NHS
Cheshire and Merseyside

Personal Health Budget and Integrated Budget Policy

Version 2

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Communications and Engagement Team
NHS Cheshire and Merseyside
No 1 Lakeside
920 Centre Park Square
Warrington
WA1 1QY

For full details on accessible information see:
Accessible information - NHS Cheshire and Merseyside

Authors

Name	Title
Ruth Hunter	Senior Personalised Care Manager
	Individual Assessment and Commissioning Strategic Oversight Group
	Individual Assessment and Commissioning Heads of Services

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Cheshire and Merseyside Integrated Care Board Internet	Cheshire and Merseyside Integrated Care Board Senior Personalised Care Manager

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1. Introduction

1.1 This policy applies to NHS 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 even[i]. 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) for 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 also 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) including fast track patients
- Individuals eligible for after-care services under section 117 of the Mental Health Act 1983
- Individuals eligible for children and young people's continuing care (CYPCC)
- Individuals requiring long term use of a wheelchair (known as a personal wheelchair budget)

1.7 Children and young people who fall under the SEND regulations[ii] are also entitled to a personal health budget.

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 1998. The ICB also must ensure compliance with the Equality Act 2010 and the Public Sector Equality Duty[iii].

2.3 This policy should be read in conjunction with the:

- The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2012 (as amended)
- National Health Service (Direct Payment) Regulations 2013[iv]
- The NHS England Guidance on direct payments for healthcare: Understanding the regulations[v]
- The NHS England Guidance on the legal rights to have a personal health budgets and personal wheelchair budgets[vi]

- Children and Families Act 2014 (Part 3)
- SEND Code of Practice (0–25 years, 2015)
- Special Educational Needs (Personal Budgets) Regulations 2014
- National framework for NHS continuing healthcare and NHS-funded nursing care[vii]
- Children and young people's continuing care national framework[viii]

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 ICB and the individual and/or their representative or nominee, or, in the case of children, their families or carers. A personal health budget is not new money, but money that would normally have been spent by the NHS on an individual's care, it can be spent in a more flexible way to meet an individual's identified healthcare and wellbeing 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 budget	Personal wheelchair budgets are another form of personal health budget which is managed in a slightly different way to other personal health budgets. People who are referred and meet the eligibility criteria of their local wheelchair service and people who are already registered with the wheelchair service when they need a new wheelchair or specialist buggy, either because of a change in clinical needs or the condition of the current chair, have the right to a personal health budget. These people will be eligible for a personal health budget specifically related to wheelchairs. This can be requested at any time.
Personalised care and support plan	A care and support plan is personalised to the individual and includes: • The type of support they need • How this support will be given • How much money the ICB will spend on their care
Unpaid carer	A person providing or intending to provide a substantial amount of unpaid care on a regular basis for someone who is disabled, ill or frail. A personal health budget does not replace or lessen the important role parents and families play in supporting a child or young

	person with continuing care needs; while families and carers are not expected to take on all caring and support tasks, parents and families are encouraged to remain involved in their child or young person's care and support in a way that feels reasonable and manageable for them.
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, include 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. Joint funded packages of care and S117 aftercare are provided to individuals as integrated personal budgets.
Managed account	This is an arrangement where a direct payment is held and administered on behalf of the individual or their representative or nominee by a direct payment support service, payroll service, accountant, or similar provider. The managed account provider undertakes financial administration such as processing invoices and payroll, but does not take responsibility for arranging care and support and does not become the employer. The individual or their representative or nominee remains the direct payment holder, signs the direct payment agreement, makes all decisions about how the budget is used, and is the legal employer of any personal assistants. The funding for the managed account is included in the personal health budget.
Nominee	A nominee agrees to receive a direct payment on behalf of an individual, who has capacity to consent to a direct payment, and must fulfil all duties equivalent to those of a direct payment holder. NHS England operational guidance[v] for personal health budgets reiterates a nominee's responsibilities and that they should be considered in line with the relevant regulations. [iv]
One-Off Personal Health Budget	A single, time limited payment provided to meet an identified health need where the required goods or service cannot be delivered through existing commissioned services in the necessary timeframe. It is used to achieve a specific, short-term health or wellbeing outcome, such as enabling early and safe hospital discharge, and is deployed rapidly to meet that immediate need. One-off personal health budgets are normally low value, short-term budgets and are not intended to fund ongoing packages of care, employment of personal assistants[ix], or any goods or services prohibited under the NHS (Direct Payments) Regulations 2013.
Personal Assistant	A personal assistant is a person who is employed by a personal health budget holder to provide their care and support.
Provider	This term is more commonly used to refer to an agency that provides staff to care for an individual. In some cases a personal assistant may be referred to as a provider.

