Supporting people in Dorset to lead healthier lives
PREFACE

This policy sets out the governance process for ensuring that patients commissioning their own services with a Personal Health Budget are supported.

All managers and staff (at all levels) are responsible for ensuring that they are viewing and working to the current version of this policy. If this document is printed in hard copy or saved to another location, it must be checked that the version number in use matches with that of the live policy on the CCG intranet.

All CCG policies are published on the staff intranet and communication is circulated to all staff when new policies or changes to existing policies are released. Managers are encouraged to use team briefings to aid staff awareness of new and updated policies.

All staff are responsible for implementing policies as part of their normal responsibilities, and are responsible for ensuring they maintain an up to date awareness of policies.
A | SUMMARY POINTS
---
- This policy sets out the governance process for ensuring that patients commissioning their own services through a personal health budget (PHB) are supported.

B | ASSOCIATED DOCUMENTS
---
- Policy for NHS Continuing Healthcare and NHS-funded Nursing Care
- Policy for Children and Young People’s Continuing Care

C | DOCUMENT DETAILS
---
| Policy Number | ID 8 |
| Target audience | All staff employed by NHS Dorset Clinical Commissioning Group (CCG) who undertake activity in relation to PHBs |
| Author | Warren Copland |
| Job Title | Senior Finance Manager, Continuing Healthcare and Funded Nursing Care |
| Directorate | Quality |
| Approving committee or group | Directors Meeting |
| Ratifying committee or group | Directors Meeting |
| Date of approval (version 2.5) | Directors Meeting 31 March 2014 |
| Date of ratification (version 2.5) | Directors Meeting 31 March 2014 |
| Version | V7 |
| Sponsor | Director of Quality |
| Approval date | 17 April 2018 |
| Ratification date | 17 April 2018 |
| Review frequency | Annually |
| Review date | April 2019 |
## D CONSULTATION PROCESS

<table>
<thead>
<tr>
<th>Version No</th>
<th>Review Date</th>
<th>Author and Job Title</th>
<th>Level of Consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>April 2017</td>
<td>Angie Smith</td>
<td>Internal Audit Assurance Review of Personal Health Budgets 2016/17 recommendations added</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Senior Continuing Healthcare Support Services Manager</td>
<td>Local Counter Fraud Specialist recommendations added</td>
</tr>
</tbody>
</table>

## E VERSION CONTROL

<table>
<thead>
<tr>
<th>Date of issue</th>
<th>Version No</th>
<th>Date of next review</th>
<th>Nature of change</th>
<th>Approval date</th>
<th>Approval committee/group</th>
</tr>
</thead>
<tbody>
<tr>
<td>16/02/2016</td>
<td>5</td>
<td>January 2017</td>
<td>Change to appendices – PHB Process map and PHB Agreement added</td>
<td>16/02/2016</td>
<td>Directors / Performance Meeting</td>
</tr>
<tr>
<td>18/04/2016</td>
<td>6</td>
<td>April 2018</td>
<td>Internal Audit and Local Counter Fraud Specialist recommendations added</td>
<td>18/04/2017</td>
<td>Directors / Performance Meeting</td>
</tr>
<tr>
<td>18/04/2018</td>
<td>7</td>
<td>April 2019</td>
<td>National Framework for Children and Young People’s Continuing Care, National expansion plan for PHBs and Integrated Personal Commissioning and Care Act 2014 added to list of supporting documents / evidence based references. Hyperlinks added for all supporting documents.</td>
<td>17/04/2018</td>
<td>Directors / Performance Meeting</td>
</tr>
</tbody>
</table>
Point 2.4 added. In 2016 NHS mandate set a clear expectation that 50 – 100,000 people will have a PHB by 2020/21.

Point 2.5 added. By 2020 it is expected that all Continuing healthcare funded domiciliary packages of care will be a PHB.

Point 7.2 changed to read.
and then to produce an individualised agreed health outcome plan and clinical risk assessment with the individual and/or their representative.

Point 7.3 changed to.
The financial and reputational risk to the CCG is addressed in the CHC risk register which identifies all risks pertaining to the individual and the PHB payment and what actions are needed to reduce the risk to an acceptable level. The exerts in the risk register relating to PHBs is attached as Appendix D.

Point 10.1 removed text that CCG does not have a contract with the provider.

Point 10.2 added. The CCG will have a contract with the provider of the holding account service.
<table>
<thead>
<tr>
<th>Appendix A Equality Impact Analysis form updated.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHC PHB Process for CHC Coordinators added as Appendix B.</td>
</tr>
<tr>
<td>Risk register exerts relating to PHBs. added as Appendix D.</td>
</tr>
<tr>
<td>Evidence</td>
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</tbody>
</table>

<p>| DISTIBUTION LIST |  |
| --- | --- | --- | --- |
| Internal CCG Intranet | CCG Internet Website | Communications Bulletin | External stakeholders |
| ✓ | ✓ | ✓ | Tick as appropriate |</p>
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<td>18.0 Document review frequency and version control</td>
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</tbody>
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<table>
<thead>
<tr>
<th>APPENDICES</th>
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<td>A Equality impact analysis form</td>
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<td>B PHB CHC Coordinators process map 2018</td>
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<td>C PHB Agreement</td>
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<td>D Risk register exerts relating to PHBs.</td>
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</tbody>
</table>
GOVERNANCE FOR PERSONAL HEALTH BUDGETS

1.0 RELEVANT TO

1.1 This policy is relevant to all staff employed by the CCG who undertake activity in relation to PHBs.

2.0 INTRODUCTION

2.1 PHBs were piloted nationally between 2009 and 2012. The former Dorset PCT was one of these pilots.

2.2 The evaluation demonstrated better outcomes for people and proved cost effective for people with high health service use. PHBs also reduced use of other health services.

