

NHS CONTINUING HEALTHCARE AND FUNDED NURSING CARE

JOINT OPERATIONAL POLICY

(Version 4.3)

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CCG owner:	Ellen McNicholas, Director of Quality & Nursing (Board Nurse)
Links to other policies:	Commissioning Policy for Adult Continuing Healthcare
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For action by:	The Joint Continuing Healthcare Operational Policy is aimed at the West Hampshire Clinical Commissioning Group Continuing Healthcare Team and Hampshire County Council
Policy statement:	The Operational Policy for NHS Continuing Healthcare (CHC) and Funded Nursing Care (FNC) details the process for referring, assessing and agreeing eligibility for NHS CHC and for providing that care. This policy ensures that the model and processes are consistent, robust and are compliant with the timeframes outline by the National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care October 2018 (Revised).
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Approved by:	Clinical Governance Committee (WHCCG)
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Amendments summary:

Amend No	Issued	Page(s)	Subject	Action Date
1	April 2016	4,11 & 21	Hyperlinks updated and summary page added	April 2016
2	September 2016	Full document	Full document	October 2016
3	November 2017	Full document	Full document	August 2017
4	Jul 19		Document reviewed with no change in content as remains fit for purpose. Review date deferred to December 2019 at which point a full review will be undertaken following completion of two service redesign pieces of work.	Jul 19
5	11 Dec 19	Cover sheets	Review date deferred to May 2020 (v4.02)	11 Dec 19
6	27 Feb 20		Full review. No amendments to policy content. Update to hyperlinks, amend references to Choice & Equity Policy to Commissioning Policy for Adult Continuing Healthcare, update team addresses and correct National Framework version	27 Feb 20

Review log:

Include details of when the document was last reviewed:

Version Number	Review Date	Reviewer	Ratification Process	Notes
2	November 2014	Head of Mental Health	WHCCG Clinical Governance Committee / Hampshire 5 CCG Commissioning Group: January 2015	
3	October 2016	CHC	Transformation Programme Group	
4	November 2017	CHC team	WHCCG NHS Continuing Healthcare Team Hampshire County Council Continuing Health Care Team	
4.03	Feb 2020	CHC	Clinical Governance Committee	See amend 6.

NHS CONTINUING HEALTHCARE AND FUNDED NURSING CARE TEAM: OPERATIONAL POLICY

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NHS CONTINUING HEALTHCARE AND FUNDED NURSING CARE TEAM OPERATIONAL POLICY

OPERATING FRAMEWORK

1. INTRODUCTION

- 1.1 This Operational Policy is the overarching statement of the approach for the delivery of a NHS Continuing Healthcare (CHC) service across the county of Hampshire. The service will be delivered by West Hampshire Clinical Commissioning Group in accordance with detailed policies and procedures on behalf of the following Clinical Commissioning Groups (CCG) under formal agreement;

North East Hampshire and Farnham CCG (only individuals registered within North East Hampshire)

North Hampshire CCG

South East Hampshire CCG

Fareham and Gosport CCG

West Hampshire CCG

- 1.2 The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised) (referred to as the 'Framework') sets out the principles and processes for the implementation of NHS CHC & NHS-funded nursing care (FNC) and it provides national tools to be used in assessment applications and for Fast Track cases.
- 1.3 This policy describes the processes that will be followed by West Hampshire Clinical Commissioning Group (WHCCG) and should be read in conjunction with the following documents:
- The National Framework for NHS Continuing Healthcare & NHS-funded nursing care, October 2018 (Revised).
 - Who pays? Establishing the Responsible Commissioner (Department of Health 2013)
 - The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012

2. PURPOSE AND SCOPE

- 2.1 This policy sets out the roles and responsibilities for health and social care staff for the delivery of the Framework within the Hampshire CCGs. It provides the process for determining eligibility for NHS CHC funding and the procedures to be followed. The policy also sets out the responsibilities of NHS Hampshire CCGs in those situations where eligibility for NHS Continuing Healthcare has not been agreed, and for the management of situations that may arise as a result of NHS Continuing Healthcare eligibility decisions. The policy describes the way in which NHS Hampshire CCGs will commission care in a manner that reflects the individual's choice and preferences, whilst balancing the requirement that NHS Hampshire CCGs keep within the set financial limit allocated to the organisation. This policy applies to all NHS CHC applications for adults 18 years or older who are registered with a Hampshire General Practice.

This includes all care groups including:

- physically disabled
- older people
- People with a learning disability
- Young people in transition
- People with a mental health condition
- People with an acquired brain injuries

This policy does not apply to children.

- 2.2 Eligibility for NHS CHC is based on an individual's assessed needs and is not disease specific, nor determined by either the setting where the care is provided, or who delivers the care. Access to consideration and assessment is non-discriminatory; it is not based on age, condition or type of health need diagnosed.
- 2.3 The aim of NHS CHC is to implement the NHS CHC National Framework in order to provide appropriate care. To achieve this, the implementation of the criteria and local application for NHS CHC, in conjunction with the local authority, provider trusts and other agencies, should meet the following principles:
- Needs led
 - Equitable
 - Culturally sensitive
 - Person centred
 - Robust and transparent
 - Easily understood
 - Adheres to guidance and best practice

3. PRINCIPLES

- 3.1 “Continuing care means care provided over an extended period of time to a person aged 18 or over to meet physical or mental health needs which have arisen as a result of disability, accident or illness. NHS Continuing Healthcare means a package of continuing care arranged and funded solely by the NHS.” (National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised).
- 3.2 An individual who needs “continuing care” may require services from NHS bodies and/or from Local Authorities. CCGs have responsibility to ensure that the assessment of eligibility for NHS Continuing Healthcare takes place within 28 days from the completion of the Checklist.
- 3.3 WHCCG and Hampshire County Council (HCC) Adults’ Health and Care are committed to working in partnership to achieve these timeframes, together with local provider services.
- 3.4 The principles underlying this policy are that the residents of Hampshire and individuals registered with a Hampshire GP have fair and equitable access to NHS CHC.
- 3.5 These principles are:-
- The individual’s informed consent will be obtained before starting the process to determine eligibility for NHS CHC.
 - If the individual lacks the mental capacity either to refuse or consent, a ‘Best Interests’ decision should be taken and recorded in line with the Mental Capacity Act 2005 as to whether to proceed with assessment for eligibility for NHS Continuing Healthcare. A third party cannot give or refuse consent for an assessment of eligibility for Continuing Healthcare on behalf of a person who lacks capacity, unless they have valid and applicable Lasting Power of Attorney for Health and Welfare, or have been appointed as a Deputy by the Court of Protection for Health and Welfare .
 - Health and, where appropriate, social care professionals will work in partnership with individuals and their families/representatives throughout the process
 - All individuals and their families/representatives will be provided with information to support them to participate fully in the process
 - The five NHS Hampshire CCGs will support the use of advocacy for individuals through the process of application for Continuing Healthcare, as in other services where advocacy is required.
 - The process for decisions about eligibility for NHS CHC will be transparent for individuals and their families/representatives and for partner agencies
 - Once an individual has been referred for and is eligible for a full assessment for NHS CHC, all assessments will be undertaken by the Multi-Disciplinary Team (MDT) involved in the individual’s care. The Decision Support Tool

(DST) will be completed using all of the relevant and contemporaneous information available, ensuring a comprehensive multi-disciplinary assessment of an individual's health and social care needs.

