

Our Reference North East and North Cumbria ICB\
FOI ICB 25-051

North East and North Cumbria ICB
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By Email

29 May 2025

Dear Applicant

Freedom of Information Act 2000 – Request for Information – NHS North East and North Cumbria Integrated Care Board (NENC ICB)

Thank you for your request received on 12 May 2025 for information held by NHS North East and North Cumbria Integrated Care Board (the ICB) under the provisions of the Freedom of Information Act 2000. The ICB covers the areas of County Durham, Newcastle Gateshead, North Cumbria, North Tyneside, Northumberland, South Tyneside, Sunderland, and Tees Valley.

Please find the information you requested on behalf of the ICB as follows.

Your Request

1. In the context of your adults' social care (or if you are an ICB, your Continuing NHS Healthcare) service, does your council/ICB take the cost of residential or where needed, nursing care home services into consideration at the point of care planning for the person owed a duty ie after any eligibility decision has been made but before a budget for the duty owed to the client (or patient) is finalised (as it is lawful to do)? Please answer for people owed a duty by your organisation
 - a. aged 18-65
 - b. 66+
 - c. in any particular client group cohort that is care planned for by a particular body of staff with specialist expertise, such as learning disabilities/autism/physical disability/EMI/sensory impairment.
2. If the answer to Question 1 is yes, how do you ensure that the care planning staff do not apply those theoretically lawfully relevant costs to the care planning exercise without also balancing them with the person's wishes and feelings, their state of cognitive functioning, their Choice of Accommodation rights anywhere in the country under the Regulations, their human rights to respect for their homes and family life, under article 8 and the UK's Human Rights Act, and the fact that the wellbeing duty under the Care Act requires consideration of the emotional

wellbeing of not just the client but also people's carers (the definition of which is broad enough to include people who will be visiting the individual)? Please give a narrative answer.

3. If the answer to Question 1 is yes, but the person or their family says that a care home would not be acceptable to them, does your decision-making body or level of officer with delegated decision-making authority for the organisation (ie a panel, a forum, a meeting, a huddle)
 - a. follow para 10.86 of the Care Act Guidance (or the National Framework practice guidance if the person is entitled to CHC funding) and reconsider whether in fact the offer of a care home that has been aired may be unlawful in the first place, with regard to the pros and cons of a move at this time, the impact of the difficulties being faced by the person and the possibility that the person's or support circle's stance being conveyed may be an indication that appropriateness and suitability has not been properly considered, as yet? (...since only the cost of suitable and appropriate proposals can be of any lawful relevance to the ultimate offer from the Council or ICB?)
 - b. if the organisation is sure that the proposal being aired is at least lawful, consider the possibility that the person could also potentially be cared for in their own home or a non-registered setting, and that therefore the Best Value aspect of the two alternative suitable proposals for meeting the needs must in fact be engaged with and considered?
 - c. offer a direct payment capped to the cost of the care home you have been bearing in mind, regardless of any other consideration, on the basis that it is the person's choice to refuse a care home, or if lacking in capacity, their relative's choice?
 - d. offer a sum capped to the amount of the care home, but via a direct payment to enable the person to stay in their own home, IF the person and family are able to request a direct payment and your staff are satisfied that the shortfall will be secured through assets, strengths, voluntary contribution of labour or money from the person's circle of support, or the payment by the individual from disregarded assets (for instance, savings below £14250)?
 - e. identify the actual lowest practicable minimum cost of either council or ICB commissioned or direct payment or PHB funded home care that would be regarded as professionally defensibly sufficient were the person to be supported in their own home, in order to meet whatever the actual extent of eligible unmet need will then be, after all assets and strengths as mentioned in d) are drawn in to meet what would otherwise have been the full extent of the eligible needs identified on assessment?
 - f. offer to fund whatever the person or their family is prepared to accept, so that the budget can be finalised and signed off in a timely fashion, for at least the short-term future?
4. If the answer to Question 1 is yes, is the fee level taken into consideration either one or other of the two options below:
 - a. the local fees agreed with either the care homes on your list of approved providers (after some sort of commissioning exercise for admission to a Dynamic Purchasing System or pre-approved providers), or
 - b. the standard rates of all the locally registered care homes who have formally agreed to do business with you at a range of rates representing their core fees for the placement (that is, allowing for the addition of one-to-one hours or services required for a person with the particular level of needs or band?).
 - c. the lowest spot rate that can be secured by commissioning officers or brokerage staff looking at a capacity tracking tool and communicating with suitable care homes as to what they would take to admit the person to whom your organisation owes a duty?
 - d. the level of any third-party top-up that will also need to be agreed (or any privately arranged additional payment for wants and not needs) for particular aspects of the care home's offered facilities before the person is admitted or allowed to stay on council or ICB terms?

Our Response

We can confirm, as per Section 1(1) of the Freedom of Information Act 2000, the ICB holds some of the information you have requested.

1. NENC ICB do not consider the cost of residential or nursing care for adults over 18. Eligibility for Continuing Health Care funding is based on an assessment of needs of the person and identification of a primary health need, for adults over the age of 18, inclusive of people with learning disabilities/autism/physical disability/EMI/sensory impairment.
2. NENC ICB do not consider care home costs as per previous answer. The person's wishes, mental capacity, legal rights to choose accommodation anywhere in the country, their human rights (like respect for home and family life), and the emotional wellbeing of both the person and their carers is included in the MDT discussion during the Decision Support Tool meeting for the person.
3. Unless the persons' assessed need requires a specialist provider e.g. complex health or behavioural requirements then the ICB work with local authorities (LAs) and utilise their provider framework for care home provision. People and families are provided with choice around care home provision in their local area and can access this information freely from the LA websites, where care homes are listed having had the necessary governance checks completed by the LA.
4. All Age Continuing Care (AACC) within the ICB do not suggest care homes. NENC ICB AACC do not pay top-ups. These are private arrangements between the person/family and the care home but is not related to care needs.

In accordance with the Information Commissioner's directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log. Therefore, a version of our response which will protect your anonymity will be posted on the NHS ICB website <https://northeastnorthcumbria.nhs.uk/>.

If you have any queries or wish to discuss the information supplied, please do not hesitate to contact me on the above telephone number or at the above address.

If you are unhappy with the service you have received in relation to your request and wish to request a review of our decision, you should write to the Senior Governance Manager using the contact details at the top of this letter quoting the appropriate reference number.

If you are not content with the outcome your review, you do have the right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act 2000. Generally, the Information Commissioner cannot make a decision unless you have exhausted the ICB's complaints procedure.

The Information Commissioner can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or www.ico.org.uk.

Any information we provide following your request under the Freedom of Information Act will not confer an automatic right for you to re-use that information, for example to publish it. If you wish to re-use the information that we provide and you do not specify this in your initial application for information then you must make a further request for its re-use as per the Re-Use of Public Sector

Information Regulations 2015 www.legislation.gov.uk. This will not affect your initial information request.

Yours faithfully

Information Governance Support Officer

**Information Governance Support Officer
North East and North Cumbria Integrated Care Board**