2.3 The Government confirmed a commitment that adults eligible for NHS Continuing Healthcare (CHC) would have a “right to ask” for a PHB from April 2014. This changed to a “right to have” from 1 October 2014.

2.4 In 2016 NHS mandate set a clear expectation that 50-100,000 people will have a personal health budget by 2020/21.

2.5 By 2020 it is expected that all Continuing Healthcare funded domiciliary packages of care will be Personal Health Budgets.

3.0 SCOPE

3.1 This policy sets out how staff employed by the CCG implement The National Health Service (Direct Payments) Regulations 2013 by following the agreed process.

3.2 This policy includes children’s continuing care PHBs, and PHBs for individuals who are not eligible for CHC funding.

4.0 PURPOSE

4.1 This policy sets out the process for CCG staff for the governance of PHBs.

4.2 There is a need for this document to ensure robust governance is in place with regard to both patient safety and financial governance.

5.0 DEFINITIONS

5.1 A PHB, as defined in the Continuing Healthcare National Framework, helps people to get the services they need to achieve their health outcomes by letting them take as much control over how money is spent on their care/support as is appropriate for them. This can be through a direct payment.

5.2 This policy reflects legislation and the mandate from NHS England for the ‘right to have’ a PHB for individuals who are eligible for CHC funding from 1 October 2014.
5.3 This policy guides standards, decision making and actions for CCG staff.

6.0 ROLES AND RESPONSIBILITIES

6.1 The Director of Quality is the designated lead for PHBs within the CCG.

6.2 Senior managers will be responsible for monitoring the governance of PHBs.

6.3 All CCG staff are responsible for compliance with the governance of PHBs and the PHB Process.

7.0 PROCESS

7.1 The CHC PHB process map for CHC Coordinators is attached as Appendix B.

7.2 Following an application for a PHB a visit is undertaken by a CCG member of staff to assess the individual's health needs and outcomes; and then to produce an individualised agreed health outcome plan and clinical risk assessment with the individual and/or their representative.

7.3 The financial and reputational risk to the CCG is addressed in the CHC risk register which identifies all risks pertaining to the individual and the PHB payment and what actions are needed to reduce the risk to an acceptable level. The exerts in the risk register relating to PHBs is attached as Appendix D.

7.4 These assessments are required to agree a PHB indicative budget.

7.5 A number of areas will be considered during the risk assessment. These are as follows:

- whether there are any sanctions in place for any of the care providers such as non-compliance with CQC standards;
- whether there are blocks or cautions in place for providers;
- confirming a Disclosure and Barring Services check has been completed where relevant and whether that has highlighted any issues;
- where a patient lacks capacity, what safeguards are in place to protect them;
- how the PHB payment will be managed.

7.6 The process for non CHC PHBs will need to be agreed and put in place.
8.0 RISK AND SCRUTINY PROCESS FOR PHBS

8.1 All CHC PHBs will go through the established CHC High Cost Approval Process whether it is a new PHB or an increase or decrease to an existing PHB payment.

8.2 The CHC High Cost Approval Process will consider:

• whether there are any sanctions in place for any of the care providers such as non-compliance with CQC standards;

• whether there are blocks or cautions in place for agencies or care homes;

• confirming a Disclosure and Barring Service check has been completed where relevant and whether that has highlighted any issues;

• where a patient lacks capacity, what safeguards are in place to protect them;

• whether all risks have been identified and actions put in place to mitigate to an acceptable level;

• whether the level of funding agreed for the PHB will meet all requirements for the patient and how the PHB payment will be managed.

9.0 OUTCOME

9.1 Once the PHB has been agreed, the individual or their representative will need to give consent to set up payments either as a direct payment to a bank account or through a holding account held by a third party that will make the payments to the relevant provider or person on behalf of the patient or their representative. The individual or their representative will need to sign the PHB Agreement (Appendix C).

10.0 MONITORING AND ASSURANCE

10.1 Where an individual or their representative uses their PHB through a holding account, the provider of the holding account will supply the CCG with a monthly or quarterly statement of income and expenditure. In order to provide this service there is a contract between the individual or their representative and the provider of the holding account. Any expenditure outside the Agreed Commissioned Healthcare Outcome Plan or any underspend will be investigated and action taken.

10.2 From 1 April 2018 the CCG will have a contract with the provider of the holding account in order to specify the services they will provide.

10.3 Individuals who have direct payments to their own account are required to submit quarterly returns of income and expenditure with supporting bank statements, invoices, time sheets, receipts and mileage claims. Any expenditure outside the agreed health outcome plan or any underspend will be investigated and action taken.
10.4 Failure to provide evidence of expenditure, when due or requested, through the submission of quarterly returns (if appropriate), bank statements, timesheets and other required documentation could be reported to the Local Counter Fraud Specialist under the Fraud Act 2006 offence of Failure to Disclose Information (Section 3). The CCG can suspend payment of the PHB pending the supply of this information.

10.5 The individual or their representative must inform the CCG of any conflicts of interest where monies would be transferred to care businesses closely connected with the individual or their representative or family, at an early stage. If a conflict is considered unacceptable, the CCG will require that care is procured from a neutral provider.

10.6 There is an obligation, under The National Health Service (Direct Payments) Regulations 2013 Regulation 7 (9)(c), for the CCG to consider whether the patient, representative or nominee is capable of taking all reasonable steps to prevent fraudulent use of the direct payment.

10.7 The CCG must, under Regulation 8, advise the patient, representative or nominee of the risks and consequences of monies paid by direct payment being misused or subject to theft or fraud Regulation 8(1)(b) and 8(2)(f).