- Assessments and decision making about eligibility for NHS CHC will be undertaken by West Hampshire CCG within 28 days of the referral.

3.6 WHCCG will:

- Take into account an individual's preference and wishes whilst giving consideration to any risks posed as to how and where the care will be delivered.
- Protect individuals in vulnerable situations and work with partner agencies to address any safeguarding concerns.
- Ensure there is fair access to meet an expressed wish or preference taking into account the Commissioning Policy for Adult Continuing Healthcare (January 2020). Where it is not possible the team will provide clear reasons.
- Ensure that any decision regarding eligibility for NHS CHC or FNC is based on the person's assessed needs: this is the primary indicator and not budget or finance led.
- Work in honest and open partnership with all stakeholders.
- Be accountable for their actions both organisationally and professionally.
- Develop and maintain collaborative and integrated working with local authorities, provider trusts and other agencies.
- Be accessible and respond in a timely and effective manner.
- Ensure there is a commitment to clinical and managerial supervision, reflective practice, training and adherence to risk management procedures.
- Provide thorough and effective mechanisms for responding to and managing appeals, retrospective applications, complaints and disputes as per current policies as detailed within Sections 13, 14, 15 and 16 of this policy.
- Monitor compliance against National Framework standards such as timescales between referral and decision and frequency of reviews.

4. TEAM ARRANGEMENTS AND RESPONSIBILITIES

- 4.1 The Hampshire NHS CHC team management and administrative functions are centralised at Fareham (known as The CHC Hub or The Hub). They are located at

NHS Continuing Healthcare Team WHCCG
5th Floor, Civic Offices
Civic Way
Fareham
Hampshire PO16 7AZ
Tel: 0300 123 4448
Email: WHCCG.continuingcare@nhs.net

- 4.2 Locality teams comprising of lead nurses along with case coordinators will be located in the following areas:

North Hampshire CCG:
Continuing Healthcare Team
Central 40, Lime Tree Way
Chineham Business Park,
Basingstoke
Hampshire, RG24 8GU
WHCCG.continuingcare@nhs.net

NHS Continuing Healthcare Team
WHCCG
5th Floor, Civic Offices
Civic Way
Fareham
Hampshire PO16 7AZ
Tel: 0300 123 4448
WHCCG.continuingcare@nhs.net

North East Hampshire CCG:
Continuing Healthcare Team
Aldershot Centre for Health,
Hospital Hill
Aldershot, GU11 1AY
WHCCG.continuingcare@nhs.net

West Hampshire CCG:
Bartley Church of England Junior
School,
Windsor Road,
Bartley
Southampton
SO40 2HR
WHCCG.continuingcare@nhs.net

South Eastern Hampshire CCG:
Continuing Healthcare Team
5th Floor Civic Offices
Civic Way
Fareham
Hampshire PO16 7AZ
0300 123 4448
WHCCG.continuingcare@nhs.net

- 4.3 The Hampshire County Council can be contacted via Hants Direct on 0845 6004555.

4.4 Responsibilities

Party	Key Responsibilities
Health & Social Care staff referring clients for consideration of eligibility	<ul style="list-style-type: none"> • Complete the required documentation fully, (e.g. Consent, Best Interest, Checklist, Fast Track) and co-operate in completing the Decision Support Tool (DST) within 28 days of the CCG receiving the Checklist.
NHS Continuing Healthcare Team (Locality)	<ul style="list-style-type: none"> • Receive, review and action requests for Checklists. • Receive and action Fast Track applications. • Maintain the NHS Continuing Healthcare data base ensuring all referrals are recorded and that all correspondence is kept for each individual. • Appoint a Specialist Practitioner to oversee the full application process. • Where appropriate, invite a social care practitioner to be part of the MDT/DST process. • Assess eligibility for Funded Nursing Care and arrange for the payments to be made to the nursing home in a timely manner. • Ensure case management arrangements are in place • Undertake regular audit to ensure service is meeting agreed Key Performance Indicators (KPIs) including individual, staff and customer feedback . • Ensure reviews are undertaken in line with national policy and at other times as required • Ensure CCGs are alerted to issues with care providers which may compromise quality of care • Facilitate the completion of personal support plans and provision of Personal Health Budgets for all CHC eligible individuals, including reviews. • Support the development and delivery of joint training programmes with the local authority regarding all process and policies (local and national) regarding eligibility for NHS Continuing Healthcare and NHS-funded Nursing Care. • Review all complex packages of care ensuring value for money has been considered • Approve the contracts for packages up to the registered professionals delegated limit • Seek assurances that providers are fit and proper organisations to provide care

Party	Key Responsibilities
	<ul style="list-style-type: none"> • Ensure that a database of clients and packages is maintained
Continuing Healthcare Team (Hub)	<ul style="list-style-type: none"> • Maintain the Continuing Healthcare data base ensuring all referrals are recorded and that all correspondence is kept for each individual • Review completed DST to ensure it is completed fully, in accordance with the National Framework, supported by robust evidence and in an appropriate manner and that it has a clearly stated recommendation from the MDT who have completed it seeking further clarification as necessary. • Verify appropriate CHC applications. • Identify cases that require referral to at the joint CHC Panel along with any supporting information. • Write to referrer and individual or their representative with the outcome and how to appeal. • Record all panel decisions in individual's case records and ensure all communication of panel decisions is undertaken in a timely and professional manner • Undertake regular audit to ensure service is meeting agreed KPIs including individual, staff and customer feedback • Ensure CCGs are alerted to issues with care providers which may compromise quality of care • Consider all applications for NHS Continuing Healthcare eligibility in a timely and robust manner and verify recommendation • Ensure that all retrospective reviews of eligibility for NHS CHC are compliant with requirements from the Parliamentary and Health Service Ombudsman. • Approve contracts for packages up to the registered professionals delegated limit • Seek assurances that providers are fit and proper organisations to provide care • Ensure that a database of clients and packages is maintained • Agree the cost of the NHS share of joint funded packages for individuals with learning disabilities • Recommend the cost of the NHS share of joint funded packages for OP/PD individuals.

Party	Key Responsibilities
	<ul style="list-style-type: none"> • Approve one-off payments up to the manager's delegated limit
Commissioning and Brokerage	<ul style="list-style-type: none"> • Maintain a database of accredited providers • Seek assurances that the providers on the list have CQC accreditation • Negotiate prices and terms and conditions for services offered by providers on the list • Develop contracts with providers that ensure high quality care delivery and value for money. • Monitor all contracts. finance/resources • Arrange the package of care based on the needs of the eligible individual and provide costings of the package of care for approval. • Seek assurances that providers are fit and proper organisations to provide care • Ensure that a database of clients and packages is maintained
Local Authority	<ul style="list-style-type: none"> • Make staff available wherever practicable to be part of MDTs which will undertake joint assessments and jointly complete the DST (including where the individual is a self-funder) • Contribute to eligibility panels and participate in the decision-making process on eligibility • Make staff available to undertake joint reviews • Have systems for responding promptly to requests for information when the CCG has received a referral for NHS Continuing Healthcare • Work jointly with the CCG in the planning and commissioning of care/ support for individuals deemed eligible for NHS Continuing Healthcare wherever appropriate, sharing expertise and local knowledge (whilst recognising that CCGs retain formal commissioning)

5. REFERRAL PROCESS FOR NHS CONTINUING HEALTHCARE

5.1 Eligibility for NHS CHC

The Framework provides a consistent approach to establishing eligibility for NHS CHC. This is achieved through the use of the National Tools and Guidance developed to assist in making decisions about eligibility for NHS CHC.

