



Norfolk and Waveney
Integrated Care Board

Norfolk and Waveney ICB

Commissioning Policy for NHS Continuing Healthcare and Complex Care

Document Control Sheet

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Name of document	Commissioning Policy for NHS Continuing Healthcare and Complex Care
Version	V1
Date of this version	December 2024
Produced by	ICB Associate Director of NHS Continuing Healthcare and Complex Care.
What is it for?	This policy describes the way in which the ICB will commission and make provision for equitable, safe, and effective care for individuals who have been assessed as eligible for NHS Continuing Healthcare health funded, discharge to assess pathway 3 and joint funded packages of care after NHS Continuing Healthcare has been considered.
Evidence base	Relevant national guidance (see references) and principles set out in the NHS Constitution.
Who is it aimed at and which settings?	ICB NHS Continuing Healthcare Team, hospital discharges – health led and joint funded individuals who have been considered for NHS Continuing Healthcare.
Consultation:	Policy based on regional best practice.
Impact Assessment:	An Equality Impact Assessment is included in Appendix A.
Other relevant approved documents:	ICB Policy for Commissioning of One-to-One Support within a Care Home
References:	<ul style="list-style-type: none"> • National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care • DoHSC Hospital Discharge Service Guidance • Mental Capacity Act, 2005. • Human Rights Act 1998 • Equality Act (2010) • NHS Choice Framework (2014) • NHS Constitution for England, Department of Health (2013)
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Contact for Review:	Associate Director of NHS Continuing Healthcare and Complex Care.

Version Control

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1 INTRODUCTION

NHS Norfolk and Waveney Integrated Care Board (ICB) is responsible for commissioning some areas of complex care with independent providers to meet its regulated responsibilities. Areas of complex care commissioning include NHS Continuing Healthcare, health funded discharge to assess pathway 3 and joint funded packages of care after NHS Continuing Healthcare has been considered.

This policy describes the way in which the ICB will commission and make provision for equitable, safe, and effective care for individuals who have been assessed as eligible for NHS Continuing Healthcare. This policy also applies to all packages of care commissioned and funded by NHS Continuing Healthcare, this includes:

- Health funded discharge to assess pathway 3
- Joint funded packages of care after NHS Continuing Healthcare have been considered.

1.1 Application of Policy

This policy will apply from 01 December 2024. for all individuals described in 1.0 eligible to receive NHS Continuing Healthcare from this date and

- individuals entering health funded discharge to assess pathway 3 from this date.
- joint funded packages of care after NHS Continuing Healthcare has been considered from this date.

For people in receipt of NHS Continuing Healthcare packages of care, on the health funded discharge to assess pathway 3 and joint funded packages of care after NHS Continuing Healthcare has been considered, prior to the implementation date, the following will be considered:

Providing the risks to the individual and their carers (including NHS staff) of continuing to provide the existing package are manageable (and care needs continue to be met), where applicable, and the package of care does not need to be changed, the ICB will continue to provide and fund the existing care package This is until:

- There is an increase in the level of care required to meet reasonable needs, which indicates the need for an alternative placement or care arrangement.
- In the case of a home care package, the risks cease to be manageable, and the individual is at risk of their health and care needs not being met, or a future review or re-assessment of needs indicates the need for a care home placement.
- All decisions will be made upon a joint needs and equality impact assessment.

Where upon this policy shall apply.

1.2 Human Rights

In drawing up this policy, the ICB has had regard to the [Human Rights Act 1998](#) and the implications for individuals in relation to their article 8 rights.

MENTAL CAPACITY

If an individual does not have the mental capacity to make the decision around the location and nature of their commissioned care package, the ICB will comply with the requirements of the [Mental Capacity Act, 2005](#). The ICB will commission the most cost effective and safe care available based on an assessment of the individual's needs in conjunction with the individual's best interests.

All decisions will be evidenced and carried out in consultation with any appointed advocate, Attorney under an Enduring Power of Attorney, Lasting Power of Attorney or a Court Appointed Deputy or the Court of Protection directly and family and/or friends will be consulted where appropriate under the terms of the Mental Capacity Act 2005.

Where an individual does not have family or friends to support them, an Independent Mental Capacity Advocate may be consulted in line with the Mental Capacity Act, 2005.

