

# Continuing Healthcare (Adults and Children's) Local Resolution Procedure

(Inc. Bassetlaw from 1<sup>st</sup> April 2023)

<b>CONTROL RECORD</b>	
<b>Title</b>	NHS Continuing Healthcare (Adults and Children) Local Resolution Procedure, version 3.0
<b>Amendments</b>	This procedure revises a version implemented from January 2020 in line with the requirements of the National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care, 2022 and Children and Young People's Continuing Care (2016) to establish an ICB resolution procedure for both adults and children/young people.
<b>Purpose</b>	This document and appendices outline the process for local resolution by the NHS Nottingham and Nottinghamshire and explains the arrangements and timescales for dealing with requests to review an eligibility decision where the individual or their representative disagrees with it.

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**APPENDIX A:** Continuing Health (Adults) Questionnaire/Consent

**APPENDIX B:** Continuing Care (Child/Young Person Questionnaire/Consent)

**APPENDIX C:** Adults Timescale Flowchart

**APPENDIX D:** Child/Young Person Flowchart

## 1. Related Documents

These documents/web pages will provide additional information.

NAME OF DOCUMENT	VERSION
The National Framework for NHS Continuing Healthcare and Free Nursing Care July 2022 (Revised)	<a href="https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care">https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care</a>
NHS Continuing Healthcare Practice Guidance	
Public Information Leaflet (updated August 2022)	<a href="https://www.gov.uk/government/publications/nhs-continuing-healthcare-and-nhs-funded-nursing-care-public-information-leaflet">NHS continuing healthcare and NHS-funded nursing care: public information leaflet - GOV.UK (www.gov.uk)</a>
Who Pays? Determining responsibility for NHS payments to providers (June 2022)	<a href="https://www.england.nhs.uk/publication/who-pays-determining-which-nhs-commissioner-is-responsible-for-commissioning-healthcare-services-and-making-payments-to-providers/">https://www.england.nhs.uk/publication/who-pays-determining-which-nhs-commissioner-is-responsible-for-commissioning-healthcare-services-and-making-payments-to-providers/</a>
The Children and Young People's Continuing Care National Framework (2016)	<a href="https://www.gov.uk/government/publications/children-and-young-peoples-continuing-care-national-framework">https://www.gov.uk/government/publications/children-and-young-peoples-continuing-care-national-framework</a>
ICB NHS Adults Continuing Healthcare Policy	<a href="https://www.icb.nhs.uk/commissioning/COM-005-Continuing-Healthcare-Adults-and-Children-Commissioning-Policy-v1.1.pdf">COM-005-Continuing-Healthcare-Adults-and-Children-Commissioning-Policy-v1.1.pdf (icb.nhs.uk)</a>
ICB Children and Young Peoples' Continuing Care Policy	<a href="https://www.icb.nhs.uk/commissioning/COM-006-Children-and-Young-Peoples-Continuing-Care-Policy-v1.1.pdf">COM-006-Children-and-Young-Peoples-Continuing-Care-Policy-v1.1.pdf (icb.nhs.uk)</a>

## 2. Introduction

- 2.1. Responsibility for informing individuals of their eligibility for NHS Continuing Healthcare and Children's Continuing Care and of their right to request a review lies with the Integrated Care Board (ICB) with which the individual is a patient.
- 2.2. The National Framework for NHS Continuing Healthcare and NHS-Funded Nursing Care (July 2022 Updated) states that all ICBs should develop, deliver, and publish a local resolution procedure to address requests from individuals or their representatives to review an eligibility decision.
- 2.3. The Children and Young People's Continuing Care National Framework (2016) states that all ICBs should develop, deliver and publish a local resolution procedure to address requests from individuals or their representatives to review an eligibility decision.

- 2.4. Individuals receiving Continuing Healthcare or Children's Continuing Care will have complex or intense or unpredictable health care needs. Some are receiving end of life care and in other cases, people's needs may change to the extent that they are no longer eligible for NHS funding. In the delivery of Continuing healthcare and Children's Continuing Care, the ICB must ensure consistency in the application of the National Framework's whilst, implementing and maintaining good practice, ensuring quality standards are met and sustained.
- 2.5. Eligibility for NHS Continuing Healthcare/Continuing care is not dependant on a particular disease, diagnosis or condition, not on who provides the care or where the care is provided.
- 2.6. It is important to stress that eligibility for NHS continuing healthcare/continuing care is essentially a funding stream, i.e., it means that the individual's care package is funded solely by the ICB. It doesn't change the care being delivered or the support that an individual has access to.
- 2.7. Please note an appeal cannot be heard on the grounds that an individual is not in agreement with the National Framework's eligibility criteria and guidance itself. The appeal can only relate to decisions made by Nottingham & Nottinghamshire ICB.

