**Sefton Personal Health Budget**

**Representative Agreement**

**This agreement is between:-**

Sefton Carers Centre

Personal Health Budget Support Service

27-37 South Road

Waterloo

L22 5PE

Supporting the agreement made with

NHS South Sefton CCG or NHS Southport and Formby CCG (CCG)

**And**

1. Name:………………………………………………………………... (‘You’, the ‘Recipient’s Representative’)

 Address:.......................................................................................

 .....................................................................................................

 .....................................................................................................

Postcode......................................................................................

**for a Personal Health Budget (PHB) funded to be made to the Recipient’s Representative to meet some or all of the assessed health care needs of:**

Name....................................................................................................... (the ‘Recipient’) of

Address.................................................................................................

..............................................................................................................

..............................................................................................................

Postcode...............................................................................................

**Definitions**

|  |  |
| --- | --- |
| **Personal Health Budget (PHB)** | is an amount of money to support someone’s health and wellbeing needs, which is planned and agreed between the person, or their representative, and South Sefton CCG or Southport and Formby CCG. |
| **Continuing Health Care (CHC)** | is an ongoing package of health and social care that is arranged and funded solely by the NHS where the individual is found to have a primary health need. |
| **Clinical Commissioning Group (CGG)** | are NHS organisations set up by the Health and Social Care Act 2012 to organise the delivery of healthcare services in England, for their local communities. |
| **Direct Payment** | the sum which the CCG agrees to pay the client as specified in the personalised care and support plan. |
| **Advocacy** | advocates support people with understanding their rights, in speaking up for themselves, and in helping them to make informed choices. They are paid and trained to provide clients with the information that they need to make the decisions that affect their lives. They are independent, free and can also speak on someone’s behalf in order to get their voice heard. |
| **Sefton Advocacy** | Independent Charity providing advocacy support to people age 16 + living in Sefton. |
| **Client/Recipient** | is the person in receipt of a Personal Health Budget to meet their health and wellbeing outcomes. |
| **Representative** | if the recipient lacks capacity to manage the direct payment or chooses to nominate an individual to manage the direct payment on their behalf |
| **Pre-paid card** | a pre-paid is like a current account from your bank with a debit card. The CCG pays your PHB onto the card so that you can use it to pay for services agreed in your health and support plan. |
| **Sefton Carers Centre** | Sefton Carers Centre provides free advice and guidance, emotional and practical support, training and a range of holistic therapies for unpaid carers living in Sefton. |
| **Personal Health Budget Support Service (PHBSS)** | This service is available to support clients who wish to take more responsibility for their own health, and be equal partners in their own care alongside NHS professionals. This service is a partnership between Sefton Advocacy and Sefton Carers Centre. |
| **Disclosure and Barring Service (DBS)** | Is a system by which employers can check the criminal record of someone applying for a role. |

**A. Introduction**

1. The Community Health Care has carried out an assessment of the Recipient’s needs for health and wellbeing services and has agreed that the support and services (the ‘Services’) identified in the personalised care and support plan should be provided.
2. **PHBSS** will support the **CCG** in the administration and support of the service provision to ensure the **Recipient** and their **Representative** has choice and control.
3. The **Recipient** lacks capacity to request the **CCG** to meet any of his / her needs for the agreed services and to manage direct payments;
4. The **Recipient’s Representative** has requested the **CCG** meet some or all of those needs by making payments to him / her;
5. The **Recipient’s Representative** is authorised (pursuant to section 32(4) of the Care Act 2014 (the ‘Act’) to request direct payments for the **Recipient** and
6. With reference to the following legislation
	* National Health Service (Direct Payments) Regulations 2013
	* National Health Service (Direct Payments) (Amendment) Regulations 2013)
	* Regulation 5 of the Care and Support (Direct Payments) Regulations 2014 (the ‘Regulations’)

The **CCG** is willing to make a direct payment to the **Recipient’s** **Representative** under section 32 of the Care Act 2014 (the ‘**Direct Payment’**) and subject to the Care and Support (Direct Payments) Regulations 2014 to enable the **Recipient** to obtain the support they need, with assistance, as identified in their care and support plan.

1. The **Recipient’s Representative** confirms that they are willing and able to independently participate in the arrangement of the Services of the Recipient. The **Recipient’s Representative** will arrange for the provision of the Services to the Recipient and the **CCG** will fund such Services in accordance the terms of this agreement (the ‘Agreement’) and Personal Health Budget Agreement made with the **CCG**
2. The funding remains the property of the **CCG** until it is used in this way.
3. By agreeing to become the **Recipient’s Representative** you confirm that you do not have any unspent convictions for any of the following:
* An offence involving deception or dishonesty
* A money laundering offence within the meaning of section 415 of the Proceeds of Crime Act 2002
* A bribery offence under sections 1,2,6 or 7 of the Bribery Act 2010
* An offence of perjury or perverting the course of justice
* Contempt of court for making, or causing to be made a false statement

**B. The Personal Health Budget (PHB) Payment**

1. The **CCG** agrees to pay the **Recipient’s Representative** **Personal Health Budget** by the **Direct Payment** of

£ per week via **PHBSS** this includes a 3% contingency allowance.

