North East Essex
Clinical Commissioning Group

PLEASE NOTE POLICY IS UNDER REVIEW

Continuing Healthcare Choice Threshold

NEECCG Policy Reference: **NEE/CCG/2015/032**

Brief Description (max 50 words)	This policy describes the way in which North East Essex Clinical Commissioning Group (CCG) will make provision for the care of people who have been assessed as eligible for fully funded NHS Continuing Healthcare (CHC).
Target Audience	NEECCG Essex Residents
Action Required	For immediate adoption and implementation

Document Information

Version Number	Version 1.1
Accountable Officer	Chief Officer
Responsible Officer/ Policy Owner	Director of Nursing and Clinical Quality
Date Approved	26th May 2015
Approved By	Board
Review Date	May 2017
Stakeholders engaged in development or review	
Equality Impact Assessment	
Quality Impact Assessment	

Amendment History

Version	Date	Reviewer Name(s)	Comments
1.1	22/01/15	Operational Exec	Approved for CCG Board
1.2	26/05/15	CCG Board	Approved for consultation

Associated Policy Documents

Reference	Title
Local/National	Safeguarding
Local/National	Personal Health Budgets
National	Mental Capacity Act

Glossary

Term	Definition
CHC	Continuing Healthcare
CCG	Clinical Commissioning Group
NSF	National Service Framework

Contents Page

1. INTRODUCTION

This policy describes the way in which North East Essex Clinical Commissioning Group (CCG) will make provision for the care of people who have been assessed as eligible for fully funded NHS Continuing Healthcare (CHC).

To assist in deciding which treatment and other health services it is appropriate for the NHS to provide under the National Health Service Act 2006, and to distinguish between those and the services that Local Authorities may provide under section 21 of the National Assistance Act 1948, the Secretary of State has developed the concept of a 'primary health need'. Where a person's primary need is a health need, they are eligible for NHS continuing healthcare.

Each CCG has a statutory responsibility to commission services in the community, to meet all reasonable requirements of need that have arisen as a result of illness, disability or accident. NHS Continuing Health Care is a package of long term care provision in accordance with the statutory responsibility funded solely by the NHS. These services are not exclusive to health care and personal care but may also include social care and accommodation in registered care homes (most commonly nursing homes). However, the CCG recognise that an increasing number of patients are receiving care packages in their own homes.

The policy describes the ways in which the CCG will commission and provide care in a manner that reflects the choice and preferences of individuals and balances the need for the CCG to commission care that is safe and effective and makes best use of the resources available to the CCG.

Individuals receiving NHS Continuing Healthcare have some of the most clinically complex and severe needs within the local population. The majority of cases have little or no potential for rehabilitation and many are receiving end of life care, although in some cases a person's condition can improve to the extent that they are no longer eligible for CHC funding.

In the delivery of CHC each CCG has to ensure consistency in the application of the national policy whilst implementing and maintaining good practice and ensuring quality standards are met and sustained.

The aim of the policy is;

- to always work towards a patient led outcome
- to ensure where required the wider family feel their opinions are considered when commissioning the appropriate provision of care
- to meet the service users healthcare needs
- doing this within the available resources and
- ensuring the quality of care provision

2. SCOPE AND PURPOSE

This policy ensures that individuals who are in receipt of NHS Continuing Healthcare within the CCG areas will receive care in line with the principles listed in the CHC National Service Framework.

The CCG has the duty to consider the best use of resources for the population whilst meeting the healthcare needs of an individual. Therefore, options will always be considered

to meet the identified health needs of an individual who is eligible for CHC, and the CCG will always consider the most cost effective option to meet the individual's needs.

This policy applies to patients 18 years and over, following on from the Children's Continuing Care Policy and guidance for Essex. Equality of individuals will be upheld and any agreements will not be discriminatory.

The CCG has a primary responsibility to ensure that the services it commissions are safe, and the safety, welfare and any potential risks to the individual are taken into account in the care purchased.

CCG's have a delegated duty to promote a comprehensive health service and each year must ensure they provide this service within their allocated budget and do not exceed their expenditure. Whilst there is an expectation that patient choice is considered, it must not compromise overall spend.

