

Personal Health Budget and Integrated Budget Policy Version 1

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1. Introduction

- 1.1 This policy applies to Cheshire and Merseyside Integrated Care Board; hereafter referred to as 'the ICB' and outlines the national context for personal health budgets and integrated personal budgets.
- 1.2 The National Health Service (NHS) exists to serve the needs of all but also has a statutory duty to financially break evenⁱ. ICBs have a responsibility to provide health benefits for the whole of their population, whilst commissioning appropriate care to meet the clinical needs of individual patients.
- 1.3 The ICB has established this personal health budget policy to ensure the best use of NHS resources, providing a level of service that is sustainable and equitable (fair) to the health and wellbeing of the individuals within the ICB footprint.
- 1.4 This policy covers those individuals who have the legal right to have a personal health budget, and where health and social care work together to provide an integrated personal budget.
- 1.5 This policy covers any individual who holds a personal health budget funded by the ICB outside of the legal right to have groups.
- 1.6 The groups of individuals with a legal right to have a personal health budget are:
 - Individuals eligible for NHS Continuing Healthcare (NHS CHC)
 - Individuals eligible after-care services under section 117 of the Mental Health Act (1983)
 - Children and young people eligible for Children's Continuing Care
 - Individuals requiring long term use of a wheelchair

2. Purpose

- 2.1 The purpose of this policy is to ensure that high-quality, cost-effective care is delivered, and to support consistency and equity of access to services for individuals eligible for a personal health budget.
- 2.2 All NHS organisations have a duty to operate within their financial frameworks which must be considered in addition to the Human Rights Act. The ICB also has an obligation of equality under the Public Sector Equality Dutyⁱⁱ.
- 2.3 This policy should be read in conjunction with the National Health Service (Direct Payment) Regulations 2013ⁱⁱⁱ, The NHS England Guidance on direct payments for healthcare: Understanding the regulations^{iv}, and The NHS England Guidance on the legal rights to have a personal health budgets and personal wheelchair budgets^v.

3. Scope

- 3.1 This policy applies to:
 - All employees of, appointees to, and those individuals contracted to work on behalf the ICB

- Individuals working within the ICB in a temporary capacity
- Any individual who is eligible for a personal health budget which is funded in any part by the ICB

4. Definitions

Term	Definition
Personal Health Budget	A personal health budget is an amount of money to support an individual's identified health and wellbeing needs, which is planned and agreed between the individual, their representative, or, in the case of children, their families or carers and the local NHS team. It is not new money, but money that would normally have been spent by the NHS on an individual's care being spent in a more flexible way to meet their identified needs. The use of personal health budgets is one way of providing more personalised care and means tailoring services and support for individuals to enable them to have choice, control, and flexibility over their care. Personal wheelchair budgets are another form of personal health budget and are commonly known as personal wheelchair budgets.
Care and support plan	A care and support plan is personalised to the individual and says: <ul style="list-style-type: none"> • the type of support they need • how this support will be given • how much money the ICB will spend on their care
Integrated Personal Budget	An integrated personal budget is where the budget includes funding from both the local authority and the NHS. This could be for health and social care needs and where appropriate, includes education funding. Integrated personal budgets aim to put in place a seamless approach to care, so that individuals and their families have the same experience of care and support, regardless of whether their care is funded by the local authority or the NHS. The joint funded packages of care and S117 aftercare are provided to individuals as integrated personal budgets.
One Off Budget	A single payment made for a single item or service or a single payment made for no more than 5 items or services where that payment is the only payment a patient would receive from the ICB in any financial year.
Personal Assistant	A personal assistant is a person who is employed by a personal health budget holder to provide their care and support.
Representative	This is a person who agrees to act on the individual's behalf in relation to a direct payment and is responsible for all contractual arrangements entered into for the benefit of the individual using the direct payment.
Nominee	A nominee is a person who must agree to receive a direct payment in respect of an individual or representative and be responsible for all contractual arrangements entered into for the benefit of the individual and secured by means of the direct payment.
Virtual Wallet	Virtual Wallet means an online platform which shows all activities within a PHB; for example, the amount of PHB deposited by the ICB, amount paid to the personal assistants and invoices paid to providers. The ICB will provide advice and guidance on the use of a virtual wallet to the individual or their representative.