1. The calculation of the amount of the **PHB** Payment will be made in accordance with the **Recipient’s** care and support plan details. This will be reviewed annually by the community health care team.
2. The **Recipient’s Representative** hereby agrees that if the **Recipients Representative** employs any persons to deliver the Services they shall comply with all applicable law that applies to employers in England and shall obtain (purchased out of PHB direct payment monies) and maintain:
	1. Employers Liability Insurance with a minimum level of cover of £5 million in respect of any one claim; and
	2. Public Liability Insurance with a minimum level of cover of £2 million in respect of any one claim.
	3. They will also notify any private Home Insurance Contents and Buildings Insurance of the employment and keep evidence of such

**C. Method of Payment**

1. **PHBSS** will discuss with you the options including a payment card in the name of the **Recipients Representative** and will only make payment onto the Card. The **PHB** will be paid via the Direct Payment and the details of the Direct Payment Card or account details are as follows:-

 Card Holder’s name:

 Account Number:

 Sort Code:

(Specific details of the account information detailed about will be provided as soon as it has been created)

1. In exceptional circumstances, alternative arrangements may be made between the parties.

**D. Use of the Personal Health Budget (PHB) Payment**

1. The **Recipient’s Representative** will only use the **PHB** Payment to obtain the Services agreed and will not use the **PHB** Payments for any other purpose.

2. The **Recipients Representative** will not use the **PHB** Payment to employ or pay any of the following persons to meet the needs of the **Recipient**:

1. the spouse (i.e. the husband or wife), a partner (i.e. the other member of an unmarried couple with whom they live) or from a close relative (or their spouse or partner) living in the same household of the **Recipient**;

1. someone living in the same household of the **Recipient** except where the relationship is that of a live-in personal assistant and is based upon a formal contractual arrangement;
2. the **Representative** themselves cannot be an employee of the **Recipient**

(Unless, in exceptional circumstances, the **CCG** decides that this is the only satisfactory way of meeting a person’s needs and it has been agreed by the **CCG** in writing and sent to **PHBSS**)

**E. The Duties of the Recipients Representative**

1. The **Recipient’s Representative** agrees:
	1. that it is their sole responsibility to make all appropriate arrangements to meet the **Recipients** identified needs with the support of the **PHBSS**;
	2. to provide all relevant information and supporting documentation as required to enable the **PHBSS & CCG** to monitor the use of the **PHB** Payment and that a failure to do so may result in the PHB payment being suspended;
	3. that he/she may not assign or otherwise sub contract responsibility for any part of this Agreement without the prior written consent of the **CCG** and sent to **PHBSS;**
	4. to provide **PHBSS**, on demand, documentary evidence as is necessary to show that the policies of insurance that are referred to in clause B(3) are in place and the premiums have been paid;
	5. that neither they nor any employee on the **Direct Payments** scheme should hold themselves as being an employee or agent of the **CCG or PHBSS**, or enter any contract on their behalf
	6. If any charges or fines are incurred because the **Direct Payment** has not been managed properly, invoices that have not been settled, or due to a failure to comply with relevant legislation, for example Inland Revenue and Pensions Regulator, then the **Representative** will be liable for the costs.
	7. In the event that your prepaid card is lost or stolen you must take immediate action to lock the card either using the cardholder portal or by contacting PFS Support line on 02033271991 or 02071832248. You will also need to inform the **PHBSS** on 0151 2886110 or 0151 2886111.