As a result of the Coughlan Judgment (1999) and the Grogan Judgment (2006), under the National Health Service Act 2006 the Secretary of State has developed the concept of a “primary health need” to assist in deciding which treatment and other health services it is appropriate for the NHS to provide under NHS CHC.

Where a person’s “primary need” is a health need, they are eligible for NHS CHC. Deciding whether this is the case involves looking at the totality of the relevant needs from the assessment process. Where an individual has a primary health need, the NHS is responsible for providing all of the health and social care to meet the individual’s needs, including accommodation, if that is part of that need.

Consideration of primary health need includes consideration of the characteristics of need and their impact on the care required to manage the needs. In particular to determine whether the quantity or quality of care is more than the limits of responsibility of Local Authorities (as in the Coughlan Judgment).

Consideration is given to the following areas:-

- Nature and type of need: the particular characteristics of an individual’s needs and the overall effect of those needs on the individual, including the type of interventions required to manage them
- Intensity of need: both extent (quantity) and severity (degree) of the needs, including the need for sustained care (continuity)
- Complexity of need: how the needs present and interact to increase the skill required to monitor and manage the care. This may arise with a single condition or the interaction between a number of conditions. It may also include situations where an individual’s response to their own condition has an impact on their overall needs
- Unpredictability of need: the degree to which needs fluctuate, creating difficulty/challenges in managing the need. It also relates to the level of risk to the person’s health if adequate and timely interventions/care are not provided

To minimise variation in interpretation of the principles and to inform consistent decision making, the NHS CHC DST has been developed for use by practitioners to obtain a full picture of needs and to inform the decision regarding the level of need that could constitute a primary health need. The DST combined with the practitioners own experiences and professional judgement should enable them to apply the primary health needs test in practice in a way which is consistent with the limits on what can be legally provided by a Local Authority.

Eligibility for NHS CHC is based on an individual’s assessed health and social care needs. The DST provides the basis for decisions on eligibility for NHS funded continuing healthcare. The DST must be completed by the MDT, which must include as a minimum, at least two professionals from different health

professions or one professional from a healthcare profession and one who is responsible for undertaking community care assessment (a social care professional). Specialist staff and mental health staff should be involved dependent on the individual's needs.

5.2 Identifying individuals who may be eligible for NHS CHC.

NHS CCGs are required to take reasonable steps to ensure that individuals are assessed for NHS CHC in all cases where it appears to them that there may be a need for such care, and the Checklist is the only screening tool that can be used. Therefore, health and social care staff should consider screening using the Checklist for consideration of NHS CHC (subject to consent) in all the following situations

- Whenever it appears that an individual may potentially be eligible for NHS CHC.
- Before any FNC assessment, and at each FNC review
- When an individual is to be discharged from hospital (acute, community or mental health) and requires an ongoing placement or significant level of care

The first step in the process for the majority of people will be the screening process using the NHS CHC Checklist. The purpose of the Checklist is to encourage proportionate assessments so that resources are directed towards those people who are most likely to be eligible for NHS CHC.

Before applying the Checklist, it is necessary to ensure that the individual and their representative, where appropriate, understand that the Checklist does not indicate the likelihood that the individual will be found eligible for NHS CHC, only that they are entitled to consideration for eligibility. At this stage, the threshold is set deliberately low to ensure that all those who require a full consideration of their needs get the opportunity.

A nurse, doctor or other qualified healthcare professional or social care practitioner can apply the Checklist to refer individuals for a full consideration of eligibility from within the community or hospital setting. Whoever applies the Checklist will have to be familiar with, and have regard to, the Framework and the DST.

All completed NHS CHC Checklists should be sent to the locality teams at the above addresses. These will be triaged by the Duty Case Coordinator to ensure that the case is allocated to the appropriate member of the team. Receipt of the Checklist is the start of the 28 day target for eligibility decisions.

5.3 Exceptions

- a) Section 117 Hampshire CCGs and HCC have local arrangements for this. An individual subject to Section 117 should only be considered for NHS CHC where they have significant care needs which are not related to their mental health aftercare needs.
- b) Children and young people under 18. The Framework applies only to adults aged 18 or over. There is a separate “National Framework for Children and Young People’s Continuing Care” which applies to children or young people under the age of 18. The underlying law is quite different for children and young people, but it is very important that consideration of potential eligibility for NHS Continuing Healthcare (when the person reaches 18) is considered early as part of the planning process for transition. The Framework (paras 124 to 138) advises that joint assessments are commenced for children at age 16 years and a decision made by 17 years to ensure that care planning and services are in place and clarified prior to the young person moving into adults services.

5.4 Decision Support Tool Process

Where an individual has crossed the Checklist threshold and therefore requires full consideration for NHS CHC it is the responsibility of the NHS CHC team to identify an individual to co-ordinate the assessment process and the completion of the DST, including the eligibility recommendation. The role of the co-ordinator is explained in the Practice Guidance section 26 of the Framework. HCC and the NHS CHC team have agreed that normally the NHS CHC team will appoint a coordinator; however in some circumstances it may be appropriate for another professional – such as the social care practitioner to undertake this role. This will be determined by mutual agreement. In all cases the individual, family /representative will be informed as to who will be undertaking the coordinator role.

The DST must be completed and provides practitioners with a framework to bring together and record the various needs in the ‘domains’ specified within the Tool. The MDT use the DST to support the primary health needs test, ensuring that the key indicators are taken in to account in making their recommendation.

The DST cannot directly determine eligibility, but it provides the basis from which decisions are made exercising professional judgement and in consideration of the primary health need criteria. Once the MDT has completed the DST they will make their recommendation on eligibility, recorded on the DST and pass it to the NHS CHC Hub team.

The NHS CHC Hub team will:

- Verify the recommendations of the MDT
- Refer to panel where they are not able to verify the recommendations of the MDT.
- Refer back to the MDT due to any of the following:
 - Poor quality assessment
 - Insufficient evidence and information
 - Inadequate recommendation
 - Conflicting evidence
 - Inappropriate MDT constitution

Where someone crosses the Checklist threshold in an acute hospital setting the hospital discharge team would co-ordinate the assessment. Where there is no formal discharge team the expectation would nonetheless be that hospital based staff would normally undertake this role.

Where someone is in a nursing home it would normally be the NHS CHC team members who co-ordinate the assessment.

Where the individual in the community is currently receiving a package of care from the Local Authority and/or other providers, it may be agreed on a case by case basis that the relevant worker could undertake the co-ordination role set out in Practice Guidance section 26 of the Framework, provided it is agreed and Hampshire County Council have determined that they are best placed to do so. However, some provider specifications will require this role to be undertaken by the relevant body.

6. VERIFICATION OF MDT RECOMMENDATIONS

- 6.1 A NHS CHC panel will meet weekly. The purpose of the panel is to enable the WHCCG to meet its responsibilities in relation to the NHS CHC. The Terms of Reference for this panel are attached as Appendix 2.
- 6.2 The panel is chaired by a NHS CHC team Healthcare representative. Panel members will receive an agenda and paperwork for cases to be heard prior to the panel
- 6.3 Following the NHS CHC panel or out of panel process, the NHS CHC team will write to the referrer and the family/carer regarding the decision. Copies of the minutes will be provided to the HCC panel representative.