Options of how individuals can hold a personal health budget	
Notional Budget	A monetary budget is identified and held by the NHS. A joint decision is then taken with the individual as to what services are needed and those services are commissioned by the NHS according to the agreed care and support plan.
Direct Payment	A monetary payment to an individual or their representative funded by the NHS, to allow them to purchase the services that are agreed in their care and support plan. 'Managed account' is the term used when a direct payment is held in an account on behalf of the individual or their representative by a direct payment support service, solicitor, accountant or other provider. Unlike a third party <i>budget</i> , the managed account provider does not take on responsibility for arranging care and support, but co-ordinates the financial elements of the budget. The individual or their representative is still the person who signs the direct payment agreement and retains responsibility for decisions about how the budget is spent, and in most instances is also the registered employer for any personal assistants.
Third Party Budget	<p>An organisation legally independent of both the individual or their representative and the NHS (for example, an independent user trust or a voluntary organisation) holds the money for the individual or their representative, and also pays for and arranges the care and support agreed in the care and support plan.</p> <p>A third party budget is not a form of direct payment. Third party budgets are particularly helpful when:</p> <ul style="list-style-type: none"> • An individual or their representative would like the flexibility of support from their own team of care workers but not the employer responsibilities • An individual does not want, or is not in a position, to manage their own budget and their care and support via a direct payment

5. Roles and Responsibilities

Roles	Responsibilities
Directors	Directors have overall accountabilities for all aspects of an individual's safety within the ICB and to ensure appropriate care is delivered. The ICB's Directors are responsible for the implementation of all relevant policies and arrangements within their areas of control and to lead their managers and staff in proactive and effective risk management.
Executive Director of Nursing & Care	The Executive Director of Nursing & Care ensures that the ICB has met its responsibilities regarding provision of personal health budgets.
Assistant Director of Nursing and Care (All Age Continuing Care)	The Assistant Director of Nursing and Care (All Age Continuing Care) ensures that the All Age Continuing Care team has met its responsibilities regarding provision of personal health budgets.

Head of CHC	Responsible for ensuring that the All Age Continuing Care team work to the policy in relation to CHC and Children and Young People's Continuing Care personal health budgets.
All Age Continuing Care team	All members of the ICB All Age Continuing Care team have a responsibility to work to the policy to ensure the delivery of best possible health and wellbeing outcomes, as well as working to promote equality, and achieving this with the best use of available resources
Wheelchair services	All members of ICB contracted wheelchair services, managers and staff, have a responsibility to work to the policy to ensure the delivery of best possible health and wellbeing outcomes, as well as working to promote equality, and achieving this with the best use of available resources

6. NHS Long Term Plan

- 6.1 Personal health budgets are part of the NHS's comprehensive model of personalised care^{vi} which uses NHS funding to create an individually agreed personalised care and support plan which offers individuals greater choice and flexibility over how their assessed health and wellbeing needs are met.

7. Eligibility for Personal Health Budgets

- 7.1 The following groups have a legal right to a personal health budget:^{vii,viii}
- Individuals eligible for NHS CHC
 - Individuals eligible after-care services under section 117 of the Mental Health Act (1983)
 - Children and young people eligible for Children's Continuing Care
 - Individuals requiring long term use of a wheelchair
- 7.2 Where it is confirmed that:
- A direct payment is appropriate for that individual with regard to any particular condition they may have and the impact of that condition on their life
 - A direct payment represents value for money and, where applicable any additional cost is outweighed by the benefits to the individual
 - The individual is not excluded from health direct payments (see Schedule of the regulations)

8. Wheelchair budgets

- 8.1 The legal right to a personal health budget covers individuals who are referred or already registered and meet the eligibility criteria of their local wheelchair service, when they require a new wheelchair either through a change in clinical needs or in the condition of the current chair.
- 8.2 The ICB commissions external organisations to provide its wheelchair services. The ICB has ensured that these organisations advise all patients of their legal right to a personal wheelchair budget.

9. Who can Receive a Health Direct Payment

- 9.1 A direct payment can be made to, or in respect of, anyone who is eligible for

NHS care under the National Health Service Act 2006 and any other enactment relevant to an ICB. Direct payments can be made:

- To an individual aged 16 or over, who has the capacity to consent to receiving a direct payment and consents to receive one
- To a child under 16 where they have a representative who consents to the making of a direct payment
- To an individual aged 16 or over who does not have the capacity to consent but has a representative who consents to the making of a direct payment

And where any representative:

- Acts in the best interests of the patient when securing the provision of services in respect of which the direct payment is made
- Is responsible as a principal for all contractual arrangements entered into for the benefit of the patient and secured by means of the direct payment
- Uses the direct payment in accordance with the care and support plan; and
- Complies with the relevant provisions of the National Health Service (Direct Payments) Regulations 2013

9.2 The ICB will adhere to the National Health Service (Direct Payments) Regulations 2013 when making, providing and ending a direct payment as part of a personal health budget^{ix}