Representative	A representative assumes full legal and contractual responsibility for managing a personal health budget when an individual lacks capacity to consent to a direct payment. A representative must be legally authorised (eg Court of Protection deputy or LPA donee) or otherwise be able to act in relation to matters covered by the direct payment such as a parent acting where the individual requiring care is under 16. A representative will sign and agree to the terms of the agreement and to comply with any other obligations under the relevant regulations.
Respite	Respite for an unpaid carer is a period of temporary planned or emergency relief from caring, provided to maintain the sustainability of the care package and protect the carer's own health and wellbeing, agreed on an individual basis according to personal circumstances and assessed need.
Virtual Wallet	Virtual Wallet means an online platform which shows all activities within a personal health budget; for example, the amount of personal health budget 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 and/or their representative or nominee.

Options of how individuals can hold a personal health budget	
Notional Budget	A monetary budget is identified and held by the NHS or local authority based on the individual's assessed needs. A decision is then made with the individual or their representative as to what services are to be commissioned by the budget holder according to the agreed personalised care and support plan.
Direct Payment	Direct payments for healthcare are one of the ways of providing all or part of a personal health budget. The individual, their representative or nominee, or for children their family/carers, will receive the funds and arrange and pay for the care and support in their personalised care and support plan themselves. Support will be provided to help the individual or their representative to do this as independently as possible. There are specific rules as to how direct payments are managed.
Third Party Budget	A third-party budget is where an organisation legally independent of both the individual and the NHS holds the budget on behalf of the individual and is responsible for arranging and paying for the care and support set out in the personalised care and support plan. A third party budget is not a form of direct payment. Third party budgets are particularly helpful when: • An individual 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.
Director of Individual Assessment and Commissioning	The Director of Individual Assessment and Commissioning ensures that the Individual Assessment and Commissioning Team has met its responsibilities regarding provision of personal health budgets.
Heads of Individual Assessment and Commissioning	The Heads of Individual Assessment and Commissioning are responsible for ensuring that the Individual Assessment and Commissioning Team work to the policy in relation to NHS CHC and CYPCC personal health budgets.
Individual Assessment and Commissioning Team	All members of the ICB Individual Assessment and Commissioning 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. Personal health budgets and NHS planning

6.1 Personal health budgets are part of the NHS's comprehensive model of personalised care[x] 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.

6.2 Personal health budgets align with the NHS's strategic direction:

- *Fit for the Future: 10 Year Health Plan 2025*[xi], this emphasises a shift toward community-based, preventive and digitally enabled models of care with a focus on individuals and their health outcomes
- *NHS Medium-Term Planning Framework 2025*[xii], which requires systems to plan over multi-year cycles and deliver sustainable, outcomes-focused personalised care

7. Eligibility for Personal Health Budgets

7.1 The following groups have a legal right to a personal health budget: [iv]

- Individuals eligible for NHS CHC
- Individuals eligible for after-care services under section 117 of the Mental Health Act 1983
- Individuals eligible for CYPCC
- Individuals requiring long term use of a wheelchair

7.2 Children and young people who are eligible for an education, health and care (EHC) plan have a right to request a personal health budget.[xiii]

7.3 Individuals may take their personal health budget as a direct payment 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 regulation 3,4,5iv)

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 individuals of their legal right to a personal wheelchair budget.