2 EQUALITY

In applying this policy, the ICB will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the [Equality Act \(2010\)](#); age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

Within this document the 'individual' will be used in all instances for the patient, person, or resident as well as their relative and representative. An Equality Impact Assessment will be completed for this policy.

3 PURPOSE

The purpose of this policy is to provide clarity regarding the commissioning processes undertaken in relation to, NHS Continuing Healthcare, health funded discharge to assess pathway 3 and joint funded packages of care after NHS Continuing Healthcare has been considered, ensuring that the process is person centred; that equity, equality and risk is managed and that the ICB can demonstrate the most effective use of NHS resources. The NHS Continuing Healthcare eligibility consideration process is not within the scope of this policy; this is set out in the National Framework and which the ICB follows.

4 ALLOCATION OF ICB RESOURCES

The policy defines the way in which resources will be used to commission services. Commissioning will be undertaken in a way that reflects the choice and preferences of individuals, balanced with the need for the ICB to strategically commission and manage the demand for healthcare for all the people of Norfolk and Waveney in a safe and effective manner

within the resources available to the ICB. At all times, the ICB will ensure the best use of NHS resources both locally and nationally commissioned and provide a level of service that provides for individuals assessed needs and is sustainable, equitable and fair to the overall health and wellbeing of the people of Norfolk and Waveney.

This policy does not change the ICB's statutory responsibilities to comply with legislative duties or to consider national guidance. However, the aim is that it will promote consistency of decision making and transparency in how the ICB will comply with their obligations as commissioners of NHS funded services as stated in the Department of Health & Social Care [NHS Choice Framework \(2014\)](#) and the associated national policy in the delivery of healthcare.

Within Norfolk and Waveney, the ICB aims to provide an open and transparent decision-making process that balances individual choice with the overall healthcare requirements of the people of Norfolk and Waveney and within the ICB's financial budget. The ICB accepts that there may be cases where this policy limits individual preference and choice but this is within the context of a need to promote standardised choices to meet the requirement of equitable and sustainable healthcare for all those individuals that the ICB are responsible for in its area. In balancing the use of the ICB's limited NHS resources, the ICB fully respects equality and diversity, and fully embraces the established NHS values and principles on equality and fairness, as set out in The [NHS Constitution for England, Department of Health \(2013\)](#) and the laws under the Equality Act 2010 together with the European Convention on Human Rights.

5 SCOPE

This policy applies to all employees of the ICB, including any fixed term employees working within the ICB and whilst on ICB business, including patient's, carers and representatives.

6 DEFINITIONS

Abbreviation / Item	Definition
ICB	Integrated Care Board
ICS	Integrated Care System
NHS	National Health Service
SC	Social Care
NHS CHC	NHS Continuing Healthcare
PHB	Personal Health Budget

7 PROVISION OF SERVICES FOR PEOPLE WHO ARE ELIGIBLE FOR NHS CHC

The ICB has a delegated duty to promote a comprehensive health service, and each year must ensure that it provides this service within its allocated budget.

The ICB are obliged to meet the assessed health and care needs of individuals who are eligible for NHS CHC.

Individual choice will be considered within the context of the ICB's allocated budget and duties relating to overall service provision.

However, the ICB has discretion as to the manner of provision of NHS CHC services and must exercise reasonable and proportionate judgement to provide the most appropriate care within the resources available, considering overall expenditure and provision of care available.

7.1 Overarching ICB Principles

This policy has been developed as a guide to support the overall provision of NHS Continuing Healthcare, health funded discharge to assess pathway 3 and joint funded packages of care after NHS Continuing Healthcare has been considered, whether in residential settings or an individual's own homes, and will ensure that all decisions on funding will:

- Be person-centred.
- Be robust, fair, consistent, and transparent.
- Be based on the objective assessment of healthcare need, safety, and best interests.
- Involve the individual and/or their representatives wherever this is possible and appropriate.
- Ensure the safety, effectiveness and appropriateness of care is considered in line with the National Framework for NHS Continuing Healthcare.

Any assessment of a care option will include the psychological and social care needs and the impact on the home and family life as well as the individual's care needs. The outcome of this assessment will be considered by the ICB when arriving at a decision. This is determined by the recommendation of the MDT at the DST and verified by the ICB as part of the national framework.