7. COMMISSIONING THE CARE PACKAGE

- 7.1 The NHS CHC team are responsible for agreeing the placement or package of care. This includes:

- Commissioning of placements or care packages in accordance with the Commissioning Policy for Adult Continuing Healthcare.
 - Agreeing the service specification with the appropriate clinician and ensuring care plans and risk assessments are received
 - Agreeing the care package with the provider
 - Informing the referrer, individual and if appropriate the family/carer
 - Agreeing and informing the provider and relevant others, the monitoring and review arrangements of the care package
- 7.2 Locality duty teams are responsible for ensuring that the details and associated costs of the agreed packages are recorded on the database and presented to the appropriate delegated level of staff for approval.
- 7.3 All new residential care providers and care agencies will receive a contract on completion of the financial negotiations and before the start of the placement or package

8. PERSONAL HEALTH BUDGETS

- 8.1 The NHS CHC team are required to offer personal health budgets to people in receipt of NHS Continuing Healthcare funding, in order to give individuals better flexibility, choice and control over their care
- 8.2 Personal health budgets can be managed in a number of ways, including:
- A notional budget held by the CCG commissioner
 - A budget managed on the individual's behalf by a third party, and
 - A payment directly to the individual (a 'healthcare direct payment')
- 8.3 People newly in receipt of NHS CHC funding will be introduced to the concept of personal health budgets before or during their 3-month NHS CHC Review. Based on the outcome of the individual's DST, an indicative budget will be produced and shared with the individual during an introductory meeting to explain the personal health budget process
- 8.4 The case co-ordinator or third-party case manager will work with the individual and/or their carer's and representatives to agree health and wellbeing outcomes. They will then also work with the individual to think creatively about how they could best make use of their available budget to meet their health and wellbeing outcomes.
- 8.5 The case co-ordinator or case manager will then create a final budget and support plan which will be reviewed and finance authorisation will be sought at the appropriate level. Once a support plan has been agreed the case co-ordinator (or other commissioned organisation) will work to put the support plan in place. Support services will be provided to help people with direct payments,

and support and advice will be provided for those wishing to employ personal assistants directly. Support plans will be reviewed as per the Framework guidance – at 3 months after the care package has been put in place and a minimum of every 12 months thereafter

9. JOINTLY FUNDED PACKAGES OF CARE

- 9.1 There will be some individuals who, although they are not entitled to NHS CHC, have needs identified through the decision support tool or joint assessment that are not of a nature that the local authority can solely meet or are beyond the powers of an local authority to solely meet. These individuals will require a joint care package. The Hampshire CCGs and HCC will work in partnership to agree their respective responsibilities in a joint package of care (for details please refer Practice Guidance section of the Framework).
- 9.2 Joint packages of care may also be provided through the provision of NHS services such as District nursing and community physiotherapy for example. A joint package of care with the Local Authority will only involve joint funding where there is a particular identified health need requiring an identified care package to be commissioned. In these circumstances WHCCG will fund the care costs for the identified health element of the package

10. FUNDED NURSING CARE

- 10.1 Where the decision is that the person is not eligible for NHS CHC, the need for care from a registered nurse should be considered, and the decision made as to whether registered nursing care in a care home providing nursing is appropriate.

11. REQUESTS FOR FAST TRACK

- 11.1 All Fast Track applications will be undertaken in accordance with the NHS Commissioning Board and Clinical Commissioning Groups (Standing Rules and Responsibilities) Regulations 2012.

*“(a) an individual has a primary health need arising from a rapidly deteriorating condition; and
(b) The condition may be entering a terminal phase.”*

“The intention of the Fast track pathway is that it should identify individuals who need to access NHS CHC quickly, with minimum delay and with no requirement to complete a DST. Therefore the completed fast track Pathway tool with clear reasons why the individual fulfils the criteria and which clearly evidences that an individual is both rapidly deteriorating and may be entering terminal phase is in itself sufficient to establish eligibility. PG 63 218 of the Framework

- 11.2 In such situations, where the individual needs a package of care to enable their needs to be met urgently (for example, to allow them to go home to die in their preferred place of care or appropriate end of life support to be put in place), the Fast Track Pathway Tool should be completed by 'an appropriate clinician', defined in Standing Rules Regulations as 'a person who is:
- a) *responsible for the diagnosis, treatment or care of the person under the 2006 Act in respect of whom a Fast Track Pathway Tool is being completed, and*
 - b) *a registered nurse or a registered medical practitioner.*"
- 11.3 When the NHS CHC team receives a Fast Track Pathway Tool completed by an appropriate clinician, WHCCG must decide the individual is eligible for NHS CHC without delay and without the need for a Checklist or DST to be completed. The NHS CHC team will then put in place the necessary support as soon as possible. It is vital, therefore, that the Fast Track Pathway Tool is used correctly and only in those situations for which it was intended. For this reason the NHS CHC team is working with key clinicians across Hampshire to ensure that the Fast Track Pathway Tool is understood and used appropriately.
- 11.4 The Framework recognises that CCG's should be cautious against adopting too narrow a view of when the Fast Track Pathway Tool should be used:
- "there are no time limits specified and a decision to use the Fast Track Pathway Tool should not be based solely around an individual's life expectancy. The phrase 'rapidly deteriorating' in the Tool should not be interpreted narrowly as only meaning an anticipated specific or short time frame of life remaining. Similarly the phrase 'may be entering a terminal phase' is not intended to be restrictive to only those situations where death is imminent."*
- 11.5 The appropriate clinician is not required to provide evidence alongside the completed Fast Track tool in order for it to be actioned, but it should be supported by a prognosis and/or diagnosis if known. However, when care is not already in place, it is essential that sufficient clinical information is supplied to enable the appropriate placement/package of support to be identified.
- 11.6 The appropriate clinician must take into account the practicalities involved in broker the care package for the individual in Fast Track situations and manage expectations with the individual and family carers. This is particularly so where the needs are complex, the home situation is unclear or the request is being made at a weekend or bank holiday. Whilst funding can be agreed quickly on receipt of the completed Fast Track it may not be possible to secure appropriate care immediately. It is essential to liaise directly with the NHS CHC team to discuss procurement options in such situations.
- 11.7 The Fast Track tool should not be used instead of a full assessment because of service pressure, such as the need to discharge an individual from hospital, shortage of staff etc.

11.8 Where an individual's care is funded due to the Fast Track process, the NHS CHC team will review that person's situation within a few weeks (dependent on the individual circumstances) and if there is a significant change in circumstances a full assessment of NHS CHC eligibility will be undertaken. As explained in Para 101 of the Framework no one who has been identified through the Fast Track process as eligible for NHS CHC should have this funding removed without their eligibility being reviewed in accordance with the correct processes. This should include completion of a decision support tool by a MDT, and that team making a recommendation on continued eligibility

12. MONITORING AND REVIEWING

12.1 Case reviews will be undertaken for individuals no later than three months following the eligibility decision and thereafter on an annual basis, unless a change in need or circumstance identifies an earlier review is required. This will ensure that individual is receiving the care they need and that they remain eligible for NHS CHC funding. Should a review show that following a change in need the individual may no longer meets criteria then a reassessment of eligibility must be undertaken following the DST process. Prior to any such assessment the CCG is responsible for ensuring the care commissioned is adjusted in accordance with the change in need.