9. Who can receive a direct payment for a personal health budget?

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 individual 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 individual and secured by means of the direct payment
- Uses the direct payment in accordance with the personalised 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.[iv]

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 regulations 3,4,5 and the Schedule of the National Health Service (Direct Payments) Regulations 2013

10. Using 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 personalised care and support plan, which has been agreed by the ICB together with the individual receiving care or their representative
- The personalised care and support plan may potentially include care and support services which would not routinely be commissioned by the NHS, but which 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 direct payment cannot be used to buy:

- Primary medical services provided by GPs
- Dental care
- Vaccination or immunisation; including population wide immunisation programmes
- Screening
- The national child measurement programme
- NHS Health checks
- Urgent or emergency service (such as unplanned admissions to hospital or accident and emergency). This is because by their nature they are unplanned and will not have been included in the personalised care and support plan
- Surgical procedures
- NHS charges, such as prescriptions or dental charges
- Optical appliances.
- Medication or medical appliances (including the replacement and repair of those appliances)
- Purchasing alcohol or tobacco
- For gambling
- To repay a debt (except for debts relating to services specified in the personal health

budget care plan)
- To fund long term care in registered Care Homes, subject to some exceptions[iv]
- Anything which is unlawful or illegal

10.3 Although the regulations refer specifically to direct payments, for consistency and good practice the exclusions will ordinarily be applied to all types of personal health budgets.

10.4 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.

10.5 Delegation of Healthcare Tasks and Indemnity:
- Direct payments for healthcare can be used to employ a personal assistant 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 ICB will need to be satisfied that the task is suitable for delegation, specify this in the personalised care and support plan and ensure that the personal assistant 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, that it is at the appropriate level; the ICB will assist in this process if required.

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) or equivalent in the devolved nationsxiv. A personal health budget 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 and they can request support from the ICB to help them to do this if needed.
- If a person employs a personal assistant 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 an individual, their representative or nominee 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 Ability to manage direct payments – the ICB will consider whether an individual or their representative or nominee 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 heath 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. Use of a Direct Payment or Third Party Budget

11.1 A direct payment or third party budget can be spent on a wide range of care, services, items or activities that will meet identified health and wellbeing needs where they have been included within the individual's personalised care and support plan.

11.2 **Consumables** The ICB expects that all options for consumable provision through commissioned contracts are explored before agreeing direct payment of third party funding (e.g. continence services). Where consumables cannot be provided through existing services or prescriptions, the ICB will agree an appropriate weekly amount with the individual, their representative or nominee. The ICB recognises that personal protective equipment is required for infection control and health and safety. Appropriate costs (e.g. gloves, aprons) will be included where identified in the personalised care and support plan.

11.3 **Administrative and Associated Costs** Administrative costs may be included within the direct payment or third party budget and can cover items such as printer ink, paper, stationery, diaries and apps where they relate directly to managing the direct payment or third party budget or employing staff. Requests for these costs will be considered by the ICB, ensuring they are necessary and exclusively linked to the direct payment or third party budget. Cost-effective sourcing is expected.

11.4 **Utilities** The ICB will not routinely fund utility costs through a direct payment or third party budget. Where higher utility costs arise due to a health condition, these are normally expected to be met through existing benefits. Requests for additional support will be considered on a case-by-case basis in exceptional circumstances.

11.5 **Equipment** Personal health budgets are not intended to fund equipment required to meet identified needs. Equipment should be accessed through standard routes such as community equipment services. Requests for additional support will be considered on a case-by-case basis in exceptional circumstances.

11.6 **Transport** Transport to appointments should usually be met through existing resources such as Personal Independence Payment (PIP), patient transport services, Motability, or personal funds. Eligible individuals may claim reasonable travel expenses through the Healthcare Travel Costs Scheme (HTCS), or access patient transport services where medically necessary. Where transport is required to meet assessed health and support needs (e.g. respite or day care), appropriate funding may be included in the direct payment or third party budget.

