

# **Guidance on the “right to have” a Personal Health Budget in Adult NHS Continuing Healthcare and Children and Young People’s Continuing Care**



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This guidance will help clinical commissioning groups (CCGs) and other commissioners of adults and children's health and care services to understand the "right to have" a personal health budget in adult NHS Continuing Healthcare (NHS CHC) and children and young people's continuing care (CC).

It will also be of interest to

- People providing support to commissioners.
- People providing health and care services.
- Voluntary sector groups and User led organisations who have an interest in personal health budgets.
- NHS England nationally, regionally and at Area Team level.
- Patients and carers.

Further support is available from NHS England, details of which are included in this document.

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# 1 Introduction

The aim of this guidance document is to assist Clinical Commissioning Groups (CCGs) and other relevant bodies who commission NHS services and support, for example NHS England<sup>1</sup>, to meet their duty to ensure people eligible for NHS Continuing Healthcare (NHS CHC) and Continuing Care for Children (CC) benefit from the “right to have” a personal health budget from 1st October 2014 as announced by Government in October 2013 and provided for in the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 3) Regulations 2014<sup>2 3</sup>.

This document also includes links to the personal health budgets toolkit<sup>4</sup>. This toolkit includes detailed practical information and good practice advice on successfully implementing personal health budgets.

Currently there are a range of changes underway across health, social care and education to enable individuals and their families to have greater choice and control over the way their assessed needs can be met. Personal health budgets need to be viewed in the broader context of all these changes to take into account individuals’ needs beyond healthcare (for example, in social care and education).

Although this document concentrates on explaining the NHS responsibilities associated with the “right to have” a personal health budget, it also links to relevant changes in children and young people’s services (as prescribed by the Children and Families Act 2014<sup>5</sup>).

It is advised that commissioners read this guidance alongside broader legislation and guidance, including:

- Guidance on Direct Payments for Healthcare: Understanding the regulations<sup>6</sup>
- Special Educational Needs and Disability Regulations 2014<sup>7</sup>
- Special Educational Needs (Personal Budgets) Regulations 2014<sup>8</sup>
- Direct Payments for Healthcare: Guidance on Ensuring the Financial Sustainability of Personal Health Budgets<sup>9</sup>

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<sup>1</sup> For ease we refer to CCGs throughout this document rather than to all possible commissioners which would include NHS England.

<sup>2</sup> The NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 are the principal regulations as originally made. They were amended by the NHS Commissioning Board and CCGs (Responsibilities and Standing Rules) (Amendment) Regulations 2013, which introduced the “right to ask” for a PHB from 1<sup>st</sup> April 2014.

<sup>3</sup> The NHS Commissioning Board and CCGs (Responsibilities and Standing Rules) (Amendment) (No.3) Regulations 2014 will amend the regulations once again, from 1st October 2014, to bring in the “right to have” a PHB

<sup>4</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/>

<sup>5</sup> [Children and Families Act 2014](#)

<sup>6</sup> [Guidance on direct payments for healthcare: Understanding the regulations](#)

<sup>7</sup> [The Special Educational Needs and Disability Regulations 2014](#)

<sup>8</sup> [The Special Educational Needs \(Personal Budgets\) Regulations 2014](#)

<sup>9</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/MakingPHBshappen/FinanciallySustainable/>

- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care<sup>10</sup>
- National Framework for Children and Young People's Continuing Care<sup>11</sup>
- The Special Educational Needs and Disability Code of Practice:0-25 years (statutory guidance for commissioners)<sup>12</sup>

Commissioners should also consider making appropriate links to other relevant policies for example:

- Implementation of personalised care plans for everyone with a long term condition by 2015<sup>13</sup>
- Education, health and care plans for children and young people who are eligible due to special educational needs and/or other support needs from September 2014<sup>14</sup>
- Requirement to develop joint arrangements for commissioning services to improve outcomes for people aged 0-25 years with special educational needs and disabilities, including agreeing the provision of a personal budget and identifying locally the links between the special educational needs offer and personal health budgets<sup>15</sup>
- Integration across health and social care including the Better Care Fund and Integration pioneers<sup>16</sup>

## 1.1 Equality

Equality and diversity are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited in under the Equality Act 2010) and those who do not share it.

