NHS
Sunderland
Clinical Commissioning Group

CO33: Policy for commissioning of a care provision within the continuing healthcare pathway

Contents

Version Control

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Accessible Information Standards

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1. Introduction

1.1 This is N H S Sunderland Clinical Commissioning Group's (the CCG) policy on the commissioning of care packages for patients eligible for an episode of continuing healthcare (CHC). The CCG is responsible for commissioning and procuring services for all individuals who qualify for NHS continuing healthcare and for the healthcare element of a joint care package. The purpose of this policy is to assist the CCG to ensure that the assessed needs of eligible individuals are met.

1.2 This policy applies once an individual has received a comprehensive, multidisciplinary assessment of their health and social care needs and the outcome shows that they have a primary health need and are therefore eligible for an episode of NHS Continuing Healthcare (CHC) funding or for a joint package of care, including S117 aftercare.

1.3 This policy has been developed to help provide a common and shared understanding of CCG commitments in relation to individual choice and resource allocation and safe commissioning.

This policy aims to:

- inform robust and consistent commissioning decisions for the CCG
- ensure that there is consistency in the local area over the services that individuals are offered;
- ensure the CCG achieves value for money in its purchasing of services for individuals eligible for C H C and joint packages of care including S117;
- facilitate effective partnership working between health care providers, NHS bodies and the Local Authority in the area;
- Promote individual choice as far as reasonably possible.
- Ensure the assessed needs of individuals are met safely, proportionally and appropriately.
- Ensure services are commissioned from providers known to the CCG wherever possible, who are determined to deliver quality care to patients.

1.4 This policy details the legal requirements, CCG responsibilities and agreed course of action in commissioning care which meets the individual's assessed needs. This policy has been developed to assist the CCG to meet its responsibilities under the sources of guidance listed towards the end of this policy.

1.5 Whilst improving quality and consistency of care, this policy is intended to assist the CCG to make decisions about clinically appropriate care provision for individuals in a robust way in line with the considerations set out in section 1.7.4.

1.6 Status

1.6.1 This policy is a corporate policy.

1.7 Purpose and scope

1.7.1 Where an individual qualifies for NHS continuing healthcare, the package/placement to be provided is that which the CCG assesses is appropriate to meet the individual's assessed health and associated social care needs.

1.7.2 The CCG will seek to promote the individual's independence subject to the factors set out in paragraph 1.7.4. The CCG aims to support individuals to take reasonable risks to maintain independence whilst ensuring that care provided is clinically safe, including through the use of a personal health budget, where appropriate.

1.7.3 The CCG's responsibility to commission, procure or provide continuing healthcare is not indefinite, as needs could change. Regular reviews are built into the process to ensure that the care provision continues to meet the individual's assessed needs. This can include the introduction of additional services and equally the reduction in the level of support commissioned. These possibilities will be communicated in writing to the individual (and representatives where appropriate) at the initial point of assessment and at any subsequent reviews.

1.7.4 When commissioning services with individuals, the CCG will balance a range of factors including:

- individual safety;
- individual choice and preference;
- individual's rights to family life;
- Impact on others where individual wishes to remain in own home;
- safeguarding risks/considerations;
- value for money;
- the best use of resources for the population of Sunderland
- ensuring services can be safely delivered for a sustained period
- ensuring staff availability for home care packages;
- ensuring services are of sufficient quality;
- ensuring services are culturally sensitive;
- ensuring services are personalised to meet individual need;
- staff safety;
- environmental factors, including whether care can safely be delivered in the home without adaptations or whether significant work may be required to a property.

2. Definitions

The following terms are used in this document.

CHC: Continuing Health Care

NHS continuing healthcare: is the name given to a package of care that is arranged and funded solely by the NHS for individuals who are not in hospital and have been assessed as having a 'primary health need'.

The CCG: NHS Sunderland Clinical Commissioning Group

Local Authority: Local Authority refers to Sunderland City Council.

Provider: Provider refers to organisation which provides NHS continuing healthcare on behalf of the CCG.

CCG contracted providers: These providers have been assessed and accepted by the CCG as being able to fulfil the continuing healthcare requirements of defined categories of individuals at an agreed cost and hold a signed contract with the CCG as detailed in 4.7 and 4.8.

Accommodation: In the context of CHC, accommodation relates to an appropriately registered care setting or the individual's own home.

Care coordinator: Care coordinator refers to the person who coordinates the assessment and care planning process. Care coordinators are usually the central point of contact with the individual. The Care coordinator may be a social worker from the Local Authority under NHS Sunderland CCG's Section 75 Lead Commissioner arrangements.

Care provision: Care provision takes two main forms:

- Care provided in an individual's own home and referred to in this document as 'home care' or 'domiciliary care'.
- Care provided in an appropriately registered care setting (such as a nursing home, a residential home or an independent hospital) and referred to in this document as 'registered care setting' or 'care home'.

