



Wirral Clinical Commissioning Group

Framework – April 2014

NHS Continuing Healthcare:
NHS Wirral CCG Personal Health Budgets (PHBs)

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1. Introduction to Personal Health Budgets (PHBs)

1.1. In October 2011 the Government announced that from April 2014 people receiving Continuing Healthcare support from the NHS will have the right to ask for a personal health budget.

NHS Wirral CCG has actively supported and welcomed the development of Personal Health Budgets to meet the health needs of eligible individuals. We will consider requests for PHBs from adults and in respect of children who are eligible for Continuing Healthcare (CHC).

2. Purpose

2.1. This document sets out the recommended framework for PHB's and the process of approving support plans for individuals opting to receive their eligible continuing healthcare support via a personal health budget. The aim is to ensure that a consistent and transparent approach is applied to the approval of all support plans.

3. What we will do

3.1. Cheshire Centre for Independent Living (CCIL) on behalf of NHS Wirral CCG will provisionally agree an indicative budget that represents a realistic reflection of the individuals assessed care needs.

3.2. Before any funding is released, NHS Wirral CCG will check and approve the support plan ensuring that it meets all the assessed, eligible needs of the individual.

3.3. NHS Wirral CCG will not agree to a support plan if there are serious concerns that it will not meet an individual's needs or that it may expose anyone to unacceptable risk.

3.4. NHS Wirral CCG will ensure that public funds are used equitably in accordance with the purposes for which they are provided and in a way that secures best value.

3.5. Once the support plan is approved NHS Wirral CCG will confirm the final amount of the personal health budget required to implement the plan and release the funding to the individual via the individuals preferred method of delivery.

4. Context

4.1. What is NHS Continuing Healthcare?

'NHS continuing healthcare' means a package of ongoing care that is arranged and funded solely by the NHS where the individual has been found to have a 'primary health need' as set out in 'The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care'. Such care is provided to an individual aged 18 or over, to meet needs that have arisen as a result of disability, accident or illness. The actual services provided as part of the package should be seen in the wider context of best practice and service development for each client group. Eligibility for NHS continuing healthcare places no limits on the settings in which the package of support can be offered or on the type of service delivery.¹

¹ National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care - November 2012 (Revised) p10

4.2. What are Personal Health Budgets?

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

Health care professionals will continue to be focused on securing the best health outcomes for people. Personal health budgets will provide alternative ways of achieving these, with individuals able to explore a wider range of options in their support plan.

Individuals will work in partnership with their health care professional to make shared decisions. Health care professionals will still be focused on securing the best health outcomes for people, while supporting more flexible and innovative approaches.

4.3. The key principles of personal health budgets are:

The person with the personal health budget (or their representative) will:

- a. Be able to choose the health outcomes they want to achieve, in agreement with a healthcare professional.
- b. know how much money they have for their health care and support
- c. be enabled to create their own care plan, with support if they want it
- d. be able to choose how their budget is held and managed, including the right to ask for a direct payment
- e. be able to meet their assessed, eligible needs in ways and at times that make sense to them

4.4. There are three ways Personal Health Budgets can be managed and individuals can choose just one or a combination of them – whichever way works best for them and enables them to achieve their agreed health outcomes. For each approach a number of delivery and management options can be used and individuals can be supported in different ways.

- a. Notional budget: the money is held by the NHS. The person is informed how much money is available and is invited to talk to their local NHS team about the different ways to spend that money on meeting their individual support needs. The local NHS team will then arrange the agreed support.
- b. Third party budget: the money is paid to an organisation that holds the money on the person's behalf. A different organisation or trust holds the money for the person and helps them to decide what they need. After the person has agreed this with their local NHS team, the organisation then buys the care and support the person has chosen.
- c. Direct payment: the money is paid to the person or their representative via a pre paid card method. The card system operates like a bank account whereby direct debits, standing orders and faster payments can be made. The person is issued with a card to buy the care and support

they and their local NHS team agree is needed. The person has to show how the money has been spent. The person, or their representative, buy and manage services themselves.