11.7 **Non-care Related Services** Personal health budgets cannot be topped up by individuals or families to meet assessed care needs. Non-care funds should not be added to personal health budget accounts, as this affects financial governance and audit processes. If the personal health budget is insufficient, the individual should request a review of their care package. Individuals may independently fund additional non-care services (e.g. cleaning or shopping), but these must be kept separate from the personal health budget.

12. Hospital Admission

12.1 There may be occasions when a direct payment or third party budget holder requires a stay

in hospital. Admission will not automatically result in the suspension of the direct payment or third party budget.

12.2 Consideration will be given to how the personal health budget may continue to be used during the hospital stay, including the maintenance of existing employment arrangements where appropriate.

12.3 Suspending or terminating payments may result in the individual having to end employment contracts with personal assistants, which could cause distress and disrupt continuity of care following discharge.

12.4 The NHS is responsible for meeting all assessed health and wellbeing needs of the individual during a hospital admission. Direct payment and third party budget funding must not be used to duplicate care that the hospital is required to provide.

12.5 The ICB may, at its discretion, continue direct payment and third party budget funding to support existing employment arrangements for up to 28 days at minimum contracted hours, where this is deemed appropriate.

12.6 In some circumstances, it may be appropriate and beneficial for personal assistants who know the individual well to provide support during a hospital stay. This may include situations where the individual has complex needs or communication requirements, where continuity of care is important for safety or wellbeing, or where the personal assistant provides support beyond what hospital staff would normally deliver.

12.7 Any use of direct payment funding or third party budget funding during a hospital stay must be agreed in advance with the ICB. Clear agreement must be reached regarding roles and responsibilities to ensure there is no duplication of provision.

12.8 Where personal assistants are supporting within a hospital setting, appropriate governance arrangements must be in place. This may include the requirement for honorary contracts, local agreements, or other forms of hospital authorisation, depending on the role being undertaken.

12.9 The individual, as the employer, remains responsible for ensuring that appropriate employer's liability insurance and, where relevant, public liability insurance is in place for their personal assistants. The ICB and hospital may request evidence of this where personal assistants are working within a hospital environment.

12.10 Hospitals may require personal assistants to comply with local policies and procedures, including infection prevention and control, confidentiality, safeguarding, and supervision arrangements. Access may be restricted where these requirements are not met.

12.11 In such circumstances, the ICB will work with the individual, and/or their representative or nominee, alongside the hospital team, to ensure that identified health and wellbeing needs continue to be met appropriately, safely, and in a coordinated way.

13. Respite

13.1 Where an unpaid carer has an assessed need for respite provision, the agreed number of respite hours per year for unpaid carers will be detailed in the personalised care and support plan. Those respite hours can be used to pay for the delivery of care and support for the individual either at home or in another suitable location agreed with the ICB. The personal health budget cannot usually be used to cover the costs associated with alternative accommodation outside of day centre or approved residential facilities for the individual.

13.2 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.

14. Holidays

14.1 The ICB will not ordinarily pay for holidays in terms of travel costs or accommodation for the individual and their family/personal assistant/carers. If a personal health budget holder wishes to make a specific request if there is anything additional required to support their care whilst on holiday over and above that which is covered in their personalised care and support plan for their care during that period, they must make any such request to the ICB.

14.2 This would need to be considered on an individual basis and if there is agreement to any particular request, an updated personalised care and support plan and indicative budget allocation covering the costs associated with any agreed paid care and support provision will be required. 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 personalised care and support plan. Unused or surplus funds cannot be used to cover the costs of accommodation, transport and insurance costs.

14.3 The ICB has an obligation to ensure the funds available are dispersed in a way which is fair and equitable. Written confirmation of the outcome of a request will be provided.

15. Key Features of a Personal Health Budget

15.1 To ensure individuals experience a personalised care approach and achieve the best health and wellbeing outcomes possible[xv]. 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 – this is known as the indicative budget
- Be central in developing their personalised 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 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, subject to any applicable exceptions
- 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 personalised care and support plan
- Be supported to organise their care and support, as agreed in their personalised care and support plan
- Have a review of their personal health budget within three months and then at least annually or if there is a change in assessed need.