Individual: In the context of this policy the individual is the service user that has been assessed for and offered continuing healthcare, often referred to as the individual.

Representative(s): Representative(s) refers to the people or person that liaises between individuals and the CCG. The individual receiving healthcare may elect to have representative(s) act with them or on their behalf, or there may be representative(s) where the individual does not have the mental capacity to make independent decisions.

Representatives may be legal representatives, individual advocates, family, or other people who are interested in the individual's wellbeing.

Where the individual has capacity, they must give consent for any representative to act on their behalf.

A person who has formally been appointed as an Attorney or Deputy has defined responsibilities for the individual. The extent of these responsibilities will vary according to the nature of their appointment.

3. Mental Capacity and Representation

3.1 Where there is reason to believe that an individual may lack capacity to make a decision regarding the provision of (or change to) their care or accommodation a mental capacity assessment shall be undertaken. If the assessment confirms that the individual lacks capacity, best interest decision making shall be undertaken in accordance with the Mental Capacity Act and its Code of Practice. The CCG will appoint an Independent Mental Capacity Advocate to support the individual in decision making where necessary in accordance with the Act. Any best interest decision made will be in accordance with. The MCA and Code of Practice and having regard to the requirements of this policy.

3.2 In some circumstances the individual may have given another person authority to make a decision on their behalf. Where the CCG is made aware of this, and a best interest decision is required in respect of an offer of care, it will ask to see one of the following documents:

- a Lasting Power of Attorney which has been registered with the Office of the Public Guardian. This can be either a Health and Welfare Lasting Power of Attorney or a Property and Financial Affairs lasting Power of Attorney;
- an Enduring Power of Attorney which has been registered with the Office of the Public Guardian;
- an order of the Court of Protection appointing them as Deputy and the order enables them to decide on the care or accommodation of the individual; or
- an order from the Court of Protection, in respect of the care or accommodation of the individual.

3.3 Where one of the above documents is provided to the CCG, it will decide how to involve the bearer in any best interest decisions. The CCG will take its decision in accordance with the Mental Capacity Act and Code of Practice.

3.4 Where an individual lacks capacity and a best interest decision is made that they should remain in their own home whether a CCG commissioned package, the CCG will ensure that the appropriate Deprivation of Liberty (Dol) authorization is sought.

3.5 Where an individual lacks capacity and a best interests' decision is made that they should move into a care home the CCG will ensure the care home applies for the appropriate Dol authorization.

3.6 Making any best interests decision the CCG will ensure that the least restrictive option is sought.

4. Identification of Care Provision

4.1 Where an individual is eligible for an episode of CHC funding, the CCG will commission care which meets the individual's assessed needs. The CCG will only fund services that are identified in the care plan, for which it has a statutory responsibility and that are needed to meet the individual's reasonable requirements. The first option that will be considered (for all or part of a package) will be already commissioned services or a personal health budget.

4.2 The individual's care coordinator will discuss the proposed care provision with the individual and their representative(s) (where the individual gives consent for such a discussion or where the individual lacks capacity) including where the service may be provided. The care coordinator will, wherever possible, identify different options for providing the care, indicating which of these is preferred by the individual.

4.3 The assessment will identify the outcomes that individual wishes to achieve

4.4 The care coordinator will use the CCG's documentation to set out the requested care package and associated information. The documentation must be completed in full for every proposed care package.

4.5 The CCG will seek to take into account any reasonable request from the individual and their representative(s) in making the decision about the care provision, subject to the factors set out in section 1.7.4.

4.6 The CCG will endeavour to offer a reasonable choice of available, preferred providers to the individual. Where the individual wishes to receive their care from an alternative provider the CCG will consider this subject to the following criteria:

4.6.1 The individual's preferred care setting is considered by the CCG to be suitable in relation to the individual's needs as assessed by the CCG;

4.6.2 The cost of making all arrangements for the individual at their preferred care setting would not require the CCG to pay significantly more than they would usually expect to pay having regard to the individual's assessed needs.

4.6.3 The individual's preferred care setting is available;

4.6.4 The people in charge of the preferred care setting are able to provide the assessed care to the individual subject to the CCG usual terms and conditions.

4.7 Registered care settings

4.7.1 Where care is to be provided in a registered care setting (such as a nursing home, residential home or independent hospital), the CCG will only place individuals with providers which are:

a) Registered with the Care Quality Commission (or any successor) as providing the appropriate form of care to meet the individual's needs; and

b) Not currently subject to a suspension of placements by the CCG or Local Authority, including the host CCG or Local Authority if the provider is not located in Sunderland.

c) contracted to the CCG to provide nursing care at the CCG's standard rate in place from time to time.;

4.7.2 The CCG will consider providing a placement in a registered care setting not contracted to the CCG in exceptional circumstances. This will only be approved if the provider complies with paragraphs 4.7.1 a) and 4.7.1 b) above.

4.7.3 The total cost of registered care provision should not exceed the equivalent cost of care in a home care setting capable of meeting the needs of the individual, save in exceptional circumstances.