Where an individual or their representative choose to take a direct payment they are also taking on a level of responsibility and liability which would have previously been with NHS Wirral CCG. The Personal Health Budget agreement makes the division of responsibility between the individual and NHS Wirral CCG.

4.5. The main stages of the personal health budgets process are:

- a. Making contact and getting clear information
- b. Understanding the person's health and wellbeing needs
- c. Working out the amount of money available
- d. Making a support plan
- e. Organising care and support
- f. Monitoring and review

5. Eligible needs

5.3. Which individual needs can be met by a personal health budget? When utilised within NHS continuing healthcare a personal health budget can be used to meet any health and social care need that has been identified in the individual's assessment (DST or Review).

5.4. What are healthcare and social care needs? The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care provides the following guidance:

Healthcare - Whilst there is not a legal definition of a healthcare need (in the context of NHS continuing healthcare), in general terms it can be said that such a need is one related to the treatment, control or prevention of a disease, illness, injury or disability, and the care or aftercare of a person with these needs (whether or not the tasks involved have to be carried out by a health professional).²

Social care - In general terms (not a legal definition) it can be said that a social care need is one that is focused on providing assistance with activities of daily living, maintaining independence, social interaction, enabling the individual to play a fuller part in society, protecting them in vulnerable situations, helping them to manage complex relationships and (in some circumstances) accessing a care home or other supported accommodation.³

5.5. When support planning, continuing healthcare individuals must prioritise their health needs when identifying outcomes to be met by their personal health budget.

5.6. Individuals may also seek to achieve a mixture of outcomes which relate to both health and social care needs.

² National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care - November 2012 (Revised) p50

³ National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care - November 2012 (Revised) p50

5.7. NHS Wirral CCG will give consideration to support plans which seek to achieve social care outcomes providing the individual's critical health needs are prioritised and any risks are mitigated.

6. Support Planning Process – (Appendix A)

- 6.1.** What is support planning? A support plan brings together aspirations, goals and outcomes for an individual and outlines how an indicative budget might be used to meet them. It is a responsive process, showing how an individual and their carer(s) would like their assessed, eligible needs to be met. In general the individual will complete the Support Plan, but if this is not possible it will be completed with the assistance of family, other interested parties, carers, advocates or NHS staff. The key characteristic of the support plan is that the individual has ownership of the plan and it should be agreed by them, wherever possible.
- 6.2.** While individuals will be responsible for developing their own support plan in partnership with a health care professional, NHS Wirral CCG retains its statutory duty to ensure that people's assessed eligible needs are met. To discharge this responsibility, NHS Wirral CCG will make sure that the indicative personal health budget offered to the individual is a reasonable amount within which the person can plan their support. NHS Wirral CCG will ensure that any risks have been properly identified and addressed. These include risks to the individual or anyone else but also risks to the service or to NHS Wirral CCG. Finally, NHS Wirral CCG will check and agree the individual's support plan – the approval process.
- 6.3.** NHS Wirral CCG has a statutory duty to ensure funding is used effectively and in accordance with the principle of best value. NHS Wirral CCG will therefore make sure that the individual's needs and desired support outcomes are taken into account and that the measures proposed in the support plan represent an effective use of the personal health budget.
- 6.4.** NHS Wirral CCG recognises that some measures that involve a significant short term cost can eventually contribute to increased independence and thereby reduce support needs or avoid further costs in the long term. In these circumstances NHS Wirral CCG will expect support planners to justify how short term measures will yield longer term benefits.
- 6.5.** NHS Wirral CCG will work to build on the capacity of individuals to plan and manage their own support needs while providing them with easy access to information, advice and professional assistance when required.
- 6.6.** During support planning, the individual will also be supported to undertake a risk assessment to identify how any risks arising from their needs or proposed support will be addressed. Provided the risks are clearly identified and addressed in the support plan, the plan will be considered. If, following the support planning process any risks remain unresolved, attempts should be made to resolve these as part of the approval process. Difficult or contentious decisions may be escalated to the risk enablement panel for resolution. A partially approved support plan or a managed service will be put in place where necessary to avoid any delay in meeting the individual's needs.
- 6.7.** An individual who has the mental capacity to make a decision, and chooses voluntarily to live with a level of risk, is entitled to do so.