9.3 The ICB may decide not to provide someone with direct payments if the ICB concludes that:

- the individual (or their representative) would not be able to manage a direct payment
- it is inappropriate for the individual, given their condition or the impact on the individual's condition
- the benefit of an individual having a direct payment will not represent value for money
- providing services in this way will not provide the same or improved outcomes
- the direct payment will not be used for the agreed purposes
- the individual (or their representative) has mismanaged money in the past or has been convicted of fraud
- the individual (or their representative) would not be a suitable person to arrange with any person or body to provide any services secured by means of the direct payments
- the individual is an excluded person under Schedule 1 of the National Health Service (Direct Payments) Regulations 2013

10. Use of a Personal Health Budget

10.1 What a personal health budget can be used for:

- A personal health budget can only be used to procure services specified in the care and support plan, which has been agreed by the ICB together with the person receiving care or their representative
- The care and support plan may potentially include care and support services which would not routinely be commissioned by the NHS, to personalise individuals' experience of care and support if it is agreed as being appropriate to meet someone's identified needs and achieve their health and wellbeing outcomes

10.2 What a personal health budget cannot be used for:

There are several exclusions that are outlined in The National Health Service (Direct Payments) Regulations 2013. A personal health budget cannot be used to buy:

- Alcohol, tobacco, gambling or debt repayment, or anything that is illegal
- Emergency care – for example, if someone in receipt of a personal health budget had an accident, they would go to A&E like everyone else
- Primary care services such as seeing a GP service (GP contract)
- Acute unplanned care (including A&E)
- Surgical procedures
- Medication or medical appliances
- Optical appliances
- NHS charges, for example, prescription charges or dental charges
- Vaccination/immunisation including population-wide immunisation programmes
- Screening

Refer to the NHS Act 2006ⁱ Schedules 172,176 and 179 for further details.

- 10.3 The ICB may also impose conditions which prohibit services being secured from particular persons. This may include for example friends and close family members living in the same household.
- 10.4 Although the regulations refer specifically to direct payments, for consistency and good practice the exclusions will be applied to all types of personal health budgets.
- 10.5 Delegation of Healthcare Tasks and Indemnity:
- Direct payments for healthcare can be used to employ a personal assistant (PA) to carry out certain personal care and health tasks that might otherwise be carried out by qualified healthcare professionals such as nurses, physiotherapists, or occupational therapists. In these cases, the healthcare professional will need to be satisfied that the task is suitable for delegation, specify this in the care and support plan and ensure that the PA is provided with the appropriate training and development, assessment of competence and has sufficient indemnity and the right level of insurance cover.
 - It will be the responsibility of the person buying the service to check the indemnity cover of the provider from which they are buying services. They must make enquiries to ascertain whether the provider has indemnity or insurance, and if so is it at the appropriate level.
- 10.6 Registration and Regulated Activities
- If a person wishes to buy a service which is a regulated activity under the Health and Social Care Act 2022 and Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, they must enquire as to whether their preferred provider is registered with the Care Quality Commission (CQC). A PHB cannot be used to purchase a regulated activity from a non-registered service provider.
 - It will be the responsibility of the person buying the service to check whether the provider is appropriately registered
 - If a person employs a care worker directly, without the involvement of an agency or employer, the employee does not need to register with the CQC
 - The CQC guidance makes it clear that where a person, or a related third party on their behalf, makes their own arrangements for nursing care or personal care, and the nurse or carer works directly for them and under their control without an agency or employer involved in managing or directing the care provided, the nurse or carer does not need to register with the CQC for that regulated activity
- 10.7 A related third party is:
- An individual with parental responsibility for a child to whom personal care services

- are to be provided
 - An individual with power of attorney or other lawful authority to make arrangements on behalf of the person to whom personal care services are to be provided
 - A group or individual mentioned (in either of the above) making arrangements on behalf of one or more persons to whom personal care services are to be provided
 - A Trust established for the purpose of providing services to meet the health or social care needs of a named individual
- 10.8 Ability to manage direct payments – the ICB will consider whether an individual or their representative is able to manage direct payments by considering:
- Whether the person would be able to make choices about and manage the services they wish to purchase
 - Whether the person is able to understand the implications of direct payments, including the actions and responsibilities required.
 - Whether the person has been unable to manage either a health care or social care direct payment in the past, and whether their circumstances have changed
 - Whether the person is able to take reasonable steps to prevent fraudulent use of the direct payment and/or identify a safeguarding risk and if they understand what to do and how to report it if necessary
 - Details of the account to which any direct payments would be paid
 - Anything else which appears relevant

11. Respite

- 11.1 Where the individual has an assessed need for respite provision, the agreed number of respite hours per year will be detailed in the care and support plan. Those respite hours can be used to pay for the delivery of care and support either at home or in another suitable location agreed with the ICB. The personal health budget cannot be used to cover the costs associated with alternative accommodation outside of day centre or approved residential facilities.
- 11.2 Where there is an identified need for respite which requires the use of day centre or residential facilities, the ICB will assist in finding a suitable service to build into the personal health budget.