10.8 Under Regulation 15(1)(e) the CCG retains the right to require part or all of the direct payment to be repaid if there is any evidence that theft, fraud or another offence may have occurred in relation to the payments. This recovery can be recovered as a civil debt Regulation 16(1) but this does not preclude other methods of recovery.

10.9 The CCG must also cease making direct payments if they consider that theft, fraud or another offence may have occurred in connection with the direct payments Regulation 17(2)(f).

10.10 The CCG reserves the right to refer any suspicion of fraud or financial abuse of the direct payment to their Counter Fraud Specialist.

10.11 For individuals who are CHC eligible, the CHC PHB reporting is part of the CHC monthly financial report, and other financial reports as required by the CCG.

10.12 A report will be provided to the Quality Group on a quarterly basis which will report to the Audit and Quality Group. This will ensure that assurance for quality and financial governance and the processes in place for PHBs are robust in order to minimise risk.

11.0 REVIEW

11.1 This policy will be reviewed on an annual basis unless there are changes in legislation which impacts on processes in place.
12.0 TRAINING

12.1 Training on PHBs has been delivered to CHC staff and there will continue to be PHB training throughout the year as part of a planned programme.

12.2 This document does not require a change to the existing training.

13.0 CONSULTATION

13.1 Consultation was undertaken in 2014 on the original policy. There are no significant changes to this version.

14.0 APPROVAL AND RATIFICATION PROCESS

14.1 The Policy will be approved by the Directors Meeting.

15.0 COMMUNICATION/DISSEMINATION

15.1 The Policy will be communicated via the internal CCG intranet, the CCG internet website and the CCG communications bulletin.

16.0 IMPLEMENTATION

16.1 The Policy does not contain any new aspects to be documented.

17.0 MONITORING COMPLIANCE AND EFFECTIVENESS OF THE DOCUMENT

17.1 Compliance with the Policy will be monitored through the High Cost Approval process for CHC.

17.2 Compliance with the Policy will be monitored through the quarterly report to the Quality Group.

17.3 Any areas of concern or non-compliance will result in the production of an action plan. This will be reviewed by Quality Group and actions recorded in the Group minutes.

18.0 DOCUMENT REVIEW FREQUENCY AND VERSION CONTROL

18.1 The Policy will be reviewed annually to take account of any changes in national guidance.

18.2 Necessary changes throughout the year will be issued as amendments to the framework. Such amendments will be clearly identifiable to the section to which they refer and the date issued. These will be clearly communicated via the CCG newsletter.
### Initial Screening

What evidence is available to suggest that the proposed service/policy/function could have an impact on people from the protected characteristics or staff?

The POET (Personal Outcomes Evaluation Tool) Surveys of personal health budget holders and family carers 2015 have been published. These surveys and analysis of the results were compiled by In Control and the Centre for Disability Research, Lancaster University. This includes equality monitoring information on protected characteristics – gender, age, ethnicity and sexuality.

POET is a self-reported user experience survey tool which is intended to be used at the time the PHB is reviewed. The POET tool is aimed at two key groups, individuals who have been allocated a PHB and family member carers.

The below scoring matrix was used/ will be used to assess the potential impact.

<table>
<thead>
<tr>
<th>Perceived Positive Impact</th>
<th>Perceived Neutral Impact</th>
<th>Perceived Disproportionate Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive impact on a large proportion of protected characteristic groups.</td>
<td>No change/ no assessed significant impact of protected characteristic groups.</td>
<td>Disproportionate impact on a large proportion of protected characteristic groups.</td>
</tr>
<tr>
<td>Significant positive impact on a small proportion of protected characteristic groups.</td>
<td></td>
<td>Significant disproportionate impact on a small proportion of protected characteristic groups.</td>
</tr>
</tbody>
</table>
If the all elements of the service/policy/function are analysed as **Neutral Impact or Positive**, please proceed to page 4 for sign off.

If any element of the service/policy/function is assessed as **Perceived Disproportionate Impact**, continue with the Full Equality Impact Assessment.

<table>
<thead>
<tr>
<th>Protected Characteristic</th>
<th>Analysis</th>
<th>Reason for Impact Analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>+</td>
<td>Older people could be positively affected as older people are more likely to have health problems which meet the criteria of ‘primary health need’. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. (<em>The National Framework paragraph 20</em>). The POET survey of PHB holders found that 49.81% were over 55.</td>
</tr>
<tr>
<td>Disability</td>
<td>+</td>
<td>Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. (<em>The National Framework paragraph 20</em>). In the POET survey for PHB holders 33.9% had complex health needs and 32.2% a physical disability. Generally, a PHB has a positive impact in terms of giving the individual more control over their health outcomes. Reasonable adjustments are considered in terms of language barriers and comprehension, for example documents are made available in ‘easy read’ format.</td>
</tr>
<tr>
<td>Gender Reassignment</td>
<td>N</td>
<td>There will be no negative impact with the proviso that gender reassignment issues are kept in consideration. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. (<em>The National Framework paragraph 20</em>).</td>
</tr>
<tr>
<td>Category</td>
<td>Impact</td>
<td>Reason</td>
</tr>
<tr>
<td>----------------------------------</td>
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<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Marriage and Civil Partnership</td>
<td>N</td>
<td>There will be no negative impact with the proviso that unconscious bias is kept in consideration.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. <em>(The National Framework paragraph 20).</em></td>
</tr>
<tr>
<td>Pregnancy/Maternity</td>
<td>N</td>
<td>There will be no negative impact with the proviso that issues such as unconscious bias are kept in consideration.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. <em>(The National Framework paragraph 20).</em></td>
</tr>
<tr>
<td>Race/Ethnicity/Nationality</td>
<td>N</td>
<td>There will be no negative impact with the proviso that race issues such as cultural awareness, unconscious bias are kept in consideration.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. <em>(The National Framework paragraph 20).</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>From the POET survey of PHB holders 89.19% were ‘any white’.</td>
</tr>
<tr>
<td>Religion or Beliefs/Spirituality</td>
<td>N</td>
<td>There will be no negative impact on the proviso that religious and cultural beliefs are kept in consideration.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. <em>(The National Framework paragraph 20).</em></td>
</tr>
</tbody>
</table>
In the POET survey of PHB holders 62.45% were Christian and 28.06% of no religion.