12.2 In these circumstances the CCG will offer the individual a referral to the local authority to complete a community care assessment and engage in the reassessment of eligibility.

12.3 Following the appropriate process should the individual be deemed no longer eligible for NHS CHC, the NHS CHC team will arrange ongoing care provisions with the individual and or the local authority. The individual, their family/representatives will be advised in writing of the date with which the commissioning responsibilities will change.

12.4 If the individual declines a community care assessment or following a community care assessment is not eligible for local authority funding e.g. because they are responsible for funding their own care, the NHS CHC team will continue to commission care for a maximum of 28 days from the date of the notification letter to the individual advising of the CCG decision

13. RETROSPECTIVE REVIEWS

13.1 A retrospective review for NHS CHC may be requested in the following circumstances:-

- An individual has passed away prior to the completion of a current assessment

- An individual has been found eligible for NHS CHC and there is an earlier unassessed period identified in which the individual may have become eligible.
- There is a previously unassessed period (no earlier than 01 April 2012) for a which a review has been requested

13.2 PUPoC

PUPoC is a previously unassessed period of care. On 15 March 2012 the Department of Health announced a close down of any new applications requesting a retrospective assessment of eligibility for NHS CHC during the period of 01 April 2004 to 31 March 2012

This close down was rolled out under 2 deadlines:-

30/09/2012 – Deadline to claim for the period 01/04/2004 – 31/03/2011

31/03/2013 – Deadline to claim for the period 01/04/2011 – 31/03/2012

Following this deadline, any new applications for a retrospective review cannot now go back prior to 01 April 2012.

14. DISPUTES RAISED BY THE LOCAL AUTHORITY

- 14.1 HCC may dispute a decision that is made by the NHS CHC Panel, in respect of an application for NHS CHC.
- 14.2 In these circumstances, the NHS CHC team and HCC have an agreed Joint Resolution Policy for implementing should a dispute of NHS CHC eligibility arise.
- 14.3 The NHS CHC team and HCC subscribe to the principle that there should be no delay in the provision of services due to disagreements or disputes on the assessment recommendation or outcome of eligibility. Should such situations arise, the Framework is explicit in stating that any existing funding arrangements cannot be unilaterally withdrawn without a joint assessment being carried out and agreed and alternative funding arrangements put in place.
- 14.4 Therefore anyone in their own home, or care home funded by the Local Authority must continue to be financially assisted by the Local Authority until the dispute is resolved. Similarly, anyone in hospital, or funded by the NHS must remain funded by the NHS until the dispute is resolved.
- 14.5 In situations where a decision of eligibility is disputed or there has been a delay in reaching a decision of eligibility for NHS continuing healthcare, the NHS CHC team and HCC will follow the guidance given in Annex F of the Framework

15. APPEALS PROCESS IN RELATION TO ELIGIBILITY FOR NHS CONTINUING HEALTHCARE

- 15.1 The NHS CHC team operates an appeals procedure for all cases. Where an individual is deemed not to be eligible for NHS CHC they will be informed in writing of their right to seek a local review of that decision, provided they do so within six months of the notification. If they seek such a review, this will be considered within three months of their request. If the outcome of the local review is that the original decision of ineligibility for NHS CHC was upheld, the individual will have a further six months to request an independent review.
- 15.2 The decisions of the NHS CHC Panel are communicated to the individual, or their representative, the original referrer and to lead health and social care professionals making the application. The decision is communicated in writing together with copies of the relevant extract of the minutes of the meeting that provide the rationale for the Panel's decision. The individual, or their representative, the original referrer and the lead health and social care professionals making the application can be informed verbally following the Panel meeting.
- 15.3 Where an individual has been found not eligible for NHS CHC, they or their representative can appeal the NHS CHC team decision within 6 months of the notification of eligibility decision.
- 15.4 When an appeal is received this is acknowledged in writing by the Hub administration team. An initial Local Review is to be completed by the Hub Case Coordinator which is assessed using the concerns raised by the appellant. If the additional evidence identified suggests that the eligibility decision requires additional evaluation, the Case Coordinator is to refer the case to the Hub Operational Manager. The Hub Operational Manager will consider the application and write to the appellant to confirm an outcome of the Local Review process. If the appellant does not accept this outcome, then they will be offered a Local Review meeting.
- 15.5 A Local Review Meeting will also be offered should the Local Review completed by the Hub Case Coordination confirm that the individual assessed remains not eligible for NHS CHC.
- 15.6 Where an individual remains dis-satisfied by the Local Resolution decision they can request an Independent Review by writing to the NHS Commissioning Board at:

NHS England Premier House
Caversham Road
Reading
RG1 7EB

- 15.7 An Independent Review Panel's (IRP) key tasks are, at the request of the Board, to conduct a review of the following:
- (a) the procedure followed by a CCG in reaching a decision as to that person's eligibility for NHS CHC; or
 - (b) the primary health need decision by a CCG. and to make a recommendation to the Board in the light of its findings on the above matters.
- 15.8 It is particularly important that, before an IRP is convened, all appropriate steps have been taken by the relevant CCG to resolve the case informally, in discussion with the NHS Commissioning Board where necessary. The Board should have a named contact, who is the first point of contact for queries from partner organisations for the relevant locality.
- 15.9 No individual should be left without appropriate support while they await the outcome of the review and any package of care in place must remain effective while the outcome of the independent review is awaited.
- 15.10 HCC and their employees are not able to appeal against a decision made by the NHS CHC team panel on behalf of an individual. Appeals may only be made by individual applicants themselves or their duly appointed representative

16. COMPLAINTS

- 16.1 If an individual or their representative is dissatisfied with the manner in which the overall process has been conducted rather than specifically the outcome regarding eligibility for continuing healthcare, they may make a complaint to WHCCG through the NHS Complaints Procedure. Complaints should be sent to:-

Patient Experience & Complaints
West Hampshire CCG
Omega House
112 Southampton Road
Eastleigh
SO50 5PB
Telephone: 0800 456 1633
Email: WHCCG.YourFeedback@NHS.net

Appendix 1 NATIONAL AND LOCAL REFERENCE LIST

National Documents

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care: October 2018 (Revised).

Incorporating:

- NHS Continuing Healthcare Practice Guidance
- NHS Continuing Healthcare Frequently Asked Questions
- NHS Continuing Healthcare Frequently Asked Questions

National Tools available:

- NHS Continuing Healthcare Checklist
- Decision Support Tool for NHS Continuing Healthcare
- Fast Track Pathway Tool for NHS Continuing Healthcare

All the above documents are available at:

<https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>

Mental Capacity Act 2005: <http://www.legislation.gov.uk/ukpga/2005/9/contents>

Mental Capacity Act 2005 Code of Practice:

<https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>

Data Protection Act 2008:

<http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

The Care Act 2014: <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

Local Documents:

Commissioning Policy for Adult Continuing Healthcare

<https://westhampshireccg.nhs.uk/wp-content/uploads/2020/01/Commissioning-Policy-for-Adult-Continuing-Healthcare-Jan-2020.pdf>

Joint Decision Making, Dispute Resolution, Continuing NHS Healthcare and Interim Funding Arrangements (October 2017)

Hampshire Safeguarding Adults Policy 2016: Multi-Agency Policy, Guidance and Toolkit

http://www.hampshiresab.org.uk/professionals-area/hampshire_4lsab_multiagency_safeguarding_adults_policy_guidance/

Deprivation of Liberty, Mental Capacity Act, Registered Care, Hospital. 2013.