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<sup>10</sup> [National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care](#)

<sup>11</sup> [National Framework for Children and Young People's Continuing Care](#)

<sup>12</sup> [Special Educational Needs and Disability Code of practice, available here Special educational needs and disability code of practice: 0 to 25 years](#)

<sup>13</sup> See page 11 of [NHS Mandate 2014-2015](#)

<sup>14</sup> [Children and Families Act 2014](#)

<sup>15</sup> See chapters 3 and 9 of [Special Educational Needs and Disability Code of practice, available here Special educational needs and disability code of practice: 0 to 25 years](#)

<sup>16</sup> <http://www.england.nhs.uk/ourwork/part-rel/transformation-fund/>

## 2 Background

Personal health budgets were piloted across England between 2009 and 2012. One of the central findings of the evaluation was that personal health budgets led to an improved quality of life and a reduction in the use of unplanned hospital care. Benefits were particularly evident for people with high levels of need.

In response to the evaluation findings, the Government announced a phased approach to introducing personal health budgets, starting with those people who have higher levels of need. The NHS Mandate also sets an ambitious objective that people with long term conditions who could benefit from a personal health budget will have the option to hold one, including one delivered by direct payment, from April 2015.

As a first step from April 2014, people eligible for NHS CHC or CC have had the “right to ask” for a personal health budget, including a direct payment. From October 2014 this will be strengthened and this group will benefit from a “right to have” a personal health budget, including a direct payment. The *National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012*, the *National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013* and the *National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 3) Regulations 2014* along with the *National Health Service (Direct Payments) Regulations 2013* and the *National Health Service (Direct Payments) (Amendment) Regulations 2013*<sup>17</sup> set out CCGs’ legal duties relating to NHS CHC and CC rights and personal health budgets. These include duties to publicise and promote their availability, to provide information, advice and support, to consider requests for personal health budgets and to ensure they have the systems and processes in place to be able to make this provision.

## 3 What are personal health budgets?

A personal health budget is an amount of money to support a person’s identified health and wellbeing needs the application of which is planned and agreed between the individual, their representative, or, in the case of children, their families or carers<sup>18</sup> and the local NHS team. It is not new money, but is money that would normally have been spent by the NHS on a person’s care being spent more flexibly to meet their identified needs. The use of personal health budgets is just one way in which the NHS

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<sup>17</sup> [The National Health Service Commissioning Board and Clinical Commissioning Groups \(Responsibilities and Standing Rules\) Regulations 2012](#)

[The National Health Service Commissioning Board and Clinical Commissioning Groups \(Responsibilities and Standing Rules\) \(Amendment\) Regulations 2013](#)

[The National Health Service Commissioning Board and Clinical Commissioning Groups \(Responsibilities and Standing Rules\) \(Amendment\) \(No. 3\) Regulations 2014](#)

[The National Health Service \(Direct Payments\) Regulations 2013](#)

[The National Health Service \(Direct Payments\) \(Amendment\) Regulations 2013](#)

<sup>18</sup> For ease throughout this document we refer to people or individuals and/or their representatives to encompass adults, children and young people who have and/or manage a personal health budget including parents, carers and nominees as appropriate.

can tailor services and support for people to enable them to have choice, control and flexibility over their care.

According to the pilot and evaluation, there are five key features of a personal health budget that will ensure people experience the best outcomes possible. Ideally, individuals or their representatives should:

- Know upfront how much money they have available for healthcare and support.
- Be enabled to choose the health and wellbeing outcomes they want to achieve, in dialogue with one or more healthcare professionals.
- Be involved in the design of their care plan.
- Be able to request a particular model of budget that best suits the amount of choice and control with which they feel comfortable.
- Be able to spend the money in ways and at times that make sense to them, as agreed in their plan.

The learning from the evaluation and practical experience of pilot sites is summarised in a quick guide “How to get good results-key learning from the evaluation”<sup>19</sup>.