The setting in which care and treatment is provided is based on clinical risk and is a matter to be decided by the ICB with due consideration of the individual's wishes.

Additional services for individuals eligible for NHS Continuing Healthcare

The ICB has a duty to provide and fund care to meet assessed NHS CHC needs. An individual cannot make a financial contribution to the cost of the NHS CHC provision. An individual, however, has the right to decline NHS services and funding and make their own private arrangements should they wish.

Where service providers offer **additional services** which are unrelated to the individual's assessed NHS CHC needs the individual may choose to use their own funds (self-funding) to take advantage of these additional facilities, services, and treatments.

If there is not an assessed health and care need determined by the ICB, the services would be considered as elements of daily living that represent 'wishes' and not 'assessed needs.' Any additional services which are unrelated to the assessed NHS CHC needs will not be funded by the ICB.

If the individual wishes to commission additional services from the care provider assurance must be provided by the care provider and individual to the ICB that the care provider can continue to provide the appropriate care for the individual within the care facility should the individual decide to end the agreement for provision of additional services.

Examples of such services falling outside NHS provision could include things such as professional hairdressing, or a bigger room with a nicer view.

For example, where a care home has a higher specification room at a higher price than the NHS agreed price for assessed needs. Under this arrangement the ICB will pay the rate for assessed needs and the individual will take out an additional payment agreement for the higher specification room on the understanding that if they become unable to pay for these additional services then they would be moved to the level of room associated with assessed needs within the same home (if available) or move care home if not where their assessed health and care needs would still be met.

Where individuals and provider decide to offer or take up additional services of the nature described above, the ICB cannot accept liability for any failure by individuals to pay for the additional services provided.

The individual and provider must inform the ICB of any such arrangement in writing within 14 working days of the contract being set up to ensure continued open and transparent commissioning. This will provide the ICB with an opportunity to assure itself that the additional payment is not for an NHS CHC assessed need.

7.2 Care Home Placements

Where an individual has been assessed as needing care in a care home environment, the role of the ICB is to identify and commission a suitable care home. The ICB would usually commission care with providers that have applied and have successfully joined the ICB's framework of providers. These providers have agreed to ICB cost of care tiers, determined on an individual's assessed needs. The ICB will endeavour to identify a choice of care homes within the individual's preferred geographical area. However, this is dependent on the availability of vacancies, the ability of specific care homes to meet the individual's needs, and the care home provider's acceptance of the ICB's contractual requirements and weekly fee.

Where an individual has been awarded NHS CHC Fast Track funding, where the objective is to secure services for the individual as quickly as possible, less choice may be available.

The ICB have an agreed budget identified at the beginning of the financial year and the rates of pay are communicated to the provider network as part of the financial planning as part of the annual uplift process. Based on this a weekly fee which the ICB reasonably considers sufficient to fund a care home placement for the individual will be agreed. The ICB is usually unable to commission care within care homes that do not accept the agreed weekly rate.

The ICB will not normally fund a care home placement where the requested provider can only safely or resiliently meet the individual's identified care needs with additional staffing at significant extra cost to the ICB. Where enhanced observations in the form of 1:1 care is required to meet assessed needs, this will be arranged and reviewed in line with the ICB Policy for Commissioning of One-to-One Support within a Care Home.

The ICB understands that the location of a care home is an important factor in decision making for many individuals. Where possible, the ICB will endeavour to provide a choice of care home within a reasonable distance of the individual's preferred location, considering the rurality of Norfolk and Waveney and the availability of appropriate vacancies in the preferred area. The ICB may have to explore care provision outside of individual preference due to availability and the cost of care provided in Norfolk and Waveney.

Where a care home has had its registration or right to accept admissions suspended or cancelled by the CQC, or local authority social services have embargoed admissions, the ICB are unable to consider commissioning any new placements within the care home until any suspensions, cancellations and embargoes have been lifted.

7.3 Funded Packages of Care at Home

Many individuals wish to be cared for in their own homes rather than in a residential or nursing care home, especially people who are in the terminal stages of illness, although no automatic right of a care package at home will be applied.