Therefore, although each CCG is statutory obliged to meet the reasonable needs of the patient (once deemed eligible for CHC funding) the guidance does not prescribe the type of care required to meet the need. Therefore CCG's have discretion as to the manner of provision of CHC services and whilst a CCG has a duty to reasonably meet the individuals health need it does not have to meet their every health need and CCG's must exercise their judgement to provide the appropriate care within the resources available to them taking into account their overall expenditure.

Given these constraints the CCG has developed this policy as a guide to support the overall provision of NHS Continuing Healthcare whether in residential settings or own homes and will ensure that all decisions on funding will:

- Be fair, robust, consistent and transparent
- Be based on the objective assessment of healthcare need, safety and best interest
- Work in partnership with patient and their family
- Ensure the safety, effectiveness and appropriateness of care is considered in line with s.83 of the National Framework for Continuing Care
- Ensure that the CCG allocates its financial resources in the most effective and responsible way to ensure best value and complies with statutory duty to remain within budget each year.
- Where available offer choice
- An assessment is always completed whilst the patient is medically stable.

This policy will be implemented alongside other relevant policies including risk management, safeguarding and personal health budgets (where relevant and applicable).

3. ROLES AND RESPONSIBILITIES

3.1. CCG

The CCG has an ongoing responsibility to fund the care for individuals outside hospital settings whose primary need is for healthcare. Anybody can qualify for NHS Continuing Healthcare as long as their assessed needs meet the eligibility criteria. This care can be provided in any setting and includes funding for personal, nursing, medical care and, if within a care home, reasonable accommodation costs. The CCG holds responsibility and accountability for making the final decision on eligibility.

3.2. Multi-disciplinary team

A multi-disciplinary team from health and social care, who are caring for the individual, carry out the assessment for eligibility for CHC using the Decision Support Tool in accordance with the National Framework.

Following assessment the CCG clinical team confirms eligibility against the decision support tool criteria and work within the National Framework for Continuing Healthcare and Funded Nursing Care (DH 20012) and the NHS Continuing Healthcare Practitioner Guidance (DH 2010).

Appeals and disputes relating to eligibility are held within the CHC eligibility panel which is an independent panel, made up of senior health and social care leads from partner organisations e.g. the local authority, community services, acute hospital trusts, who confirm eligibility against the Decision Support Tool Criteria and operate within the national guidance for continuing healthcare and funded nursing care and the NHS Continuing Healthcare Practitioner Guidance.

4. POLICY PROCEDURAL REQUIREMENTS

4.1. Assessment of Provision

The CCG has the duty to commission services that offer quality, efficiency and value for the whole population they serve. Therefore;

'*The process of assessment and decision making should be person-centred. This means placing the individual, their perception of their support needs, and their preferred models of support at the heart of the assessment and care-planning process. When deciding on how their needs are met, the individual's wishes and expectations of how and where the care is delivered should be documented and taken into account, along with the risks of different types of provision and fairness of access to resources.'* (The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care, 2009, P33)

The CCG aim to establish a preferred provider network which will include core care package costs for personal, nursing, medical care and accommodation, if care is provided in a care home setting or at home. These core care package costs will be subject to a review, either annually or at the end of the contract period.

4.2. Arranging Provision

4.2.1 Policy Framework for Decisions

The Department of Health guidance requires that once eligibility is confirmed for fully funded NHS Continuing Healthcare, the CCG should discuss with the individual and their family/carer where this service could be provided taking the views of the individual and family/ carers into account when arranging services.

The CCG, where a preferred provider network is in place, will consider care provision outside of the network, where needs cannot be met by network providers or other mitigating circumstances apply; however, there may be significant cost differences in providing care in different care settings. The CCG will not commission care from a provider who does not meet the agreed quality specification for care delivery or where safeguarding concerns have been substantiated and embargos are in place.

The CCG will, where possible, accommodate the wishes of the individual and their family/carer when arranging the location of care. However, the CCG is only obliged to provide services that meet all reasonable requirements of a care package that fully meets the individual's current assessed needs. Continuing Healthcare funding does not cover 'personal social needs', e.g. hairdressing or social outings.

An individual retains the right to decline NHS services and make their own private arrangements. However, if an individual chooses to decline support from CHC, they should not do so in the belief that they will obtain services from the Local Authority. This is because to qualify for CHC their level of need has been assessed as higher than a Local Authority can legally provide. Paragraph 4.2.7 below, sets out the CCG's process where an individual does not accept a proposed placement.

