

NHS Fully Funded Adult Continuing Healthcare Interim Choice and Resource Allocation Policy

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Name of author and title:	Manjeet Garcha, ICB
Name of reviewer and title:	Tracy Pilcher, Chief Nursing Officer, ICB
Department:	Corporate Office

VERSION HISTORY

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1 Introduction and Purpose of Policy

- 1.1 This Policy sets out the commissioning principles that NHS Coventry and Warwickshire Integrated Care Board ('the ICB') will work to in commissioning fully funded NHS Continuing Healthcare (CHC) in the context of choice and best use of financial resources.
- 1.2 The Policy aligns with the **National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care November 2012 (Revised)** ('the Framework') and has been developed to ensure:
- Choice for individuals, as far as is reasonably possible;
 - robust and consistent decision making by the ICB in respect of care packages and placements for individuals;
 - commissioning of services that meet specified levels of quality;
 - value for money from the tax payers' purse;
 - effective partnership working between clinicians, providers and agencies
- 1.3 This Policy is applicable to individuals eligible for NHS Continuing Healthcare – existing and new – and applies once the individual has received a comprehensive, multidisciplinary assessment of his/her care and support that demonstrates a primary health need and accepted by the ICB as eligible for NHS Continuing Healthcare funding.

2 Definitions

The definitions used in this policy are as follows:

Care Coordinator

A professional who coordinates the assessment and care planning process; usually the central point of contact for the individual.

Care Package

A combination of support services designed to meet an individual's assessed health and care needs.

Care (Support) Plan

A document outlining the support services to be provided in response to identified needs, with clearly identified outcomes to be achieved.

Care (Support) Planning

A process of planning the level and type of support services required to meet identified outcomes based upon an assessment of the individual's needs. This process should be undertaken by the clinicians and individual/family/carer, working in partnership.

Integrated Care Board (ICB)

The NHS Coventry and Warwickshire Integrated Care Board which is the organisation responsible for agreeing the eligibility of the patient for CHC, their care plan and budget; and for procuring services, where these are required.

Commissioning

The process of planning and procuring the best care at the best value for the local population based on local health needs within the budget available.

Individual

The individual is the service user who has been assessed for and deemed eligible for fully funded NHS Continuing Healthcare.

NHS Continuing Healthcare

A package of on-going care that is arranged and funded solely by the NHS where the individual has been found to have a primary health need. Such care is provided to an individual aged 18 or over to meet needs that have arisen as a result of disability, accident or illness.

Personal Health Budget

A sum of money made available to the individual (or their representative) or a Third Party in order to procure services to meet the individual's specific needs in accordance with their care (support) plan.

Provider

A person or organisation commissioned by the ICB that provides care to the individual in accordance with their care (support) plan.

Preferred Providers

Preferred providers are organisations commissioned on 'framework' contracts that have been assessed, through a competitive process, as providing good value for money care for individuals with CHC needs.

Representative

Any family member, friend or unpaid carer who is supporting the individual in the CHC process as well as anyone acting in a more formal capacity (e.g. welfare deputy or power of attorney, or any organisation representing the individual). Where an individual has capacity, s/he must give consent for any representative to act on his/her behalf.

3 Key Principles

- 3.1 Where a person qualifies for NHS Continuing Healthcare, the package of care to be provided is that which the relevant ICB assesses is appropriate to meet the individual's assessed health and associated social care needs in full (see paragraph 167 of the Framework).
- 3.2 The ICB will seek to commission services using models that promote personalisation and individual control and that reflect the individual's preferences as far as reasonably possible.
- 3.3 An individual's needs may change over time and consequently the ICB's responsibility to provide NHS Continuing Healthcare is not indefinite. Regular case reviews will be undertaken in order to reassess an individual's care needs and eligibility for NHS Continuing Healthcare in accordance with the Framework, and to ensure that the individual's needs are being met.
- 3.4 When commissioning care, the ICB will look to balance a range of factors from individual choice and preferences to quality/safety and value for money, recognising the need to achieve best use of financial resources for the total population of the ICB.