Evidence shows that better outcomes are achieved where:

- There is clear information about personal health budgets, tailored to people’s needs.
- There is access to independent advice from brokers, voluntary organisations, direct payment support services and peer networks.
- People know how much money they have to spend on their care before care planning and are given control of their budget.
- People are given a high degree of flexibility and choice to spend their budget on services that make sense to them, which may include those not traditionally provided by the NHS.
- Care plans cover all areas of the person’s life, including their aspirations, wishes and needs and adopt a positive approach to managing risk.

It is suggested CCGs consider the lessons learnt and evidence to date as this will help ensure that personal health budgets are implemented to their full potential. This will lead to individuals and the NHS benefitting from the improved outcomes, cost effectiveness and positive experience that personal health budgets can provide.

### **3.1 Care planning**

Person-centred care and care planning is at the heart of making personal health budgets work well. As a result of all care planning discussions, care plans should clearly set out the health and well-being needs that the personal health budget is to address, the intended outcomes that the plan is to achieve, the amount of money in the budget and how this is going to be used to meet the individual’s assessed needs and agreed outcomes. These may relate to both health and well-being outcomes. CCGs have broad powers to address people’s health and well-being needs, and a good care planning discussion and plan should adopt this holistic approach.

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<sup>19</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/GetGoodResults/>

The personal health budget toolkit includes information and examples, which will provide CCGs with additional information on care planning<sup>20</sup>.

Some individuals, i.e. children and young people, will require support and services for social care and educational needs. Some in this group may be eligible for and have in place an education, health and care plan<sup>21</sup>. For those who do not already have a joint plan in place (which could include health, social care and educational needs), CCGs will need to consider working in partnership locally with social care and education colleagues to develop a streamlined, holistic care planning process.

### 3.2 Managing a personal health budget

People can have a personal health budget in one of the following, or any combination of the three, ways:

1. A notional budget - where the commissioner (for example the CCG) holds the budget but utilises it to secure services based on the outcome of discussions with the service user.
2. A third party budget - where an organisation independent of the individual and the NHS manages the budget on the individual's behalf and arranges support by purchasing services in line with the agreed care plan.
3. A direct payment - where money is transferred to a person or his or her representative or nominee who contracts for the necessary services.

CCGs should ensure all three options are available to enable people to make a choice about the level of control they feel comfortable with. Further information on ways to manage a personal health budget is available in the toolkit<sup>22</sup>.

Further guidance on personal health budgets and financial sustainability is also available in the personal health budget toolkit<sup>23</sup>.

The most appropriate way to manage a personal health budget should be discussed and agreed with the person and/or their representative as part of the care planning process.

More details on how to implement personal health budgets including a comprehensive toolkit and individuals' stories can be found at <http://www.personalhealthbudgets.england.nhs.uk/>.

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<sup>20</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/HowPHBswork/Care/>

<sup>21</sup> [Special Educational Needs and Disability Code of practice, available here Special educational needs and disability code of practice: 0 to 25 years](#)

<sup>22</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/HowPHBswork/Options/>

<sup>23</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/MakingPHBshappen/FinanciallySustainable/>

### 3.3 Reviewing a personal health budget

It is essential to check at appropriate intervals how the personal health budget is working, and, whether the care plan is achieving the agreed outcomes. It is also important that personal health budget holders know who to contact to discuss changes to their personal health budget should their needs change. It should be ongoing, and worked into best practice and local processes around delivering care. Reviews that focus on outcomes rather than processes can be the most effective way of identifying what works well and what does not work well for the person.

Depending on what is agreed at the review, changes can be made to the resources, support or controls described in the care plan. Reviews are a crucial part of personal health budgets and of safeguarding, and need to be carried out effectively. The ultimate aim of the review is to strengthen the person's ability to achieve the outcomes they want in a timely fashion.

Where direct payments are provided, all care plans must be formally reviewed as a minimum within three months of the person first receiving the direct payment. Following this, reviews should be held at appropriate intervals, but must occur at least annually. These reviews should include an appropriate level of financial review to give CCGs confidence that the budgets are being used as agreed and that the level of the budget remains appropriate to meet the person's assessed health and well-being needs.

## 4 Who has the “right to have” a personal health budget?

From October 2014 people who are assessed as or are already eligible for NHS CHC (including fast track cases) as defined by the *National Framework for Continuing Health Care and NHS-funded Nursing Care November 2012 (revised)*<sup>24</sup> and families of children eligible for CC as defined by the National Framework for Children and Young People's Continuing Care<sup>25</sup> will have a “right to have” a personal health budget. In the case of children this refers to the element of their care package that would normally be provided by the NHS once they become CC eligible and not the elements of their package provided by social care or education.