Hampshire County Council:

<https://www.hants.gov.uk/socialcareandhealth/adultsocialcare/professionals/mental-health/deprivation-of-liberty>

Appendix 2 NHS CONTINUING HEALTHCARE PANEL: TERMS OF REFERENCE

1. Scope of the Panel

- 1.1 To enable West Hampshire Clinical Commissioning group (CCG) to discharge its responsibilities in relation to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2018. The Panel will provide a forum for the CCG to support the Multi-Disciplinary Teams (MDT) in determining whether individuals have needs that meet the eligibility for NHS Continuing Health Care. Cases will be presented to the Panel after having been through the CCG pre-panel process and will have been identified as needing review of the recommendation through the Panel process.

2. Objectives of the Panel

- 2.1 The Panel meets to ensure that the CCG executes its responsibilities in relation to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2018
- 2.2 The Panel meets to consider eligibility for NHS Continuing Healthcare for individuals from all care groups.
- 2.3 To receive and appraise detailed, comprehensive and complete multi disciplinary assessments and decision support tools in order to consider the recommendations of the MDT.
- 2.4 Ensure decisions of Panel are appropriately communicated to the patient or their representative, the referrer and appropriate others.
- 2.5 To monitor the quality of applications and recommendations being provided by MDT's and to ensure any concerns are picked up and fed back into all relevant organisations via individual feedback or joint training.
- 2.6 Where appropriate, to make recommendations on joint funding arrangements.
- 2.7 To raise any safeguarding concerns that may arise through the panel process.

3. Membership

- 3.1 The Panel must consist of the following;
 - a. Chair – the Chair will be a representative from the Continuing Healthcare Hub team and holds overall responsibility for making a decision in each case
 - b. Health representative – this will be a representative holding a current clinical registration (e.g. registered nurse, occupational therapist, physiotherapist, paramedic) and will be drawn from providers of NHS community services in the Hampshire county.
 - c. Social Services representative – this will be a representative of Hampshire County Council or relevant local authority selected by the local authority as having the appropriate qualification and/or experience to advise on behalf of the Council.

4. Specialist Advisors and Observers

- 4.1 From time to time the Panel may request a specialist professional to advise the Panel on complex cases or those that require specialist knowledge to evaluate their eligibility appropriately. The role of the specialist advisor is to provide specialist knowledge and guidance to the Panel members in order that a determination of eligibility can be made. Specialist advisors do not have a decision making responsibility.
- 4.2 As part of a learning and development process professionals from either health or social care may attend Panel to view proceedings and understand the Panel process. It is appropriate to share materials at Panel with observers. Observers do not have a decision making responsibility.
- 4.3 Panel is a confidential and impartial process. It is, therefore, not appropriate to have members of the public present during a Panel meeting, even if they have an interest in a case to be discussed.

5. Panel Operation

- 5.1 The Panel will meet as needed – usually weekly – to enable cases to be considered. Cases heard in Panel will normally only be those that cannot be ratified out of Panel or that have a split, or missing recommendation from the MDT.
- 5.2 Panel may also hear cases where a joint funding arrangement is in place so that this arrangement can be reviewed using the appropriate jointly agreed tool for joint funding arrangements.
- 5.3 A National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2018. Decision Support Tool document, with supporting contemporaneous evidence will be available for Panel members to consider.
- 5.4 It is expected that patients/representatives/carers views are represented to the Panel in the DST. Where this has not been possible the DST should reflect that.
- 5.5 The Panel should consider each of the domains in turn to determine if the evidence submitted supports the level awarded by the MDT. Where it does not support the recorded level, the Panel will discuss and record the Panel view. Where Panel members' views are not in consensus this should be recorded in the Panel minutes.
- 5.6 The Panel should consider the four key indicators and apply their clinical and experiential knowledge, as well as the guidance in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2018 to consider whether there is a primary healthcare need. Where the Panel members' views are not in consensus this should be recorded in the Panel minutes.

- 5.7 The decision on eligibility for each case will be made by the Chair of the Panel, advised by the Health and Social Services representatives. This will normally be the consensus of the Panel. Where the Health representative and the Social Services representative disagree on eligibility the Chair must apply their judgement in order to make an eligibility decision – it is not acceptable to defer the decision for another Panel to hear solely on the basis of eligibility. The Chair may make a decision with which neither the Health representative nor the Social Services representative agrees and in such cases the Chair must give a clear rationale for this decision in the minutes of the Panel meeting.
- 5.8 The Chair should not overturn a recommendation by the MDT regarding an individual's eligibility unless exceptional circumstances are identified. Exceptional circumstances would include:
- Where the DST is not completed fully (including where there is no recommendation)
 - where there are significant gaps in evidence to support the recommendation
 - where there is a obvious mismatch between evidence provided and the recommendation made
 - where the MDT have not reached agreement
 - where the recommendation would result in either authority acting unlawfully

In these cases further information and evidence should be requested from the MDT. In some circumstances the MDT may be asked to reconsider their recommendation. In these circumstances the Panel minutes should reflect that the case has been 'deferred' and the reasons for that deferral.

- 5.9 Once a 'not eligible' decision has been made, the Panel may consider whether to recommend joint funding. A recommendation for joint funding may have been made by the MDT or may come as a result of discussion in the Panel meeting.
- a. Where the case being heard is a learning disabilities case, the Panel will apply the CCGs joint funding tool and agree a funding split between the local authority and health funding. It is anticipated that any funding decision of greater than 50% health should be reconsidered for full eligibility as this would indicate a primary healthcare need. Any funding decision of less than 20% health should be considered as local authority responsibility as appropriate. If Panel cannot agree a joint funding split after application of the jointly agreed joint funding tool a second stage review of the joint funding arrangements will take place outside of Panel between the local authority and the Continuing Healthcare team
 - b. In all other cases (older people, mental health, physical disability) the Panel will apply the jointly agreed joint funding tool and make a recommendation for joint funding which may then be referred to the parent CCG for consideration and commissioning.

- 5.10 Once the Chair has made a decision (eligible, not eligible, joint funding) the representatives from health or social services may indicate that they would like to activate the Joint Resolution Policy to manage disputes on eligibility. The Chair will have blank dispute forms that should be completed at the time of Panel by both the Chair and the representative raising the dispute on eligibility. Disputes should be recorded in the Panel minutes.
- 5.11 Panel and OOPs outcomes to be shared with HCC (or LA as appropriate) immediately following panel – this will trigger handover paperwork and process.
- 5.12 Accurate notes of Panel meetings will be sent to the Chair within five working days for verification. These notes will form part of the appeals process.
- 5.13 The referrer and patient/representative (if required) should be informed of the Panel decision, in writing, within 5 working days of the Panel meeting. A more detailed outcome letter giving a reasoned explanation of how the decision was reached will be sent within 15 working days of the Panel meeting.
- 5.14 For patients in hospital, decisions should be communicated within 24 hours to the discharge liaison team by e-mail and to the ward and social worker if appropriate.