4.8 Home care

4.8.1 Where care is to be provided in a registered care setting (such as a nursing home, residential home or independent hospital), the CCG will only place individuals with providers which are:

d) registered with the Care Quality Commission (or any successor) as providing the appropriate form of care to meet the individual's needs; and

e) not currently subject to a suspension of placements by the CCG or Local Authority, including the host CCG or Local Authority if the provider is not located in Sunderland.

f) contracted to the CCG to provide nursing care at the CCG's standard rate in place from time to time.;

4.8.2 The total cost of home care provision should not exceed the equivalent cost of care in a registered care setting capable of meeting the needs of the individual.

4.9 Personal health budgets

4.9.1 Patients eligible for CHC will have the right to ask for a personal health budget. The cost of a personal health budget should not exceed the assessed cost of care in an alternative care setting capable of meeting the needs of the individual (except where there are exceptional circumstances see section 13).

4.9.2 The decision making process for determining whether to offer a personal health budget, is covered in a separate policy.

5. CCG Providers

5.1 To assist the CCG in achieving consistent, equitable care, the CCG will endeavor to offer and place individuals with those providers who hold a contract with the CCG.

5.2 Where a provider is not available to meet the individual's reasonable requirements, the CCG may make a specific purchase and place the individual with another care provider who meets the individual's needs and is determined by the CCG to be a safe and appropriate provider, including meeting the requirements of paragraph 4.7.1.

Where such an arrangement has been agreed the CCG reserves the right to move the individual to a CCG contracted provider when capacity becomes available, in line with the factors included in section 1.7.4. For example, if an individual has a specific care need which cannot be catered for in available preferred accommodation, the CCG will need to specifically commission accommodation for the individual, potentially through an individually negotiated agreement. The CCG will notify the individual and/or their representative(s) in writing that they may be moved should a CCG contracted provider subsequently have capacity.

5.3 Though all reasonable requests from individuals and their families will be considered, the CCG is not obliged to accept requests from individuals for specific care providers who are not currently contracted with the CCG.

5.4 Where the CCG deems that a provider is not providing care of an acceptable quality and standard, a referral will be made to the Care Quality Commission and the CCG will work with the CQC, and other key partners to ensure the safety of all individuals, which may include the need to change Provider.

5.5 The CCG contracts with different providers to meet the needs of different service users. Where an individual's needs change, the CCG may offer a package of care with a new provider.

6 Location

6.1 The CCG will, wherever possible, take account of the reasonable wishes expressed by individuals and their families when making decisions as to the location or locations of care to be offered to individuals to satisfy the obligations of the CCG to provide CHC.

6.2 Home Care

6.2.1 The CCG acknowledges that many individuals with complex healthcare needs wish to remain in their own homes, with support provided to the individual. Where an individual or their representative(s) express such a desire, the CCG will investigate to determine whether it is clinically safe, sustainable and appropriate within the duties of the CCG to provide a safe and sustainable package of NHS CHC for an individual in their own home. This will include an assessment of the home environment and the potential cost of any adaptations and equipment to make the environment safe.

6.2.2 The willingness of family to supplement support will be taken into account, although no pressure will be put on them to offer such support. Whilst family members are under no legal obligation to offer care, if they agree, the CCG is entitled to assume that family members will provide the agreed level of support in designing any home care package, recognising that the family may withdraw their care at any time, and if the CCG is no longer able to facilitate the package without that support, alternative arrangements may need to be made, including relocation into a Registered Care Setting.

6.2.3 Where an individual expresses the preference to receive care at home, the CCG will benchmark the cost of such a package against the cost of a suitable package of care in a registered care setting taking into account the individual needs of the person, the clinical need, the impact on their wellbeing and the home environment.

6.2.4 The cost of domiciliary care provision should not exceed the equivalent cost of a registered care setting capable of meeting the assessed needs of that individual at that time, subject to exceptional circumstances.

6.2.5 The CCG may be prepared (under exceptional circumstances) to support clinically sustainable provision of a package of care which keeps an individual in their own home where the anticipated cost of the care to the CCG may be more but not significantly more, than the most cost effective care identified (based on CCG agreed standard rates for equivalent levels of need).

6.2.6 The CCG will consider such requests on a case by case basis guided by the factors set out in section 1.7.4 and considering the two questions for determining exceptional circumstances set out below in section 14.

6.2.7 Where the CCG decides to offer home care to an individual, the individual's home becomes the member of staff's place of work. Employee safety is an important consideration in home care packages. The individual's home must be a reasonably safe environment to work and deliver care to the individual. This includes cleanliness of the environment, and interactions between the individual, family/carer and the employee. In the event that the home environment is no longer safe, the CCG reserves the right to withdraw the package and alternative arrangements may need to be made, including relocation into a registered care setting.