| Gender          | N | The Policy does not impact differently on men or women.  
|                 |   | Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. (The National Framework paragraph 20). |

| Sexual Orientation | N | PHBs deliver an equitable service regardless of sexual orientation. All staff involved with PHBs are subject to the values in the NHS Constitution.  
|                   |   | Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits they can obtain from the health service. (The National Framework paragraph 20). |

| Staff            | + | The Policy will have a positive impact on carers giving them more control on how care and support is provided.  
|                 |   | In the POET survey of carers 72.84% were female and 27.16% were male. |

| Any Other Group  | N | Anyone who is eligible for NHS services may be eligible for a PHB.  
|                 |   | Rural Isolation, Military, Homeless |
## Engagement

Please list previous consultation which has taken place, or is planned, relating to the proposed service/policy/function with each element from the protected characteristics and staff.

<table>
<thead>
<tr>
<th>Protected Characteristic</th>
<th>Analysis</th>
<th>Reason for Impact Analysis</th>
<th>Suggested Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disability</td>
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<td></td>
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</tr>
<tr>
<td>Gender Reassignment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marriage and Civil Partnership</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Pregnancy/Maternity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Race/Ethnicity/Nationality</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Religion or Beliefs/Spirituality</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men, Women</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sexual Orientation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any Other Group</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural Isolation, Military, Homeless</td>
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<td></td>
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</tr>
</tbody>
</table>
Engagement and Involvement

Have you engaged stakeholders in the gathering or testing the evidence available? If not what do you intend to do?

There was extensive engagement with stakeholders by the former Dorset PCT during the pilot in 2009 to 2012.

In 2017 following a successful PHB Staff Training Day insurance and training information was sent out to the CCGs PHB account holders in order to provide advice and support and a PHB working group was set up.

In 2018/19 the CCG intends to engage with external groups in order to obtain PHB information feedback through workshops.

In March 2018 the CCG will send out to all the CCGs PHB account holders details of the NHS England’s personal health budget experience survey running from 1 March 2018 to 30 April 2018. The findings will be used to improve how personal health budgets are offered across the county. Local health commissioners will have access to high level aggregated data in an anonymised form.

If you have engaged groups please list below and include who was involved, how they were involved and the key outputs:

<table>
<thead>
<tr>
<th>Groups Engaged</th>
<th>Date and type of engagement</th>
<th>Outputs from activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Summary of Analysis of overall Impact: Considering the evidence and engagement activity you have listed, please summarise the impact of your proposals. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in service or expand their participation in public life.

The purpose of the Policy is to ensure governance of PHBs in terms of patient safety and financial governance. There is no potential for differential impact as the Policy will be applied to all PHB holders.

Review of Analysis

I am satisfied that this service/policy/function has been successfully equality impact analysed

Signed by Sponsoring Director/Lead

Job Title of Director/Lead

Date signed
Continuing Healthcare Personal Health Budget (PHB) Process Map for CHC Coordinators – 2018

**CHC Coordinator**
- agrees with patient/patient representative - care package hours and signs off the ACHOP (PHB1A or C) sets PHB start date and confirms which PHB option they have chosen to manage the account - self managed, managed by a third party or a notional budget;
- negotiates and confirms start date with Local Authority if patient transferred from Local Authority or out of area.

**CHC Coordinator**
- completed and signed ACHOP (PHB1A or C) is sent to chc.commissioning@Dorsetccs.nhs.uk requesting an indicative budget;
- if self-managed option is chosen informs chc.Finance@Dorsetccs.nhs.uk to ensure that bank details form can be issued to patient.

**CHC Commissioning**
- care package requirements reviewed and indicative budget set (PHB2A or C);
- indicative budget (PHB2A or C) emailed to CHC Coordinator.

**CHC Coordinator**
- transfers indicative budget information in to new package of care request form (PHB3) and discusses management of account with patient/patient representative;
- if a gap between Local Authority funding and start date of PHB CHC Coordinator negotiates funding for the gap period, agrees reimbursement and informs chc.commissioning@Dorsetccs.nhs.uk and chc.Finance@Dorsetccs.nhs.uk

**SELF MANAGED ACCOUNT**
- CHC Finance and Information
  - sends bank details form (PHB4) to the patient/patient representative for completion;
  - checks bank documentation to ensure that a bank account has been opened and is used specifically for the PHB;
  - send bank details form (PHB4) to SRS via Corporate Finance Team to generate a VSR number (36 weeks);
  - informs CHC Coordinator when VSR number has been generated.

**THIRD PARTY MANAGED ACCOUNT**
- CHC Coordinator
  - completes third party organisation referral form and sends to ProDisability or Enhance;
  - informs patient/patient representative of PHB start date and confirmation of third party organisation acceptance to manage the PHB account.

**NOTIONAL BUDGET**
- CHC Coordinator
  - arranges agreed care and support.

**CHC Coordinator**
- emails CHC_COLLAPSEhealthcareoptions.nhs.uk and CHC_Finance@Dorsetccs.nhs.uk with confirmation of PHB start date, account type (self-managed, third party managed or notional account) and attaches fully completed, signed and dated ACHOP (PHB1A or PHB1C) and authorised FOCR form (PHB3).