16. Agreement of a Personal Health Budget

16.1 In order for a personal health budget to be approved by the ICB, there must be a personalised care and support plan. This has to be developed by the individual and/or their representative or nominee in conjunction with the ICB based on the individual's identified healthcare and wellbeing needs.

16.2 The personalised 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 individual'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 or contact from the ICB who is responsible for managing the assessment of the individual's needs for the personalised care and support plan, monitoring and arranging for the monitoring of all payments made under the personal health budget agreement, reviews, and liaison with the individual and/or their nominee or representative
- A clear action plan of what needs to happen to give effect to the personalised care and support plan

In order for a personalised care and support plan to be agreed it must also satisfy the following requirements:

- **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 (meeting statutory and regulatory obligations / requirements).
- In deciding whether the personalised care and support plan meets with legal requirements it must show:

a. That the services identified within the personalised care and support plan will fulfil the NHS statutory duty to meet the individual's identified healthcare and wellbeing 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 personalised care and support plan.
c. That the measures proposed in the personalised 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 identified healthcare and wellbeing needs the personalised 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 identified healthcare and wellbeing needs, procedures which require a specific legal framework, such as the use of restraint, have been included in the personalised care and support plan, and it is specified how those processes will be managed – including specific oversight or training and the legal basis for any such interventions.
f. That any potential risks have been identified and discussed fully with the individual and/or their nominee or representative, including potential ways to mitigate those risks.

g. The plan for review of both the individual's health needs and the personalised care and support plan.
h. That the individual and/or their nominee or representative have been made aware of any legal responsibilities they will incur as a result of measures proposed in the personalised care and support plan (e.g. employment law, health and safety).
i. That any service providers identified in the personalised care and support plan must meet applicable regulatory requirements.
j. That the individual or their nominee or representative, and unpaid 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 member 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 law and regulations.

- **Effective:** The proposals must meet the individual's identified healthcare and wellbeing 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 personalised care and support plan is effective it must show that:

a. The personalised care and support plan meets all the identified healthcare and wellbeing 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 personalised 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 are any unpaid carers, the unpaid carers' needs have been assessed and the proposals take account of their needs too.

- Consideration of National Institute for Health and Care Excellence guidance:

g. Where National Institute for Health and Care 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 Health and Care 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 and/or their nominee or representative should be given the opportunity to review the underpinning evidence and the conclusions drawn up by the National Institute for Health and Care Excellence. The National Institute for Health and Care Excellence provides a lay version of its 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 personalised care and support plan is affordable it must show that:

a. The personalised 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 personalised 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 final budget allocated and can be realistically met.
e. Suitable contingency arrangements have been developed, costed into the direct payment and third party budget and included within the personalised care and support plan.
f. The proposals represent the most effective use of the resources and funds available.
g. The personalised care and support plan meets the identified healthcare and wellbeing needs in the most cost effective way possible.
h. Where the personalised 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 ordinarily exceed the value of commissioned services.
j. The personalised care and support plan costs are not substantially disproportionate to the potential benefit.

- **Appropriate:** The personalised 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.

16.3 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 personalised 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
- Review all personal health budgets to monitor effectiveness within three months and then at least annually or if there is a change in assessed need.
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16.4 The approval process for all care packages will follow the ICB's current scheme of reservation and delegation.

16.5 The ICB will review its fee uplift 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.

16.6 If the ICB refuses to agree to a service or activity in the personalised care and support plan, the individual or their nominee or representative may request an explanation from the ICB about the refusal.

17. Personal Health Budget Agreement and Contracts

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

17.1 For notional budgets, the provider will be issued with the NHS standard contract by the ICB and the personalised care and support plan will become the service specification of the contract.

17.2 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.

17.3 The third party budget will not be implemented unless the personal health budget agreement has been signed by the patient or their representative, and the NHS standard contract has been signed by the third party provider.