6.3 Registered care settings

6.3.1 Through discussions with the individual, or their representative(s), location requests will be accommodated as much as reasonably possible, and in accordance with this policy, for example, proximity to relatives. Location requests will be subject to fulfilment of the criteria described in section 4.7 of this policy.

6.3.2 If a care home that was not originally offered is requested by the individual, the CCG will accept the individual's selection providing it complies with the criteria set out in section 4.7 of this policy.

6.3.3 The CCG understands that individuals may want to be located near specific places to stay in the local community and enable family and friends to visit easily. To accommodate this, where the CCG's preferred available care homes are not within a reasonable travelling distance, the CCG may choose to make a specific purchase for that individual to enable them to be accommodated in their preferred area where the anticipated cost to the CCG may be more but not significantly more than the available CCG preferred accommodation, subject to paragraphs 2.4 and 4.7 and having regard to exceptional circumstances.

6.3.4 The CCG will consider such requests on a case by case basis, guided by the factors set out in section 1.7.4 and using the questions for determining exceptional circumstances set out below.

6.3.5 Where such an arrangement has been agreed, the CCG reserves the right to subsequently move the individual to a suitable preferred provider where this aligns to the factors included in section 1.7.4.

6.3.6 Reasonable travelling distance will be based on a case by case assessment of an individual's circumstances, and will take into account factors such as ability of family and friends to visit, including but not limited to public transport links and mobility of the family and friends.

6.3.7 If an individual or their representative(s) exercise individual choice and select a care home in another area, the CCG will consider facilitating this choice and, if the individual does move to that location the responsibility for commissioning between different CCGs will be decided in accordance with DH guidance, Who Pays.

6.4 Personal health budgets

6.4.1 A personal health budget may be provided to an individual in a registered or a non-registered setting. It may cover the whole or part of the care needed by the individual. It may only be used to pay for care agreed as part of a care package, by the CCG.

6.4.2 Where the CCG decides to offer an individual a personal health budget, it will benchmark the cost of such a package against alternative packages of care. The cost of a personal health budget will not exceed the equivalent cost of meeting the individual's reasonable requirements. The cost of a personal health budget will include any directly incurred additional expenditure, including:

- Administering managed accounts
- Recruiting PAs
- Tax, national insurance and any other costs associated with directly employing staff
- Costs associated with redundancy
- Legal advice
- Financial advice, including accountancy the above list is not exhaustive

6.4.3 The CCG may be prepared to support clinically sustainable provision of a package of care which keeps an individual in their own home where the anticipated cost of the care to the CCG may be more than the most cost effective care identified (based on CCG agreed standard rates for equivalent levels of need).

6.4.4 The CCG will consider such requests on a case by case basis guided by the factors set out in section 1.7.4 and using the two questions for determining exceptional circumstances set out below.

6.4.5 Where the CCG offers a personal health budget to an individual, the individual's home usually becomes the member of staff's place of work. Employee safety is an important consideration in home care packages. The individual's home must be a reasonably safe environment to work and deliver care to the individual. This includes cleanliness of the environment, and interactions between the individual, family/carer and the employee.

6.4.6 All personal health budget offers will be made in accordance with the CCG's PHB policy and will operate in accordance with that policy.

7 Additional services

7.1 The individual or their representative(s) has the right to enter into discussions with any provider to supplement the care provision, over and above that required to meet assessed needs. Any such costs arising out of any such agreement must be funded by the individual or through third party funding. These costs may relate to:

- Additional non-healthcare services to the individual, for example hairdressing, provision of a larger room, ensuite, or enhanced TV packages.

- Additional healthcare services to the individual, outside of the assessed needs of the individual that the CCG funds as the CHC package. These types of services may include things such as chiropractor appointments or additional physiotherapy sessions. The CCG will satisfy itself that these services do not constitute any part of the CHC identified need or are not otherwise provided through already commissioned services.

7.2 The decision to purchase additional services to supplement a CHC package must be entirely voluntary for the individual. The provision of the CHC package must not be contingent on or dependent on the individual or their representative(s) agreeing to fund any additional services. This means that the provider must be willing and able to deliver the assessed CHC needs to the individual, without the package being supplemented by other services as described in 7.1 of this policy.

7.3 Any funding provided by the individual for private services must not contribute towards costs of the assessed need that the CCG has agreed to fund. Similarly, CHC funding must not in any way subsidise any private service that an individual chooses outside of the identified care plan (including Personal Health Budgets).

7.4 Where an individual is funding additional services, the associated costs to the individual must be explicitly stated and set out in a separate agreement with the provider. If the individual chooses to hold a contract for the provision of these services, it must be clear that the additional payments are not to cover any assessed needs funded by the CCG.

7.5 In order to ensure that there is no confusion between the NHS and privately funded services, the CCG will enter into a legally binding contract with the selected provider which details the provision by the provider of a defined level of health and social care to the individual. This will expressly be independent of any arrangement between the care provider and the individual or their representative(s) and will be expressed to continue notwithstanding the termination of any arrangements made between the individual and the care provider. Any payments made by the individual under a contract with the care provider for additional services cannot be made under the CCG contract.