**CHC Finance and Information**
- issues (PHB5) PHB Agreement.

**CHC Commissioning**
- Data Controllers update Caretrack with PHB details and add start-up costs.

APPROVED: CMC SMT 14/02/2018

21
PERSONAL HEALTH BUDGET

Direct Payments Agreement under National Health Service (Direct Payments) Regulations 2013

Patient Name: Patient Name

NHS Number: NHS Number

Address: Address
In this document:

“Agreed Commissioned Health Outcome Plan” - the plan which meets your assessed needs under this Agreement;

“The Patient”/ “You” - the person, who will receive the PHB;

“The Commissioner”/ “We” - NHS Dorset Clinical Commissioning Group;

“Direct Payments” - the Personal Health Budget payments made by The Commissioner to The Patient under the terms of this Agreement;

“Personal Health Budget”/“PHB” - the sum which we identify you are entitled to receive under this Agreement and your Agreed Commissioned Health Outcome Plan by way of a Direct Payment;

“The Representative” - either: (a) someone who agrees to act on behalf of a patient who does not have the capacity to consent to receiving a PHB; or (b) someone to whom The Patient delegates this responsibility. Representatives are responsible for consenting to a direct payment and fulfilling all the responsibilities of The Patient as if it was The Patient;

"The Regulations" - The National Health Service (Direct Payments) Regulations 2013 SI 1617.

"Independent Support Agencies" – those Agencies who from time to time are named by the CCG as local agencies who provide support to The Patient or The Representative in the administration of the PHB. The CCG does not have a contract with these Agencies.

This Agreement sets out the respective roles, responsibilities and expectations of The Patient and or their Representative and NHS Dorset Clinical Commissioning Group as The Commissioner in relation to Direct Payments of the PHB for The Patient.

This Agreement will commence on a date to be confirmed by us, when you have returned a signed copy of this document and have everything in place to commence your Agreed Commissioned Health Outcome Plan.

1. INTRODUCTION

1.1 Direct Payments for health care are monetary payments made by The Commissioner to individuals to allow them to purchase the care they need. They are one mechanism for delivering PHBs, and are one of a number of tools for making the National Health Service more personalised and patient centred.

1.2 The Commissioner can make monetary payments to The Patient instead of providing or arranging services to meet their assessed health care needs. These payments are called Direct Payments. Direct Payments provide choice and control to The Patient in how her/his assessed needs are met.

1.3 The legal framework which underpins the mechanism of PHBs in the NHS is set out in The Regulations.

1.4 Information setting out the support and assistance available from Independent Support Agencies in the operation of the PHB has been provided in the form of a CCG information sheet.
2. **THE DIRECT PAYMENT**

2.1 We have assessed your health care needs and agreed that you will receive your PHB by way of a Direct Payment. This amounts to £ <<000.00>> per week which will be paid to you on a monthly basis.

2.2 Payment will be made in advance of every calendar month starting on <<XX XXX XXXX>>. The initial payment for the first month will also include a sum of £135 for Employers and Public Liability Insurance for the first year. For subsequent years after the first year there will be enough funds in the PHB Direct Payment Account to pay this sum or any increase on renewal every year. This Direct Payment may change in the event of any changes identified during review/monitoring of this Agreement.

3. **YOUR RESPONSIBILITIES**

3.1 The Direct Payments are to be used for support arrangements for The Patient which are compliant with the law and with the following guidance provided by the Department of Health (or such guidance as is provided from time to time):

http://www.nhs.uk/choiceintheNHS/Yourchoices/personal-health-budgets/Pages/about-personal-health-budgets.aspx

3.2 Payments must be used solely to purchase care and/or health related services in fulfilment of the outcomes identified in The Patient’s Agreed Commissioned Health Outcome Plan. A copy of which is enclosed.

3.3 It is your responsibility to use your Direct Payment to purchase any necessary insurance or for the purposes of carrying out any necessary checks arising from your employment of staff in accordance with Section 5 below.

3.4 Services must not be purchased which are available to you through the NHS (GP, Prescriptions, Physiotherapy, Chiropody, Dentistry). Information on available NHS services can be found from NHS Dorset Clinical Commissioning Group or at www.nhs.uk

3.5 Direct Payments will not be used to fund personal activities or expenditure, including but not limited to household bills, vehicle maintenance (including petrol / mileage), gambling, drugs, tobacco, alcohol, food, cinema, theatre or outdoor pursuits, unless agreed, and forms part of the Agreed Commissioned Health Outcome Plan and are identified as a health need by The Commissioner.

3.6 Any one off purchase of equipment must have prior agreement from The Commissioner to ensure it meets an identified health need as part of the Agreed Commissioned Health Outcome Plan. Such equipment can only be purchased if it is not available from mainstream services, an Occupational Therapy assessment has been carried out where applicable and arrangements are in place for ongoing maintenance and servicing.

3.7 You must ensure value for money is considered in any spend of your PHB in line with the requirements when using public monies.
3.8 You must, on request, or at intervals specified by The Commissioner, provide The Commissioner or its representatives with information or evidence relating to:

3.8.1 your health / any health condition in respect of which the Direct Payment is made; and

3.8.2 the health outcomes expected from the provision of any service.