**F. Employing staff (if applicable)**

1. You agree
	1. to be personally responsible for all legal matters, payments to Government bodies (such as HM Revenue & Customs (HMRC) that may arise in making those arrangements;
	2. that where the **Representative** chooses to use the **PHB** Payment to employ staff to provide services to meet the **Recipient’s** assessed needs, you will for legal and employment law purposes become an ‘Employer’ and will be subject to all the legal responsibilities aligned with this, including for example payments to HMRC, pension contributions, liability for training costs, redundancy payments, unfair and wrongful dismissal claims etc. Your employers insurance provide information, support and advice on regarding your legal responsibilities.
	3. to carry out appropriate checks through references and Disclosure and Barring Service (DBS). DBS checks are compulsory for anyone who is providing care or support, who is not a close family member or friend, to a child or an adult that lacks capacity. You must contact the **PHBSS** to obtain a DBS check for any of your employees; the costs of the checks will be funded through your direct payment. DBS clearance must be renewed every 3 years in line with current DBS legislation.
	4. to protect any personal or sensitive data of all employees as defined in current data protection legislation.  Employees’ personal information must be kept securely or on a system that is password protected and can only be used for the purpose of the employment.  All personal information relating to an employee must be destroyed 1 year after the employment ends, and any information obtained for unsuccessful interviewees must be destroyed within 6 months.  If you use the **PHBSS** for payroll administration, all information held on their behalf for complying with any regulatory requirements or obligations to third parties, will be compliant with current Data Protection Legislation and will be held by them for 6 years after the employment ends.
	5. that you will not employ self-employed personal assistants without written agreement from **CCG** or **PHBSS**.
	6. where driving is part of the employee’s duties, you must ensure that the employee is in possession of a full UK driving licence and that the vehicle being used complies with all government regulations for Tax and MOT.  The employee must have appropriate and valid business insurance cover for the vehicle and any necessary safety equipment is maintained.
2. If, in the opinion of the **CCG**, the service provider or potential employee selected by the Representative is either not available to or is unfit to provide a safe and adequate service, the **CCG** has the right to require that the **Representative** finds an alternative person or organisation to provide the care.

## G. Responsibilities of the CCG & Sefton Carers Centre

1. The **CCG** and **PHBSS** have no responsibility or liability whatsoever for the quality or suitability of the Service(s) or the providers of such Services which are procured by the **Recipient’s Representative** using the **PHB** Payment;
2. **PHBSS** will provide support and advice to the **Recipient’s** **Representative** to enable him/her to receive and manage the **PHB** via Direct Payments.
3. **PHBSS** will facilitate Disclosure and Barring Service checks of your potential employee(s), where appropriate and in line with current guidance and legislation; and
4. **PHBSS** will review, monitor and audit the spending of **PHB** including a review for the purpose of ascertaining whether the making of direct payments is an appropriate way to meet the **Recipient’s** needs at least once within the first quarter of the first Direct Payment being made and at intervals of not more than 12 months thereafter.
5. If the arrangement made for the care service for you breaks down it will be necessary to review the care and support plan to find alternative service which will continue to meet you assessed needs.

**H. Prepaid Cards**

1. The **PHBSS** has the right to lock access to the prepaid card system should it be deemed that the account is at risk of misappropriation to maintain the care support required. The **PHBSS** will then make payments on your behalf from the account upon request.
2. The **PHBSS** has administrative access to the **Prepaid** **Card** System and will, if necessary, review the account online, make payments on your behalf and download any stored supporting documentation. This will maintain security of the account for the benefit or you and the **PHBSS** will discuss with you the processes that will maintain your care provision.
3. In the event that your Prepaid Card is lost or stolen you must make arrangement to block the card either using the cardholder portal or by contacting the Prepaid Financial Services support line. You agree to report the loss to PHBSS at the earliest opportunity.

**I. Monitoring Requirements**

1. To enable **PHBSS** to monitor the use of the Direct Payment, the **Recipient’s Representative** will: -
	1. use the Direct Payment Card or account agreed for the **PHB** Payment and ensure it will be used for all transactions in respect of the recipient’s care and support plan.
	2. provide to **PHBSS** within the first 6 weeks, and every 12 weeks, any associated invoices or related documents not recorded within the Direct Payment Card. You acknowledge and accept that the **CCG** reserves the right to suspend the Direct Payment if the required information is not received at the agreed timescales.
	3. supply to **PHBSS** (when reasonably requested to do so) documentation relating to all transactions made from Direct Payment monies held by you in respect of the **Recipient’s** care support package.
	4. notify the **PHBSS & CCG** of any change in circumstances that may alter the care requirements of the recipient (Hospital admission, break in service etc)

**J. Adjustment of the PHB Payment**

1. The **CCG** may increase or decrease the amount of the Direct Payment to the **Recipient’s Representative** at any time because of a change in assessed care needs or changes in policy or legislation.

2. Before changing the amount of the Direct Payment, the **CCG** will give the **Recipients Representative** 4 weeks’ notice in writing and detail the reason for any such changes.

**K. Review**

1. A review of the support package and the **Recipients Representative’s** record keeping will take place six weeks after payment of the first Direct Payment in order to identify any problems which may have arisen and to prepare for the necessary monitoring.
2. The **CCG** will review the recipient’s care needs annually. The review will determine whether the recipients care needs have changed and how you are coping with the arrangements for ensuring and securing the provision of the services that meet their needs.