In instances where more than one suitable care option is available (i.e. a nursing home placement and a domiciliary care package) the CCG will consider the total cost of each package identifying the overall cost effectiveness. Wherever possible the CCG will support the individuals preferred place of care within available resources. When identifying appropriate care provision the CCG will, by exercising clinical judgment, consider what is the safest option for the individual within the resources available to them.

However the CCG will only support domiciliary care packages that are up to 10% higher than that of which it would cost for a residential placement. The CCG cannot currently make direct payments to individuals and the CCG can only use agencies that are registered with the Care Quality Commission (CQC). However, if the patient would like to be considered for a Personal Health Budget (PHB) then they are entitled to have this from October 2014.

Personal health budgets are initially available for people who are eligible for NHS Continuing Healthcare. A personal health budget is an amount of money to support the identified healthcare and wellbeing needs of an individual, which is planned and agreed between the individual, or their representative, and the local clinical commissioning group (CCG).

At the center of a personal health budget is the care and support plan. This plan helps people to identify their health and wellbeing goals, together with their local NHS team, and set out how the budget will be spent to enable them to reach their goals and keep healthy and safe.

Any assessment of a care option will include the psychological and social care needs and the impact on the home and family life as well as the individual's care needs. The outcome of this assessment will be taken into account in arriving at a decision.

4.2.2 Continuing Healthcare Funded Nursing Home Placements.

Where an individual has been assessed as needing a nursing home placement the CCG will work with the individual and family/carer to identify a suitable placement within the preferred provider network. The CCG will endeavour to provide a reasonable choice of placements and discuss the placements with the patient and/or family. A weekly fee rate which the CCG reasonably considers sufficient to fund a care package to meet the individual's assessed needs will be agreed by the CCG and this fee rate will be the 'notional continuing healthcare budget' for that individual. This process will be further supported by the Joint Commissioning

Agreement between ECC and Essex CCGs, which is due to come on line in April 2016.

The individual or their family/representative may wish to identify another placement which is within the individual's notional budget and the CCG will agree to this placement provided it can meet the individual's assessed needs within the quality criteria and the Provider signs up to the CCG's proposed terms and conditions for the placement.

Where an individual wishes to augment any NHS funded care package to meet their personal preferences they are at liberty to do so for example; larger room, hairdressing, alternative therapies. However, this is provided that it does not constitute a subsidy to the core package of care identified by the CCG. Joint funding arrangements are not lawful.

These additional arrangements must be organised and settled outside of the NHS funding agreement by the individual or representative. If at any point these additional arrangements are stopped it will not be the responsibility of the CCG to 'pick up' such arrangements.

Exceptional circumstances would be considered for providing funding above the notional continuing healthcare budget. However, equity of provision and the wider community health needs cannot be ignored. Exceptionality would be determined on a case-by-case basis and would require the agreement of, Directors of Nursing or those within the CCG who have delegated responsibility. In the event that any of these individuals are not available, authorisation would need to be sought at CCG director level. The policy will be applied by the CCG's CHC team and its managers in seeking to confirm care arrangements with individuals.

4.2.3 Exceptionality

The CCG when developing this policy recognised their duty to consider effective and efficient use of resources. Therefore in order to deliver NHS Continuing Care to the whole population, the CCG may not agree to a care package that is preferred by an individual or representative and may require the individual to choose a less expensive alternative placement that will meet all their identified needs. When determining cost effectiveness the CCG will consider the genuine cost of each possible care package, taking into consideration the individual circumstances including, in relation to care at home packages, possible assistive technology and family input.

The CCG will normally not fund a care package which is more than 10% above the most cost effective care package identified by the CCG. The CCG will only fund packages above this level in exceptional circumstances taking into account the following considerations:

a) The person's wishes,

b) Likely impact on the person of any potential move (psychological and emotional),

c) Suitability of alternative arrangements,

d) Risks involved to the person and others,

e) The person's rights and those of his or her family and other carers,

f) Whether there are any creative alternatives available to enable the best use of resources available and to enable the person's choice to be realised, the CCG's obligation in relation to equality and the Public Sector Equality Duty

If the weekly cost of the care increases, apart from a single period of four weeks to cover either an acute episode, or for end of life care (rapidly deteriorating) to prevent a hospital admission, the care package will be reviewed and other options (for example a placement in a registered care home) will be explored.