3.9 You must notify The Commissioner when your health or other relevant circumstances change.

4. **FINANCES AND RECORD KEEPING**

4.1 **Finances**

The Patient or The Representative must:

4.1.1 open a bank account which will be used solely for the Direct Payments received from The Commissioner and provide details of this account to The Commissioner. This account must be used for the Direct Payments only and no other monies will be credited / paid in to the account;

4.1.2 ensure that bank accounts set up for the purposes of receiving the Direct Payments are not permitted for the use of obtaining Credit Agreements either in the form of a personal overdraft, loan, mortgage or other types of credit arrangement;

4.1.3 ensure that bank accounts set up for the purposes of receiving the Direct Payments are not interest earning accounts;

4.1.4 notify The Commissioner if at any point funds held in the bank account exceed the equivalent of the amount of four (4) weeks’ of Direct Payments at month end (after usual deductions for care). Such monies must be returned to The Commissioner upon request, unless an agreement is in place between The Patient or The Representative and The Commissioner for such funds to be held in the account, for example for respite care;

4.1.5 notify The Commissioner of any unspent monies, and the reason for this, at the end of the financial year which must be returned to The Commissioner upon request;

4.1.6 The Commissioner may adjust future payments in order to recover any overpaid or unused monies that are identified. Where The Commissioner adjusts future payments or recovers overpaid or unused monies, The Commissioner will inform The Patient or The Representative in writing with a notice period of fourteen calendar days for The Patient or The Representative to ask for a review of the decision;

4.1.7 notify The Commissioner of any payment from a third party (e.g. Local Authority, Supporting People) for the services received by The Patient, in part or in full as this may affect the level of the Direct Payments;
4.1.8 pay workers or agency invoices by cheque or an alternative secure method of payment, such as Standing Order or BACS transfer. NO CASH PAYMENTS are to be made. However, with the prior written permission of the CCG, out of pocket expenses may be paid by cash. These expenses must be detailed in your record of all payments made and receipts/evidence kept and recorded for audit purposes;

4.1.9 pay any bank charges incurred in relation to your dedicated bank account out of your own funds, unless it can be shown such charges were incurred as a result of the CCG;

4.1.10 not make any changes to the dedicated bank account details or the names on the dedicated bank account without the CCG’s prior written permission.

4.2 Records

The Patient or The Representative must:

4.2.1 keep a record of all payments made and original copies of all supporting documentation such as invoices, time sheets, receipts etc.;

4.2.2 allow and authorise access by The Commissioner, or approved representative, to your records and your PHB bank account;

4.2.3 submit copies of bank statements every 3 months that show what has been spent and the remaining balance in your PHB bank account;

4.2.4 keep for examination by the CHC Co-ordinator or other CCG representatives the following financial records:

4.2.4.1 original bank statements;

4.2.4.2 invoices and receipts to substantiate income and expenditure records;

4.2.4.3 signed time sheets submitted by staff employed;

4.2.4.4 any other documentation that shows how your PHB has been spent;

4.2.5 failure to provide evidence of expenditure, when due or requested, through the submission of quarterly returns (if appropriate), bank statements, timesheets and other required documentation could be reported to the Local Counter Fraud Specialist under the Fraud Act 2006 offence of Failure to Disclose Information (Section 3). The Commissioner can suspend payment of the Direct Payment pending the supply of this information.
5. YOUR RESPONSIBILITIES IF YOU EMPLOY YOUR OWN STAFF (DIRECT PAYMENTS)

5.1 As The Patient or The Representative, if you receive a Direct Payment, then you will be responsible for:

5.1.1 registering as an employer with Her Majesty’s Revenue and Customs (HMRC) before the first pay day;

5.1.2 appointing your staff, taking up references (minimum of two references, with one being the previous employer) and complying with all legal obligations relating to employment and be responsible for Pay As You Earn (PAYE) and National Insurance (NI) arrangements;

5.1.3 giving your staff a job description, employment contract and managing your staff including making contingency arrangements to cover holidays and sickness;

5.1.4 paying your staff’s wages, holiday and sick pay, pension and other payments as legally required;

5.1.5 deducting national insurance and income tax on behalf of your staff and making payments to Her Majesty’s Revenue and Customs (HMRC) as required;

5.1.6 keeping records of employees and employers tax and national insurance contributions;

5.1.7 the health and safety of your staff whilst they are employed by you, including any risk assessments associated with delivery of care;

5.1.8 all statutory, financial and legal responsibilities for the employment of staff or the purchase of goods / services;

5.1.9 the risk assessments in relation to your care (with support of your CHC Coordinator if required). The Commissioner will require copies of any risk assessments;

5.1.10 ensuring you have an adequate employer’s liability insurance policy in place at all times whilst employing staff. This insurance must include redundancy cover and should be funded through your Direct Payment. The Commissioner has no liability in relation to redundancy payments for any staff that you employ;

5.1.11 ensuring your staff are inducted into their role and have adequate training, and that all staff possess the appropriate qualifications, experience, skills and competencies to perform the duties required of them, and be appropriately supervised, managerially and professionally;

5.1.12 ensuring that where required staff are registered with the appropriate professional regulatory body and complete any revalidations;
5.1.13 **The Commissioner** requires any person who is to be employed by you to apply for a Disclosure and Barring Service certificate (DBS) (previously CRB checks). If there are children living in your home or who visit on a regular basis, then you must carry out a DBS and POVA (Protection of Vulnerable Adults) check on prospective employees. It is the responsibility of **The Patient or The Representative** to undertake the DBS and POVA checks via the support of Independent Support Agencies. The monies allocated to you by **The Commissioner** through your PHB include provision for funding of DBS and POVA checks. Where the DBS or POVA check identifies concerns, **The Commissioner** must be informed, and retains the right to refuse the use of that individual in certain circumstances (for example where children are living in the home);

5.1.14 ensure all your health related needs are met through the Agreement with any employees.

5.2 **The Commissioner** does not accept any responsibility for any contracts entered into by **The Patient or The Representative** in arranging the services identified in the Agreed Commissioned Health Outcome Plan.