- 6.8.** However NHS Wirral CCG remains accountable for the proper use of public funds and whilst the individual is entitled to accept a degree of risk, the NHS is not obliged to fund it. In contentious cases, the process of approving support plans will need to address and resolve conflict about the treatment of risk.
- 6.9.** As a commissioner of services, NHS Wirral CCG could be liable if it places people in a position in which they are exposed to risk. There is an important distinction between enabling people to choose to take a reasonable risk and putting people at risk. In such cases, the approval process will provide the means to consider the issue and find the correct balance.
- 6.10.** The risk enablement panel should support flexibility and innovation where possible, so people can try alternative approaches to achieving their health goals providing all risks are identified and managed.

7. Confirmation of the indicative personal health budget

- 7.1.** The Individual's eligible needs will be assessed by means of the decision Support tool (DST). Local benchmark support rates are applied to the recommended support hours to provide the indicative personal health budget. This provides the person with a guide as to how much money they may have to fund their support plan.
- 7.2.** Where necessary NHS Wirral CCG will authorise a temporary support package to meet the assessed eligible needs while support planning proceeds. This will ensure that the individual's needs are met in line with NHS Wirral CCG's statutory duties but that they retain the freedom to plan their own support on a longer time scale.
- 7.3.** Complex cases involving exceptionally high levels of clinical need will have a calculated indicative personal health budget up to an agreed maximum threshold. For cases that meet the threshold an exception will be applied and budget holders will use local knowledge and experience to set a realistic indicative budget.
- 7.4.** In other cases, where the indicative budget is felt to be inappropriate but the DST domain levels have been correctly completed, support planning should proceed. The indicative budget will always be a guide amount and the individual/support planner should consider creative ways of meeting eligible need, applying best value principles and the use of universal services and assistive technology.
- 7.5.** It is important to note that the use of a maximum threshold and the setting of a guide amount do not mean that NHS Wirral CCG will not fund support above this figure. NHS Wirral CCG has a statutory duty to meet an individual's assessed eligible needs. However it is expected that these cases are likely to involve a greater degree of complexity and will require more careful consideration to ensure that the individual's needs are met appropriately.

8. Approval of the support plan and the personal health budget

- 8.1.** Once an individual knows their indicative budget they will be offered support to develop a personal support plan that identifies;

- a. Their support needs and priorities
- b. How they intend to meet their assessed needs and support goals using their personal health budget

8.2. Each support plan will have the following essential features:

- a. Is proportionate to the level of need of the individual.
- b. Outlines the assessed needs, goals and priorities of the individual.
- c. The plan is well balanced with the highest needs receiving priority.
- d. Details the combination of formal and informal support that will meet the assessed needs of the individual and help achieve their outcomes.
- e. Shows that universal services, assistive technology and free community resources have been utilised where appropriate.
- f. Where applicable other relevant public funding sources including Local authority provision have been accessed in conjunction with the personal health budget.
- g. Takes account of the views and needs of carers.
- h. Is adaptable and flexible, so individuals can revise their plans as they learn what works best for them or as their circumstances change.

8.3. NHS Wirral CCG will give full consideration to the different kinds of health care and support individual's requests that may not be available from the NHS.

8.4. NHS Wirral CCG will not exclude unusual requests without examining the proposal on a case- by- case basis as these may have significant benefits for people's health and wellbeing.

8.5. Once the support plan has been completed and submitted to NHS Wirral CCG there is a two stage process for approval one is clinical approval against the criteria set out in section 9 and the second part of the process is where the package will be costed and final budget confirmed.

8.6. Where the support plan cannot be approved against any one of the criteria, the plan should be returned to the individual or their support planner with details of what further development is needed before the support plan can be re-submitted for approval.

8.7. If the issue cannot be resolved the support plan should be escalated for decision to the risk enablement panel.

The risk enablement panel has been established to provide a formal framework in which requests can be taken for consideration and will operate as a formal decision making process.