7.6 If the individual or their representative(s), for any reason, decides that they no longer wish to fund the additional services supplementing the care package, the CCG will not assume responsibility for funding those additional services.

7.7 Where the CCG is aware of additional services being provided to the individual privately, the CCG will satisfy itself that they do not constitute any part of the provision to meet assessed needs.

8 Availability

8.1 To enable individuals to receive the correct care promptly, individuals will be offered available care as soon as possible. If an individual's first choice from the CCG's contracted provider list is not available, they will be offered another CCG preferred provider to ensure provision as soon as possible. The CCG will offer care from preferred providers before any other unless exceptional circumstances apply.

8.2 If the individual has capacity and requests care which is currently unavailable, and is unwilling to accept the CCG's offer of care, there are several options available to the CCG:

- Temporary placement of the individual with alternative care provision until the care from the individuals preferred care provider is available subject to agreement from the CCG. For example, alternative home care provider, alternative care home, respite care or a community bed. This is the expected scenario for most individuals where there is a delay in providing a place at the home of choice.

- The individual may choose to go to their own or a relative's home without the assessed care provision until the preferred care is available. The terms set out in section 10 of this policy will apply. The individual will, however, retain the right subsequently to change their mind and elect to accept the care provision offered by the CCG. If the individual lacks capacity to make this decision, the CCG will exercise its duties under the Mental Capacity Act.

- In circumstances where an individual lacks capacity and their representative is preventing a placement for no good reason, the CCG will make a best interest decision in accordance with the MCA and Code of Practice and where necessary will consider and make an application to the Court of Protection to endorse a placement.

8.3 If a care home placement is being delayed as a result of the input from the individuals representatives, due to non-availability of their preferred placement and the individual lacks capacity, the CCG will make a best interest decision in accordance with the MCA and Code of Practice and where necessary will consider and make an application to the Court of Protection to endorse a placement.

8.4 If the individual is in an acute healthcare setting, they must move to the most appropriate care setting as soon as they are medically fit for discharge, even if their first choice of care provision is not available. The individual's preference will be considered in line with section 4 of this policy, when the CCG is deciding which package of care to offer to them. Where the individual's preferred choice is not available, but alternative provision which will meet their assessed needs is available, they must move and cannot remain in an acute healthcare setting once they are medically stable.

8.5 If the CCG provides an individual with care that is more expensive than the standard cost due to, either availability in the market, or the ability of the CCG to commission at the standard cost, the additional cost will be funded by the CCG. Where such an arrangement has been agreed the CCG reserves the right to move the individual to a suitable CCG contracted provider, where it is clinically safe to do so. The CCG shall notify the individual and/or their representative(s) that their provision may be moved should a preferred provider subsequently have capacity. In such circumstances, the CCG will give a minimum of 7 days' notice to the individual.

9 Acceptance

9.1 An individual with capacity is not obliged to accept a CHC package. Once an individual is eligible and offered CHC, and they choose not to accept the CHC package, the CCG will in appropriate cases, take reasonable steps to make the individual aware that the Local Authority does not assume responsibility to provide care to the individual. The CCG will work with the individual to help them understand their available options and facilitate access to appropriate advocacy support. An individual remains able to take up a package at any time, subject to further assessment.

10 Withdrawal

10.1 The NHS discharges its duty to individuals by making an offer of a suitable care package to individuals. It is a matter for an individual with capacity to choose whether they wish to accept the offer of placement or not. The following are examples of how this can work in practice:

- The CCG offers to discharge its duty by providing a package of services for an individual in one or more appropriate care settings, irrespective of whether this is the individual's preferred location, and that offer is rejected by the individual;

- The CCG offers to discharge its duty to an individual who, to date, has had a package of services in their own home by moving the individual to one or more appropriate care homes (since the costs of providing such care may be significantly less than providing care for an isolated individual) but that offer of a care home is rejected by the individual.

10.2 Either of the above circumstances may lead to a decision to withdraw services from the individual.

10.3 Where an individual exercises their right to refuse, the CCG will ask the individual or their representative(s) to sign a written statement confirming that they are choosing not to accept the offer of care provision.

10.4 It may be appropriate for the CCG to remove a CHC package of services where the situation presents a risk of danger, violence to or harassment of care staff who are delivering the package.

10.5 The CCG may also withdraw CHC-funded support where the clinical risks in a home care setting become too high. This can be identified through, or independently of, the review process. Where the clinical risk has become too high in a home care setting, the CCG may choose to offer CHC in a care home setting.

10.6 An individual who lacks capacity cannot have an offer from the CCG rejected by their representatives. A best interests' decision will be made where there is disagreement between the CCG and the individual's representative, including making an application to the Court of Protection if required. The CCG will make a placement of the individual on a short term basis until such an application is concluded.