4 Mental Capacity

- 4.1 If there is concern that an individual may not have capacity to make a decision regarding the provision of their care, this will be determined in accordance with the Mental Capacity Act 2005 and the associated Code of Practice. Where it is assessed that an individual lacks the relevant capacity, a "best interests" decision will be taken (and recorded), again in accordance with the Mental Capacity Act 2005 and the associated Code of Practice. A referral to the Court of Protection will be made as necessary.

5 Care Planning

- 5.1 Following a determination of CHC eligibility, the individual's Care Coordinator will discuss care options with the individual and/or his/her representative/s (where the individual gives consent for such a discussion or where the individual lacks capacity).
- 5.2 In most circumstances there will be a range of options appropriate to meet the individual's needs.
- 5.3 Options for care provision are likely to take two main forms:
 - 5.3.1 Care provided in a registered care setting (such as a nursing home, a residential home or an independent hospital);

5.3.2 Care provided in an individual's own home and referred to in this document as "home care".

6 Provision of Care in a Registered Care Setting

- 6.1 In the interests of consistency and equity, the ICB will endeavour to place individuals with Preferred Providers.
- 6.2 The ICB's Preferred Providers:
- 6.2.1 Have been assessed and accepted by the ICB as being able to fulfil the Continuing Healthcare requirements of individuals at an agreed cost; and
 - 6.2.2 Are registered with the Care Quality Commission (or any successor organisation) as providing the appropriate form of care to meet the individual's needs; and
 - 6.2.3 Are not subject to an embargo by the ICB or the relevant Local Authority.
- 6.3 Wherever possible (i.e. where there are a number of preferred providers within the geographical area), the ICB will offer a reasonable choice of Preferred Providers to the individual. Where there are a reasonable number of providers this will be an offer of three providers with vacancies at that time from the ICB's preferred provider list. The ICB will offer patients at least one provider within a 10-mile radius of the given postcode. The remaining two providers will be dependent on the patient's healthcare needs and current capacity. This choice maybe outside of the 10 miles and this is deemed 'reasonable' due to the geographical area that the ICB covers and availability of care homes.
- 6.4 So far as it is reasonable to do so, the ICB will take account of the wishes expressed by an individual (and/or his/her representative/s) when making a decision as to the location/s of the care settings proposed (for example, the wish of individual to be accommodated in proximity to family members and/or friends).
- 6.5 To support the individual to be able to make an informed choice, the ICB will, in a timely fashion, provide the individual with relevant information regarding the care settings proposed.
- 6.6 Where an individual is currently in a hospital setting and is medically fit to be discharged, the individual (and/or his/her representative/s) will be given a reasonable choice of Preferred Provider and will be given 48 hours to make their first choice in order to avoid delays to discharge. Where no decision is communicated within this timescale, the relevant ICB, in conjunction with the hospital, has the right to move the individual to an appropriate care setting in order to prevent an undue stay in hospital. Where it is not possible to give a choice of Preferred Provider, paragraph 6.12 below.
- 6.7 For various reasons, it may not always be possible to accommodate an individual in a care setting in accordance with his/her first choice. If an individual's first choice accommodation is not available, s/he will be encouraged to consider other ICB Preferred Providers in order to ensure placement as soon as possible. In all cases, the individual will be accommodated in a care setting which is appropriate to meet his/her assessed health and associated social care needs in full.
- 6.8 If the individual is unwilling to be placed in an alternative available Preferred Provider, options available include but are not limited to:
- 6.8.1 Temporary placement of the individual in an alternative care setting until the first-choice care setting is available;
 - 6.8.2 The individual choosing to go to his/her own or a family member's home with a care package in place until the first-choice care setting is available. In such cases the cost implications to the ICB will be considered as per this Policy.
- 6.9 If the individual's representative/s are delaying placement in a care setting due to non-availability of their first choice and the individual does not have the mental capacity to make decisions him/herself, the relevant ICB reserves the right to apply to the Court of Protection for an Order that it is lawful to move the individual to an appropriate care setting.