People who are eligible for NHS CHC, health funded discharge to assess pathway 3 and joint funded packages of care after NHS CHC has been considered can have a complexity, intensity, frequency and/or unpredictability in their care needs, which means it may be less likely that care can safely be delivered at home. Although individual circumstances will be considered, it is usually not possible to replicate support services that would be available within inpatient NHS settings and nursing or residential care homes. If this level of care is required, it would not usually be possible to provide this for the individual at home.

The ICB may consider that in some circumstances an individual's needs are most appropriately met within a care home setting. The general expectations are set out below:

- Individuals whose health and care needs mean that they cannot be left without care and/or supervision for more than a short period of time during their waking hours. An example of a short period of time would be a care worker using the bathroom or making a hot drink.
- Individuals who need waking night care would generally be more appropriately cared for in a care home. The need for waking night care indicates a high level of supervision is required at night. Consideration will be given to the provision of waking night care if it is required for informal (unpaid) carer respite up to three nights per week without the need to be considered as exceptionality.
- Care homes are generally deemed more appropriate for individuals who have highly complex health needs.

- Where there is a need for the presence of a Registered Nurse over a 24-hour continuous period, the ICB would only be expected to provide this within a care home with nursing environment.

However, the ICB will take into consideration all relevant circumstances to establish whether the above expectations can be displaced (see exceptions para 13):

Each assessment will consider the appropriateness of a home-based package of care, considering the range of factors and principles within this policy. The DST and/or assessment undertaken by a suitably trained clinician(s) will determine the level of care package that is required at the time. All available options will then be taken into consideration for the package of care, including if a package of care at home is a viable option.

If an individual care package at home is agreed it must be acknowledged that when working in an individual's home, care workers do not have access to the full range of support services that are available within a hospital or nursing home environment. In most cases, care workers will be working in isolation, and any implications identified and fully understood, with contingency plans put in place where required.

Alternative arrangements in case a home care package breaks down will be discussed with the individual by the health professionals involved in their care before the package of care commences. These arrangements could require an alternative package of care to be arranged. On some occasions, there may be a delay in re-arranging a home care package due to provider availability, or the ICB may be unable to re-arrange a home care package. In these circumstances, rapid admission to a care home may be required to ensure that care and safety is maintained.

7.4 Funding for Individuals Receiving Services Outside of the ICB Area

For individuals who are to receive services in a care home setting, the default position should be a care home within the Norfolk and Waveney ICB area to ensure care closest to home.

Where an individual's preference is to move outside of the ICB area or if an individual's NHS CHC needs would be best met in a location outside of Norfolk and Waveney and/or closer to family/friends the cost should be set at the rate that is comparable to that which the local ICB would pay for equivalent care. Norfolk and Waveney ICB will lead on the transition of the package of care.

Where there is no appropriate provision available within Norfolk and Waveney, the provider will be chosen based on the best value of care available and in addition who can meet the needs of the individual. The ICB will work with the individual to attempt to meet the personal preferences of the individual.

If an individual wishes to re-locate to an area outside of the Norfolk and Waveney ICB area, and live in their own home, NHS Norfolk and Waveney ICB will cease to be the responsible commissioner for that individual in most circumstances, and any NHS CHC package of care would be the responsibility of the receiving ICB. NHS Norfolk and

Waveney ICB will liaise with the receiving ICB to maximise a planned and safe transfer of care.

8 PERSONAL HEALTH BUDGETS (PHB)

Any adult eligible for NHS CHC having care delivered in the home (except via the Fast Track route) has a right to have a PHB. A PHB is not an additional budget or funding stream, but a different way of spending health funding to meet the assessed needs of an individual. Funding via a PHB is for use to meet the individual's assessed health and well-being outcomes as identified in their support plan. The ICB will consider whether an individual (the patient or their nominee/representative) is able to manage a PHB/Direct Payment arrangement by:

- Considering whether they would be able to make choices about and manage the services they wish to purchase.
- Whether they have been unable to manage either a health care or social care direct payment in the past, and whether their circumstances have changed.
- Whether they can take reasonable steps to prevent fraudulent use of the direct payment or identify a safeguarding risk and if they understand what to do and how to report it, if necessary, and;
- Considering any other factor which the ICB may deem relevant.