12. Holidays and Short Breaks

- 12.1 Costs associated with holidays and short breaks are not covered within a personal health budget. In the event that an individual wishes to go on a holiday or short break, they are responsible for making their own arrangements and covering any costs associated with the holiday or short break. Those costs include items such as, but not limited to, accommodation, transport and insurance both for themselves and anyone supporting them during that period, whether on a formal or informal basis. The personal health budget must not be used to cover those costs.
- 12.2 In the event that the individual requires support from paid care staff during any holiday or short break, it may be appropriate for the costs of that care provision to be met from the personal health budget funds. This would need to be agreed on an individual basis to enable an updated support plan and indicative budget allocation covering the costs associated within any agreed paid care provision. This must be agreed with the ICB before any personal health budget funds are used for this purpose and funds must only be utilised in accordance with the agreed support plan. Unused or surplus funds cannot be used to cover the costs of accommodation, transport and insurance costs.

13. Key Features of a Personal Health Budget

- 13.1 To ensure individuals experience a personalised care approach and achieve the best health and wellbeing outcomes possible^x. An individual should expect to:
- Receive timely contact from the ICB and be provided with clear and accessible information about personal health budgets
 - Have a personalised assessment to understand their health and wellbeing needs
 - Know upfront an indication of how much money they have available for healthcare and support
 - Be central in developing their care and support plan
 - Be able to agree the health and wellbeing outcomes (and learning outcomes for children and young people with education, health and care plans) they want to achieve, in discussion with relevant health, education and social care professionals
 - Have enough money in the budget to meet the health and wellbeing outcomes agreed in the 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 health and outcomes in ways and at times that make sense to them, as agreed in their care and support plan
 - Be supported to organise their care and support, as agreed in their care and support plan
 - Have a review of their personal health budget after three months and then annually or if there is a change in assessed need

14. Agreement of a Personal Health Budget

- 14.1 In order for a personal health budget to be approved by the ICB, there must be a care and support plan that has been developed by the ICB with input from the individual and/or their representative.
- 14.2 The care and support plan must show:
- Who the individual is and what matters to them
 - What is working and not working for the individual
 - What the individual's health needs are and who is responsible for monitoring and reviewing the person's health condition
 - How the individual's health and wellbeing needs will be met by the services identified in the plan
 - What health and wellbeing outcomes the individual wishes to achieve
 - Any specific training needed to ensure that care is delivered appropriately and safely
 - If there are any risks, what the risks are, the potential consequences of those risks and how they can be managed/contingency plans
 - How the budget will be used to meet the individual's health and wellbeing outcomes
 - How the budget will be managed, and reviewed
 - A named care-coordinator from the ICB who is responsible for managing the assessment of the individuals needs for the care and support plan, monitoring and arranging for the monitoring of all payments made under the PHB agreement, reviews and liaison with the individual or their representative
 - Have a clear action plan of what needs to happen to give effect to the care and support plan

In order for a care and support plan to be agreed it must also be:

- Lawful: The proposals should be legitimately within the scope of the funds and resources that will be used. The package of care must be lawful and regulatory requirements relating to specific measures proposed must be addressed.
- In deciding whether the care and support plan meets with legal requirements it must

show:

- a. That the services identified within the care and support plan will fulfil the NHS statutory duty to meet the individual's assessed, eligible needs
 - b. That the amount of money in the personal health budget will be sufficient to cover the full costs of the services identified within the care and support plan
 - c. That the measures proposed in the care and support plan must in all cases be lawful
 - d. Where the individual has been assessed as lacking capacity to consent to the care and support they require to meet their assessed needs - the care and support plan must make clear how it has been developed in the person's best interests using the checklist at section 4 of the Mental Capacity Act 2005
 - e. That if an individual lacks capacity to consent to the care and support they require to meet their assessed needs, procedures which require a specific legal framework, such as the use of restraint, have been included in the care and support plan, and how those processes will be managed – including specific oversight or training
 - f. That any potential risks have been identified and discussed fully with the individual or their representative, including potential ways to mitigate those risks
 - g. The plan for review of both the person's health needs and the care and support plan
 - h. That the individual or their representative have been made aware of any legal responsibilities they will incur as a result of measures proposed in the care and support plan (e.g. employment law, health and safety)
 - i. That any service providers identified in the care and support plan must meet applicable regulatory requirements
 - j. That the individual or their representative, and carers, must receive guidance on any health and safety issues or regulatory requirements in relation to any equipment to be used or any adaptations to their home
- It must not include:
 - k. Paying a close family carer living in the same household except in circumstances when it is necessary and evidenced that this is the best way to meet the eligible individual's need for that service; or to promote the welfare of a child or young person
 - l. The employment of individuals in ways which breach national employment regulation
- **Effective:** The proposals must meet the individual's assessed eligible needs and support their independence, health and wellbeing. The proposals must make effective use of the funds and resources available in accordance with the principle of best value.
- In deciding whether the care and support plan is effective it must show that:
 - a. The care and support plan meets all the assessed eligible needs including any delegated healthcare tasks required. It must ensure that anyone employed to carry out these tasks receives the correct training.