Before suggesting any alternatives the CCG's will consider its responsibility to meet all health and personal care needs and that it is not able to accept 'top ups' to pay for care that the person is assessed as requiring.

The CCG is required only to provide services that meet reasonable requirements.

4.2.4 Continuing Healthcare Funded Packages of Care at Home.

People who are eligible for continuing healthcare funding have a complexity, intensity, frequency and/or unpredictability in their care needs which means it is less common for care to be safely delivered at home, especially where the care is provided to support the terminal phase of illness. The CCG will consider if care can be delivered safely to the individual and without undue risk to the individual, the staff or other members of the household (including children). Safety will be determined by a written assessment of risk undertaken by an appropriately qualified professional. The risk assessment will include the availability of equipment, the appropriateness of the physical environment and the availability of appropriately trained care staff and/or other staff to deliver the care at the intensity and frequency required.

The following should be considered before the CCG agree to commission a package of care at home:

a) The individual's current and likely future needs;

b) The individual's GP agrees to provide primary care medical support;

c) The suitability and availability of alternative care options;

d) The absolute cost of the package required to meet the assessed needs and the relative costs of providing the package of choice considered against the relative benefit to the individual;

e) The psychological, social and physical impact on the individual;
f) The willingness and ability of family, friends or informal carers to provide elements of care where this is part of the care plan and the agreement of those persons to the care plan.

Many individuals wish to be cared for in their own homes rather than in residential care, especially people who are in the terminal stages of illness. Patient's choice of care setting should be taken into account but there is no automatic right to a

package of care at home. The option of a package of care at home should be considered, even if discounted, with documented reasons.

When a patient is discharge into the community the CCG as commissioner takes on the responsibility for coordinating the case management supported by community clinical teams as appropriate to the patient's needs.

The CCG considers that in some circumstances an individual's needs are most appropriately met within a care home setting. The general assumptions are set out below. However, the CCG will take into consideration all relevant circumstances to establish whether these assumptions can be displaced:

- A package in excess of eight hours a day would indicate a high level of need which may more appropriately be met by a care home placement.

- Individuals who need waking night care would generally be more appropriately cared for in a care home. The need for waking night care indicates a high level of supervision at night.

- Placements are generally deemed more appropriate for individuals who have complex and high levels of need.

- Placements benefit from direct oversight by registered professionals and the 24 hour monitoring of individuals.

Each assessment will consider the appropriateness of a home based package of care, taking into account the range of factors identified within this policy and underpinned by the principles in the National Framework.

The above issues in each case will be considered by the CHC Clinical Leads, Heads of Nursing and Quality or an identified member of the senior nursing team in the CCG.

Where the CCG agrees to a care at home package, the CCG may request that the individual and/or family enter into an agreement confirming the basis on which the package will proceed. This will set out the obligations and expectations on both sides.

In the event that the CCG considers that the safety of any member of its staff or any staff contracted to provide the care is at risk it shall take such action as it considers appropriate. Harassment or bullying, verbal or physical abuse of care workers will not be accepted and the CCG will take any action necessary including immediate withdrawal. Where in exceptional circumstances it is necessary to withdraw services, the CCG will urgently consider how else (if at all) services can be offered.

In situations where the risk is due to the mental or physical health decline of the service user a clinical assessment and review of need will be undertaken by the CHC clinical team and referral to specialist healthcare practitioners to establish if the current care package is sufficient to meet those needs, the review may indicate that an alternative care provision maybe required.

4.2.5 Expectations when setting up home care packages

By the very nature of home care packages, there will often be a delay to implementation. It is not appropriate for the person to remain in hospital during this time, as there is an increased risk of developing dependency, increased exposure to infection and a reduction in bed availability for patients requiring hospital treatment and care.

When the person has been declared medically fit for discharge they will, by agreement, with both the multi-disciplinary team and individual be transferred to another clinically appropriate facility whilst arrangements for the home care package are being made. This may also be arranged as a 'step down' in healthcare input between hospital and home.

