NHS Continuing Healthcare Joint Operational and Dispute Policy

October 2018

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Related Documents	National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)*

POLICY DEVELOPMENT PROCESS

Names of those involved in policy development

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Names of those consulted regarding the policy approval

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03/10/18	Jodi Simpson	Manager for Older People and Physical Disabilities Bedford Borough Council	jodi.simpson@bedford.gov.uk
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Committee where policy was discussed/approved/ratified

Committee/Group	Date	Status
BCCG Policy Group	17/10/18	Approved to go to Exec

Equality Impact Assessment

This policy purely references a local process between BCCG and BBC/CBC and there is no local variance from the National Framework for NHS Continuing Healthcare and NHS-funded Nursing care *October 2018 (Revised).*
Confirmation with Paul Curry 04/10/18

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1) Introduction

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)* lays out the roles and responsibilities of all statutory bodies, in order that individuals who may have a primary health need have a 'whole system' approach to assess and manage social and health care needs.

The revised framework outlines the specific requirements for local authorities to cooperate and work in partnership with CCGs. This policy describes the agreement between Bedfordshire Clinical Commissioning Group (BCCG) and Bedford Borough (BBC) and Central Bedfordshire Councils (CBC) to ensure a clear process for assessment and dispute, addressed in a professional and timely manner within defined responsibilities.

2) Purpose

This purpose of this policy is to ensure adherence to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)*, it is not a replacement for the framework but an agreement between the Clinical Commissioning Group and Local Authorities (LAs) to comply with their legal responsibilities to ensure the Continuing Healthcare process is appropriate, fair and equitable across Bedfordshire.

The responsibilities between Bedfordshire CCG and LAs described within this policy give clear guidance to professionals on their duties in supporting appropriate assessments within the defined timeframes and prompt management when dispute occurs.

3) Responsibilities

It is the duty of health and social care professionals to identify individuals who may have a primary health need in a person centred-approach. It is the responsibility of the professionals to attend CHC training and to adhere to the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)*.

Bedfordshire health and social care will commit to delivering an annual programme of joint training across professionals, including providers as necessary.

The revised framework offers extra clarity in regards to where and when to assess for CHC funding. The majority of CHC assessments should take place outside the acute setting, at a time and place that the individual has reached their optimum. Assessment should not take place when either the individual is acutely unwell/requires further treatment/rehabilitation or is not within the appropriate care provision.

In order to reduce unnecessary assessment the revised framework clarifies that the checklist should only be completed when professionals believe the individual is likely to have a primary health need. It is not appropriate to screen all individuals likely to have a positive checklist however unlikely to meet CHC eligibility.

Assessment Process:

Party	Key Responsibilities
Health & Social Care professionals referring individuals for consideration of CHC eligibility	• Assess at a time that the individual has reached their optimum, is not acutely unwell or requiring further treatment/rehabilitation and is being managed by an appropriate care provision • Assess if the individual is likely to have a primary health need, if not document that there has been consideration for CHC however they are not currently considered to meet the criteria, discuss with individual/representative. • Gain consent (Lasting Power of Attorney consent or complete Mental Capacity Assessment) to access and share records relating to the CHC assessment process. • Complete the CHC checklist (2018), submit both negative and positive checklists within 48 hours to chcadmin@nhs.net • LAs to ensure attendance and participation of social care staff in Multi-disciplinary team