- b. The proposed measures will be effective in supporting the individual's independence, health and wellbeing.
 - c. The proposals represent the most effective use of the resources and funds available.
 - d. A risk assessment has been carried out and any risks identified in the plan have been addressed and confirm that the potential health outcomes proposed in the plan outweigh any possible risks to the individual's health or wellbeing
 - e. The care and support plan includes measures to address health and wellbeing outcomes that will help the individual develop their independence or independent living skills and will enhance their health and wellbeing.
 - f. Where there is a carer, the carer's needs have been assessed and the proposals take account of their needs too.
- Consideration of National Institute for Care and Excellence guidance:
 - g. Where National Institute for Care and Excellence has concluded that a treatment is not cost effective, ICBs should apply their existing exceptions process before agreeing to such a service. However, when the National Institute for Care and Excellence has not ruled on the cost effectiveness or otherwise of a specific treatment, ICBs should not use this as a barrier to individuals purchasing the service, if it could meet the individual's health and wellbeing needs.
 - h. Individuals need the right information and support to enable them to make an informed decision about how to use their direct payments. Where relevant, individuals or their representative should be given the opportunity to review the underpinning evidence and the conclusions drawn up by the National Institute for Care and Excellence. The National Institute for Care and Excellence provides a lay version of their guidance that can help individuals make decisions about this type of healthcare.
- **Affordable:** All costs have been identified and can realistically be met within the budget.
- In deciding whether the care and support plan is affordable it must show that:
 - a. The care and support plan is within the indicative budget or, if the indicative budget is exceeded, a clear and reasoned explanation is provided to justify the additional spend
 - b. In the case of care and support plans which exceed the indicative budget, the plan is thoroughly checked by the ICB before being sourced to ensure best value
 - c. All relevant sources of funding have been identified and utilized, the use of universal services; community resources; informal support and assistive technology has been explored
 - d. All costs have been identified and fall within the indicative budget allocated and can be realistically met
 - e. A suitable contingency amount is included within the care and support plan
 - f. The proposals represent the most effective use of the resources and funds available
 - g. The care and support plan meets the assessed, eligible needs in the most cost- effective way possible
 - h. Where the care and support plan requires a budget that is lower than the

- indicative budget, the lower budget will be approved
- i. The value of the budget does not exceed the value of commissioned services
- j. The care and support plan costs are not substantially disproportionate to the potential benefit
- **Appropriate:** The care and support plan should not include the purchase of items or services that are inappropriate for the state to fund or which would bring the NHS into disrepute.

14.3 The role of the ICB is to:

- Ensure that care and support is safe and effective and meets clinical need
- Have oversight of the ICB's personal health budget quality assurance processes
- Ensure the care and support plan is fully completed, has identified the individual's needs, takes a person-centred approach and details positive, personalised health and wellbeing outcomes for the individual to ensure the personal health budget can be approved
- Ensure the proposed actions meet the individual's needs and specified health and wellbeing outcomes in a way that is lawful, effective, affordable, and appropriate
- To review all personal health budgets to monitor effectiveness at three months, 12 months and then at least annually

14.4 All new applications for personal health budgets within the All Age Continuing Care team which reflect care packages above £5k per week, or £260k annual value for the total package of care, need to be approved by the ICB's Place Directors.

14.5 Within the All Age Continuing Care team any packages of care where additions following a review increase the value of the package to over £5k per week and above, or £260k annually and above for the total package of care, need to be approved by the ICB's Place Directors.

14.6 The ICB will review its fee uplifts approach for payment for personal assistants for those holding direct payments on an annual basis taking into account any relevant national planning guidance and other local factors.

