

Corporate	ICBP002 Continuing Healthcare Local Resolution and Appeals Policy
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Version Number	Date Issued	Review Date
1	July 2022	December 2022

Prepared By:	ICS CHC Task and Finish Group
Consultation Process:	ICS CHC Task and Finish Group
Formally Approved:	July 2022
Approved By:	Executive Committee

EQUALITY IMPACT ASSESSMENT

Date	Issues
June 2022	None

POLICY VALIDITY STATEMENT

Policy users should ensure that they are consulting the currently valid version of the documentation. The policy will remain valid, including during its period of review. However, the policy must be reviewed at least once in every 3-year period.

ACCESSIBLE INFORMATION STANDARDS

If you require this document in an alternative format, such as easy read, large text, braille or an alternative language please contact NECSU.comms@nhs.net

Version Control

Version	Release Date	Author	Update comments
1	July 2022	ICS CHC Task and Finish Group.	First issue

Approval

Role	Name	Date
Approver	Executive Committee	July 2022

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1. Introduction

This review procedure is created in accordance with paragraph 194 of the National Framework for NHS Continuing Healthcare (CHC) 2007 as revised in 2012, 2016 and 2018. The National Framework for NHS CHC reflects the new NHS framework and structures created by the Care Act 2014.

The Regulations under the Act set out the Standing Rules to be followed when determining eligibility for NHS Continuing Healthcare and NHS Funded Nursing care (FNC), and this process is designed to set out a clear pathway as to how individuals, or their representative, may challenge eligibility for CHC.

This procedure is not for use where disputes arise between public bodies as to funding responsibilities or disagreement regarding a recommendation for funding made by the multi-disciplinary team (MDT). The procedure applies exclusively to cases for which the ICB is the Responsible Commissioner.

Where the Integrated Care Board (ICB) has decided that a person is not eligible for NHS Continuing Healthcare, it must inform the person (or where relevant someone acting on that person's behalf) of the circumstances and way he may apply for a review of the decision if he is dissatisfied.

The following challenges are outside the scope of this procedure:

- The content of the Department of Health National Framework for Continuing Healthcare and NHS-funded Nursing Care. These need to be pursued with the Department of Health
- The type and/or location of any offer of NHS funded Continuing Healthcare services or NHS treatment. These need to be pursued through the standard NHS Complaints Procedure.

- 1.1 The ICB's should deal promptly with any disputes about eligibility for either NHS Continuing Healthcare or NHS-funded Nursing Care. The ICB's local Continuing Healthcare dispute resolution process will be the usual first step unless it will add unnecessary delay in resolution.
- 1.2 Once a case has been considered by the ICB, if the claimant disagrees with the decision they have the right to a review through the local dispute process, in accordance with the National Framework for NHS-funded Continuing Healthcare. The individual or representative has 6 months from the date of notification of the ICB decision within which to write to ICB to request a review and will be asked to outline why they believe the National Framework for Continuing Healthcare has not been robustly applied. Once a request for a review has been received the Team will acknowledge receipt of the request in writing to the individual/representative within 10 working days.

- 1.3** The ICB will endeavour to resolve any disputes as quickly as possible. However, this can be a timely process. CHC dispute case duration, from the ICB receiving the initial written dispute request to case resolution i.e. final dispute outcome is communicated to the applicant, has a target of being completed within 4 months.

Should a longer time frame occur due to unforeseen circumstances being identified which have not been addressed in this policy the dispute process may be suspended with the intention of being reinstated once the issue has been resolved. If this should occur the person asking for a review will be informed in writing and this will have no bearing on the eventual resolution.

Time frames for individual stages of this process are outlined as working days throughout this policy.

2. Individual's Complaints

Complaints made by an individual about a Partner Organisation, their performance and provision (or non-provision) of services should be responded to in accordance with that Partner Organisation's complaints handling process. All such complaints should be addressed to the complaints officer of the relevant organisation in the first instance. In addition Patients Advice and Liaison Service (PALS) will assist in dealing with specific concerns raised by NHS patients.

3. Stages in the process of application for a review of decisions about eligibility for NHS Continuing Healthcare

3.1 Stage One – Initial Meeting

Once the ICB has received a request for a review, the ICB will acknowledge receipt of the request within 10 working days. The letter will invite the individual and/or their representative to meet or speak with a CHC Case Manager.

