

Continuing Healthcare (Adults) Equity Policy

November 2023



NHS Staffordshire and Stoke-on-Trent Integrated Care Board

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Name of originator/ author	Natalie Cotton, Head of Portfolio – Integration
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Target audience	All ICB staff, system partners engaged in the CHC process, MLCSU staff as the CHC delivery, eligible service users and their representatives

Version Control

Version Number	Date	Outline of amendments
1.0	May 2023	Initial policy draft
2.0	July 2023	Updated on receipt of feedback from the Director of CHC
3.0	August 2023	Updated to reflect feedback from the completed Quality Impact Assessment and further discussions with ICB Leads.
4.0	September 2023	Updated the introduction to state that Personal Health Budgets (PHBs) are not within the scope of this policy.
5.0	October 2023	Further amendments to reflect comment from safeguarding and quality ICB colleagues.

Introduction

This policy applies to the Staffordshire and Stoke-on-Trent Integrated Care Board, hereafter referred to as 'the ICB'.

This policy sets how the ICB will commission care and support patients eligible for NHS continuing healthcare funding and for whom the ICB is the responsible commissioner. The ICB has developed this policy to ensure best use of NHS resources whilst providing services that are personalised, high quality, safe, sustainable, and equitable (fair).

In preparing this policy, the ICB has had regard to the National Framework for NHS Continuing Healthcare (CHC) and NHS-funded Nursing Care (2018)¹.

This policy does not set out the ICBs approach to the delivery of Personal Health Budgets (PHBs), this is covered under the separate PHB Policy.

This policy covers patients over the ages of 18 who have been assessed as eligible for:

- NHS Continuing Healthcare (CHC)
- Funded Nursing Care (FNC)
- Joint funded packages of health and social care

Purpose

The ICB is a statutory body with the general function of arranging for the provision of services as part of the health service in England and is an NHS body. It must use its limited resources effectively, efficiently and economically to commission health services reasonably required for the whole of its population. It is also under a statutory financial duty to break even.

The ICB also has duties to commission with due regard to promoting individual involvement and choice.

The purpose of this policy is to enable the ICB to balance these obligations and commission the provision of safe, personalised, quality and cost-effective care for patients who have been assessed as eligible for CHC. Furthermore, to support consistency, transparency, and equity of access to services.

The policy has been developed to inform patients how the ICB will commission services in relation to CHC.

This policy should be read in conjunction with the National Framework for CHC and NHS Funding Nursing Care (2018) and the ICBs personal Health Budget (PHB) Policy.

Scope of Policy

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1160598/National-Framework-for-NHS-Continuing-Healthcare-and-NHS-funded-Nursing-Care_July-2022-revised_corrected-May-2023.pdf

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This policy applies to all ICB staff, CHC staff employed by the Midlands and Lancashire Commissioning Support Unit (MLCSU) for which the ICB commissions to deliver its CHC service and patients in receipt of CHC funding and/ or their representative as appropriate.

Definitions

Carer means anyone who looks after a family member, partner or friend who needs help because of their illness, frailty or disability.

Care Plan means is a jointly agreed, written plan between you and your care co-ordinator I which outlines: your assessed needs, personal goals and care commissioned to meet assessed needs.

Continuing Healthcare/CHC means a package of care arranged and funded solely by the ICB, for a person aged 18 or over, to meet needs which have arisen as a result of disability, accident or illness.

Decision Support Tool used in NHS continuing healthcare funding decisions – is a document which helps to record evidence of an individual's care needs to determine if they qualify for continuing healthcare funding.

Funded Nursing Care means NHS-funded nursing care (FNC), which means the NHS contributes towards your fees by paying a flat rate directly to the care home.

Integrated Care Board means a statutory organisation bringing the NHS together locally to improve population health and establish shared strategic priorities within the NHS.

Integrated Care System means Integrated care systems (ICSs) are partnerships of organisations that come together to plan and deliver joined up health and care services, and to improve the lives of people who live and work in their area.