14.7 If the ICB refuses to agree to a service or activity in the care and support plan, the person, representative or nominee may request an explanation from the ICB as to its decision

15. Personal Health Budget Agreement and Contracts

When taking up a personal health budget, there must be a contract or agreement in place:

- 15.1 For notional budgets, the provider will be issued with the NHS standard contract by the ICB and the care and support plan will become the service specification of the contract.
- 15.2 For third party budgets, the personal health budget agreement is tripartite between the ICB, the provider and the individual or their representative. This agreement is made using the personal health budget agreement and the NHS standard contract.
- 15.3 For direct payment personal health budgets, the individual or

representative must sign a direct payment agreement, which explains the responsibilities associated with the personal health budget and agreement that the personal health budget will be spent as set out in the care and support plan. The direct payment agreement will confirm that the personal health budget will be spent in accordance with the NHS (Direct Payments) Regulations 2013.

- 15.4 For direct payment personal health budgets, if the individual or representative choose to purchase a service through a care agency then the contract and agreed price is between the individual or their representative and the care agency. Should the care agency increase its prices in the future above the agreed payment rate or require a period of notice to terminate the arrangement, the ICB will not be responsible for meeting any additional costs.
- 15.5 Within the All Age Continuing Care team in order for a care and support plan to be agreed it must also be in line with the ICB All Age Continuing Care Commissioning Policy.

16. Appealing the Personal Health Budget Decision

- 16.1 Where an individual or representative is not satisfied with the ICB's decision, they can provide additional evidence or relevant information and ask the ICB to reconsider its decision. The ICB must reconsider its decision in the light of the new evidence, and then notify and explain the outcome of their deliberation in writing.
- 16.2 If the dispute persists the individual or representative can contact the ICB to make a complaint via the following details:
 - Tel: 0800 132 996
 - email: enquiries@cheshireandmerseyside.nhs.uk
 - Post: Patient Experience Team. No 1 Lakeside. 920 Centre Park Square. Warrington. WA1 1QY
 - Further details about making a complaints and the ICBs Complaints policy can be found at:
<https://www.cheshireandmerseyside.nhs.uk/contact/complaints/>The ICB is not required to complete more than one reconsideration.

17. Clinical Review and Monitoring of Personal Health Budgets

- 17.1 All personal health budgets will be reviewed at three months and then at least every 12 months with the exception where a personal health budget has been provided as a 'one off' budget.
- 17.2 Reviews may need to take place sooner or more frequently if the ICB becomes aware that the health needs of the individual have changed significantly or if it becomes apparent that the care and support plan is not being followed or expected health and wellbeing outcomes are not being met.
- 17.3 The care and support plan review will consider whether:
 - The health needs of the individual continue to be met or need reassessment
 - The services identified within the care and support plan are being delivered and are meeting and the assessed health needs of the person

- Any direct payment element has been used effectively and appropriately and in line with the care and support plan
- The PHB is sufficient to cover the full cost of each of the services identified within the care and support plan
- The risks have changed, and whether the risk management is still effective
- the requirements of the Mental Capacity Act 2005 are being met (where applicable)

17.4 Following a review the ICB may:

- Amend the care and support plan in discussion with the individual and their representative
- Increase, maintain or reduce the amount of the PHB in accordance with the individuals assessed needs
- Require that a direct payment is not used to purchase a service from a particular individual
- Suspend or stop the Personal Health Budget in accordance with section 16 and 17 below

17.5 The ICB may reduce the amount of the Personal Health Budget if it is satisfied that the reduced amount is sufficient to cover the full costs of the care and support plan identified to meet the individuals assessed needs.

17.6 Where a decision is taken to reduce the amount of the Personal Health Budget, the individual or their representative may request the ICB reconsider the decision and may provide evidence or information to be considered as part of that reconsideration. The ICB will inform the individual or their representative in writing of their decision, after reconsideration, providing reasons.

18. Financial Review and Monitoring of Personal Health Budgets

18.1 Where a direct payment or third party personal health budget has been approved, financial monitoring and auditing of the expenditure against the approved care and support plan will be undertaken by the ICB's finance team. Financial audits will be carried out on all personal health budgets at least once every 12 months.

18.2 Where the direct payment is held in a dedicated bank account, it is the responsibility of the individual or their representative to maintain and retain proper accounting records. On at least a quarterly basis the ICB will request these records including bank account statements, payslips, timesheets and receipts and expect the person and/or their representative to provide an explanation for spend. If the individual or representative is unable to provide the appropriate audit evidence this may result in the personal health budget being changed or stopped and the monies paid being fully recovered.

18.3 Where the direct payment is managed with a pre-payment card or using virtual wallet, the information required to undertake monitoring and audit will be accessed from the pre-payment card or virtual wallet account by the ICB in line with the direct payment agreement. The ICB reserves the right to request and receive supporting evidence as detailed in section 15.2.