### **3. Purpose**

- 3.1 This document and appendices outline the process for local resolution by the Nottingham and Nottinghamshire ICB and explains the arrangements and timescales for dealing with requests to review an eligibility decision where the individual or their representative disagrees with it.

### **4. Scope**

- 4.1. This document is aimed at:
  - All employees of the NHS Nottingham and Nottinghamshire who work within NHS Continuing Healthcare and Children's Continuing Care.
  - NHS Nottinghamshire Healthcare Foundation Trust CHC Delivery team
  - South Yorkshire Integrated Care Board
  - Nottingham CityCare Partnership NHS Continuing Healthcare Team.
  - Mid Nottinghamshire Continuing Healthcare Delivery Team
  - Patients and their families/representatives to wish to request a review of eligibility decision for NHS Continuing Healthcare and Children's Continuing Care.

## 5. Definitions of Terms Used

- 5.1. **NHS Continuing Healthcare (Adults)** – a package of ongoing care arranged and solely funded by the NHS where an individual has been assessed and found to have a ‘primary health need’ as set out in the National Framework.
- 5.2. **Children and Young Peoples Continuing Care (CYPCC)** - a package of ongoing care arranged and solely funded by the NHS where an individual has been assessed and found to have a ‘primary health need’ as set out in the National Framework.
- 5.3. **NHS-funded Nursing Care** – is the funding provided by the NHS to care homes with nursing to support the provision of nursing care by a registered nurse.
- 5.4. **Continuing Healthcare** – a concept developed by the Secretary of State for Health to assist in deciding when an individual’s need is for healthcare rather than social care (which the Local Authority provide under the Care Act 2014). It can be difficult to define the difference between health and social care needs but generally speaking, a health need is not about the diagnosis but rather the needs arising from the diagnosis. The characteristics of nature, intensity, complexity and unpredictability help describe the totality of an individual’s care needs and whether they could be met by the NHS or the Local Authority.
- 5.5. **Decision Support Tool (DST)** – The DST is not an assessment of needs in itself. Rather, it is a way of bringing together and applying evidence in a single practical format, to facilitate consistent, evidence-based assessment regarding recommendations for NHS Continuing Healthcare eligibility. The evidence and rationale for the recommendation should be accurately recorded.
- 5.6. **Multi-Agency Team** – The core purpose of the Multi-Agency Team is to make a recommendation on eligibility for Continuing Healthcare/Continuing Care drawing on the multi-agency assessment of needs and following the processes set out in the National Framework.

## 6. Roles and Responsibilities

Role	Responsibilities
<b>Deputy Chief Nurse and Associate Director Personalised Care</b>	The Deputy Chief Nurse and Assistant Director for Quality and Personalised Care is responsible for the overall CHC work programme
<b>Document Author(s) and Responsible Person</b>	<p>The Senior Commissioning Manager: CHC is responsible for drafting this procedure and for its ongoing review. The Appeals Officer is responsible for the operational implementation.</p> <p>The Head of Continuing Healthcare is the Senior Manager who is corporately responsible for the document and is satisfied that it meets the requirements of the National Framework for NHS Continuing Healthcare (July 2022).</p>

## 7. Communication, Monitoring and Review

- 7.1. This procedure will be monitored on a regular basis by the Document Owner and those involved with its implementation.
- 7.2. The ICB will take every opportunity to learn from the formal dispute resolution meetings held with individuals and/or their representatives and will consider how they might share that learning with other ICBs.
- 7.3. Any individual who has queries regarding the content of this procedure, or has difficulty understanding how this process relates to their role, should contact the "Document owner".

## 8. Staff Training

- 8.1. Training on the procedure will be given to those involved with its implementation as part of their induction.
- 8.2. Staff will be required to complete the CHC e-learning module on "Dispute Resolution in NHS Continuing Healthcare".

## **9. Local Resolution Process**

### **9.1 Communication of the Eligibility Decision**

- 9.1.1. Following a Decision Support Tool (DST), decisions regarding eligibility will be communicated in writing within 5 working days by the ICB. A clear explanation of the rationale for the decision should be provided to the adult, child/young person and family member or representative; the letter will enclose a copy of the Decision Support Tool (DST) and provide details of how to request a review.
- 9.1.2. Individuals/their representatives have a different timescale for requesting a review of the eligibility decision depending on whether the patient is over 18 years old or not. For adults, the timescale is 6 months from the date of the outcome letter and for Children and Young People it's 3 months. This will be made clear in the outcome letter.
- 9.1.3. If the ICB receives a challenge to a negative checklist the ICB will request the Delivery Team to undertake a new checklist with family members present.
- 9.1.4. The ICB aims to process a request for a local review within 3 months of receipt of the questionnaire regarding the associated request.