- 6.10 Where an individual declines all of the care settings proposed by the ICB, the individual can suggest a different care setting so long as it satisfies the following criteria:
- The individual's preferred care setting appears to the ICB to be suitable in relation to the individual's assessed health and associated social care needs; and
 - The cost of making arrangements for the individual at his/her preferred care setting does not require the ICB to pay more than it would usually expect to pay having regard to the individual's assessed needs. The cost will be looked at by the ICB in relation to the 3 Preferred Providers sourced & offered by the ICB and rejected by the individual, based on the **highest** cost from the 3 choices.
 - The individual's preferred care setting is available;
 - The persons in charge of the individual's preferred care setting are able to provide the required care to the individual subject to the ICB's usual NHS Standard Contract Terms and Conditions, having regard to the nature of the care setting.
- 6.11 An individual (and/or his/her representative/s) will not be able to exercise choice to select a care setting which is unable to meet his/her assessed health and care needs.
- 6.12 Where none of the ICB's Preferred Providers are available to meet the individual's assessed health and care needs, the ICB may make a specific purchase and place the individual with another provider who fulfils the criteria outlined in paragraph 6.10. In this case, the ICB will notify the individual (and/or his/her representative/s) that s/he may subsequently be re-located should a Preferred Provider become available. In such cases, and prior to re-locating the individual, consideration will be given by the ICB to a range of factors, including the possible impact to the individual's health & wellbeing and whether re-locating the individual will provide a significant financial advantage to the ICB.

7 Provision of Care in an Individual's Own Home (Home Care)

- 7.1 The ICB acknowledges that many individuals wish to remain in their own homes with a package of care in place to meet their assessed health and care needs.
- 7.2 The relevant ICB may be prepared to support a package of home care where the anticipated cost to the ICB of the home care package is more than the anticipated cost of the provision of care in a registered care setting capable of meeting the assessed needs of the individual. Each case will be considered individually but it is unlikely that an additional cost of 10% or more than the anticipated cost of the provision of care in an appropriate registered care setting will be supported save in exceptional circumstances. In line with the Framework, the cost comparison will be based on the actual cost (highest of 3 preferred providers) that would be incurred in supporting a person with the specific needs of the individual in a registered care setting.
- 7.3 Where an individual (and/or his/her representative/s) expresses such a desire, the relevant ICB will assess whether it is clinically feasible and within the powers of the ICB to provide a sustainable package of NHS Continuing Healthcare in a clinically safe manner in the individual's home.
- 7.4 In considering any request for a package of home care, the ICB will take account of the following non-exhaustive list of factors:
- The extent of the individual's needs;
 - Whether care can be delivered safely to the individual without undue risk to him/her, any family member/s and the staff engaged to provide the care. Safety will be determined via a formal risk assessment undertaken by an identified professional. The risk assessment will consider the availability of suitably skilled carers and/or equipment and the appropriateness of the environment;
 - The acceptance by the individual of any identified risk/s, where plans to minimise such risk/s can be put in place, which are agreed by the individual, the care provider/s and the relevant ICB;
 - The individual's preferences;
 - The suitability of alternative arrangements;
 - The willingness and ability of family/informal carers to provide elements of care and the agreement of those persons that the provision of such care will form an integral part of the care plan;

- Provision of contingency if the care provider fails or is unable to deliver care to the individual.
- 7.5 Where the relevant ICB decides to offer a package of home care, the individual's home becomes the place of work of any staff member/s engaged to provide care. Employee safety is a key consideration and the individual's home must be a reasonably safe environment to work and deliver care.
- 7.6 The ICB recognises that the cost of a home care package may be reduced where family members are willing and able to provide elements of care to the individual without charge. Whilst family members are under no legal obligation to offer such care and no pressure will be placed upon them to do so, the relevant ICB will ask family members if they are prepared to do so. If they agree, the ICB, in designing any home care package, is entitled to assume that family members will provide the agreed level of support. In these circumstances, the ICB will ensure that there is a programme of ongoing assessments to ensure that the individual is receiving the appropriate level of care to meet his/her assessed needs. Should family support be withdrawn the ICB may review the appropriateness of the package in line with the contents of this policy.
- 7.7 Where a package of home care is to be provided, the ICB will use domiciliary care agencies it has commissioned to provide such care. Home care will be provided by agencies suitably qualified to deliver the care that meets the individual's assessed health and associated social care needs.
- 7.8 The relevant ICB will not be prepared to fund a package of home care where the ICB determines that it is unable to put in place a package of care in the individual's home which satisfies the individual's assessed health and associated social care needs in full and which is safe and sustainable.