18.4 It is expected that minimal spend will be made by cash. All cash payments

must be accounted for with a receipt. Cash may be paid to an employee as long as a payslip has been provided and the appropriate tax and NI has been withheld to be paid on to Her Majesty's Revenue and Customs.

- 18.5 Once the audit has been completed if the budget is deemed by the ICB to have been inappropriately used, the inappropriately used sum will need to be refunded to the ICB and may result in the personal health budget being changed or stopped.
- 18.6 Any suspicion of fraud will be reported to the ICB's anti-fraud specialist for investigation.
- 18.7 Any documents submitted to the ICB for audit purposes could be subject to independent audit by the ICB's internal audit team or anti-fraud specialist.
- 18.8 In certain circumstances the ICB may require that part or all of a direct payment must be repaid to the ICB, if satisfied that it is appropriate to require repayment having regard in particular to whether:
 - (a) the care and support plan has changed substantially and monies have accrued
 - (b) the patient's circumstances have changed and monies have accrued
 - (c) a substantial proportion of the direct payments received by a patient, representative or nominee have not been used to secure services specified in the care and support plan and have accumulated
 - (d) the direct payments have been used otherwise than for a service specified in the care and support plan
 - (e) theft, fraud or another offence may have occurred in connection with the direct payments; or
 - (f) the patient has died
- 18.9 Where the ICB determines that a sum must be repaid, reasonable notice in writing must be given to the individual and any representative or nominee (or in the case of an individual who has died, the personal representatives) stating:
 - (a) the reasons for the decision;
 - (b) the amount to be repaid;
 - (c) the time within which the sum must be repaid; and
 - (d) the person who must repay.
- 18.10 Where the ICB gives notice of sums to be repaid, the individual, personal representative, representative or nominee may ask the ICB to re-consider the decision, and may provide evidence or relevant information for the ICB to consider as part of that deliberation.
- 18.11 The ICB must inform the individual and any personal representative, representative or nominee in writing of the decision on a re-consideration, stating the reasons for the decision, the amount to be repaid, if any, the time within which any sum must be repaid and the person who must repay, if any.
- 18.12 The ICB is not be required to undertake more than one re-consideration.
- 18.13 Where sums are required to be repaid to the ICB due to theft, fraud or another offence may have occurred in connection with a direct payment, that sum may be recovered summarily as a civil debt.

19. Suspending a Personal Health Budget

- 19.1 On occasion, suspension of a personal health budget may be necessary. This would be considered on a case-by-case basis. Examples where this might be necessary include:
- The individual's care needs have changed, and are no longer appropriate for a personal health budget
 - The whole or any part of the personal health budget has not been used to secure the care and support provision in the care and support plan
 - One of more of the terms and conditions outlined in the personal health budget agreement or direct payment agreement have been breached
- 19.2 The ICB will ensure that arrangements are in place to ensure the individual's care and support needs are met if a personal health budget is suspended.

20. Terminating a Personal Health Budget

- 20.1 On occasion, termination of a personal health budget may be necessary. Examples where this might be necessary include:
- The individual or their representative withdraws their consent to receiving care and support via a personal health budget
 - The individual is no longer eligible for health care from the ICB
 - The individual has died
 - The ICB has reason to believe that the individual, representative or nominee is no longer suitable to receive direct payments.
 - The individual, representative or nominee has been unable to demonstrate that they are able to use the direct payment to pay for a stable, appropriate or adequately staffed package of care
 - Payments have been used for purposes other than securing the services agreed in the care and support plan
 - The individual or their representative has breached the personal health budget agreement or direct payment agreement.
 - Fraud, theft or an abuse in connection with the payments has taken place.
 - The individual moves to residential care or is admitted to hospital (for longer than 28 days).
- 20.2 The ICB will ensure that arrangements are in place to ensure the individual's needs are met if a personal health budget is terminated. The ICB will normally provide twenty-eight (28) days' notice of termination except in the case of death of the individual, fraud or theft, or where the ICB reasonably considers that a shorter notice period is appropriate. In such a case the ICB will provide reasonable notice which may include immediate termination of any direct payment.
- 20.3 Notice will be provided in writing, stating the reasons for the decision.
- 20.4 The individual, their representative or nominee may request a review of that decision, providing any evidence or information they wish the ICB to consider as part of that review.
- 20.5 The ICB is not required to undertake more than one review of a decision to terminate a personal health budget but must give written notice to the

individual, representative or nominee of any further decision taken and the reasons for that decision.