The risk enablement panel will operate alongside the local CHC processes when necessary. The purpose is to identify and where necessary manage any risks associated and to monitor all funding requests refused.

If the issue is not likely to be resolved quickly, the approver should consider whether the support plan can be partially approved to avoid any delay in meeting the individual's needs. If this is not possible, NHS Wirral CCG will approve a temporary managed service to be put in place to ensure that the individual's needs are met while their support plan is under discussion.

9. Criteria for approval of support plans

9.1. The proposals for meeting the individuals assessed eligible needs, as set out in the support plan, must be:

- a. Lawful
- b. Effective
- c. Affordable
- d. Appropriate

9.2. Lawful – the proposals should be legitimately within the scope of the funds and resources that will be used. The proposals must be lawful and regulatory requirements relating to specific measures proposed must be addressed.

In deciding whether the support plan meets with legal requirements it must show that:

- a. The support plan will fulfil NHS Wirral CCG's statutory duty to meet the individuals assessed, eligible needs.
- b. The measures proposed in the support plan must in all cases be lawful.
- c. In line with the Mental Capacity Act 2005, if the person appears to lack capacity, the support plan must make clear how their wishes have been ascertained and incorporated into the support plan.
- d. The individual must be made aware of any legal responsibilities they will incur as a result of measures proposed in the support plan (e.g. employment law, health and safety)
- e. Any service providers identified in the plan must meet applicable regulatory requirements.
- f. The individual 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.

9.3. Effective – the proposals must meet the individual's assessed eligible needs and support the individual's independence, health and wellbeing. A risk assessment must be carried out and any risks identified that might jeopardise the effectiveness of the plan or threaten the safety or wellbeing of the individual or others must be addressed. The proposals must make effective use of the funds and resources available in accordance with the principle of best value.

In deciding whether the support plan is effective it must show that:

- a. The support plan meets all the assessed eligible needs
- b. The proposed measures will be effective in supporting the individuals independence, health and wellbeing
- c. Where there is a carer, the carer's needs have been assessed and the proposals take account of their needs too.
- d. The proposals represent the most effective use of the resources and funds available
- e. A risk assessment has been carried out and any risks identified in the plan have been addressed.
- f. The support plan includes measures to address outcomes that will help the individual develop their independence or independent living skills and will enhance their health and wellbeing.
- g. The support plan demonstrates due regard to the need to safeguard the individual and their carers.

9.4. Affordable – All costs have been identified and can realistically be met within the budget.

In deciding whether the support plan is affordable it must show that:

- a. The 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 support plans that exceed the indicative budget, the plan is thoroughly checked by commissioners before being sourced to ensure best value.
- c. The use of universal services, community resources, informal support and assistive technology has been explored.
- d. All relevant sources of funding have been identified and utilised.
- e. All costs have been identified and fall within the indicative budget allocated.
- f. A suitable contingency amount is included within the support plan.
- g. The proposals represent the most effective use of the resources and funds available.
- h. The support plan meets the assessed, eligible needs in the most cost effective way possible.
- i. Where the support plan requires a budget that is lower than the indicative budget, the lower budget will be approved.
- j. The support plans cost is not substantially disproportionate to the potential benefit.

It is also important to note that direct payments do not circumvent existing guidance, for example relating to NICE approval. Where NICE has concluded that a treatment is not cost effective, CCGs should apply their existing exceptions process before agreeing to such a service. However, where NICE has not ruled on the cost effectiveness or otherwise of a specific treatment, CCGs should not use this as a barrier to people purchasing such services, if it may meet their health and well-being needs

9.5. Appropriate – the support plan should not detail the purchase of items or services that are inappropriate for the state to fund or that would bring the NHS into disrepute. The support plan must have clear and strong links to a health or social care outcome. The following items are deemed as inappropriate spend.

- a. Alcohol
- b. Tobacco
- c. Gambling
- d. Debt repayment

This list is not exhaustive and approvers should apply a common sense approach when determining whether an item of spend can be deemed appropriate.