5.3 **The Patient or The Representative** must check the employment status against the HMRC – Employment Status Indicator located at [http://www.hmrc.gov.uk/calcs/esi.htm](http://www.hmrc.gov.uk/calcs/esi.htm). The guidance of the HMRC tool will be followed and the results of which will be printed and retained in individuals’ personnel files.

5.4 Inspections by HMRC of employment records are the responsibility of **The Patient or The Representative** and the CCG is not liable for any unpaid tax, assessments, interest or penalties identified by HMRC.

5.5 **The Patient or The Representative** have a clear understanding of what represents an employed or self-employed worker status and will conduct regular reviews with staff and ensure employment law is adhered to. **The Patient or The Representative** recognise that **The Commissioner** strongly recommends that any relevant Commission for Quality Care (CQC) reports are considered with a view to assessing the performance of potential service providers against national and minimum standards. CQC reports can be viewed at [www.cqc.org.uk](http://www.cqc.org.uk).

5.6 **The Commissioner** will determine if a Senior Personal Assistant is required to support the package of care. This will be assessed by the Care Coordinator and detailed in the PHB account holder’s Agreed Commissioned Health Outcome Plan. A maximum of one Senior Personal Assistant will be approved for the package of care.

6. EMPLOYING RELATIVES

6.1 You are NOT allowed to employ or purchase services from close family living in the same house as you unless you have the prior written agreement from **The Commissioner**. Close family includes, but is not limited to: partners, wives, husbands, parents, brothers, sisters, grandparents, aunts and uncles, cousins, sons or daughters (including step sons or step daughters, or sons or daughters in law), grandchildren, and mother/father in laws.
6.2 Written permission will only be given in exceptional circumstances where The Commissioner is satisfied that securing the service from the family is the only way to meet The Patient’s needs. The Commissioner will require supporting evidence to be provided to The Commissioner for review to assist in the final decision making process. The Commissioner will review any evidence provided in support of the request and provide written feedback to The Patient or The Representative accepting or rejecting the request, along with the reasons for this decision.

7. CONFLICTS OF INTEREST

7.1 The Patient or The Representative must inform The Commissioner of any conflicts of interest where monies would be transferred to care businesses closely connected with The Patient or The Representative or family, at an early stage. If a conflict is considered unacceptable, The Commissioner will require that care is procured from a neutral provider.

8. SAFEGUARDING

8.1 Safeguarding adults

Anyone providing a service under this Agreement or Agreed Commissioned Health Outcome Plan must have access and adhere to the NHS Dorset Clinical Commissioning Group’s Safeguarding Adults Procedure February 2016 available -

8.2 Safeguarding children

Anyone providing a service under this Agreement or Agreed Commissioned Health Outcome Plan must have access and adhere to the NHS Dorset Clinical Commissioning Group’s Safeguarding Children Policy August 2015 available -

8.3 Safeguarding alerts

Any alert made should be notified to The Commissioner within one working day.

9. PERSONAL CONTRIBUTIONS/TOP UPS

9.1 The Commissioner is not currently able to allow individuals to top up payments for services which are provided by this Agreement and identified in the Agreed Commissioned Health Outcome Plan. However, where service providers offer additional or other services which go beyond those identified in this Agreement or Agreed Commissioned Health Outcome Plan then the individual may choose to use their own personal funds to take advantage of these additional or other services. Such services will not be funded by The Commissioner as being beyond those which are identified in this Agreement or Agreed Commissioned Health Outcome Plan. Any lifestyle choices that are over and above this Agreement are independent and optional arrangements which you enter into with the provider. This would refer to any amenities, benefits or facilities that are personal to you and which do not form part of this Agreement or your PHB.
10. **REVIEW AND MONITORING**

10.1 Under Regulation 15(1)(e) of the Regulations, **The Commissioner** retains the right to require part or all of the Direct Payment – to be repaid if there is any evidence that theft, fraud or another offence may have occurred in relation to the payments. This recovery can be recovered as a civil debt Regulation 16(1) of the Regulations but this does not preclude other methods of recovery.

10.2 **The Commissioner** reserves the right to refer any suspicion of fraud or financial abuse of the Direct Payment to their Counter Fraud Specialist.

10.3 **The Patient or The Representative** agree to meet with a representative from **The Commissioner** within three months of the setup of the Direct Payment and thereafter not less than annually, such intervals and dates to be determined by **The Commissioner**. These meetings will be to review the Agreed Commissioned Health Outcome Plan and the support that has been arranged with a view to determining whether any changes are needed. In addition **The Commissioner** may convene further meetings as are considered necessary, whether to review needs that may have changed, or as a routine review of the operation of the Direct Payment on dates to be agreed at the convenience of the parties involved.

11. **SUSPENSION OF THIS AGREEMENT BY THE COMMISSIONER**

11.1 **The Patient or The Representative** accept that if, in the reasonable opinion of **The Commissioner**, the care arrangements funded by virtue of the Direct Payment fail to meet The Patient’s needs or create a risk to his/her physical, emotional or financial well-being, **The Commissioner** reserves the right to require alternative provision to be secured for him/her with immediate effect.

11.2 **The Patient or The Representative** understand that failure to implement alternative provision will result in the Direct Payment being suspended until suitable and safe arrangements for the care package can be secured.

11.3 **The Commissioner** will issue a suspension notice in the form of a letter setting out the reasons as to why the Direct Payment has been suspended. Suspension can be immediate (less than 24 hours) and form part of a termination notice period.

11.4 During the time that the Direct Payment is suspended **The Commissioner** will seek to provide care arrangements which may include commissioning domiciliary provision or residential care from alternative contracted external providers.