Appendix 3 GLOSSARY OF TERMS

Abbreviation

CCGs	Clinical Commissioning Groups
NHS CHC	NHS Continuing Health Care
DH	Department of Health
DST	National Framework Decision Support Tool
FNC	Funded Nursing Care
HCC	Hampshire County Council
MDT	Multidisciplinary Team
DOLS	Deprivation of Liberty Safeguards
MCA	Mental Capacity Act
PHB	Personal Health Budget
ABI	Acquired Brain Injury
CONI	NHS CHC Database WHCCG







Appendix 4 EQUILITY IMPACT ASSESSMENT

1.	<p>Title of policy/ programme/ framework being analysed NHS Continuing Healthcare (CHC) and NHS Funded Nursing Care (FNC) Operational Policy</p>
2.	<p>Please state the aims and objectives of this work and the intended equality outcomes. How is this proposal linked to the organisation's business plan and strategic equality objectives?</p> <p><u>Purpose and Values</u></p> <p>Eligibility for NHS CHC is based on an individual's assessed needs and is not disease specific, nor determined by either the setting where the care is provided, or who delivers the care. Access to consideration and assessment is non discriminatory, it is not based on age, condition or type of health need diagnosed.</p> <p>The aim of NHS CHC is to implement the NHS CHC eligibility criteria in order to provide appropriate care. In order to achieve this, the implementation of the criteria and local application for NHS CHC, in conjunction with the local authority, provider trusts and other agencies, should meet the following principles:</p> <ul style="list-style-type: none"> • Needs led • Equitable • Culturally sensitive • Person centred • Robust and transparent • Easily understood • Adheres to guidance and best practice
3.	<p>Who is likely to be affected? e.g. staff, individuals, service users, carers</p> <p>Staff, service users, carers and providers</p>
4.	<p>What evidence do you have of the potential impact (positive and negative)?</p> <p>4.1 Disability (Consider attitudinal, physical and social barriers) – please see section 2</p> <p>The Operational Policy for NHS Continuing Health Care (CHC) and Funded Nursing Care (FNC) details the process for referring, assessing and agreeing eligibility for NHS CHC and for providing that care. This policy ensures that the model and processes are consistent, robust and are timely in their response.</p>



	<p>The policy sets out the operating framework for NHS Continuing Health Care to ensure that the teams work in accordance with the National Framework for</p> <p>NHS Continuing Health Care and NHS-funded Nursing Care 2018 (referred to as the 'Framework') and Part 6 of The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 , and to develop and maintain the close working arrangements with colleagues in Hampshire County Council, NHS provider services, and Clinical Commissioning Groups (CCGs).</p> <p>4.2 Sex (Impact on men and women, potential link to carers below) Please see section 2</p> <p>4.3 Race (Consider different ethnic groups, nationalities, Romany Gypsies, Irish Travellers, language barriers, cultural differences). Please see section 2</p> <p>4.4 Age (Consider across age ranges, on old and younger people. This can include safeguarding, consent and child welfare). Please see section 2</p> <p>4.5 Gender reassignment (Consider impact on transgender and transsexual people. This can include issues such as privacy of data and harassment). Please see section 2</p> <p>4.6 Sexual orientation (This will include lesbian, transgender, gay and bi-sexual people as well as heterosexual people). Please section 2</p> <p>4.7 Religion or belief (Consider impact on people with different religions, beliefs or no belief) Please section 2</p> <p>4.8 Marriage and Civil Partnership Please see section 2</p> <p>4.9 Pregnancy and maternity (This can include impact on working arrangements, part-time working, infant caring responsibilities). Please section 2</p> <p>4.10 Carers (This can include impact on part-time working, shift-patterns, general caring responsibilities, access to health services, 'by association' protection under equality legislation). Please section 2</p> <p>4.11 Additional significant evidence (See Guidance Note) The Operational Policy has been reviewed in line with the National Framework for NHS Continuing Health Care and NHS-funded Nursing Care 2018 (referred to as the 'Framework') and Part 6 of The National Health Service Commissioning Board and Clinical Commissioning Groups</p>
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	(Responsibilities and Standing Rules) Regulations 2012
5.	Action planning for improvement Annual review of impact with the NHS CHC Process Group in combination with co-production groups.
Sign Off	
Name and signature of person who carried out this analysis	
Laura-Jane Osbaldeston	
Date analysis completed	
10.10.2017	

Appendix 5 BROKERAGE FORMS

Name	Embedded Document
Forms Flowchart: Visual Aid to use of Brokerage forms	 CHC_Forms_Flowchart_v3.docx
CHCB Form 1 Brokerage Request	 CHC_Form_1_Brokerage_Request_v4.dot
CHCB Form 2 Brokerage Search	 CHC_Form_2_Market_Search_v3.1.dotx
CHCB Form 3 High Cost Proposal	 CHC_Form_3_High_Cost_Approval_v3.doc
CHCB Form 4 Change of Placement / Package	 CHC_Form_4_Change_Package.dotx
CHCB Form 5 Cancellation of Placement / Package	 CHC_Form_5_Cancelled_Package_v2.dotx
CHCB Form 6 Template for Request for Provider Assessment and confirmation of costs	To be finalised
CHCB Form 7 Fax / Form template for confirmation for Provider to proceed	To be finalised
Delegated Authority Levels	 CHC_Delegated_Levels.pdf
CHCB Form 8 Care plan / risk assessment returns Template	To be decided
CHCB Form 9 Confirmation to family of outcome Template	To be finalised

Appendix 6 Joint Resolution Policy

Joint Resolution Policy	 Joint Dispute Policy v.4.doc
Application for Dispute	 Application for dispute.docx

NHS West Hampshire CCG & Hampshire County Council

Continuing Healthcare: Joint Resolution (Dispute) Policy

1. Background

- 1.1 The National Framework for NHS Continuing Health Care (CHC) requires Clinical Commissioning Groups and Local Authorities to have in place a jointly agreed mechanism to resolve disputes between them on eligibility for CHC (i.e. disputes over which body is responsible for funding the care package required). [1]
- 1.2 The NHS National Framework provides a clear expectation that there should be jointly agreed local process for resolving inter agency disputes regarding Continuing Health Care eligibility. Such procedures should be conducted in the best interests of the patient and have clear timescales to avoid protracted periods of uncertainty. This policy presumes that both organisations are acting in accordance with the National Framework and associated Directions and Guidance.
- 1.3. Despite the best intentions to work in a collaborative and co-operative manner, there will still be times when West Hampshire CCGs (WHCCG) CHC service and Hampshire County Council (HCC) are unable to reach agreement about a particular case. If that situation arises an escalation process needs to be activated to support a planned policy and process for timely resolution.

2. Scope of the policy

- 2.1 This policy will apply to all applications for CHC that are processed through WHCCGs CHC service where the CCG have made a decision on eligibility, whether this is through the ratification process or the panel process. This would include any applications that are made by third parties that have been contractually engaged to complete assessments for and on behalf of WHCCG CHC service, but would not include third party assessments that are completed by other CCGs or third parties that have not been engaged by WHCCG.
- 2.2 A separate procedure, in accordance with the National Framework, is in place to resolve appeals from individuals or their authorised representatives. This policy cannot be used to make an appeal on an individual's behalf.
- 2.3 This policy only applies to decisions on eligibility. It does not, for example, apply to decisions relating to a particular package of care or to joint funding decisions which are made outside of the eligibility process.