The ICB must balance value for money and PHBs must be affordable within the ICB's overall budgetary allocation for NHS CHC. A PHB can be administered in three ways, or in a combination of these options:

- **Notional Budget (Contracted/Commissioned Services):** The individual is advised of the amount of money the ICB would normally spend on a traditional model of care and talks to their Healthcare Professional or Care Manager about the different ways to spend the money to meet their needs. The ICB holds the money on the individual's behalf and procures the services required to meet their health and care needs. Where the ICB manages an individual's PHB on their behalf as a notional budget, there is no requirement for the individual to maintain financial records. This is the default model for delivery of care in the home for those who are eligible for NHS CHC, excluding via the Fast Track route.
- **Third Party Budget:** A third party is an organisation independent from the person and the NHS. The third-party acts on the individual's behalf and procures the services required to meet their health and care needs. The third party will manage all financial aspects of the PHB and will have responsibility for making sure invoices are paid on the individual's behalf.
- **Direct Payments:** A direct payment is when money is paid directly to the individual or their representative, to buy and manage their care and services as agreed in the personal care and support plan. Financial records and receipts will need to be kept showing how the individual has spent the budget. There will be scheduled reviews and monitoring to

ensure that the PHB is meeting the individual's health and wellbeing needs and the money is being spent according to the plan. Individuals accepting a direct payment will be required to enter into a formal agreement and set up a separate bank account. The individual can choose to have a support service provider hold the funds and make payments on their behalf; this is called a 'Managed' Direct Payments Account.

PHB holders are not allowed to contribute to or 'top-up' the cost of care as set out in the care and support plan from their own resources (see para 5.1 above). If the PHB holder considers that the payments are insufficient to meet the individual's assessed needs, then they should request a review of the care package by the ICB. The budget holder can purchase additional services from their own funds which are not identified in the care and support plan, but this should take place separately with clear accountability.

The principles of this policy apply to the provision of PHBs.

9 HEALTH FUNDING FOR CARE AND SUPPORT ON HOSPITAL DISCHARGE

The [National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care](#) sets out that assessment of longer-term care needs should take place once someone has reached the point of recovery, where it is possible to make an accurate assessment of their ongoing needs. This is set out within the [DoHSC Hospital Discharge Service Guidance](#).

This might include, where appropriate, an NHS CHC assessment. In most cases, this will be following discharge from hospital and following a period of recovery. Where an individual is ready to be safely discharged from hospital it is very important that this should happen without delay, therefore, the assessment process for NHS CHC should not delay hospital discharge.

It may be determined by assessment that in some circumstances the ICB will fund an interim package of care and support for an individual, as part of their hospital discharge arrangements, because the individual is highly likely to be eligible for NHS CHC. In these circumstances, the principles of this policy apply. This is health funded discharge to assess pathway 3. This temporary funding is usually for a period of up to four weeks post hospital discharge. Individuals on this pathway will be followed up by health and social care professionals who will determine responsibility for future commissioning arrangements.

By the nature of home care packages, there will often be a period of time that is necessary to arrange implementation. It is often not appropriate for an individual to remain in hospital during this time, as they are ready to leave hospital and there is an increased risk of developing dependency, increased exposure to infection and reduced bed availability for individuals requiring hospital treatment and care. When an individual has been declared as ready to leave the hospital, they may be transferred to another appropriate facility, including a care home while arrangements for an assessment for agreed home care package are made.

10 PEOPLE WITH EXISTING CARE WHO BECOME ELIGIBLE FOR NHS CHC

This applies to Home Care, Residential Home, Nursing Home and Local Authority Funded Care

As part of the process for full consideration for NHS CHC, any individual who is in a care home or has a home care package, will be informed about how this policy may affect decision making about the existing and future care commissioning. This will enable them to make an informed decision about whether they would like to accept a funded package of care in residential care or care at home from the ICB should they be deemed eligible for NHS CHC.

11 REVIEW AND CHANGES IN CIRCUMSTANCES

11.1 Reviews

All individuals in receipt of NHS CHC should be reviewed within three months after commencement of eligibility, and no less than annually thereafter. The purpose of this review is to ensure the care and support arrangements continue to meet the needs of the individual. Should, at any point, the health needs of the individual materially change, the ICB will consider re-assessing for both NHS CHC eligibility and the care provision in line with the [National Framework for NHS Continuing Healthcare and NHS funded Nursing Care](#). This review of care provision could result in an increase or decrease in the care package required to meet those needs.