The meeting will be held to attempt to resolve any concerns through an informal discussion and provide the opportunity to discuss the rationale for the eligibility decision with the individual and/or their representative. The discussion should be the opportunity for the individual or their representative to receive clarification of anything they have not understood and is an opportunity for the ICB to explain how it has arrived at the decision regarding eligibility. There should also be an opportunity for the individual or their representative to provide further information they feel was not considered in the original assessment. Notes will be taken at the meeting which will be forwarded to the individual/representative to sign as a true reflection of what was discussed within 5 working days. The CHC Case Manager will review the evidence and decide on whether the case needs to be reviewed due to key evidence being overlooked.

If key evidence is found to have been overlooked by the original MDT, the CHC Case Manager will amend the DST if appropriate to include the overlooked evidence in another colour and proceed to Stage 2 for review.

If following this meeting, discussions do not resolve the individual's or their representative's issues they can ask for their dispute to move to Stage 2.

If the person or their representative declines to engage in the stage one process the dispute process will move to Stage 2.

3.2 Stage Two – Formal Panel Meeting

Where a formal panel meeting is required, this will be conducted by Senior CHC Staff who have the authority to decide next steps on behalf of the ICB and will be minuted so that a full written record is available for both parties. The individual or their representative will be given the opportunity to put forward the reasons why they remain dissatisfied with the ICB's decision.

Following this meeting the ICB will agree next steps with the individual or their representative. This may include;

- The original decision is upheld
- The original decision is overturned

If the ICB does not change the original decision the individual or their representative will be given a clear and comprehensive explanation of the rationale for the decision.

3.3 Independent Review

If following the ICB's local resolution process, the individual and/or their representatives are not satisfied with the outcome they will be able to request an independent review from NHS England and details will be provided on the outcome letter from the ICB.

3.4 Mutual Respect

It is acknowledged that this process is both sensitive and emotional in nature and the Local Resolution Meeting members will attempt to prevent any further distress to individuals or their representatives.

If a conflicting situation becomes apparent the chairperson will terminate the meeting, On the rare occasion this action is practiced reasons will be identified within the written outcome documentation and an incident form will be logged by the ICB

It will be noted the ICB always adhere to a zero-tolerance policy.

4. Implementation

- 4.1 This policy will be available to all Staff for use in relation to the specific function of the policy.
- 4.2 All directors and managers are responsible for ensuring that relevant staff within their own directorates and departments have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

5. Training Implications

The training required to comply with this policy are:

- Competency of The National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care, July 2022
- Awareness of The Care Act 2014

6. Documentation

6.1 Other related policy documents

- National Framework for NHS Continuing Healthcare (Department of Health 2022)
- Care and Support Guidance (Department of Health 2014)
- CHC Appeals and Disputes SOP.
- Commissioning Policy

6.2 Legislation and statutory requirements

- The Care Act 2014
- Health and Social Care Act 2012

6.3 Best practice recommendations

None Identified

7. Monitoring, Review and Archiving

7.1 Monitoring

The ICB will agree with the accountable Executive Director a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

7.2 Review

- 7.2.1 The ICB will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. **No policy or procedure will remain operational for a period exceeding three years without a review taking place.**
- 7.2.2 Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The governing body will then consider the need to review the policy or procedure outside of the agreed timescale for revision.
- 7.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'document history' table on the front page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

7.3 Archiving

The ICB will ensure that archived copies of superseded policy documents are retained in accordance with the NHS Records Management Code of Practice 2021.

Schedule of Duties and Responsibilities

Through day to day work, employees are in the best position to recognise any specific fraud risks within their own areas of responsibility. They also have a duty to ensure that those risks, however large or small, are identified and eliminated. Where it is believed fraud, bribery or corruption could occur, or has occurred, this should be reported to the CFS or the chief finance officer immediately.

ICB Board	The ICB has the lead responsibility for NHS Continuing Healthcare and Complex Care in the ICB locality, there are also specific requirements for Local Authorities to cooperate and work in partnership with the ICB several key areas.
Local Authority	Local Authority staff have a responsibility to familiarise themselves with this policy and additional guidance for Local Authority staff contained in appendices. Local Authority staff have a responsibility to work in partnership with the ICB. Local Authority Operational staff should consult Integrated
Accountable Officer	The AO must ensure the ICB meets its responsibilities as set out in the National Health Service (Commissioning Board and Clinical Commissioning Groups Standing Rules) Regulations
Executive Nurse	The Executive Nurse leads the Complex Care Team and assumes a consultative and advisory role in the clinical and operational aspects of the team. The Executive Nurse must ensure the ICB meets its responsibilities as set out in the
Local Resolution Panel Chair	The Independent CHC Panel Chair is responsible for ensuring that the local panel decision-making process is equitable and due process is followed as per the National Framework for the NHS Continuing Healthcare 2018. The Chair's responsibilities include ensuring families and carers are given clear information about the panel procedures and decisions are communicated appropriately.
Heads of CHC (Delivery Units) and Case Managers	Have responsibility for supporting CHC staff to identify residents who may need additional observations. They should support staff to review submitted clinical documents to inform appropriate decision making around those people who may require additional care and supervision and signpost for additional support e.g. Dementia Outreach, Falls Clinic, etc. They also have a duty to ensure all staff and providers are aware of and comply with this policy.