**L. Repayment of the Direct Payment**

1. In the event of an overpayment or the misuse of a Direct Payment, the **Recipient’s Representative** shall return such amount as the **CCG** determines, within 14 days of receipt of a request from the **PHBSS** to do so.
2. The **Recipient’s Representative** shall agree that any balance of Direct Payment that is not spent on the services will be refunded to the **CCG** via **PHBSS**. To facilitate this, **PHBSS** will regularly assess the balance of funds in the account and will recover any unused funds on a quarterly/ annual basis at its discretion.
3. The **CCG** & **PHBSS** will be able to access the Direct Payment Account and will maintain management rights of the account to enable audit and reconciliation of funds.
4. The **CCG** and **PHBSS** will not be liable for any Bank charges that are incurred by **Recipient’s Representative** on the account details given above, used to administer direct payments. Please refer to section E subsection 2f.
5. The **Recipient’s Representative** agrees to repay to the **CCG** on demand any Direct Payment or any part of it if the **CCG** is satisfied that:-

a) the Direct Payment has not been used to secure the provision of the Services in respect of the **Recipient’s** assessed need or some part of the Services provided to the **Recipient**; or

b) the **Recipient’s Representative** has not met any of the conditions of this Agreement; or

c) the **Recipient’s Representative** has received, on behalf of the Recipient, payment from a third party for the Services or some part of the Services.

**M. Ending the Agreement**

1. The **CCG** may terminate this Agreement with immediate effect if: -

a) any of the terms and conditions of this Agreement are not met by the **Recipient’s Representative** and after advice and support have been given by **PHBSS** to enable him/her to meet said terms and conditions; or

b) the **Recipient’s Representative** is not spending the Direct Payment on the services or any part of them for the **Recipient** and after advice and support have been given to enable the **Recipient’s Representative** to meet the needs identified in the care and support plan.

1. In terminating this Agreement, (providing the terms and conditions of this agreement have been met), the **CCG** via **PHBSS** will provide a maximum of four weeks monies (sufficient monies) in order to facilitate the termination of the arrangement.
2. Either party may terminate this Agreement by giving the other party four weeks’ notice in writing.
3. Following termination of this Agreement for any reason, the Direct Payment Card account will be closed and any unused (from the date of termination) funds recovered by the **CCG** via **PHBSS**.
4. **PHBSS** may make a temporary suspension of the Direct Payment if the **Recipient’s Representative** are temporarily unable to receive the care services for the **Recipient**.
5. Variations to this Agreement may only be made by the written consent of both parties, other than variations in the **Recipient**’s care and support plan.
6. In the event of the death of the **Recipient**, any unused funds will be recovered by the **PHBSS** from the Direct Payment Card.

**N. Complaints**

Details of our complaints policy are available on the Sefton Carers Centre website www.sefton-carers.org.uk or you can request a copy by contacting the centre.

**O. Advice**

1. This Agreement creates important legal obligations for the **Recipient’s Representative**. By signing this agreement as the **Recipient’s Representative**, you accept and understand the obligations and duties held within this document. You agree to undertake any obligations and duties that arise if any person(s) is employed to provide care services to the **Recipient** or to administer this Agreement.

I confirm that I read and understand and will comply with the conditions contained in this agreement.

Name of person receiving Personal Health Budget:..................................................

Address……………………………………………………………………………………..

Signature of Recipient ………........................................................................……….

Date of Agreement: ..................................................................................................

Agreed on behalf of the Personal Health Budget Support Service

Name of Officer:................................................………………………………………

Date: ......................................................................................................................

Position:.………………………………………………………………………………….

**Data Protection Act**

The information which you have given will be used for the following purposes:

• To enable Sefton Carers Centre to create a computer and paper record of your registration or current situation which will help us to provide you with a service tailored to you.

• To enable us to compile anonymised statistics to assist us and other organisations to understand the needs of carers and manage services for them.

• To make you aware of information, future courses and events which you may find useful relating to PHB.

The Personal data that you provide to the Sefton Carers Centre will be held in accordance with the Data Protection Act 1998. As we have a number of locations and associations it may be necessary to transfer personal data in order for us to provide a quality service. We understand the information you provide is of a sensitive and private nature therefore, all staff are bound by a confidentiality agreement.

Please refer to our privacy statement on our website or you can ask for a copy from your adviser.

As appropriate

Can we share your information with:

CCG (South Sefton and Southport & Formby) Yes  No 

Sefton Advocacy Yes  No 

Sefton Carers Centre Services Yes  No 

Other Yes  No 

I am happy to have my details

anonymised for use in a case study Yes  No 

I am happy to be contacted by email or phone

by Sefton Carers Centre Yes  No 

I understand how my personal data will be used and consent to use of it

Signature ………………………………………………………………..

Date

I hereby confirm that I have read and understood the above information

Signature ………………………………………………………………..

Date