Individuals and their representatives already in receipt of NHS CHC or CC may take up their right for a personal health budget at any time and CCGs must give due consideration to any request made. Individuals and families assessed as eligible for NHS CHC or CC from October 2014 should be informed of their “right to have” NHS care delivered in this way.

CCGs need to plan locally how they will roll out personal health budgets for these adults, children and young people to ensure those who would like a personal health budget can access one, where appropriate, in a timely manner.

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<sup>24</sup> [National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care](#)

<sup>25</sup> [National Framework for Children and Young People's Continuing Care](#)

## 4.1 People with fluctuating conditions

Some people may have fluctuating conditions which means they may, at times, not be eligible for NHS CHC or CC. However they may still continue to have their identified health needs met by a personal health budget. The only difference is that they cease to have the “right to have” a personal health budget as those who are in receipt of NHS CHC or CC. Personal health budgets are not restricted to people in receipt of NHS CHC or CC and so a CCG can continue to offer services via a personal health budget on a voluntary basis. CCGs should work with their local authority colleagues to ensure these individuals can continue to access health, social care and education that is personalised for their needs regardless of their eligibility for NHS CHC or CC.

## 4.2 Children and Young People in Transition

Children and young people eligible for CC who have a personal health budget and who transition from children’s to adult’s services should be supported to continue to access their assessed health care needs via a personal health budget whether they are found to be eligible for adult NHS CHC or not. Although these young people will cease to have a “right to have” a personal health budget, CCGs can continue to offer services via a personal health budget on a voluntary basis, therefore, transitioning from children’s to adult’s services should not be the sole reason for stopping a personal health budget.

Transition should be planned and agreed with the young person and their family or carers in good time to avoid any disruption or delay to implementing a package of care.

Chapter 8 of the Special Educational Needs and Disability Code of practice provides further useful information relating to transition and planning for adulthood<sup>26</sup>.

## 5 What can be included in a personal health budget and what can it be used for?

Personal health budgets are not appropriate for all types of healthcare. There are particular exclusions for their use where the personal health budget is received as a direct payment and a full list can be found in the National Health Service (Direct Payments) Regulations 2013<sup>27</sup>. Although the regulations refer specifically to direct payments, for consistency and good practice the exclusions should be applied to all types of personal health budgets.

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<sup>26</sup> See from page 109 onwards of the [Special Educational Needs and Disability Code of practice, available here](#)  
[Special educational needs and disability code of practice: 0 to 25 years](#)

<sup>27</sup> [http://www.personalhealthbudgets.england.nhs.uk/library/Resources/Personalhealthbudgets/2014/Guidance\\_on\\_Direct\\_Payments\\_for\\_Healthcare\\_Understanding\\_the\\_Regulations\\_March\\_2014.pdf](http://www.personalhealthbudgets.england.nhs.uk/library/Resources/Personalhealthbudgets/2014/Guidance_on_Direct_Payments_for_Healthcare_Understanding_the_Regulations_March_2014.pdf)

## **5.1 The elements of NHS CHC or CC funding that should be included in a personal health budget**

CCGs need to be open and transparent with people about what elements of their care can be included in a personal health budget and how this budget has been calculated.

In principle, the amount of money that would have normally been spent on NHS services as part of an individual's NHS CHC or CC package (except those services excluded as outlined in regulations –see footnote 28) could be available to use as a personal health budget. This enables greater choice and flexibility over the services received which is one of the key components of ensuring improved outcomes.

CCGs should strive to include as much of this budget as possible into a person's personal health budget and where this is not possible work with them, their representatives, family and carers to tailor the support provided for their assessed needs until further funding can be made available where appropriate. For example, access to rehabilitation services such as physiotherapy and occupational therapy will already be commissioned by CCGs for their area. It may not be possible in the short term to release the equivalent budget for use as a personal health budget. However the CCG can work with the person and their family to ensure the existing service meets their needs including where and when they access that service.