National Framework means the National Framework for NHS Continuing Healthcare and NHS funded Nursing Care (last published 2018 and as amended from time to time).

National Health Service means Government-funded medical and health care services that everyone living in the UK can use without being asked to pay the full cost of the service.

Patient means a person with a specific disease or condition who receives treatment from a Healthcare Provider.

Personal Health Budget means an amount of money to support the healthcare and wellbeing needs of an individual, which is planned and agreed between the individual, or their representative, and the local ICB.

Principles

When commissioning packages of care for patients, we will place more emphasis on the realisation of individual patient outcomes, quality, safety and value for money over the level of choice available.

The balance between cost and individual choice should be applied consistently and equitably across all patients eligible for CHC thus this policy sets out the principles which will be applied to all decisions.

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It is the responsibility of the NHS to make reasonable offers of services to individuals eligible for Continuing Healthcare to meet their assessed needs. If offers of reasonable services are made to individuals to meet their assessed needs and refused, the ICB has discharged its legal duty to those individuals.

Assessment, Identification of Need and Decision Making

The ICB will assess eligibility using the following documents and processes:

- CHC Checklist
Checklist is then screened and quality assured by MLCSU
- Decision Support Tool (DST)
DST is then screened and quality assured by MLCSU
- If considered eligible presentation to Integrated Care System (ICS) care assurance panel that is chaired by ICB Director of Nursing for All Age Continuing Care (AACC).

Personalised care means people have choice and control over the way their care is planned and delivered, based on 'what matters' to them and their individual strengths, needs and preferences. The NHS Long Term Plan places a commitment for ICBs and wider ICS partners to roll out personalised care to its population to enable individuals to have more choice and control over the way their care is planned and delivered. Choice plays a big factor in everyday life, and that should be no different when it comes to decisions about the care received for physical or mental health.

Where a person qualifies for Continuing Healthcare the package to be provided is that which the ICB assessed is reasonably required to meet assessed health and associated social care needs. The ICB is ultimately responsible for assessing and determining eligibility, needs, and the care and support reasonably required by a patient to meet the assessed needs. However, patients are encouraged and have the opportunity to participate in the assessment and care planning process. When deciding on how their needs are met, the patient's wishes and expectation of how and where care can be delivered will be recorded and taken into consideration, where appropriate.

The process of assessment and decision making should be person-centred however the ICB needs to carefully balance patient choice alongside quality, safety and value for money to ensure consistent and transparent decision-making that is:

- Person-centred.
- Based on a comprehensive assessment of the patients assessed need, safety, and best interest.
- Considers the need for the ICB to allocate resources in the most cost-effective way.
- Fair, safe, consistent, transparent, and equitable.
- Supports patient preference and choice where possible considering the above factors.

Commissioning Packages of Care

The ICB has a legal duty to commission services reasonably required to meet an eligible patient's assessed needs as determined through the NHS Decision Support Tool (DST) assessment and subsequent reviews.

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It is the ICB's responsibility to determine what an appropriate package of CHC funded care is. The ICB will involve the patient and/or their representative in the assessment and care planning processes, taking into consideration their wishes, wherever possible.

The NHS CHC Framework states that the ICB is required to meet the health and associated social care needs of patients who are eligible for CHC however the ICB has discretion as to the way CHC packages of care are commissioned. The ICB will exercise its judgment to arrange care and support which is reasonably required to meet assessed needs in a cost effective way whilst striving to deliver care which is person-centred and support patient preference and choice where possible.

The ICB will always consider safety, quality, personalisation and value for money when commissioning a care package for NHS CHC eligible patients. It will therefore always aim to meet a patient's assessed need and individual patient outcomes in the most cost effective or "best value" way.

The ICB does not routinely commission or fund, unless by exception (detailed under section 7.7)

Care at home when a risk assessment identifies risks that cannot be safely managed in a home environment. This includes care at home when a safeguarding assessment and plan identifies risks that cannot be mitigated and only safely managed within a 24-hour care setting.