17.4 For direct payments, the individual or their nominee or representative must sign a direct payment agreement, which explains the responsibilities associated with the direct payment and agreement that the direct payment will be spent as set out in the personalised 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.[iv]

17.5 If an individual or their nominee or representative holding a direct payment chooses to purchase a service through a care agency then the contract and agreed price is between the individual or their nominee or 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 must be informed of the situation at the earliest opportunity as the ICB will not ordinarily be responsible for meeting any additional costs.

17.6 Within the Individual Assessment and Commissioning Team, in order for a personalised care and support plan to be agreed it must also be in line with the ICB All Age Continuing Care Commissioning Policy commissioning-policy-cheshire-and-merseyside-all-age-continuing-care.pdf.

18. Challenging a Personal Health Budget Decision

18.1 Where an individual or their nominee or representative is not satisfied with the ICB's decision relating to either a request for a personal health budget or for a personal health budget to be delivered *via* a direct payment or third party budget, they can provide additional evidence or relevant information and ask the ICB to reconsider its decision. The ICB will reconsider its decision in the light of the new evidence, and then notify and explain the outcome of their reconsideration in writing. The ICB is not required to complete more than one reconsideration in any six month period. If the ICB decides not to give someone a personal health budget or for a personal health budget to be delivered *via* a direct payment or third party budget they will inform the individual, and any representative or nominee, in writing and give their reasons in a suitable format for the needs of the individual.

18.2 If the dispute persists, the individual or their nominee 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/

19. Clinical Review and Monitoring of Personal Health Budgets

19.1 All personal health budgets will be reviewed within 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.

19.2 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 personalised care and support plan is not being followed or expected healthcare and wellbeing outcomes are not being met.

19.3 The personalised care and support plan review will consider whether:

- The health needs of the individual continue to be met or need reassessing
- The services identified within the personalised care and support plan are being delivered and are meeting the health and wellbeing outcomes of the individual
- Any direct payment element has been used effectively and appropriately and in line with the personalised care and support plan
- The personal health budget is sufficient to cover the full cost of each of the services identified within the personalised care and support plan
- The risks have changed, and whether the risk management is still effective
- The requirements of the Mental Capacity Act 2005[xvi] are being met (where applicable)

19.4 Following a review, the ICB may:

- Amend the personalised care and support plan in discussion with the individual and/or their nominee or representative
- Increase, maintain or reduce the amount of the personal health budget in accordance with the individual's assessed needs
- Require that a direct payment is not used to purchase a service from a particular

provider
- Suspend or stop the personal health budget in accordance with sections 19 and 20 below

19.5 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 personalised care and support plan identified to meet the individual's assessed needs.

19.6 Where a decision is taken to reduce the amount of the personal health budget, the individual or their nominee or representative may request the ICB reconsider the decision and may provide evidence or information to be considered as part of that reconsideration. Following reconsideration the ICB will inform the person requesting the reconsideration in writing of their decision providing reasons why the amount of the personal health budget was reduced.

20. Financial Review and Monitoring of Personal Health Budgets

20.1 Where a direct payment or third party personal health budget has been approved, financial monitoring and auditing of the expenditure against the personalised care and support plan will be undertaken by the ICB's finance team. Financial audits will be carried out on all such personal health budgets within three months then at least annually and also if there is a change in assessed need.

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

20.3 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 20.2.

20.4 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 pay slip has been provided and the appropriate tax and NI has been withheld to be paid on to Her Majesty's Revenue and Customs.

20.5 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 direct payment being changed or stopped.

20.6 Any suspicion of fraud will be reported to the ICB's anti-fraud specialist for investigation.

20.7 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.

20.8 In certain circumstances the ICB may require that part or all of a direct payment or third party budget must be repaid to the ICB, if satisfied that it is appropriate to require repayment having regard in particular to whether:

a. The personalised care and support plan has changed substantially and money has accrued.
b. The individual's circumstances have changed and money has accrued.
c. A proportion of the direct payment or third party budget received by the individual or their nominee or representative has not been used to secure services specified in the personalised care and support plan and have accumulated.
d. The direct payments have been used otherwise than for a service specified in the personalised care and support plan.
e. Theft, fraud or another offence may have occurred in connection with the direct payments or third party budget.
f. The individual, representative or nominee is not deemed to be a suitable person to arrange with any person or body to provide any services secured by means of the direct payments or third party budget - this may include concerns with regards to the unfair treatment of employed staff and/or mismanagement of finances.
g. The eligible person is no longer capable of managing the personal health budget arrangement and there is no-one willing or able to support the management of the personal health budget on behalf of the individual.
h. The individual moves into residential care or is admitted into hospital (for longer than 28 days).