21. Article 8 of the Human Rights Act^{xi}

- 21.1 The ICB has obligations of equality under the Public Sector Equality Dutyⁱⁱ and a duty to operate within its financial framework which must be considered in addition the Human Rights Act.
- 21.2 The ICB also has a responsibility to promote a comprehensive health service on behalf of the Secretary of State and to offer individual choice, but within the constraints of the resources available to it.
- 21.3 The Human Rights Act means an individual can take action in the UK courts if their human rights have been breached.
- 21.4 However, Article 8 of the Human Rights Act is limited; this means rights can be restricted in specific situations set out in the Act. Interference is therefore permissible but must be justified with a legitimate aim making Article 8 a qualified right.
- 21.5 To prove objective justification, the aim must be a real objective consideration and not in itself discriminatory. For example, ensuring the health and safety of others would be a legitimate aim. Other examples of legitimate aim include the protection of other individuals' rights, the health, safety and welfare of individuals, running an efficient service etc

22. Equality and Diversity Statement

- 22.1 The ICB pays due regard to the requirements of the Public Sector Equality Dutyⁱⁱ of the Equality Act 2010 in policy development and implementation as a commissioner and provider of services as well as an employer.
- 22.2 The ICB is committed to ensuring that the way it provides services to the public and the experiences of its staff does not discriminate against any individuals or groups on the basis of their age, disability, gender identity (trans, non-binary), marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.
- 22.3 The ICB is committed to ensuring that its activities also consider the disadvantages that some individuals in its diverse population experience when accessing health services. Such disadvantaged groups include individuals experiencing economic and social deprivation, carers, refugees and asylum seekers, individuals who are homeless, workers in stigmatised occupations, individuals who are geographically isolated, Gypsies, Roma and Travellers.
- 22.4 As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 22.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality and Health Inequalities Impact and Risk Assessment has been completed, and is attached to this policy, appendix 1.

23. Communication, Monitoring and Review

- 23.1 The ICB will establish effective arrangements for communicating the requirements of this policy and will provide guidance and support to line management in relation to their responsibilities.
- 23.2 This policy will be reviewed at least every three years as to effectiveness of ensuring choice and equity in the delivery of personal health budgets to individuals across the ICB. This policy will be reviewed earlier if there are changes in national guidance on the legal right to have a personal health budget, individual choice or the NHS direct payment regulations 2013.
- 23.3 The policy will be approved by the ICB's Quality and Performance Committee.
- 23.4 To ensure efficient implementation and use of the Personal Health Budget and Integrated Budget Policy policy staff teams will receive training and awareness raising related to personal health budgets and this policy. The level of completion of the training will be monitored quarterly through the ICB's internal processes.

24. Staff Training

- 24.1 The ICB will raise awareness of this policy and provide ongoing support to individuals or their representatives to enable them to discharge their responsibilities.
- 24.2 The All Age Continuing Care team will specifically provide personal health budgets in line with the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care and the National Framework for Children's Continuing Care. The core training that all members of the All Age Continuing Care team will undertake in addition to mandatory training will be personalised care training including personal health budgets.
- 24.3 All staff carrying out financial monitoring will adhere to the ICB's Anti-Fraud, Bribery and Corruption Policy & Response Plan.

25. Interaction with other policies

- 25.1 This policy should be read in conjunction with relevant ICB policies and procedures in particular:
 - All Age Continuing Care Commissioning Policy
 - Complaints Policy [Complaints - NHS Cheshire and Merseyside](#)

References - all accessed 6/3/25

ⁱ [National Health Service Act 2006 \(legislation.gov.uk\)](#)

ⁱⁱ [The Public Sector Equality Duty \(PSED\) | EHRC \(equalityhumanrights.com\)](#)

ⁱⁱⁱ [The National Health Service \(Direct Payments\) Regulations 2013 \(legislation.gov.uk\)](#)
[The National Health Service \(Direct Payments\) \(Amendment\) Regulations 2013 \(legislation.gov.uk\)](#)
[The National Health Service \(Direct Payments\) \(Amendment\) Regulations 2017](#)

legislation.gov.uk

- iv [NHS England » Guidance on direct payments for healthcare: Understanding the regulations](#)
- v [Guidance-on-legal-rights-to-have-personal-health- budgets-or-personal-wheelchair-budgets.pdf \(england.nhs.uk\)](#)
- vi [NHS England » Universal Personalised Care: Implementing the Comprehensive Model](#)
- vii [National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care - July 2022 \(Revised\) - corrected May 2023 \(publishing.service.gov.uk\)](#)
- viii [National Framework for Children and Young People's Continuing Care \(publishing.service.gov.uk\)](#) 2016
- ix See iii
- x [NHS England » Personal Health Budget \(PHB\) Quality Framework](#)
- xi [The Human Rights Act | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)