8 Additional Services

- 8.1 The relevant ICB will only commission and fund those services that are identified in an individual's care plan and for which it has a statutory responsibility.
- 8.2 The individual (and/or his/her representative/s) has the right to enter into discussions with any care provider to supplement the care package, over and above the package of care that the ICB has agreed to provide and fund. Any costs arising out of any such agreement must be funded by the individual or through third party funding. These costs may, for example, relate to:
- 8.2.1 Additional non-healthcare services to the individual. For example, hairdressing, provision of a larger room, provision of an en-suite room or enhanced TV packages.
- 8.2.2 Additional healthcare services to the individual outside of the services that the individual has been assessed as needing as part of the NHS Continuing Healthcare package. These types of services may include, for example, chiropractor appointments or additional physiotherapy sessions.
- 8.3 The decision to fund additional non-healthcare or healthcare services must be entirely voluntary for the individual. The provision of the NHS Continuing Healthcare package must not be contingent on the individual (and/or his/her representative/s) agreeing to fund any additional services. This means that the registered care setting must be able to meet the assessed needs of the individual in full.
- 8.4 Similarly, NHS Continuing Healthcare funding should not in any way be used to subsidise any additional non-healthcare or healthcare services that an individual chooses outside of his/her care plan.
- 8.5 Where an individual is funding additional non-healthcare or healthcare services, the associated costs to the individual must be explicitly stated and set out in a separate agreement. If the individual chooses to hold a contract for the provision of additional services, it should be clear that the additional payments are not to cover any care provision (relating to the individual's assessed needs) which is funded by the relevant ICB.
- 8.6 In order to ensure that there is no confusion between the NHS and the privately funded services, the relevant ICB will enter into a legally binding service agreement with the selected care provider which details the provision by that provider of a defined level of health and social care to the individual. This will expressly be independent of any arrangement between the selected care provider and the individual

(and/or his/her representative/s) and will be expressed to continue notwithstanding the termination of any arrangements made between the individual (and/or his/her representative/s) and the care provider.

- 8.7 Any payments made by the individual (and/or his/her representative/s) under a contract with a care provider for additional services cannot be made under the ICB contract.
- 8.8 If the individual (and/or his/her representative/s) decides for any reason that the funding of the additional services is to be terminated, the relevant ICB will not assume responsibility for funding those additional services.

9 Acceptance/Withdrawal of Service

- 9.1 An individual is not obliged to accept an NHS Continuing Healthcare package. Where an eligible individual chooses not to accept a package, the relevant ICB will take reasonable steps to make the individual aware that the Local Authority does not assume responsibility to provide care to the individual. The ICB will work with the individual to help him/her understand his/her available options.
- 9.2 The NHS discharges its duty to an individual by making an offer of an appropriate package of care to the individual, whether or not s/he subsequently chooses to accept the offer. The following are examples of how this can work in practice:
- 9.2.1 The relevant ICB offers to discharge its duty by providing a package of services for a individual in one or more appropriate registered care settings, irrespective of whether the care setting/s are situated in the individual's preferred location, and that offer is rejected by the individual;
- 9.2.2 The relevant ICB offers to discharge its duty to an individual who, to date, has had a package of home care by moving the individual to an appropriate registered care setting but that offer is rejected by the individual.
- 9.2.3 The relevant ICB advises the individual (and/or his/her representative/s) in writing of the decision by the ICB of a first choice of provider. If the individual is within a hospital setting a 'first choice' letter will be sent by the Acute Trust. The individual (and/or his/her representative/s) rejects that offer.
- 9.3 Following a review, as described in Section 10 below, the individual's needs may have changed to the extent that s/he is no longer eligible for NHS Continuing Healthcare. In these circumstances, the relevant ICB will be obliged to cease funding. However, in all such cases, the relevant ICB will carry out a joint review with the Local Authority as follows:
- 9.3.1 The individual will be notified that s/he may no longer be eligible for NHS Continuing Healthcare; at this point the Local Authority will have 28 days to review the individual's requirements. In appropriate cases, the relevant ICB funding for an individual's care may be continued for 28 days where a Local Authority is undertaking such a review.
- 9.3.2 Where there is a dispute between the relevant ICB and the Local Authority as to the funding and/or care management responsibilities, the ICB will follow the Dispute Resolution Protocol agreed with the Local Authority.
- 9.4 It may be appropriate for the relevant ICB to withdraw funding NHS Continuing Healthcare services where there is a risk of danger or violence to or harassment of staff who are delivering the package care.
- 9.5 The relevant ICB may also withdraw the provision of an NHS Continuing Healthcare package in a particular location where the clinical risks become too high for a safe and sustainable package to be delivered in that location. For example, where the package is delivered in a home care setting, the relevant ICB may choose to offer a package of care in a registered care setting in accordance with section 6 of this Policy as an alternative, where the home package is deemed unsafe.