	(MDT) meetings organised for the completion of CHC Decision Support Tools within 14-21 days of submission of a positive CHC Checklist to the CHC Department. • As part of the MDT, make a recommendation of either non-eligibility or eligibility for CHC Funding • Submit a social services assessment as supportive evidence (preferably prior to the DST), supply evidence as required to support the recommendation • Work with the CHC department to ensure 80% of positive Checklists are completed within 28 Calendar days (including verification by BCCG) • Where it has not been possible for a social care representative to attend the MDT, the appropriate LA will ensure social care review of the DST within 21-25 days of original submission of the positive checklist to support the appropriate recommendation prior to a decision from BCCG • Implement/take over care provision from day after verification
CHC Department	• Verification of a positive checklist within 48 hours of submission to the department • Where Consent (MCA/BI) or the Checklist is incomplete/unacceptable urgent contact will be made with the referrer • Proceed to book MDT to complete DST within 14-21 days of positive Checklist submission • CHC Co-ordinator to ensure evidence is compiled within the DST, recommendation is signed by all members of the MDT and submit for ratification within 25 Calendar days of positive Checklist submission to the CHC Department • Where the MDT are recommending an individual is no longer CHC eligible, advise that funding will cease on date of verification • Verify the MDT recommendation within 28 days of Checklist submission and advising

	the individual/representative and members of the MDT of the outcome • Implement CHC care package for individuals who are eligible for CHC ensuring the individual does not have a break in care • Cease funding on day of verification if the individual no longer meets CHC eligibility and send appropriate letter copying in LA and care provider • Completion of plan of care/discussions regarding personal health budget (PHB) for domiciliary care packages

Dispute Process:

Party	Key Responsibilities
Bedford Borough and Central Bedfordshire Councils, this includes Community Mental Health Services working on behalf of either local authority under a Section 75 agreement (*note: any council external to Bedfordshire should adhere to this policy as stated within the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care October 2018 (Revised)*	When entering into the dispute process, the LA and CCG must agree to interim payment (funding without prejudice) so that the individual is not left disadvantaged or without care provision. <u>Stage 1</u> • Notify the MDT at recommendation or BCCG CHC Department of a dispute (via chcadmin@nhs.net) no later than 2 weeks from the date of BCCG's verification • When notifying the CCG, written evidence on the areas disputed with any appropriate supporting documents must be provided within 7 days • Identification of the LA team manager who will be the initial officer responsible for resolving the dispute informally • Agree to a meeting/teleconference with the CCG Lead Assessor within 2 weeks of verification with the aim to reach agreement on the areas disputed

	<u>Stage 2</u> • If there is no agreement in Stage 1, a LA Service Lead is to be identified to lead on the dispute with the CCG. • Agree to a further meeting within 2 weeks of Stage 1 meeting, involving other professionals able to support/guide advice on the level of specialism/complexity • To work with the CCG to agree on areas disputed and attempt to gain agreement <u>Stage 3</u> • If the dispute has not been resolved, the LA agree for an alternative CCG CHC Department and LA to review the DST/evidence from within the Integrated Care System (BLMK) and abide by their findings
Bedfordshire Clinical Commissioning Group	<u>Stage 1</u> • Promptly acknowledge receipt of the dispute submission and evidence • Within 2 weeks of LA dispute notification arrange a dispute meeting/teleconference between the Team Manager lead and Lead Assessor with the aim to resolve the dispute <u>Stage 2</u> • If there is no agreement in Stage 1, a LA Service Lead is to be identified to lead on the dispute with the CHC Operational Manager or Head of Service. • Arrange a further meeting/teleconference within 2 weeks of Stage 1 meeting, involving other professionals able to support/guide advice on the level of specialism/complexity • To work with the LA to agree on areas disputed and attempt to gain agreement

	<u>Stage 3</u> • If the dispute has not been resolved arrange an alternative CCG CHC Department and LA to review the DST/evidence from within the Integrated Care System (BLMK) and abide by their findings

4) Principles

Bedfordshire Clinical Commissioning Group and Bedford Borough and Central Bedfordshire Councils agree to work in partnership following these key principles:

- To develop a culture of problem solving and partnership working within the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)*
- Always keep the individual at the centre of any deliberation, working in partnership to resolve disagreement before moving to the dispute process
- No individual nor their representative should be involved in the dispute, they should always be cared for in an appropriate environment to meet their current needs
- To follow the agreed timeframes and processes for CHC assessment and dispute
- Frontline staff should be enabled to resolve disagreement wherever possible, when they are unable to reach agreement senior managers should be accessible promptly to negotiate and resolve issues between both parties
- Where senior managers are unable to reach agreement, escalation to senior management should be promptly managed with the aim to resolve the dispute
- When all local means of dispute resolution have failed, it is accepted by both parties that an independent LA and CCG review (within BLMK Integrated Care System) will be requested and there will be acceptance of the outcome

5) Advocacy

Vulnerable individuals without available or appropriate family/friends, who lack mental capacity facing important decisions being made either by the LA or CCG, a referral to the Independent Mental Capacity Advocate (IMCA) will be required.