The provision of a package of care at home does not constitute a commitment by the ICB to fund the individual's care for life, or that the individual will always be cared for at home. For home care packages, if the individual requires an increase in care, then the ICB will reassess the individual against the criteria within this policy to determine whether a home care package remains the safest and most economic option and may offer other reasonable alternatives.

The individual and care providers are responsible for updating the ICB if care needs reduce or increase so further assessment can be made to ensure the individual continues to receive the most clinically effective services and make effective use of NHS resources.

11.2 Changes in Circumstances

If a review of an individual establishes that their condition has improved or stabilised to such an extent that they no longer meet the eligibility criteria for NHS CHC and an NHS CHC re-assessment confirms they are no longer eligible, the ICB will no longer be required to fund the care of that individual. The ICB will provide 28 days written notice from date of decision, to advise of cessation of funding to the individual, provider of care and the relevant local authority. Any on-going package of care that is needed may qualify for funding by social services, subject to assessment, or the cost of some or all the package of care may need to be met by the individual themselves. The transition of care should be seamless.

Where an individual who is currently receiving care at home has been assessed and their needs have changed, the ICB will consider whether the current care provision remains appropriate. Where the ICB deems the current care and support is not appropriate and

does approve a proposed change to the care and support arrangements, the individual will need to agree to alternative care provision approved by the ICB. Where the individual does not agree to the alternative care provision, then the Refusal of Funding process will apply.

12 REFUSAL OF NHS CHC FUNDING

The ICB will consider that it is a refusal of NHS services, where the ICB have offered the individual what they consider to be an appropriate care package to meet the individual's assessed needs, and this is not accepted by the individual. This includes where the individual has requested a particular package of care and the ICB have taken a decision that the package will not be commissioned, but instead have offered an alternative package of care that covers the individuals assessed needs.

Where there appears to be a refusal, the ICB will write to the individual with a final offer setting out the care packages that the ICB is willing to consider, and the risk of refusing a package of care or care home. In this letter the ICB will provide a period of no less than 14 days for confirmation of acceptance of a package. If the individual does not respond within the stated time, the ICB will provide a written notice confirming that NHS funding will cease on a specified date, which will be no earlier than 28 days from the date of the notice.

If the individual is vulnerable, appropriate Safeguarding Adult policies will be applied.

13 EXCEPTIONAL CIRCUMSTANCES

In exceptional circumstances, the ICB may agree to fund a package of care that will cost more than the most cost-effective option identified,

Exceptional circumstances will be compelling and considered on an individual basis. The individual is responsible for highlighting compelling circumstances to the ICB whilst commissioning options are considered. The ICB will only consider compelling circumstances from individuals or formally funded advocates, that is not professionals referring an individual.

The ICB will then consider whether there are any creative alternatives available to enable the best use of resources available and to enable the individual's choice to be realised. These will be determined by the assessed package of care required.

In some circumstances, an individual may wish to live in a care home that has not been identified by the ICB. In these circumstances, the ICB will consider this option if:

- The fee for the placement is within the ICB's agreed tier rates already identified in the budget by the ICB.
- The care home can meet the individual's assessed health and care needs.
- The care home satisfies appropriate criteria set by the CQC and local authority social services.

At times the ICB may be unable to commission care from a provider at the ICB tier rate that has been assessed to be required. Exceptionality will be considered if no care home is available that will accept the ICB's tier rate at the time commissioning is required. At this time the ICB will consider commissioning an alternative provider outside of the agreed tier rate if there are compelling circumstances such as a pressure to discharge individuals from acute hospitals due to high demand for a hospital bed. At such times the individual will not then be expected to transfer to an alternative care home within the assessed for tier when one becomes available.

14 APPEAL

If an individual is not satisfied with the choices offered to them, they may lodge an appeal in writing to the ICB. The case will be reviewed by the ICB Executive Director of Nursing or Senior ICB Managers with delegated responsibility. If the care package proposed by the NHS CHC Team is upheld, the individual will be advised of their right to complain through the ICB complaints process in line with local and national policy. If the complaint cannot be resolved locally, the individual can refer their complaint to the Parliamentary and Health Service Ombudsman.