Complex Care Team	All members of Complex Care Team have a responsibility to familiarise themselves with the content of the policy ensuring that all requests receive from providers for 1:1 have adhered strictly to the guidelines. Clinical staff should make sure that there is no mismatch with evidence submitted and the request.
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Appendix A – Equality Impact Assessment

Equality Impact Assessment Initial Screening Assessment (STEP 1)

As a public body organisation we need to ensure that all our current and proposed strategies, policies, services and functions, have given proper consideration to equality, diversity and inclusion, do not aid barriers to access or generate discrimination against any protected groups under the Equality Act 2010 (Age, Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion/Belief, Sex, Sexual Orientation, Marriage and Civil Partnership).

This screening determines relevance for all new and revised strategies, policies, projects, service reviews and functions.

Completed at the earliest opportunity it will help to determine:

- The relevance of proposals and decisions to equality, diversity, cohesion and integration.
- Whether or not equality and diversity is being/has already been considered for due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED).
- Whether or not it is necessary to carry out a full Equality Impact Assessment.

Name(s) and role(s) of person completing this assessment:

Name: Debra Pease

Job Title: Head of All Age Continuing Care

Organisation: NECS

Title of the service/project or policy: Continuing Healthcare Local Resolution Policy

Is this a;

Strategy / Policy

Service Review

Project

Other [Click here to enter text.](#)

What are the aim(s) and objectives of the service, project or policy:

this policy is designed to set out a clear pathway as to how individuals, or their representative, may challenge eligibility for CHC.

Who will the project/service /policy / decision impact?

(Consider the actual and potential impact)

- **Staff**
- **Service User / Patients**
- **Other Public Sector Organisations**
- **Voluntary / Community groups / Trade Unions**
- **Others, please specify** [Click here to enter text.](#)

Questions	Yes	No
Could there be an existing or potential negative impact on any of the protected characteristic groups?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has there been or likely to be any staff/patient/public concerns?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Could this piece of work affect how our services, commissioning or procurement activities are organised, provided, located and by whom?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Could this piece of work affect the workforce or employment practices?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the piece of work involve or have a negative impact on: <ul style="list-style-type: none"> Eliminating unlawful discrimination, victimisation and harassment Advancing quality of opportunity Fostering good relations between protected and non-protected groups in either the workforce or community 	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If you have answered no to the above and conclude that there will not be a detrimental impact on any equality group caused by the proposed policy/project/service change, please state how you have reached that conclusion below:

This policy is to ensure the National Framework For NHS Continuing Healthcare and NHS Funded Nursing Care is being followed so individuals of any characteristic have an equal opportunity to request a review of the ICB's recommendation of eligibility.

If you have answered yes to any of the above, please now complete the 'STEP 2 Equality Impact Assessment' document

Accessible Information Standard	Yes	No
Please acknowledge you have considered the requirements of the Accessible Information Standard when communicating with staff and patients. https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf	<input type="checkbox"/>	<input type="checkbox"/>
Please provide the following caveat at the start of any written documentation: “If you require this document in an alternative format such as easy read, large text, braille or an alternative language please contact (ENTER CONTACT DETAILS HERE)”		
If any of the above have not been implemented, please state the reason: Click here to enter text.		

Governance, ownership and approval

Please state here who has approved the actions and outcomes of the screening		
Name	Job title	Date
Executive Committee	Approver	July 2022

Publishing

This screening document will act as evidence that due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED) has been given.

If you are not completing 'STEP 2 - Equality Impact Assessment' this screening document will need to be approved and published alongside your documentation.

**Please send a copy of this screening documentation to:
NECSU.Equality@nhs.net for audit purposes.**

Appendix B – Appeals Process Flow