11 Disputes

11.1 Where there are disputes between the CCG and the Local Authority over care provision, in respect of a joint package of care, the CCG will follow the Dispute Resolution Policy agreed with the Local Authority.

12 Appeals

12.1 An individual may appeal against a decision by the CCG as to the offer of a care package. Appeals will be dealt with through the CCG's complaints procedure.

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

13 Continuing Healthcare Review

13.1 A case review should be undertaken no later than three months after the initial eligibility decision in order to reassess the individual's care needs and eligibility for CHC and to ensure that the individual's assessed needs are being met. Reviews should thereafter take place annually, as a minimum.

13.2 The review's primary function is to establish that assessed needs are being met. If the review demonstrates that the individuals condition has improved to an extent that they may no longer meet the eligibility criteria for CHC funded care provision, the CCG are obliged to reapply the assessment process by completing a CHC checklist and Decision Support Tool which may result in the CCG ceasing funding. In these cases the CCG will carry out a joint review with the Local Authority:

13.2.1 At this point the Local Authority has 28 days to review the individual's requirements and the individual will be notified they may no longer be eligible for CHC. CCG funding for an individual's care may be continued for 28 days where a Local Authority is undertaking such a review or such longer period as seems reasonable in the circumstances.

13.3 The CHC review may identify an adjusted, decreased or increased care need:

13.3.1 Where an individual is receiving home care, the CCG will consider the ability of the package to be delivered in the home environment, and also the cost effectiveness of this package in accordance with sections 4 and 6 of this policy.

13.3.2 Where the individual is accommodated in a care home, the CCG will ensure that the care home is able and suitable to deliver this adjusted or decreased care need.

13.3.3 Where the care home is unable to meet this adjusted care need, the CCG will accommodate the individual in accordance with sections 4.7 and 6.3 of this policy.

13.3.4 Where there is a decreased need, the CCG will consider the cost effectiveness of the package to be delivered in the current care home, and may move the individual to a suitable alternative provider in accordance with section 6.3 of this policy.

14 Exceptional Circumstances

14.1 In exceptional circumstances, the CCG would be prepared to consider funding provision where the anticipated cost to the CCG is more than the cost of the most cost effective care provision identified.

14.2 In order to determine whether exceptional circumstances exist, two questions will be considered:

- Are the individual's needs significantly different to other individuals with the same or similar conditions?
- Will the individual benefit significantly more from the additional or alternative services than other individuals with the same or similar conditions would?

14.3 Exceptionality will be determined on a case by case basis and will require the agreement of an executive director of the CCG.

15 Fast Track

15.1 Care provision for individuals assessed on the fast track will be subject to the same principles as set out in sections 4 and 6 of this policy.

16 Governance

16.1 This guidance is issued to support the CCG to meet its commitments under the Standing Rules for continuing healthcare.

16.2 The responsibilities of the CCG under this guidance may be discharged on its behalf by a Commissioning Support Unit, or other commissioned service on the understanding the statutory responsibility remains with the CCG.

16.3 This guidance will be reviewed annually.

17 Duties and Responsibilities

Governing Body	Governing Body has delegated responsibility to the Governing Body (GB) for setting the strategic context in which organisational process documents are developed, and for establishing a scheme of governance for the formal review and approval of such documents.
Chief Officer	The Chief Officer has overall responsibility for the strategic direction and operational management, including ensuring that CCG process documents comply with all legal, statutory and good practice guidance requirements.
Head of Continuing Healthcare & Complex Care	The Head of Continuing Healthcare and Complex care will: Ensure that all relevant staff are notified of the policy and that updated copies are made available to the staff as and when needed
All Staff	All staff, including temporary and agency staff, are responsible for: • Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken. • Co-operating with the development and implementation of policies and procedures and as part of their normal duties and responsibilities. • Identifying the need for a change in policy or procedure as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and advising their line manager accordingly. • Identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager. • Attending training / awareness sessions when provided.

18 Implementation

18.1 This policy will be available to all staff for use in relation to the specific function of the policy.

18.2 All directors and managers are responsible for ensuring that relevant staff within their own directorates and departments have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

19 Training Implications

The training required to comply with this policy are identified within individual appraisal and personal development plans.

20 Related Documents

20.1 Other related policy documents

- Personal Health Budgets (Draft Policy)
- NHS Sunderland CCG Safe Guarding Policy
- Appeals Policy
- Exceptional cases Policy

20.2 Legislation and statutory requirements

- The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 as amended by The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013) The National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care - October 2018 (revised)Mental Capacity Act 2005 Code of Practice
- Deprivation of Liberty Safeguards DoLS (2007)
- Human Rights Act 1998
- Care and Support and After-care (Choice of Accommodation) Regulations 2014
- National Health Service Income Generation - Best practice: Revised guidance on income generation in the NHS (1 February 2006)
- National Health Service Act 2006
- Who Pays? Establishing the Responsible Commissioner (August 2013)
- Guidance on NHS patients who wish to pay for additional private care (May 2009)
- Legal guidance Relevant case law, notably:
  - Gunter v SouthWestern Staffordshire Primary Care Trust (2005).
  - St Helens Borough Council v Manchester Primary Care Trust (2008)
  - McDonald v Royal Borough of Kensington and Chelsea (2010).