Transitional support either in the hospital or home setting may be arranged, for example; for any complex care package requiring specialist input, during recruitment and training of staff or for young people moving to adult services.

4.2.6 Preparation in the event a home care package breaks down

Alternative care arrangements in case the care package breaks down should be discussed between the person and his or her family or advocate and NHS case manager before commencement of home care. These arrangements would usually require an alternative commissioned service to be sourced, or a rapid admission to a registered care home or hospital which should be agreed with the person and his or her family or other carers and should be entered on the care plan.

If subsequently the person, or his or her family or other carers, do not allow the agreed alternative care package to be put in place should care break down, the CCG will use the safeguarding adults policy to ensure the best interests of the person are maintained.

Where care at home has broken down (i.e. the care agency/provider is unable to deliver appropriate care for reasons of difficulty with, for example, the person, his or her family, location, finding appropriate carers or managing clinical risk), provided that the conditions of this policy can still be met, the CCG will commission a replacement care package from a second provider. At this point, the CCG will give written notice to the person and his or her family that should the second care package break down, the person will be moved to an appropriate 'back-up' registered care home or other appropriate place of safety that both meets their needs and satisfies the CCG's criteria as set out in this policy. Where possible, this 'back-up' placement will be identified by the CCG in advance and detailed within the individuals care/support plan. If the placement offered is not acceptable to the person receiving care or their family, they may arrange and fund their own personal care package or alternative care home placement.

If the person or their family refuses the care packages offered by the CCG he or she will not be prejudiced should they wish to take up an offer of NHS services at a later date and this policy will be applied to such persons in the same way as to all those newly eligible for NHS Continuing Healthcare.

If a care worker and the person cared for do not get on well, the CCG will attempt to accommodate this. However, care packages, particularly live-in care, take time to set up and so reasonable time must be allowed to make alternative arrangements, if possible.

A notice period of termination of contract will be given by the CCG to care agencies, and expected from care agencies, and will be detailed within the NHS contract held with the care agency.

4.2.7 Change of Circumstances.

In the event that a review of an individual establishes that their condition has improved or stabilised to such an extent that they no longer meet the eligibility criteria for NHS fully funded Continuing Healthcare and a CHC assessment confirms that they are no longer eligible then the CCG will no longer be required to fund the service.

The CCG will give up to 28 days' written notice of cessation of funding to the individual or their representative and the relevant Local Authority. Any ongoing package of care that is needed may qualify for funding by social services, subject to assessment according to the "Fair Access to Care" criteria or the cost of any ongoing package of care may need to be met by the individual themselves. The transition of care should be seamless and will be coordinated by the case manager. The individual and/or their representative will be notified of the proposed changes to funding and involved when appropriate.

Where an individual who is currently receiving a domiciliary care package has been assessed and deemed that their needs have changed the CCG will consider whether the current care package remains appropriate. Where the CCG deems that the current care package is not appropriate and does not approve an amended domiciliary care package then the individual will need to agree to an alternative care package approved by the CCG. Where the individual does not agree to the alternative care package then the Refusal of Funding process will apply.

In the event that a patient becomes CHC eligible, who was previously funded by social services, the CCG will apply the same principles as for other patients. Namely, that each CCG has a duty to consider the best use of resources for their population whilst meeting the healthcare needs of an individual. Each CCG will seek to provide this care with the least disruption to the individual. Where possible within residential settings the NHS community services will support the residential care provider to meet the healthcare needs of the individual. However, in the event that the CHC clinical team consider that these needs cannot be met safely or if the CHC commissioning team consider that the costs of continuing to meet these needs are in excess of the notional health budget then the CCG reserves the right to commission alternative care which meets all reasonable requirements of a care package that fully meets the individual current assessed needs.

Equally whereby a Provider of a care package significantly increases their pricing and an alternative provider can deliver the same level of care for better value the CCG will consider a change in provider.

During this process the CCG will ensure the patient and family are fully informed and case managed throughout the process; including the facilitation of a reasonable handover period between providers.

4.2.8 Refusal of NHS Funding

The CCG will consider that it is a refusal of NHS Services where the CCG has offered the individual what it considers to be an appropriate care package to meet the individual's assessed needs and this is not accepted by the individual or their

representative (including where the individual has requested a particular package and the CCG has taken a decision that the package will not be commissioned but offered an alternative package of care).