CCGs should include personal health budgets in their long term financial planning. This could include involving people, their representatives, families and carers in discussions about which elements of care should be included in their personal health budget and work towards releasing this funding over time.

Any agreed budget must be of a sufficient amount to ensure the health and wellbeing outcomes required for an individual can be realistically met. For example, if a CCG decides, when planning a personal health budget, to release money based on a monetary valuation of an individual's expected quantity of continence products as would have been provided by the NHS, they must be satisfied that this amount is sufficient to enable the purchase of the products by individuals in the open retail market to meet their identified continence needs.

CCGs also need to consider the different elements provided by an existing service and decide if all or just part of that service could be made available as part of a personal health budget (e.g. physiotherapists provide both assessment and rehabilitation services). A CCG may decide that the rehabilitation element of this service provision could be included in a personal health budget, but not the assessment services. This would mean a physiotherapist would assess a person and recommend a course of rehabilitation and then this course could be delivered elsewhere, for example, by a person's personal assistant after adequate training.

## 6 What do CCGs need to do to prepare for providing personal health budgets?

CCGs must publicise and promote the availability of personal health budgets and provide information, advice and support to those eligible, their representatives, families and carers, to help them decide if a personal health budget is right for them. This information should be readily available, for example, information could be provided within the letter confirming eligibility for NHS CHC or CC or during a review of an existing package of care.

CCGs should ensure that they have the necessary processes, support and information in place so all three options for receiving and managing the money can be made available to people.

CCGs need to take into consideration the way services for children and young people in particular are planned and commissioned to ensure the best outcomes can be achieved. Packages of care for children and young people are very rarely fully funded by the NHS; therefore joint working across health, social care and education is key to ensuring choice, control and flexibility of provision.

### 6.1 Information, advice and support

The evaluation of the personal health budget pilot programme clearly demonstrated that having the right information and support is key to an individual being able to achieve good outcomes with a personal health budget. After agreeing that a person can access services via a personal health budget, CCGs must make arrangements to provide the person, their representative, family or carer with information, advice and other support.

For some children and young people available support will be outlined in the “local offer” prepared by education, health and care. The Special Educational Needs and Disability Code of Practice guidance document provides further details about the “local offer” and the responsibility on education, health and social care from 1<sup>st</sup> September 2014 to develop a local offer<sup>28</sup>.

Support can be provided either directly by the NHS or by another organisation working in partnership with the CCG. CCGs may also provide access to independent advice, direct payment support organisations, and peer support. CCGs are encouraged to work with local authorities where these services may already be in place. The CCG should ensure that the person receives adequate information and support at every stage of the process, including: (a) during care planning discussions, (b) during the discussion about whether to receive the personal health budget via direct payment, and (c) during discussions on managing and accounting for the money correctly. A helpful guide has been published as part of the personal health budget toolkit that looks at the information and support that should be available for people<sup>29</sup>.

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<sup>28</sup> See page 48 of [Special Educational Needs and Disability Code of practice, available here Special educational needs and disability code of practice: 0 to 25 years](#)

<sup>29</sup> <http://www.personalhealthbudgets.england.nhs.uk/Topics/Toolkit/HowPHBswork/Info/>

Information for individuals and their representatives who are using a direct payment for healthcare to employ staff can be accessed on the Skills for Care website<sup>30</sup>.

## 7 When should personal health budgets be provided?

### 7.1 Deciding whether or not to provide a personal health budget and reviewing that decision

If an individual comes within the scope of the 'right to have' a personal health budget, as outlined in section 4 above, then the expectation is that one will be provided.

There may be some exceptional circumstances when a CCG considers a personal health budget to be an impracticable or inappropriate way of securing NHS care for an individual. This could be due to the specialised clinical care required or because a personal health budget would not represent value for money as any additional benefits to the individual would not outweigh the extra cost to the NHS. However, evidence from the pilot and learning from CCGs that are already rolling out personal health budgets in these areas suggests that there will be few cases where a personal health budget cannot be provided.

Further information about providing a personal health budget as part of an education health and care plan for a child or young person and how this decision can be reviewed can be found in the Special Educational Needs and Disability Code of Practice<sup>31</sup>.