20.3 Best practice recommendations

These have been included within the policy where appropriate.

21 Monitoring, Review and Archiving

21.1 Monitoring

21.1.1 The Governing Body will agree a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

21.2 Review

21.2.1 The Governing Body will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

21.2.2 Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The Governing Body will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

21.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'document history' table on the front page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

21.3 Archiving

The Governing Body will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice for Health and Social Care 2016.

22. Equality Analysis

An Equality Impact Assessment has been completed and is attached at appendix 1.

Appendix 1

Equality Impact Assessment (Documentation)

Partners in improving local health

North of England Commissioning Support

Introduction - Equality Impact Assessment

An Equality Impact Assessment (EIA) is a process of analysing a new or existing service, policy or process. The aim is to identify what is the (likely) effect of implementation for different groups within the community (including patients, public and staff).

We need to:

- ✓ Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act2010
- ✓ Advance equality of opportunity between people who share a protected characteristic and those who do not
- ✓ Foster good relations between people who share a protected characteristic and those who do not

This is the law. In simple terms it means thinking about how some people might be excluded from what we are offering.

The way in which we organise things, or the assumptions we make, may mean that they cannot join in or if they do, it will not really work for them.

It's good practice to think of all reasons why people may be excluded, not just the ones covered by the law. Think about people who may be suffering from socio-economic deprivation or the challenges facing carers for example.

This will not only ensure legal compliance, but also help to ensure that services best support the healthcare needs of the local population.

Think of it as simply providing great customer service to everyone.

As a manager or someone who is involved in a service, policy, or process development, you are required to complete an Equality Impact Assessment using this toolkit.

Policy	A written statement of intent describing the broad approach or course of action the Trust is taking with a particular service or issue.
Service	A system or organisation that provides for a public need.
Process	Any of a group of related actions contributing to a larger action.

STEP 1 - EVIDENCE GATHERING

Name of person completing EIA:	**Penny Davison** **Senior Commissioning Manager**
Title of service/policy/process:	**Sunderland CCG, CHC Local Policy**
Existing: ☐ **New/proposed:** √ **Changed:** ☐	
What are the intended outcomes of this policy/service/process? Include outline of objectives and aims	
This policy sets out the NHS obligations on choice and provides guidance to staff on balancing patient preference with safety and value for money. This policy provides transparency for those wishing to scrutinise the application of the CCG's policy for NHS Continuing Healthcare and NHS-funded Nursing Care.	
Who will be affected by this policy/service /process? (please tick)	
✓ **Consultants** ✓ **Nurses** ✓ **Doctors** ✓ **Staff members** ✓ **Patients** ☐ **Public** ☐ **Other** **If other please state:**	
What is your source of feedback/existing evidence? (please tick)	
✓ **National Reports** ☐ **Internal Audits** ☐ **Patient Surveys** ☐ **Staff Surveys** ☐ **Complaints/Incidents** ✓ **Focus Groups** ☐ **Stakeholder groups** ☐**Previous EIAs** ✓ **Other**	
If other please state: **The policy was checked by Hempsons solicitors, the CCG solicitors**	

Evidence	What does it tell me? (about the existing service/policy/process? Is there anything suggest there may be challenges when designing something new?)
National Reports	This policy is in conjunction with The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care and the NHS obligations on choice.
Patient Surveys	No patient surveys were carried out.
Staff Surveys	No staff surveys were carried out.
Complaints and Incidents	Not applicable as a new policy .
Results of consultations with different stakeholder groups – staff/local community groups	Stakeholders were engaged in the Sunderland CHC Local Policy. These included South Tyneside Foundation Trust, City Hospitals Sunderland , Sunderland City Council, and NHS Northumberland Tyne and Wear Trust.
Focus Groups	A one day event took place (November 2016), with key people from the above organisations attending. Multi-agency Task and Fish group established for development of Policy
Other evidence (please describe)	CCG Executive member engagement on 10th January 2017 and 14th March 2017.

STEP 2 - IMPACT ASSESSMENT

What impact will the new policy/system/process have on the following: (Please refer to the 'EIA Impact Questions to Ask' document for reference)
Age A person belonging to a particular age
There may be a perceived negative impact on Older people as there are a greater number of older people, compared to other age groups in receipt of CHC. Generally, NHS continuing healthcare eligibility had a positive impact as, once found eligible, the NHS funds the entire individual's health and social care and they don't have to make a financial contribution Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service. (The National Framework paragraph 20).
Disability A person who has a physical or mental impairment, which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities
There may be a perceived negative impact on people with disabilities as there are all people in receipt as CHC would have a disability. Generally, NHS continuing healthcare eligibility had a positive impact as, once found eligible, the NHS funds the entire individual's health and social care and they don't have to make a financial contribution. Reasonable adjustments are considered in terms of language barriers and comprehension, for example documents made available in 'easy read'. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service. (The National Framework paragraph 20).
Gender reassignment (including transgender) Medical term for what transgender people often call gender-confirmation surgery; surgery to bring the primary and secondary sex characteristics of a transgender person's body into alignment with his or her internal self perception.