Where there appears to be a refusal, the CCG will write to the individual (and/or representative) with a final offer letter setting out the care packages that the CCG is willing to consider and the consequences of refusing a placement. In this letter the CCG will provide a period of no less than 14 days for confirmation of acceptance of a package.

If the individual does not respond within the stated time period then the CCG will provide a written notice confirming that NHS funding will cease on a specified date which will be no earlier than 28 days from the date of the notice.

If the individual is considered to be vulnerable then the Safeguarding Adult's Policy will be applied.

4.2.9 Self-funders who become eligible

Before starting an assessment for NHS Continuing Healthcare for any person who is already in a care home placement which does not meet the requirements of this policy, the person needs to be informed about how this policy may affect decision making with regard to the existing and future placements. This will enable them to make an informed decision about whether or not to proceed with the assessment. This will usually be when a completed checklist indicates the need for a full Decision Support Tool or before a Fast Track tool is completed.

Possible implications for self-funders who do not wish to move:

If a person is currently self-funding his or her care home fees at a rate which is in excess of what the CCG would expect the person to fund, the person must be informed that the CCG would only continue to fund at the higher rate based on evidence of exceptional clinical reasons why the person's needs could only be met in that specific placement (e.g. potential significant detriment to the person's health if moved). If the person decides to proceed with the assessment, is found eligible for NHS Continuing Healthcare, but there is no evidence of exceptional clinical need for the current placement the CCG will:

a) Renegotiate fees with the current providers which are consistent with the associated CHC procurement approach, but if unsuccessful

b) Consider alternative placements which can meet the person's assessed needs within the requirements of this policy and the associated CHC procurement approach.

c) If in these circumstances, alternative placement/s are offered and are rejected the CCG's will assume that funding has been refused and the person wishes to continue with his or her existing private contract with the provider. From the date of rejection, the CCG's will give the person and the existing provider 28 days written notice that NHS funding will not be provided for the existing placement.

4.2.10 Reviewing of provision of care

All patients, in line with the NHS Framework for Continuing Care, once assessed and verified as being eligible for NHS funded care will receive an initial review at 12 weeks and annually thereafter.

Should at any point the health needs of the individual change the CHC team will reassess both for eligibility or a change of care provision in line with the Framework. The review of care provision could result in either an increase or a decrease in the care package required to meet those needs. The agreement to fund a home care package under the NHS Continuing Healthcare criteria does not constitute a commitment by the CCG to fund the person's care for life, or that the person will always be cared for in their own home.

For home care packages, if the individual requires an increase in care long term then the CCG will reassess the individual against the criteria within this policy to determine whether a home care package remains the safest and most economic option and may offer other reasonable alternative such as registered care homes or hospices, whichever best reasonably meet their needs.

If the individual is no longer eligible as stated in the National Framework, he or she is able to apply for an assessment of need against the Fair Access to Care.

4.2.11 Mental capacity

If an individual does not have the mental capacity to make an informed choice and is considered to be placing themselves at risk, a mental capacity assessment will be undertaken, in line with the guidance in the National Framework for NHS Continuing Healthcare 2012.

Where appropriate, an independent advocate will be appointed to support the individual in this process in accordance with the provisions of the Mental Capacity Act 2005.

If the individual does not have the capacity to make an informed choice the CCG will deliver the most cost effective, safe care available based on an assessment of 'best interests' and in conjunction with any advocate with lasting power of attorney, close family member or other person who should be consulted under the terms of the Mental Capacity Act 2005.

4.2.12 Human Rights

In developing this policy the CCG has taken legal advice specifically in relation to the right to respect a person's private and family life provided by Article 8 of the European Convention of Human Rights (ECHR 1950).

It is an interference with the person's right to respect for home and family life to require him or her to move from home to other accommodation. However, the right to respect for these aspects of privacy under article 8 is qualified, which means that interferences can be permissible, but must be justified.

Any limits of a person's rights must be justified as being a fair and reasonable decision, e.g. on the basis that the package of care had become unsafe or unsustainable.

Where a person is already receiving care in their own home, the CCG will need to consider the impact on a person's needs (including psychological and emotional needs) that a move to a different care setting may have in considering interfering with his or her rights under article 8.