If an individual and/or his or her representative, who comes within the scope of a 'right to have' a personal health budget (see section 4), requests a personal health budget and is turned down, the CCG must set out in writing the reasons why the request has been refused. Once this information has been received, the person and/or his or her representative may request that the CCG reconsiders its decision. They may also provide additional information to the CCG that may be relevant to the decision. The CCG must reconsider its decision upon such a request being made.

Any reconsideration should take place in a timely manner. Therefore CCGs must ensure they have the processes in place to respond to such requests within appropriate timescales. A suggested good practice timeframe for when an individual requests reconsideration of a decision not to provide a personal health budget would be:

- Acknowledge receipt of the request in writing within 10 working days. This acknowledgement should include details of how the review will be conducted and timeframes for when it should be completed; and
- Any final decision should be sent in writing within 28 working days of acknowledgement of the original request. There may be instances where a

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<sup>30</sup> <http://www.skillsforcare.org.uk/Employing-your-own-care-and-support/Employing-your-own-care--support-staff.aspx>

<sup>31</sup> See page 167 of [Special Educational Needs and Disability Code of practice, available here Special educational needs and disability code of practice: 0 to 25 years](#)

complex situation requires a longer timeframe for reconsideration and response. In these instances individuals should be kept informed of progress.

- Once this review is complete CCGs should inform the individual and/or his or her representative of its decision in writing, setting out the reasons for its decision. If a person and/or his or her representative is not satisfied they can pursue the matter via the local NHS complaints processes.

Even if the person is turned down for a personal health budget, the CCG should make every effort to work in partnership with the person and/or his or her representative to ensure their preferences are considered and taken into account. CCGs should ensure individuals have a personalised care plan that clearly sets out their needs and wishes. This will enable NHS CHC or CC teams to plan the most relevant care for, and with, each person.

## **7.2 Deciding not to provide a direct payment**

There may be times when the CCG decides that the use of a direct payment would not be appropriate. In these instances the individual and/or his or her representative may request a review and the same process outlined above in section 7 should be followed<sup>32</sup>. However, it should be emphasised that if it is considered impracticable or inappropriate to provide a direct payment, the person may still benefit from a personal health budget delivered in another form such as a notional budget or a third party budget. The CCG should consider how else an individual's care could be personalised.

## **7.3 Deciding not to agree some elements of the care plan**

The purpose of personal health budgets is to give people greater choice and control over how their health and well-being needs are met. CCGs should be open to considering different approaches to achieving outcomes other than those traditionally used. CCGs should consider any request where the person can demonstrate that the proposed use of a budget is a reasonable way to achieve their health and wellbeing outcomes. The balance between risks and benefits will be different for each individual, taking into account their particular circumstances and their health condition. CCGs should ensure that they do not impose blanket prohibitions, and are sufficiently flexible to tailor their risk management processes to the needs of each individual.

There may be occasions when a CCG agrees to some elements of the care being requested, but not for others. For example, where a CCG assesses that a person would be at significant risk if he or she replaced certain health services or treatments with alternative approaches. When refusing an element of a care plan the CCG must give reasons why this decision has been made and ensure it reconsiders this decision if requested to do so, following the procedure set out above.

If part of a care plan is refused, the CCG should make every effort to work in partnership with the person, his or her representative, family and carers to ensure their preferences are considered and taken into account.

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<sup>32</sup> An individual can request a review of the type of personal health budget they receive (notional, third party or direct payment) at any time.

## 7.4 Deciding to delay the start of a personal health budget

There may be times when it is appropriate to delay the start of a personal health budget, for example, if a person's circumstances make it difficult to plan on-going care at that point in time. In such instances the CCG must make clear the reasons for this delay and review its decision at appropriate intervals so the personal health budget can be put in place as soon as practicably possible.

## 8 Can personal health budgets be provided to people in nursing/residential care home settings?

The Government's intention is for all people receiving NHS CHC or CC to have the "right to have" a personal health budget where they would benefit.

The National Health Service (Direct Payments) Regulations 2013 and "right to have" announcement do not explicitly limit this to people living in their own homes. Individuals assessed as eligible for NHS CHC or CC funding may live in nursing or residential care and they too may benefit from receiving care via a personal health budget.