Care at home when a patient requires 24-hour care to be delivered by a Registered Nurse (RGN) or Registered Mental Health Nurse (RMN).

Care at home when a patient has night-time needs that cannot be managed by support in the community by core commissioned services.

24 hour one to one (1:1) care in a nursing home setting.

Care at home where the care package is significantly more expensive than the cost of care for an individual in an appropriate 24-hour setting.

Care at home when there are frequent and repeated calls to emergency services (999) and unplanned attendances and admissions to hospital where risk is identified and cannot be mitigated, in relation to the provision of care at home.

Costs of home care packages can be constrained where family members/ carers are willing and able to provide elements of care. It is recognised that family members are under no legal obligation to offer such care however the ICB will explore the feasibility of working with family members and carers who express an interest in supporting a recipient of CHC.

The ICB recognises that there may be cases that reasonably require it to depart from the position detailed between 7.5.1 and 7.5.6 and so where a family or patient expresses a desire for a particular arrangement the ICB will investigate to determine whether it is clinically feasible and cost effective to commission.

In doing so, the ICB will consider:

- Likely impact on the patient of any potential move, including psychological and emotional impact.
- Suitability and/or availability of alternative arrangements.
- Risks involved to the patient and others.
- The patient's rights and those of their family and other carers.

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- Whether there are any creative alternatives available to enable the best use of resources available and to enable the patient choice to be realised.
- The ICB's obligations under the Equality Act 2010 including the Public Sector Equality Duty.

When considering in an exceptional case whether to support a package of care that keeps a person in their own home the ICB will consider the cost comparison based on the genuine alternative options and a comparison with the cost of a care home will be based on actual costs rather than assumed costs.

In circumstances where the ICB has commissioned a home package of care for a person, if the weekly cost of care increases, the care package will be reviewed, to ensure that the care package remains high quality and cost-effective relative to reasonable alternative provision. Other options (for example, a placement in a Care Home) may be explored. This excludes single periods of cost increase to cover an acute episode and end of life care where the individual is in the terminal stage and hospital admission can be prevented.

Such cases will be considered by the Care Assurance Panel in the first instance, this will include packages of care that are over and above the agreed financial thresholds applied and/ or packages of care in exceptional circumstances irrespective of cost

The aim of the Care Assurance Panel is to provide a consistent approach and to ensure that individual patient cases are considered in a fair, equitable, transparent and evidence-based way.

If it is felt that an individual's care should be provided in an alternative setting that is not agreed by the individual or their representative their case will be presented to the ICB executive responsible officer for AACC for decision.

Commissioning of One-to-One (1:1) Care and Observations in Care Homes

The ICB has established a one-to-one observations standard operating procedure (SOP) for CHC patients in care homes (see appendix 2). The purpose of the SOP is to:

- Implement standardised forms to use when requesting 1:1.
- Ensure that care providers have accessed NHS universal services prior to requesting 1:1.
- Ensure all requests for 1:1 by Care Homes adhere to the NHS Continuing Healthcare (2018) Framework which stipulates the elements of a good multidisciplinary assessment of needs.
- Ensure least restrictive practice for CHC residents in care homes. This will include an assessment for the person's mental capacity (MCA) and an application for a Deprivation of Liberty (DOLs).

Where 1:1 is clinically justified and is commissioned, the following principles will apply:

- The rate paid for 1:1 care will be set by the ICB and will be applicable to all Providers.
- 1:1 is agreed on a short term basis and reviewed at least four weekly by the case manager.
- 1:1 care is not expected to be commissioned as a long-term arrangement.

If however an individual deteriorates and 1:1 care is indicated the case will be duly reviewed.

Opportunities to investigate more patient-centred approaches to care provided in a least restrictive manner such as cohort nursing and use of technology enabled care should be considered as a default where possible.

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Where 1:1 is commissioned, rotas and evidence of care provision relating to 1:1 are required to support the payment of associated care.