Article 8 may also be engaged in the context of ability to maintain family and social links. If the CCG's proposed solution would be more remote from the person's family, this should be taken into account.

As a result, there may be circumstances where the CCG decides that a care package will not be funded for the individual's current residence and as a result would need to move in order to receive NHS funded care. As such this may be considered as an infringement of the individual's Article 8 rights. The CCG may justify such restriction where, on a fair application of this policy, it is necessary for a person to move in order to receive appropriate NHS funded care following consideration of clinical and/or cost effectiveness of the care packages available that the CCG consider meet a person's reasonable needs.

4.2.13 Appeals

Whereby the individual or representative is not satisfied with the choices offered to them, an appeal can be lodged in writing within 28 days of the offer directly to the CCG.

The case will be reviewed by the Director of Nursing or those with delegated responsibility. If the care package offer proposed by the CHC teams is upheld the individual or representative will be advised of their right to complain through the CCG complaints process in line with local policy.

If the complaint cannot be resolved locally the individual or their representative can be referred to the Parliamentary and Health Service Ombudsman.

4.2.14 Interim provision pending outcome of appeal

Where the CCG, having applied the criteria set out in this policy, decides to place a person in a registered care home as opposed to providing a personal care package, and he or she or the family makes an appeal against that decision, the CCG will offer an appropriate interim placement taking account of the person's safety as the over-riding factor. For these purposes 'interim' refers to the time between the appeal being lodged and then considered by the CCG. Depending on the outcome of the appeal, such 'interim' placement may become permanent.

The CCG's decision will be effective until the outcome of the appeal. If the appeal is successful, arrangements will then be made to revise the care package provided in consultation with the person and their family.

If, during the interim, the person and his or her family refuse the CCG's offer of an interim placement pending the outcome of the appeal, they may arrange and fund their own personal care package or placement within their chosen care home. If the CCG's original decision is upheld, it will again offer the person an appropriate care package in a registered care home that meets the criteria set out in this policy. If this registered care home placement is still not acceptable to the person or their

family, they may continue to arrange and fund their own personal care package or alternative placement.

5 APPLICATION OF THE POLICY

This policy will apply from 1st August 2015 for all individuals deemed eligible from this date.

For people in receipt of NHS Continuing Healthcare packages of care before 5 November 2014:

a. in any case that is considered 'high risk' as at the date of implementation of this policy, the person's needs will be reassessed and his or her package of care will be reviewed as a priority;

b. provided the risks to the person or their carers, including NHS staff, of continuing to provide the existing package continue to be manageable (where applicable) and the re-assessment of care needs indicates that the care package does not need to be changed, the CCG will continue to provide and fund the existing care package until such time as:

- in the case of a home care package, the risks cease to be manageable; or
- in any case, a future review and re-assessment of needs indicates the need for a long-term (i.e. of more than 2 weeks duration) placement
- increase in the level of healthcare required to meet reasonable needs; where upon this policy shall apply.

6 MONITORING COMPLIANCE

The policy will be audited as to effectiveness of ensuring choice and equity in the delivery of NHS Continuing Healthcare to individuals across the CCG. Exceptional reports on delivery of equity and choice in CHC will be taken to the CCG Executive Team if/when required.

This policy will be reviewed once every two years or if there are changes in National Guidance in either Patients Choice or Continuing NHS Healthcare.

7 ASSOCIATED DOCUMENTATION

- The National Framework for NHS Continuing Health Care and NHS Funded Nursing Care, Department of Health 2012
- The Department of Health Continuing Healthcare Practitioner Guidance 2010
- The National Eligibility Criteria for NHS Continuing Care
- High Quality Care for All, Department of Health, 2008
- The Human Rights Act 1998
- Personal Health Budgets, Department of Health 2009
- Mental Capacity Act 2005

8 REFERENCES

- Safeguarding Adults Policy
- Mental Capacity Act Policy
- Guidelines to Support the Implementation of Protection of Vulnerable Adults
- CHC Standard Operating Procedure
- PALS and Complaints Policy

Appendix 1

Leaflet for patients

CHC FUNDING EQUITY AND CHOICE LEAFLET AUG 2014.pub