20.9 Following notification of the individual's death, the ICB will seek recovery of all unspent funds remaining within the direct payment account and will take action to recover any money not used in accordance with the agreed personalised care and support plan and the conditions of the direct payment agreement, in line with the Direct Payment regulations.[iv]

20.10 Where the ICB determines that a sum must be repaid, notice in writing will be given to the individual or their nominee or representative (or in the case of an individual who has died, the representative) 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 the sum

20.11 Where the ICB gives notice of sums to be repaid, the individual or their nominee or representative 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.

20.12 The ICB must inform the individual or their nominee or representative in writing of the decision on a reconsideration, 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 it.

20.13 The ICB is not required to undertake more than one reconsideration of any decision made.

20.14 Where sums are required to be repaid to the ICB due to theft, fraud or another offence which may have occurred in connection with a direct payment, that sum may be

recovered summarily as a civil debt.

21. Suspending a Personal Health Budget

21.1 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 personalised 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

21.2 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.

22. Terminating a Personal Health Budget

22.1 On occasion, termination of a personal health budget may be necessary. Examples where this might be necessary include:

- The individual or their nominee or 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 or their nominee or representative is no longer suitable to receive direct payments
- The individual or their nominee or representative 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 personalised care and support plan
- The individual or their nominee or representative has not complied with reasonable requests to sign the personal health budget agreement or direct payment agreement
- The individual or their nominee or representative has breached the personal health budget agreement or direct payment agreement for example by not complying with the ICB's reasonable requests to supply information required to audit the personal health budget
- 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)

22.2 The ICB will ensure that arrangements are in place to meet the individual's needs 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.

22.3 Notice will be provided in writing, stating the reasons for the decision.

22.4 The individual or their nominee or representative may request a review of that decision, providing any evidence or information they wish the ICB to consider as part of that

review.

22.5 The ICB will stop direct payments if:

- A person with capacity to consent withdraws their consent to receiving direct payments
- A person who has recovered the capacity to consent, does not consent to direct payments continuing
- A representative withdraws their consent to receive direct payments, and no other representative has been appointed

22.6 The ICB will stop third party payments if:

- A person with capacity withdraws their consent to receiving a third-party budget
- A person who regains capacity does not consent to the third-party budget continuing
- The organisation managing the third-party budget withdraws, and no alternative arrangement is in place

22.7 Notice will be provided in writing, stating the reasons for the decision.

22.8 The individual or their nominee or representative may request a review of that decision, providing any evidence or information they wish the ICB to consider as part of that review.

22.9 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 or their nominee or representative of any further decision taken and the reasons for that decision. If there is ongoing dissatisfaction with the decision of the ICB, the individual or their representative or nominee will need to go through the ICB complaints process.

23. Article 8 of the Human Rights Act[xvii]

23.1 The ICB has obligations to ensure compliance with the Equality Act 2010 and the Public Sector Equality Duty alongside a duty to operate within its financial framework which must also be considered in addition to the Human Rights Act 1998.

23.2 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.

23.3 The Human Rights Act means an individual can take action in the UK courts if their human rights have been breached.

23.4 However, Article 8 of the Human Rights Act (the right to respect for someone's private and family life) is a qualified right; any interference must be justified in accordance with a legitimate aim.

23.5 This is only permitted where a public body can show that its action is lawful, necessary and proportionate in order to:

- protect national security
- protect public safety
- protect the economy
- protect health or morals
- prevent disorder or crime, or

- protect the rights and freedoms of other people

Action is 'proportionate' when it is appropriate and no more than necessary to address the problem concerned.