Choice

The ICB will promote choice and control so individuals can receive support in ways that are meaningful to them, aligned to ICB Policies and Procedures and balanced against the effective and efficient use of our resources.

The ICB recognises the importance of choice however when commissioning services for people, the ICB must balance promoting choice with its competing duties including its duties to commission effectively, efficiently and economically and to break even. Whilst the ICB will always seek to provide person-centred care and to accommodate choice in relation to CHC provision, it will always do so having regard to what is reasonably required to meet the patient's assessed needs and health and wellbeing outcomes with the aim of providing the best care and support at the best value and equitable use of resources for all of the people it supports.

Acceptance and withdrawal of services

The ICB discharges its duty to arrange CHC for a patient by making an offer of a suitable care package of care to an individual, whether they choose to accept the offer or not.

The ICB, in making an offer of a reasonable CHC package, may not be required to offer an individual their preferred choice of location.

A patient is not obliged to accept an offer of a CHC package and may choose to end a package at any time. However, refusing to accept an offer of care does not automatically entitle them to a revised offer.

If an existing CHC package has become unstable, unsafe or unsustainable, for example where the situation presents a risk of danger, violence to or harassment of persons including but not limited to care staff who are delivering the care package, then the ICB may reasonably make a decision to revise the CHC package it commissions to mitigate those risks and this may result in a change to the location where the care and support is provided. In those circumstances, a patient is free to choose to accept or refuse the revised offer of care.

The ICB may also reasonably vary a CHC package where clinical risks become too high to manage safely with existing provision. Where CHC clinical risk has become too high in a home care setting, the ICB may discharge its duty by offering a new CHC package in a 24-hour setting.

CHC annual reviews and changes to packages

The ICB must carry out reviews of patients in receipt of CHC.

All patients in receipt of CHC funding will have at least a 3 month and an annual review carried out in line with the NHS Continuing Healthcare Framework. This will be a face to face review and on occasions if requested by an individual or their next of kin to support attendance the review will be considered to be carried out virtually. A review may result in a decrease or increase in the level of care and support required if a person's needs have changed. The outcome of this review will be confirmed to an individual in writing.

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Reviews may need to take place sooner or more frequently if the ICB is made aware that the health needs of the patient have significantly changed or it becomes apparent that there are issues with the CHC package.

If a review of a patient establishes that their condition has improved or stabilised to such an extent that they are no longer eligible for CHC, then a full re-assessment will be carried out and if this deems that the person is not eligible for CHC the ICB will be no longer required to fund a CHC package for the patient.

The ICB will provide written notice of cessation of funding to the individual and the relevant Local Authority from the date of the ICBs decision. The notice period is 28 days.

In circumstances where the ICB is unable to carry out a review and so unable to determine if a CHC package remains suitable then the ICB may reasonably revise the offer of care so that care is provided in a location that will facilitate review.

Appeals

Once an eligibility decision has been determined, if an individual or their representative is not in agreement with the decision or the process a local resolution process is in place to support an appeal to this decision.

Where it has not been possible to resolve through local resolution the individual or their representative may apply to NHS England for an independent review.

Complaints

Where a patient is not satisfied with a decision regarding their CHC package, including the choices offered, or believes that their CHC package has not been managed in line with this policy, they may submit a complaint in writing to the ICB. A complaint can be made by the following methods:

- Freephone: 0808 196 8861
- Email: PatientServices@staffsstoke.icb.nhs.uk
- Post: New Beacon Building, Stafford Education and Enterprise Park, Weston Road, Stafford, ST18 0BF.

The ICB is only required to commission care and services that meet assessed needs of the patient. Exceptionality will be determined on an individual case-by-case basis and will require a clear clinical rationale and agreement by the Care Assurance Panel.

Appendices

1. Link to the agreed Care Assurance Panel SOP
2. Link to the 1:1 in care homes SOP and supporting guidance

Appendix

- A. EIA
- B. QIA