9.6. National guidance excludes spend on the following:

- a. The purchase of primary medical services provided by GPs, such as diagnostic tests, basic medical treatment or vaccinations
- b. Urgent or emergency treatment services, such as unplanned in-person admissions to hospital.
- c. To pay a close family carer living in the same household except in circumstances when 'it is necessary to meet satisfactorily the person's need for that service; or to promote the welfare of a person who is a child'.

- d. The employment of people in ways which breach national employment regulations.⁴

“As a general principle, direct payments should only be used to pay family carers living in the same household in exceptional circumstances. For example; if there is no other reasonable way of providing someone’s care. NHS Wirral CCG will make these judgments on a case by case basis via the Risk Enablement Panel.

A close family carer is:

- *A husband/wife or partner*
- *A parent or Parent-in-law*
- *Aunt or Uncle*
- *Grandparent*
- *Son or Daughter*
- *Son-in-law or Daughter-in-law*
- *Step Son or Daughter*
- *Brother or Sister*
- *Spouse of any of these”*

10. Approval and escalation of decisions

- 10.1.** For high cost solutions, commissioners will seek authorisation at a more senior level. The aim is to ensure that decisions are taken as promptly as possible to minimise any delay in putting the individuals support into place. However, it is recognised that some issues will require decisions to be escalated to a higher level within the organisation. In NHS Wirral CCG Choice policy⁵ and Individual Funding Request⁶ routes will be used.
- 10.2.** Where support plans meet all the criteria outlined above, the decision to approve the support plan and personal health budget will be taken by commissioning.
- 10.3.** Where any one of these criteria is not met and the issue is not, or cannot be, resolved by referring the support plan back to the individual concerned, the support plan will be escalated to the Risk Enablement Panel. The Risk Enablement Panel will be expected to take responsibility for decisions where:
- a. The support plan is likely to be ineffective
 - b. The legality of activities proposed in the support plan is in question
 - c. There are outstanding risks that have not been satisfactorily resolved
 - d. The proposals do not represent best value
 - e. The person may lack capacity and there is cause to doubt that this has been properly addressed in the support plan
 - f. There are unmet assessed eligible needs
 - g. There are unmet carer’s needs

⁴ Direct Payment for health care - Information for pilot sites July 2010

⁵ Choice Policy

⁶ IFR

- 10.4.** If the support plan exceeds the indicative personal health budget but it is evident that this is due to additional needs that have been identified during support planning, then this should be reviewed with the individual, clinician and the support planner to ensure that all eligible needs have been identified and the indicative personal health budget re-calculated if necessary.

11. Escalation of issues involving risk

If an issue involving risk cannot be resolved by the commissioner it will be referred to the risk enablement panel. The Panel will provide a forum to consider identified risks and mitigating actions where these cannot be resolved during the normal process of assessment, support planning, approval or review.

Examples of the kind of issues that might be referred to a Panel include:

- a. Concern that the individual does not have the capacity to consent to decisions regarding the potential risk
- b. The risks to the individual are such that they cannot be resolved through support planning or safeguarding processes
- c. The risk could endanger third parties
- d. There is a risk of political or reputational damage to NHS Wirral CCG
- e. There are legal or regulatory issues – including the status of measures in a support plan or compliance issues
- f. There is reason to suspect actual or potential fraud. In cases where actual fraudulent activity is suspected the PHB will cease with immediate effect, No further payment will be made to the account and any remaining funds will be withdrawn.
- g. There are risks relating to the availability or suitability of services or facilities
- h. There are risks relating to wider organisational issues (i.e. not specific to the individual or their support plan), including potential service failure, financial or budgetary risks that cannot be resolved through the normal approval process.

12. Outcomes of Approval

- 12.1.** When the support plan is approved, the final amount of the personal health budget will be set. The person, clinician and their support planner will be notified and the commissioner will authorise the release of the money according to the delivery method selected.
- 12.2.** If the support plan cannot be approved, it will be returned to the individual concerned and their support planner with an explanation of why it cannot be approved. Wherever possible the person or their support planner will also be offered guidance or support on alternative means of meeting the assessed eligible need.
- 12.3. Partial Approval**
- If only one element of a support plan cannot be approved, NHS Wirral CCG will approve the support plan with that specific exception, which will then be explored separately with the person and their support planner. In the interim, the personal health budget will be set at a level to meet the approved part of the plan.