Where the ICB, having applied the criteria set out in this policy, decides to commission an individual's care in a care home as opposed to providing a home care package and the individual makes an appeal against this decision, the ICB will offer care in an appropriate interim care home, taking account of the individual's assessed needs and Physical and Psychological safety as the over-riding factor. For these purposes, 'interim' refers to the time between the appeal being lodged and then considered by the ICB. Depending on the outcome of the appeal, such 'interim' care home commissioning may become permanent.

The ICB decision will be effective until the outcome of the appeal. If the appeal is successful arrangements will then be made to revise the care package provided in consultation with the individual.

During the interim, if the individual refuses the ICB's offer of commissioning an interim care home placement pending the outcome of the appeal, they may arrange and fund their own package of care at their home or care within their chosen care home. If the ICB's original decision is upheld, it will again offer the individual an appropriate care package in a care home that meets the criteria set out in this policy. If the care home is still not acceptable to the individual, they may continue to arrange and fund their own package of care or care home.

15 MONITORING AND REVIEW

This policy will be reviewed every two years by the ICB CHC Team, or sooner if necessary due to guidance/legislative change(s) including changes in national guidance on individual choice or NHS CHC.

16 DATA PROTECTION

In applying this policy, the ICB will have due regard for the [Data Protection Act 2018](#) and the requirement to process personal data fairly and lawfully and in accordance with the data

protection principles. Data Subject Rights and freedoms will be respected, and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

17 ASSOCIATED DOCUMENTATION

Links to local policies and documents:

- ICB Policy for Commissioning of One-to-One Support within a Care Home

18 REFERENCES

Links to external reference documents:

- [National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care](#)
- [DoHSC Hospital Discharge Service Guidance](#)

APPENDIX A: EQUALITY IMPACT ASSESSMENT

Step 1: Aims and purpose of the proposal / policy being assessed

(This should reflect what the policy is intending to achieve and how it seeks to achieve, it is this intention that the assessment seeks to measure, consider who benefits and how and who doesn't and why, also consider the impact of associated aims).

The aim of the policy is to provide a consistent and fair approach to the commissioning of care for individuals eligible to receive NHS CHC, health funded Discharge to Assess Pathway 3 individuals and joint funded individuals after a consideration for NHS CHC has been completed. It addresses the need to balance individual choice whilst considering the budget available to the NHS to meet its requirement to provide care and support.

Step 2: Screening process for relevance to equality & diversity issues

Does this proposal / policy have any equality & diversity relevance in the following areas?

(This should be considered in relation to the formulation and application of the policy. As far as possible engagement with the relevant staff network groups should take place to identify any potential areas of relevance).

A Age	No
B Disability	No
C Gender reassignment	No
D Marriage and Civil Partnership	No
E Pregnancy and maternity	No
F Race	No
G Religion or belief	No
H Sex	No
I Sexual orientation	No
J Other issues	No

Step 3: If you have answered, "Yes", to any of the protected characteristic boxes in Step 2, a full impact assessment is required

Are any of the protected characteristic boxes in Step 2 marked "Yes"?

No. This is an operational policy that guides decision-making around the funding of NHS CHC and Complex Care. This is based on the assessment of clinical needs and not personal characteristics. It supports a consistent and fair approach as well as making clear references to the protection of human rights and the need for personalisation of care where fair and appropriate.

Step 4: Examination of available information (sources can include but are not restricted to – ESR data; MI relating to Recruitment /Employee Relations/Attrition; Industry best practice; legal overview; research articles; matters arising from judgements tested during consultation; consider four-fifths rule to assess difference).

This policy is based on regional best practice, with a view to supporting a consistent approach to case management and decision-making.

Step 5: Full Impact Assessment Process

Step 5a: Consultation Log

Where are the consultation records stored?

Step 5a: Consultation Log	Step 5a: Consultation Log	Step 5a: Consultation Log	Step 5a: Consultation Log

Step 5b: EIA Action Plan: Workforce Impacts (internal)

Potential issues or impacts (positive and negative)

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Step 5c: EIA Action Plan: Service Delivery Impacts (external)

Potential issues or impacts (positive and negative)

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Step 6: Monitoring and review arrangements

How will the implementation of the proposal / policy be monitored, and by whom?

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What is the timetable for monitoring, with dates?

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Step 7: Public availability of reports / result

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