If the individual does not meet criteria for an IMCA, regardless of whether they have capacity or not, they may request the support of an advocate. The advocate can be a family member or friend, equally local advocacy services can be used. The LA/CCG should advise the individual of local advocacy services.

6) Funding During Dispute/Decision Making

If the LA disputes the decision by the CCG or the Multi-Disciplinary Team (MDT) recommendation is unable to be verified due to either a lack of evidence or flawed primary health needs test or dispute by the LA, the CCG and LAs need to ensure that interim arrangements for the planning, delivery or review of care should not be delayed or disrupted. The individual would usually remain with the current commissioner of care.

Reimbursement of any costs will take place in line with 'Annex E:Guidance on responsibilities when a decision on NHS Continuing Healthcare eligibility is awaited or is disputed' National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)* page 159.

7) Joint Funding

Where the individual has been found not to be eligible for NHS Continuing Healthcare, however specific needs have been identified during the DST which are beyond the power of the LA, consideration of a joint package of care between health and social care would be appropriate.

Working in partnership with the LA, colleagues should work together to identify the responsibility of health and social care by completing the relevant documents for consideration by health and social care. During the assessment and care planning, a flexible, partnership-based approach should be adopted.

8) Personal Health Budgets

Where an individual is eligible for NHS Continuing Healthcare and receiving their care outside a care home provision, they have a right to have a Personal Health Budget (PHB). NHSE England have stipulated that all new home care packages should be delivered as a default PHB from 1 April 2019.

PHBs can be provided in three different ways or in a combination of these ways:

1. A notional budget held by the CCG
2. A budget managed on the individual's behalf by a third party
3. A cash payment to the individuals (a 'direct payment').

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)* states that CCGs and LAs should work closely together to deliver personalisation of care and support. Expertise should be shared and along with the development of strategies to provide smooth transfers of care where necessary.

9) Review

Following an individual being found CHC eligible a review will be completed within 3 months, further reviews should be completed annually unless clinically indicated earlier.

Reviews should be proportionate in their MDT attendance and frequency. If an individual is likely to remain CHC eligible it is not appropriate to request LA attendance.

All reviews should primarily focus on the current care plan/provision and if these remain appropriate to the individual's assessed needs.

If there is clear evidence in a change of need which might impact the individual's eligibility a full MDT meeting should be arranged to fully reassess the individual's primary health need.

10) Joint CCG/LA CHC Training

It is the CCGs responsibility to oversee CHC training across relevant agencies, however this should be in coproduction with the LAs both to deliver the training and to fund training.

Professionals involved in the CHC process must have received formal CHC training to ensure the individual and their representatives have been fully involved in the process and have been given a full explanation of CHC prior to the completion of any CHC assessment.

BCCG/BBC/CBC agree to deliver a comprehensive training programme across all professionals, to support appropriate referral whilst decreasing inappropriate completion of the CHC checklist.

Professionals should have the capability to discuss with the individual and their representative that they have been considered for CHC Assessment however their professional view is that they do not currently meet CHC eligibility. This should be documented for future reference.

11) Development process

This document has been developed in line with the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)*. This policy enables the CCG and LAs to adopt a framework compliant code of practice, this should increase efficient appropriate assessments whilst supporting professionals to work together to resolve dispute.

The BCCG CHC department will be adhering to National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care *October 2018 (Revised)* as the operating process.

12) References

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