11.5 If a suspension notice is issued, monies are not to be withdrawn from the designated bank account without written permission of The Commissioner.
12. ENDING THIS AGREEMENT

12.1 The Patient or The Representative can end this Agreement:

12.1.1 If The Patient or The Representative gives The Commissioner 28 calendar days’ notice that they no longer wish to receive the PHB. This period may be reduced if appropriate alternative care arrangements can be put into place sooner.

12.1.2 If The Patient (who has capacity to consent) withdraws their consent to receiving Direct Payments.

12.1.3 If The Patient (if lacking capacity) recovers their capacity to consent, and

12.1.4 If The Representative withdraws their consent to receive Direct Payments and no other representative has been appointed on their behalf.

12.1.5 If The Patient or The Representative withdraws their consent to the continued making of Direct Payments to The Representative.

12.2 The Commissioner can end this Agreement:

12.2.1 If The Patient or The Representative fails to keep or submit correct and timely records as defined in this Agreement.

12.2.2 If The Patient or The Representative do not use the Direct Payment for the purpose that it is given i.e. to meet eligible assessed care needs as per the Agreed Commissioned Health Outcome Plan.

12.2.3 If following an annual review you are no longer assessed as being eligible for Continuing Healthcare.

12.2.4 If The Commissioner considers that The Patient’s assessed eligible needs in line with Agreed Commissioned Health Outcome Plan can no longer be met by securing the provision of services with a PHB.

12.2.5 If The Commissioner considers that you are no longer capable of managing your Direct Payment with or without help.

12.2.6 If The Commissioner considers that you are not meeting your responsibilities as an employer.

12.2.7 If The Patient or The Representative does not comply with this Agreement.

12.2.8 If The Patient or The Representative are failing to meet The Patient’s required health needs and/or in the reasonable opinion of The Commissioner The Patient’s physical, emotional or financial well-being is at risk.

12.2.9 If The Commissioner considers that theft, fraud or another offence may have occurred in connection with the Direct Payments Regulation 17(2)(f).
12.3 The Commissioner and The Patient or The Representative has the right to terminate this Agreement by giving the other party 28 calendar days’ notice in writing.

12.4 All unspent monies held by The Patient or The Representative when the Agreement is ended must be returned to The Commissioner.

13. HOSPITALISATION/RESPITE

13.1 The Patient or The Representative is required to inform The Commissioner of any period of hospital admission of more than 5 days or of any event that renders the provision of services suspended to The Patient under this Agreement. The Commissioner will continue to make payments for up to 28 calendar days for retainer purposes. It is the expectation of The Commissioner that The Patient or The Representative will negotiate with any service providers to reduce payments made in order to retain a service during this period.

14. DEATH

14.1 In the event of your death, any unspent money must be returned to The Commissioner. Any unspent monies in the bank/holding account must be used to pay any outstanding staff or provider costs including redundancy pay. In the event that the bank/holding account does not have sufficient monies to cover all outstanding staff costs The Commissioner will pay any outstanding staff costs subject to documentary evidence of these costs.

15. COMPLAINTS

15.1 The Commissioner's standard complaints procedure http://www.dorsetccg.nhs.uk/Downloads/aboutus/Policies/Corporate/Customer%20Care%20and%20Complaints%20Policy%202016.pdf may be used if The Patient or The Representative wishes to make any complaint in connection with the Agreement or the Agreed Commissioned Health Outcome Plan.
The Patient or The Representative Declaration

I, The Patient or The Representative confirm that I have capacity / am authorised to consent to receive a Direct Payment under The Regulations.

I, The Patient or The Representative understand that the conditions imposed on me by this Agreement are the National Health Services (Direct Payments) Regulations 2013 and that breach of any terms of this Agreement may lead to the termination of this Agreement and the Direct Payments.

Dated: 

Signed: (The Patient) 

Name in Full: (block capitals) 

If individual has no capacity to sign their own form, their representative is able to sign on their behalf below.

Dated: 

Signed: (The Representative) 

Name in Full: (block capitals) 

The Commissioner

Dated: 

Authorised Signatory: 

For and on behalf of NHS Dorset - Clinical Commissioning Group

Printed Name: 

Designation: Chief Finance Officer
<table>
<thead>
<tr>
<th>Risk ID</th>
<th>Date Raised</th>
<th>Status</th>
<th>Date Closed</th>
<th>Risk Title</th>
<th>Risk Description &amp; Consequences</th>
<th>Proximity</th>
<th>Inherent Risk Score</th>
<th>Measures in place to manage the risk. (What is being done to prevent this risk being realised?)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>19/02/2018</td>
<td>Active</td>
<td>Active</td>
<td>PHB</td>
<td>Individual or representative do not sign and return the PHB contract resulting in non compliance to PHB regulations.</td>
<td>Current</td>
<td>3</td>
<td>Send out updated care plans as quickly as possible to ensure PHB contracts are signed Many fall in negotiation stages Recognised risk that some will not sign Accepting payment means they are in effect accepting terms of agreement Regular chasing by PHB payment Escalation to director to make informed discussion</td>
</tr>
<tr>
<td>8</td>
<td>07/03/2018</td>
<td>Active</td>
<td>Active</td>
<td>PHB</td>
<td>Existing PHB not been fully risk assessed to assess financial and reputational risk to the CCG through e.g. mismanagement of funds</td>
<td>Current</td>
<td>3</td>
<td>Risk assessment doc under review by SMT Coordinators managing/reviewing historic/existing cases as part of review process Escalate to SMT where necessary discussed at SM level or referral to counter fraud if appropriate PHB team in place Joint working between clinical and commissioning Going out to explain PHB and uses</td>
</tr>
</tbody>
</table>