- 2.4 This policy does not apply to disagreements over checklist outcomes or recommendations at a multi-disciplinary meeting to complete the Decision Support Tool. Disagreements in these circumstances should be managed outside of this policy in accordance with the National Framework.

3. Objectives of the policy

- 3.1 The primary objective of this policy is to have a robust framework in which disputes can be considered and managed effectively. It is to provide a timely response and outcome to disputes on eligibility.
- 3.2 A further key objective of both the CCG and the local authority (LA) is to ensure that an individual's eligibility for NHS Continuing Health Care is correctly determined based on the assessment of their care needs.
- 3.3 This policy is aimed to encourage a culture of problem solving, collaboration and close partnership working that demonstrates openness, consistency and transparency throughout the CHC process.
- 3.4 The individual should not be involved in the dispute in any way. Where a decision has been brought into dispute, the individual or their legal representative should be informed of the CCG's decision on eligibility in the normal way, giving them the opportunity to formally appeal if they wish to in their own right.
- 3.5 Individuals should always be cared for in an appropriate environment throughout the process and any dispute in relation to funding should not interfere with the support provided to them.
- 3.6 This policy will ensure framework compliancy throughout any dispute.

4. Raising a Dispute on Eligibility – Panel Decisions

- 4.1 Disputes can arise from decisions made by the CCG within the Terms of Reference for NHS CHC Panels. It is expected that HCC are represented on each of the WHCCG panels to support the decision making process. Decisions on eligibility are made by the Chair of the panel, advised by the LA and health representatives.
- 4.2 Should either of the advisors wish to dispute the decision of the Chair, the Chair and the appropriate advisor must complete a dispute pro forma (appendix A) before the completion of the Panel meeting.

- 4.3 Reasons for the dispute should be clearly articulated and make reference to the four key indicators and why the advisor disagrees with the decision of the Chair. The Chair must allow time within the Panel for the pro forma to be completed.
- 4.4 The Chair must clearly indicate the exceptional circumstances should they be overruling the recommendation of the MDT.
- 4.5 The pro forma should indicate which organisation will be responsible for any interim care and funding arrangements pending the resolution of the dispute, in line with the National Framework and Responsible Commissioner Guidance as appropriate.

5. Raising a Dispute on Eligibility – Out of Panel Decisions

- 5.1 Out of panel decisions should only be verified where it is clear to the verifier that appropriate process has been followed, the recommendation of the MDT is unanimous and the DST has been signed by all members of the MDT. Any case where process is questioned must be taken out of the dispute process and fully investigated before being submitted to the panel for consideration.
- 5.2 WHCCG will supply HCC with a list of out of panel eligibility decisions weekly. HCC will have one week from the time that they have been made aware of an eligibility decision in which to advise the CCG of a wish to raise a dispute over decisions that have been made out of panel.
- 5.3 In the first instance HCC should write or email WHCCG via the generic email to advise them that they intend to raise a dispute. This should be followed as soon as is reasonably practicable by a dispute pro forma indicating the reasons for the dispute.
- 5.4 Interim care and funding arrangements pending the resolution of the dispute, will be agreed in line with the National Framework and Responsible Commissioner Guidance as appropriate.

6. Actions and Timescales

- 6.1 Stage 1
 - a) At the point that WHCCG are in receipt of dispute proforma from both HCC and the CCG decision maker it will be considered a Stage 1 dispute.
 - b) WHCCG will identify an appropriate band 8a (or above) manager to review the case and the dispute pro formas (form both the chair and the advisor). This manager will not previously have been involved in the decision making process for that case.
 - c) Within seven days the reviewer/manager will write and email a response to the dispute, drawing out key threads from the dispute pro forma and ensuring these are addressed, to the

professional that has raised the dispute, and making clear whether the original decision is upheld.
A template letter is at appendix B.

6.2 Stage 2

- a) If resolution is not agreed, the dispute may be escalated to a Stage 2 dispute, within 7 days of the stage 1 notification. Stage 2 is a desk top review of the evidence, Decision Support Tool and dispute pro formas, this stage will be undertaken between a WHCCG manager (band 8a or above) and an appropriate HCC manager. The outcome of this review must be communicated by WHCCG in writing to the professional that has raised the dispute within 7 days.

6.3 Stage 3

- a) If resolution is not agreed, the dispute may be escalated by the disputer to a Stage 3 dispute. This must be done within seven days of the written outcome of Stage 2.
- b) Stage 3 of the dispute process will be a meeting between WHCCG CHC Head of Service and an HCC area director.
- c) A date for this meeting will be arranged within 14 days of the formal outcome of stage 2. It will be the responsibility of HCC to arrange this meeting.
- d) If it is not possible to arrange a date within a reasonable timescale this must be escalated to Department Director level.
- e) The case coordinator, local authority representative, health advisor, local authority advisor and Chair of the relevant panel may be required to attend the meeting to give further detail.
- f) Notes and outcome letters from stages 1 and 2 will be available to inform the stage 3 meeting.
- g) The outcome of this meeting will be communicated in writing by the WHCCG CHC Head of Service to HCC Area Director within 7 days of the meeting.

6.4 Stage 4

- a) There is an expectation that all disputes will be resolved within the three dispute stages. In exceptional circumstances, where the issue remains unresolved after Stage 3, WHCCG and HCC may seek to move to an independent review or adjudication service.
- b) This will require approval from the appropriate directors of service. Where the dispute has been raised by HCC, should the independent outcome uphold the decision of the CCG the cost for the independent review or adjudication service will fall to HCC. Should the review or adjudication advise eligibility then the CCG must cover the costs.

- c) Adherence to timescales is an essential component of this policy. All effort will be made by both parties to adhere to the timescales of this policy, for any delay to process both parties must be advised for the reasons for the delay. A case can only be closed at the point that both parties are in agreement with the decision at which ever stage of the process that agreement is made. Should a case move out of the timescales for no given reason then this must be raised via respective senior managers.

Appendix A

Details of case requiring resolution.

This form must be completed for any case that requires resolution and is to be processed via the Joint HCC and WHCCG Dispute Policy Dec 16.

To be completed at panel by panel chair.

Name of Service User	
Care Group	
Panel Chair LA Rep	
Date of panel Panel members present	
Summary of outcome of the panel meeting, including MDT recommendation	
Current commissioner Reason for dispute – including exceptional circumstances identified to over rule the MDT	
<u>Signed & dated</u>	

Appendix B



West Hampshire NHS
Continuing Healthcare and
Funded Nursing Care Team
Fareham Health Centre
Osborn Road Fareham
Hampshire P0167ER

Date

Tel: 01329227272 Fax: 01329 227271
Email: WHCCG.continuingcare@nhs.net

Colleague
Continuing Healthcare Team
Adult Services
Hampshire County Council
2nd Floor Rushmore Borough Council Offices
Farnborough
Hants
GU14 7JU

Dear **Colleague**

Re: **Patient NAME DOB: XX/XX/XXXX**

Dispute resolution stage 1: decision not eligible for continuing healthcare funding

Thank you for raising this matter as a dispute. As per the dispute resolution policy I have reviewed this case for consideration.

Your dispute pro-forma highlighted the area for dispute as:

1) Reason for dispute.

Rationale including review of the reasons given for dispute.

The decision of West Hampshire CCG **stands/has been amended.**

Yours sincerely

Band 8a (or above)

Job Title

NHS Continuing Healthcare and Funded Nursing Care
West Hampshire Clinical Commissioning Group