12.4. Variations to the support plan or personal health budget

NHS Wirral CCG may agree to vary the support plan or the personal health budget if there is a change in circumstances. In the case of significant changes, this will take place following a review of the individual's needs. In the case of minor changes, NHS Wirral CCG may agree to a variation without a review being required. NHS Wirral CCG may also agree to add to or amend a support plan and / or personal health budget that has previously been partially approved, once agreement has been reached on any outstanding elements. A variation may also be made following the outcome of an appeal. Irrespective of whether the change involved is major or minor, the support plan must be looked at as a whole in order to assess the full effect of the change and identify any changes in need.

13. Support plan review

- 13.1.** The support plan will be reviewed at three months and then at least annually. The individual must agree to the review and understand that part of that process may include a reassessment of their needs.

14. Complaints

- 14.1.** As part of the discussion around the support plan, there should be a discussion around how individuals can make a complaint if they are unhappy with NHS Wirral CCG's final decision on appeal of their support plan or PHB.

The North West Commissioning Support Unit (NWCSU) handles complaints on behalf of NHS Wirral CCG. You should therefore be aware that, your complaint will be forwarded to NWCSU in order that it can be investigated. With your permission, NWCSU staff will access relevant records and information regarding your complaint and share this with the CCG.

You should send your complaint to:

Address:

Cheshire & Merseyside Commissioning Support Unit
Quayside
Wilderspool Causway
Greenalls Avenue
Stockton Heath
Warrington
WA4 6HL

Telephone: 01925 843746

Email: complaints.nhswirralccg@nhs.net

If you are still unhappy about a decision, you may wish to make a formal complaint. To get help with this, please contact our Patient Advice and Liaison Service (PALS), who can

advise you on how to make sure your complaint is investigated and resolved. PALS will treat all your information confidentially.

You can contact the service by letter, phone or email:

Call PALS: FREEPHONE 0800 054 2137

Email: wirralpals@wired.me.uk

Or you can write to: **Patient Advice and Liaison Service (PALS)**
 Wirral Information Resource for Equality and Diversity Ltd (WIRED)
 Unit 7, Wirral Business Park, Arrowe Brook Road, Upton, Wirral, CH49 1SX

15. Internal Financial Systems for Management and process for payments

As detailed in Section 4.4 the individual has the choice of the type of personal health budget that works best for them and enables them to achieve their agreed health outcomes.

The management of the payment process once final funding and support plan has been agreed is summarised below:

PAYMENT TYPE		
Notional Budget	Third Party	Direct Payment
Package agreed with approved Provider and details entered into the CHC database. Provider raises monthly invoice or opts to be included on the monthly payments upload managed by the CCG Payment made Financial Systems audited on an annual basis.	Direct Payment agreement and payment supplier details signed and provided by individual Schedule of Payment completed by CCG/NECS CHC team (payable to 3 rd party provider) CCG Finance to release weekly/monthly payment Three monthly audit	Direct Payment agreement and payment supplier details signed and provided by individual Schedule of Payment completed by CCG/NECS CHC team (monthly payments with a maximum limit applied to the prepaid card) CCG Finance to release weekly/monthly payment Monthly audit of spend for first three months; following this the audit will be carried out every three months.
An indicative budget will be set based on assessed hours of care in line with NHS Wirral CCG benchmarked rates, in conjunction with Cheshire Centre for Independent Living.		

16. Communication and Engagement

Information materials have been produced for potential clients, NHS/Social Care staff working with people who may be eligible for PHBs and providers/potential providers of care to explain the PHB system.

These include:

- NHS Personal Health Budgets EASYREAD
- Personal Health Budgets Patient Guide 2014 Wirral
- PHB Framework Wirral CCG April 2014

All three documents can be located on the Wirral CCG Website

<https://www.wirralccg.nhs.uk/Your%20Health/>