23.6 When considering objective justification, the legitimate aim cannot in itself be discriminatory. An example of a legitimate aim may include ensuring the health and safety of others. Article 8 should be considered as part of the decisions undertaken by the ICB for individuals.

24. Equality and Diversity Statement[iii]

24.1 The ICB pays due regard to the requirements of the Public Sector Equality Duty arising from s.149 of the Equality Act 2010 in policy development and implementation as a commissioner and provider of services as well as an employer.

24.2 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 (including trans, non-binary and gender-diverse people), sex characteristics (including intersex) marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.

24.3 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, unpaid carers, refugees and asylum seekers, individuals who are homeless, workers in stigmatised occupations, individuals who are geographically isolated, Gypsies, Roma and Travellers.

24.4 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.

24.5 To help ensure that these commitments are embedded in our day-to-day working practices, an equality impact assessment and quality impact assessment of this policy have been completed.

25. Communication, Monitoring and Review

25.1 The ICB will establish effective arrangements for communicating the requirements of this policy and will provide guidance and support to line managers in relation to their responsibilities.

25.2 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 to clarify any points and if there are changes in national guidance on the legal right to have a personal health budget, individual choice, the NHS (Direct Payments) Regulations 2013 or any other relevant legislation or guidance.

25.3 The policy will be approved by the ICB's Quality and Performance Committee.

26. Staff Training

26.1 To ensure efficient implementation and use of the Personal Health Budget and Integrated Budget 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.

26.2 The ICB will raise awareness of this policy and provide ongoing support to individuals or their representatives to enable them to discharge their responsibilities.

26.3 The Individual Assessment and Commissioning 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 Individual Assessment and Commissioning Team will undertake in addition to mandatory training will be personalised care training including personal health budgets.

26.4 All staff carrying out financial monitoring will adhere to the ICB's Anti-Fraud, Bribery and Corruption Policy & Response Plan.

27. Interaction with other ICB policies and procedures

27.1 This policy should be read in conjunction with relevant ICB policies and procedures in particular:

- All Age Continuing Care Commissioning Policy commissioning-policy-cheshire-and-merseyside-all-age-continuing-care.pdf
- Complaints Policy - Complaints - NHS Cheshire and Merseyside

References - all accessed 25/3/26

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

[ii] The Special Educational Needs (Personal Budgets) Regulations 2014

iii The Public Sector Equality Duty (PSED) | EHRC (equalityhumanrights.com)

[iv] 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)

[v] NHS England » Guidance on direct payments for healthcare: Understanding the regulations

[vi] Guidance-on-legal-rights-to-have-personal-health-budgets-or-personal-wheelchair-budgets.pdf

[vii] National framework for NHS continuing healthcare and NHS-funded nursing care, National framework for NHS continuing healthcare and NHS-funded nursing care - GOV.UK

[viii] Children and young people's continuing care national framework, Children and young people's continuing care national framework - GOV.UK

ix NHS England (2021, updated 2022). One-off personal health budgets within hospital discharge pathway.

x NHS England » Universal Personalised Care: Implementing the Comprehensive Model

xi NHS England » Fit for the Future: 10 Year Health Plan for England https://www.gov.uk/government/publications/10-year-health-plan-for-england-fit-for-the-future

xii Medium term planning framework - delivering change together 2026/27 to 2028/29

[xiii] Children and Families Act 2014

[xiv] Closest equivalent regulators to the Care Quality Commission (CQC)
Wales - Care Inspectorate Wales (CIW) is the independent regulator of social care and childcare services, including care homes and domiciliary care.
Scotland - Healthcare Improvement Scotland (HIS) regulates independent healthcare services. The Care Inspectorate regulates social care and social work services.
Northern Ireland - Regulation and Quality Improvement Authority (RQIA) regulates both healthcare and social care services.

[xv] NHS England » Personal Health Budget (PHB) Quality Framework

[xvi] Mental Capacity Act 2005. https://www.legislation.gov.uk/ukpga/2005/9/contents

[xvii] The Human Rights Act | Equality and Human Rights Commission (equalityhumanrights.com)