### **9.2. Appeal Acknowledgement**

- 9.2.1. Upon receipt of the request to review the eligibility decision the ICB will obtain relevant documentation from the relevant delivery units used to inform the decision made
- 9.2.2. This request will be acknowledged by the ICB, in writing, within 5 working days of receipt and will enclose a copy of this procedure, the public information leaflet and a consent/questionnaire/consent form (Appendix A) for completion and return within 10 working days.
- 9.2.3. When completing the Questionnaire please bear in mind that an individual is eligible for NHS continuing healthcare/continuing care if they have been assessed as having a 'continuing care need'. This decision is reached by taking account of all their needs, as described in the Decision Support Tool, to determine whether the care they require is focussed on addressing and/or preventing health needs.
- 9.2.4. If the signed consent and completed questionnaire hasn't been returned within 10 working days, the ICB will close the appeal.

### **9.3. Stage 1: Informal Discussion**

- 9.3.1. The first attempt to resolve any concerns is through an informal, two-way discussion between the ICB and the individual/their representative. This may take place face to face, if specifically requested by the individual/their representative, but is more likely to be a telephone conversation.
- 9.3.2. The ICB will identify a healthcare professional, who was not involved with the initial recommendation, to undertake this part of the process.

- 9.3.3. The healthcare professional will explain how the eligibility decision has been reached with reference to the DST and the primary health need assessment. The discussion provides an opportunity for the healthcare professional to clarify any issues which may not have been understood by the individual/their representative and for them to provide any further information that had not previously been considered. Information returned in the questionnaire will form the basis of the stage 1 informal discussion.
- 9.3.4. If there is evidence to suggest procedural flaws in reaching the eligibility decision, the healthcare professional may suggest that another assessment is required and will refer the case back to the multi-disciplinary team (MDT) for a second assessment, which should be completed within 28 days.
- 9.3.5. The individual, child/young person, or their family/representative must be kept fully involved in this process.
- 9.3.6. The panel will consist of senior representatives from the ICB (for young person/Children the local authority will also be present). A record of deliberations and final decision will be taken.
- 9.3.7. There will be a written summary of this discussion for both parties which will be produced by the healthcare professional and sent to the child/young person, family or the individual/their representative within 10 working days of the informal discussion.

#### **9.4. Stage 2: Formal Meeting**

- 9.4.1. If resolution has not been achieved through the initial informal discussion described at Stage 1 and any subsequent assessment, a formal meeting will be arranged. This will take place within 2 months of the individual/their representative informing the ICB that they wish to continue with the local resolution process. The individual/their representative will be asked to make the ICB aware of their intention to proceed to stage 2 within 10 working days of the date of the letter concluding stage 1.
- 9.4.2. Where individuals wish to move straight to a formal meeting, without an initial informal discussion, then this will be considered.
- 9.4.3. All available and appropriate evidence will be collated to ensure that the meeting is fully informed such as GP summary records, care provider records, local authority records and any other information deemed important for the completion of the NHS CHC recommendation. Records will be collated for a 3-month period prior to the appeal DST, this will give the panel members a better insight as to the child/young person or individual needs leading up to the date of DST.



- 9.4.4. The formal meeting will involve the individual/their representative and someone from the ICB with the authority to decide next steps e.g., to request further reports or to seek further clarification/reconsideration by the multi-disciplinary team (MDT). The ICB representative may choose to invite the healthcare professional involved in stage 1 of the resolution process.
- 9.4.5. The individual/their representative will be able to put forward the reasons why they remain dissatisfied with the ICB's eligibility decision. If the individual believes that there is other or new relevant information available and informs the ICB of this, the ICB will make reasonable effort to obtain it.
- 9.4.6. The ICB will agree next steps with the individual/their representative.
- 9.4.7. There will be a full written record of the formal meeting for both parties. This will take the form of set of Minutes and an outcome letter which will be sent within 28 working days of the Stage 2 meeting.

## **9.5. Conclusion of the Local Resolution Procedure**

- 9.5.1. Following the formal meeting and outcome of the next steps, the ICB will either uphold or change the original eligibility decision.
- 9.5.2. If the decision remains unchanged, the ICB will have made every effort to ensure that the individual/their representative, child/young person has been given a clear and comprehensive explanation of the rationale for the eligibility decision.

## **9.6. NHSE: Independent Review (Adults only)**

- 9.6.1. If, following conclusion of the local resolution procedure, the individual remains dissatisfied, you may apply to NHS England for an independent review within 6 months of the date of the stage 2 outcome letter:
- the decision regarding eligibility for NHS continuing healthcare, or
  - the procedure followed by the ICB in reaching its decision as to the person's eligibility for NHS continuing healthcare.
- 9.6.2. Should NHS England receive a request for an independent review, the ICBs will be expected to identify what efforts had been made to achieve local resolution and the outcome.

## **9.7. Health Service Ombudsman:**

- 9.7.1 If, following the Independent Review, the individual remains dissatisfied, the final route of appeal is the Health Service Ombudsman. The Ombudsman Office can be contacted on 0345 015 4033.