple ways but the principles of reviews has been included in section 6.12.2 at individual level. Organisational assurance is set out by reporting principles to gather intelligence that the policy statement is being met in section 6.12.12-16.  |

|  |
| --- |
| **REVIEW** |
| *How often will you review this policy / service?*  |
| This policy is expected to be reviewed no less than three yearly however it may be reviewed sooner in order to ensure that it addresses the Quality Framework for PHBs that is in development nationally by NHSE and should the organisational level intelligence gathered for assurance processes indicate a need. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – PHB Implementation Process



Policy Section 6.7

Making contact and providing clear information

Policy Section 6.8

Understanding health and wellbeing needs

Policy Section 6.9

Working out the amount of money available for a PHB

Policy Section 6.10

Personalised Care & Support Planning

Policy Section 6.11

Organising care and support

Policy Section 6.12

Monitoring, review & measuring impact

Review process for care & support plans

Review process for budget

PHB Compliance

Ending a PHB

PHB Approval process

PHB contracts and agreements

Conflicts of interest

Managing risks

Appeals process

Designing care and support plans with people

Involving people in the planning process

Including what matters to people

Recording the plan

Identifying an indicative budget

Identifying the funding

Providing information about the options and the responsibilities for managing a PHB

Named Case Manager

Understanding what matters to people

Understanding people’s needs

Purpose of a PHB for the person

Preparing to have a PHB

Eligibility & Legal right to have

PHB Pathways

Providing information to people

What a PHB cannot be used for

Making enquiries about PHBs

## Appendix C – PSCP Quality & Safety and Risk Checklist

|  |
| --- |
| **PCSP Quality & Safety and Risk Checklist** |
| Quality person-centred care planning | The plan contains a summary of the person’s health and well-being needs |  |
| The plan identifies what is important “to” the person – “these are the things that make life worth living” |  |
| The plan identifies what is important “for” the person – “these are the things that must happen to keep the person safe and well” |  |
| The plan shows what the person wants to change |  |
| The plan shows how the person will be supported in all aspects of their life – not just paid support (Including other NHS services, paid/natural support, assistive technology, equipment, community resources etc.) |  |
| The plan shows how the PHB will be managed i.e., self-managed, managed by a representative / nominee, by a Direct Payment support service, by the CCG (notional budget) or Third Party PHB support service |  |
| The plan shows how the person will stay in control of their life and maximise their independence. |  |
| Safety and risk | The plan identifies any risks and how they will be managed (Including Personal Assistant training)  |  |
| The plan identifies contingency arrangements (including funding required) that ensures that the person will be safe and well should the usual support arrangement not be available e.g., a plan around being unwell or Personal Assistant(s) not being available etc. |  |
| The plan sets out what the person is going to do to make their plan happen (action plan) to keep themselves healthy, safe and well |  |
| The plan meets the person’s assessed needs and can be delivered safely.  |  |
| Budgets | The plan sets out how the person will spend their Personal Health Budget. |  |
| Does the document spend lawful? |  |
| Does the proposed spend contravene any relevant legislations? |  |
| Is the requested budget within the indicative budget? |  |
| If the requested budget is over the indicative budget then If the requested budget is over the indicative budget then do the needs, outcomes, and goals outlined in the plan justify the additional cost? |  |
| If the plan is over budget, is it fair to non PHB holders and virtual budget holders to fund the request in addition to the existing PHB offer? |  |

1. https://www.england.nhs.uk/personalisedcare/ [↑](#footnote-ref-1)