10 Continuing Healthcare Review

- 10.1 9A case review should be undertaken no later than three months after the initial eligibility decision, in order to re-assess the individual's care needs and eligibility for NHS Continuing Healthcare, and to ensure that the individual's needs are being met. Reviews should thereafter take place annually, as a minimum.

- 10.2 If the case review demonstrates that the individual's needs have changed to the extent that s/he is no longer eligible for NHS Continuing Healthcare, paragraph 9.3 above will apply.
- 10.3 Alternatively the case review may identify that the individual's needs have changed to an extent that his/her care package requires adjusting. In this case:
- 10.3.1 Where an individual is receiving a package of home care, the relevant ICB will consider whether it is possible and cost effective for the revised package of care to be delivered in the individual's home environment in accordance with section 7 of this Policy.
- 10.3.2 Where the individual is accommodated in a registered care setting, the relevant ICB will ensure that the care setting is able to deliver the revised package of care. Where the care setting is unable to deliver the revised package of care, the ICB will offer to accommodate the individual in an alternative care setting (able to deliver the revised package of care) in accordance with section 5 of this Policy.
- 10.3.3 Where individual is accommodated in a registered care setting and the case review has identified a decreased need, the relevant ICB will consider whether it is cost effective for the revised package of care to be delivered in the current care setting. The ICB may re-locate the individual to an alternative care setting (able to deliver the revised package of care) in accordance with section 6 of this Policy.

11 Exceptional Circumstances

- 11.1 In exceptional cases, the relevant ICB may be prepared to consider funding a package of care where the anticipated cost to the ICB is more than it would usually expect to pay under the terms of this policy having regard to the individual's assessed health and associated social care needs.
- 11.2 Exceptionality will be determined by the ICB on a case-by-case basis and considered in accordance with the ICB's Individual Funding Request Policy.

12 Appeals

- 12.1 In compliance with paragraph 99.9 of the Practice Guidance incorporated within the Framework, an individual (and/or his/her representative/s) may dispute a decision by a ICB as to the package of care to be provided to him/her. Appeals will be dealt with through the ICB's complaints procedure.
- 12.2 If the complaint cannot be resolved locally either through internal or independent review the individual (and/or his/her representative/s) will be referred directly to the Health Service Ombudsman.

13 Personal Health Budgets

- 13.1 The ICB is committed to using personal health budgets where appropriate and recognise that the use of a personal health budget can enable an individual to have greater choice, flexibility and control over the care and support s/he receives.
- 13.2 From 1st April 2014 individuals meeting CHC eligibility criteria have the right to request a Personal Health Budget and from 1st October 2014 they have the right to receive a Personal Health Budget (so long as they meet the appropriate eligibility criteria).
- 13.3 Personal health budgets can operate in a number of different ways, including:
- A 'notional' budget held by a ICB commissioner;
 - A budget managed by a third party on the individual's behalf.
 - Via a cash payment to the individual (a healthcare direct payment);
- 13.4 Individuals considering applying for a Personal Health budget should read the ICB's Personal Health Budgets Commissioning Policy. Financial limits on PHBs align with those outlined in this policy.