There will be no negative impact with the proviso that gender reassignment issues around dignity and respect are kept in consideration. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service. (The National Framework paragraph 20).

Marriage and civil partnership Marriage is defined as a union of a man and a woman (or, in some jurisdictions, two people of the same sex) as partners in a relationship. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters
There will be no negative impact with regard to marriage and civil partnership.
Pregnancy and maternity Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employmentcontext.
Not applicable.
Race It refers to a group of people defined by their race, colour, and nationality, ethnic or national origins, including travelling communities.
There will be no negative impact with the proviso that race issues such as communication and cultural issues are kept in consideration. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service. (The National Framework paragraph20).
Religion or belief Religion is defined as a particular system of faith and worship but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
There will be no negative impact with the provision that religious belief issues are kept in consideration. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service (The National Framework paragraph 20).
Sex/Gender A man or a woman.

This policy does not impact differently on men or women. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service. (The National Framework paragraph 20).
Sexual orientation Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes
NHS continuing healthcare delivers an equitable service regardless of sexual orientation. All staff involved with NHS continuing healthcare are subject to the values in the NHS Constitution. Section 1C of the National Health Service Act 2006 states that, in exercising functions in relation to the health service, the Secretary of State must have regard to the need to reduce inequalities between the people of England in respect to the benefits they can obtain from the health service. (The National Framework paragraph 20).
Carers A family member or paid helper who regularly looks after a child or a sick, elderly, or disabled person
There will be no negative impact on carers with the proviso that carer's issues are kept in consideration. The individual and their family will be offered choice of care homes where possible. Geographical proximity of identified care homes to family and friends will be given full consideration. For domiciliary care packages, the CCG will ensure the care can be delivered safely to the individual without undue risk to other members of the household. The CCG will take account of willingness and ability of family, friends or informal carers to provide elements of care as part of the care plan.
Other identified groups such as deprived socio-economic groups, substance/alcohol abuse and sex workers
Anyone who is eligible for NHS services may be eligible for NHS continuing healthcare.

STEP 3 - ENGAGEMENT AND INVOLVEMENT

How have you engaged stakeholders in testing the policy or process proposals including the impact on protected characteristics?

Stakeholders were engaged with a 1 day improvement event (November 2016) and a packages of care meeting with legal representation (March 2017).

Please list the stakeholders engaged:
NHS Sunderland CCG (CCG) City Hospitals Sunderland (CHS) South Tyneside Foundation Trust (STFT) Sunderland City Council (LA) Northumberland Tyne and Wear Trust (NTW)

STEP 4 - METHODS OF COMMUNICATION

What methods of communication do you plan to use to inform service users of the policy?	
☐ ✓ **Verbal – stakeholder groups/meetings**	☐ ✓**Verbal - Telephone**
☐ ✓**Written – Letter**	☐ ✓**Written – Leaflets/guidance booklets**
✓**Internet**	☐ **Other**
If other please state:	

ACCESSIBLE INFORMATION STANDARD

The Accessible Information Standard directs and defines a specific, consistent approach to identifying, recording, flagging, sharing and meeting the information and communication support needs of service users.

Tick to confirm you have you considered an agreed process for:
✓**Sending out correspondence in alternative formats.** ✓**Sending out correspondence in alternative languages.** ☐✓**Producing / obtaining information in alternative formats.** ✓**Arranging / booking professional communication support.** ✓**Booking / arranging longer appointments for patients / service users with communication needs.**
If any of the above have not been considered, please state the reason:

STEP 5 - SUMMARY OF POTENTIAL CHALLENGES

Having considered the potential impact on the people accessing the service, policy or process please summarise the areas have been identified as needing action to avoid discrimination.

The National Framework reflects the new NHS framework and structures created by the Health and Social Care Act 2012 effective from 1st April 2013. Standing Rules Regulations have been issued under the National Health Service Act 2006 and directions are issued under the Local Authority Social Services Act 1970 in relation to The National Framework.

The evidence does not show potential for differential impact.

Potential Challenge	What problems/issues may this cause?
No identified.	

STEP 6- ACTION PLAN

Ref no.	Potential Challenge/ Negative Impact	Protected Group Impacted (Age, Race etc)	Action(s) required	Expected Outcome	Owner	Timescale/ Completion date
	None identified.					

Ref no.	Who have you consulted with for a solution? (users, other services, etc)	Person/ People to inform	How will you monitor and review whether the action is effective?
	N/A		

SIGN OFF

Completed by:	Penny Davison
Date:	February 2017
Presented to: (appropriate committee)	Executive Committee
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