Where a request for a direct payment for healthcare is made for a person living in a residential setting the CCG must be certain that providing care in this way adds value to the person's overall care. Generally, direct payments should not be used to pay for care and support services being commissioned by the NHS that a person will continue to access in the same way whether they have a personal health budget or not. In such instances, where no additional choice or flexibility has been achieved by giving someone a personal health budget, then allocating a direct payment only adds an additional financial step and layer of bureaucracy into the commissioning of the care. CCGs need to be clear that the use of a direct payment in such settings is cost effective and is a sensible way to provide care to meet or improve the individual's agreed outcomes.

The use of direct payments for adults within residential settings was not tested as part of the personal health budget pilot and the benefits of providing care in this way are not known. There is a pilot programme underway in residential settings considering the use of direct payments for personal budgets in social care and the Department of Health will use the learning and evidence from this programme to inform guidance. This will then be used to support the introduction of direct payments for people receiving social care and living in residential care from April 2016. Learning from the residential care pilot will help inform national policy developments in the NHS around the use of direct payments in residential settings. In the meantime, although there is no prohibition on using direct payments for those in residential care, CCGs should be cautious about offering a personal health budget in this form. Other types of personal health budget, for example notional budgets, can be used where direct payments are not a practical route and many people may find great benefit in planning their care using the personalised care planning process associated with developing a personal health budget.

## 9 Appendix A: Links to useful documents

- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care  
<https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>
- National Framework for Children and Young Peoples Continuing Care  
<http://www.nhs.uk/CarersDirect/guide/practicalsupport/Documents/National-framework-for-continuing-care-england.pdf>
- Special Educational Needs and Disability Code of Practice: 0-25 years  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/325875/SEND-Code\\_of\\_Practice-June2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325875/SEND-Code_of_Practice-June2014.pdf)
- Personal health budget website/toolkit  
[www.personalhealthbudgets.england.nhs.uk](http://www.personalhealthbudgets.england.nhs.uk).
- Personal Health Budgets Evaluation  
<https://www.phbe.org.uk/>
- Direct Payment Guidance  
[http://www.personalhealthbudgets.england.nhs.uk/library/Resources/Personalhealthbudgets/2014/Guidance\\_on\\_Direct\\_Payments\\_for\\_Healthcare\\_Understanding\\_the\\_Regulations\\_March\\_2014.pdf](http://www.personalhealthbudgets.england.nhs.uk/library/Resources/Personalhealthbudgets/2014/Guidance_on_Direct_Payments_for_Healthcare_Understanding_the_Regulations_March_2014.pdf)
- NHS England Standard Contract Guide  
<http://www.england.nhs.uk/nhs-standard-contract/>
- Transforming Participation in Health and Care  
<http://www.england.nhs.uk/AD27A12C-73BA-42BE-9BC5-44A4872A6B61/FinalDownload/DownloadId-19CA6F68811541E42484D98CF5288C8D/AD27A12C-73BA-42BE-9BC5-44A4872A6B61/wp-content/uploads/2013/09/trans-part-hc-guid1.pdf>
- Monitor procurement Guide  
<http://www.monitor-nhsft.gov.uk/sites/default/files/publications/ToPublishSubstantiveGuidance20May2013.pdf>

## 10 Appendix B: Legislation and Statutory Instruments

- The National Health Service and Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012  
<http://www.legislation.gov.uk/uksi/2012/2996/contents/made>
- Part 6A: Personal health budgets. The National Health Service and Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013  
<http://www.legislation.gov.uk/uksi/2013/2891/contents/made>
- The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No.3) Regulations 2014
- <http://www.legislation.gov.uk/uksi/2014/1611/contents/made>
- The National Health Service (Direct Payment) Regulations 2013  
<http://www.legislation.gov.uk/uksi/2013/1617/introduction/made>
- The National Health Service (Direct Payments) (Amendment) Regulations 2013  
[http://www.legislation.gov.uk/uksi/2013/2354/pdfs/uksi\\_20132354\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/2354/pdfs/uksi_20132354_en.pdf)
- Standing Rules Regulations: See Part 6: NHS Continuing Healthcare and NHS-funded Nursing Care of The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012  
[http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi\\_20122996\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf)